PART 5: CODES AND PROTOCOLS

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Code of Conduct for Councillors (effective from 9 May 2022)

1. Introduction

The Basingstoke and Deane Code of Conduct for Councillors is based on the model Councillor Code of Conduct developed by the Local Government Association (LGA) in association with key partners and after extensive consultation within the sector. The LGA will undertake an annual review of this code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that councillors can be held accountable and adopt the behaviours and responsibilities associated with the role. The conduct of an individual councillor affects the reputation of all councillors and should be one that people aspire to.

Councillors represent local residents, work to develop better services and deliver local change. The public have high expectations of Councillors and entrust them to represent the local area, taking decisions fairly, openly, and transparently. Councillors have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations. Importantly, Councillors should be able to undertake their role as a Councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect Councillors' democratic role, encourage good conduct and safeguard the public's trust in local government.

2. Definitions

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

a) is a member of any committee or sub-committee of the authority, or;
b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

3. Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist Councillors in modelling the behaviour that is expected of them, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against a Councillor.

It is also to protect Councillors, the public, fellow councillors, officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and specific obligations in relation to standards of conduct. The use of support, training and mediation prior to action being taken using the Code is encouraged. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

4. General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- **I act with integrity and honesty**
- **I act lawfully**
- **I treat all persons fairly and with respect; and**
- **I lead by example and act in a way that secures public confidence in the role of councillor.**

In undertaking my role:

- **I impartially exercise my responsibilities in the interests of the local community**
- **I do not improperly seek to confer an advantage, or disadvantage, on any person**
- **I avoid conflicts of interest**
- **I exercise reasonable care and diligence; and**
- **ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.**

5. Application of the Code of Conduct

This Code of Conduct applies to all councillors as soon as they sign their declaration of acceptance of the office of councillor or attend their first meeting as

a co-opted member and continues to apply to them until they cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- n non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Councillors are also expected to uphold high standards of conduct and show leadership at all times.

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and councillors are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.

Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

6. Standards of councillor conduct

This section sets out a councillor's obligations, which are the minimum standards of conduct required of a councillor. Should a councillor's conduct fall short of these standards, a complaint may be made against the councillor, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed. There is also supporting guidance which can be found at: Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat council employees, employees and representatives of partner organisations and those volunteering for the council with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and council employees, where concerns should be raised in line with the council's Protocol for Councillor/Officer Relations.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.
2.2 I do not harass any person.
2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability,

gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

a. given to me in confidence by anyone

b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

i. I have received the consent of a person authorised to give it;

ii. I am required by law to do so;

iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

iv. the disclosure is:

1. reasonable and in the public interest; and

2. made in good faith and in compliance with the reasonable requirements of the council; and

3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

The council must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

Councillors are trusted to make decisions on behalf of their community and their actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Councillors should be aware that their actions might have an adverse impact on them, other councillors and/or the council and may lower the public's confidence in their or their council's ability to discharge their/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the council into disrepute.

Councillors are able to hold the council and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

A councillor's position as a member of the council provides them with certain opportunities, responsibilities, and privileges, and they make choices all the time that will impact others. However, they should not take advantage of these opportunities to further their own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the council or authorising their use by others:

a. act in accordance with the local authority's equirements; and

b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the council or of the office to which I have been elected or appointed.

Councillors may be provided with resources and facilities by the council to assist them in carrying out their duties as a councillor. Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to councillors to help them carry out their role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the council's own policies regarding their use.

8. Complying with the Code of Conduct As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for a councillor to demonstrate high standards, for them to have their actions open to scrutiny and for them not to undermine public trust in the council or its governance. If you do not understand or are concerned

about the council's processes in handling a complaint you should raise this with the Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the council.

Councillors need to register their interests so that the public, council employees and fellow councillors know which of their interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects a councillor by allowing them to demonstrate openness and a willingness to be held accountable.

A councillor is personally responsible for deciding whether or not they should disclose an interest in a meeting, but it can be helpful for them to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by a councillor or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Parish Clerk in the first instance or from the Monitoring Officer.

10. Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect their position and the reputation of the council, a councillor should exercise caution in accepting any gifts or hospitality which are (or which a councillor reasonably believe to be) offered to them because they are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case a councillor could accept it but must ensure it is publicly registered.

However, a councillor does not need to register gifts and hospitality which are not related to their role as a councillor, such as Christmas gifts from their friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with their duties as a councillor. If you are unsure, do contact the Monitoring Officer for guidance.

Appendices

Appendix A - The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1** (**Disclosable Pecuniary Interests**) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2** (**Other Registerable Interests**).

"**Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. BDBC councillors only: Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests

(as set out in **Table 2**), you must disclose the interest. You may speak on the matter
only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which ***affects*** -
    a. your own financial interest or well-being;
    b. a financial interest or well-being of a relative or close associate; or
    c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

    you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above*)* ***affects*** the financial interest or well-being:
    a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
    b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

    You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

    If it is a ‘sensitive interest', you do not have to disclose the nature of the interest.

10. *BDBC councillors only*: Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not

take any steps or further steps in the matter apart from arranging for someone else to deal with it

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment of financial benefit for a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. **'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.**
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where — (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were

* ‘director' includes a member of the committee of management of an industrial and provident society.

* ‘securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

a) any unpaid directorships

b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) any body

i. exercising functions of a public nature

ii. directed to charitable purposes or

iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

Appendix 1

Social media guidance for councillors

Section 1 – introduction

1. Social media is the term used for online tools, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests. This guidance covers social media issues over the internet and email, smart phones, social networking sites, blogging and tweeting.

2. For the purposes of this guidance, the term social media covers sites and applications including, but not restricted to, Facebook, Twitter, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis and any sites which may emerge after the creation of this guidance.

3. The council encourages councillors' use of social media as a way of engaging with their communities as part of their role. It is not a requirement for councillors to have a Facebook or Twitter account or use other forms of social media. If councillors are already using or planning to use social media in connection with their work as a councillor, they should ensure that they are familiar with the guidance set out below and that their use of social media does not use council resources for party political purposes or put the organisation's information and security systems at risk.

4. Most people are familiar with doing things online and residents increasingly expect the council to provide its services online, with the same level of interactivity that they find everywhere else. However, there are challenges and risks around its use by councillors and the council. For example, inappropriate use (which may occur inadvertently) can cause significant damage to a councillor's (or the council's) reputation and can lead to legal claims. In addition, technology is changing fast. This can mean that it is hard to keep up and maintain useful interaction with residents.

5. There are also some pitfalls to be aware of, and this guidance is produced to help councillors avoid these. This guidance does not tell councillors how to use social media or which platforms are more appropriate for their use. It deals with the pitfalls that specifically apply to the role of local councillors.

Section 2 – Legal considerations

6. Three of the important Nolan Principles applying to those in public life are openness, accountability and leadership. That means councillors should be as open as possible about the actions and decisions they take, submit to an appropriate level of public scrutiny and lead by example. Social media can be a vital tool for public debate and sharing information and its use by councillors is encouraged for these reasons.

7. In the same way as anyone else publishing material, councillors will need to be aware of the laws that apply to published material. Some of the main ones are:

a. Defamation: if a councillor publishes an untrue statement about a person that is damaging to their reputation the councillor may be liable to pay damages;

b. Copyright: copyright laws still apply online. Placing images or text from a copyrighted source, for example extracts from publications or photos, without permission is likely to breach copyright and may also result in an award of damages against the councillor;

c. Harassment: it is a criminal offence repeatedly to pursue a campaign against a person that is likely to cause alarm, harassment or distress;

d. Data protection: personal data about other people, including photographs, home addresses and telephone numbers or information about them, should not be published without their express permission;

e. Incitement: it is an offence to incite any criminal act;

f. Discrimination and 'protected characteristics': it is an offence to discriminate against anyone based on protected characteristics as defined in the Equality Act 2010;

g. Malicious and obscene communications: it is an offence to send malicious or obscene communications.

8. Inappropriate and offensive material must not be published. This includes revealing confidential or commercially sensitive information belonging to the council, personal or confidential information about an individual, publishing something that could reasonably be considered insulting or threatening or something that promotes illegal activity or is intended to deceive.

9. Additional considerations apply to councillors:

Bias and pre-determination

10. Councillors sitting on regulatory committees, such as planning or licensing committees, should be aware that they are allowed to have a view but must not have gone so far as to have predetermined their position on a matter. Any views aired on social media could be used as evidence of making a decision in advance of hearing all relevant information. The council's decision is then open to challenge and could be invalidated and the 'not bringing the council into disrepute' provisions of the Code of Conduct for Councillors could be breached.

Equality and discrimination

11. The council is a public authority required to comply with the Equality Act 2010. As noted above it is unlawful to discriminate against anyone based on their protected characteristics. The council must also have 'due regard' to the Public Sector Equality Duty, which consists of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations. Councillors must exercise caution to ensure

that they do not place the council in breach of that duty by publishing content when appearing to act in their official capacity.

Electioneering

12. Council resources, including any the use of social media on council mobile devices or IT equipment, must not be used for political or campaign purposes. Particular care must also be taken when using social media during the pre-election period. The Electoral Commission has further guidance including on the requirements to provide a return of expenditure on election advertising which includes social media, web and other online advertising.

Human Rights

13. Article 8 of the European Convention on Human Rights provides that public authorities should not interfere with the right of individuals to a private and family life without lawful authority to do so, and where it is necessary, proportionate, and in pursuit of one of the aims set out in Article 8(2). These are national security, public safety, economic well-being, health or morals, prevention of crime or disorder, or protecting others' rights.

14. Article 10 of the European Convention on Human Rights also protects councillors' freedom of expression, although this is a qualified right which may be limited in order to protect the rights and interests of others. Case law has established the principle that in a political context, more robust exchanges might be acceptable that would otherwise be the case. This does not extend to gratuitous personal comment.

Code of Conduct

15. Councillors may use social media in both an official and personal capacity but they must be aware that the public may perceive them as acting as a councillor when that is not their intention and they are using social media in a personal capacity. Any social media account which could be potentially linked to a councillor needs to meet the standards of the code of conduct where it is used to refer to council business. Using the title or prefix "Councillor" may make it harder to justify acting in a private capacity, although it can still depend on the circumstances. Nevertheless, It is recommended that councillors have separate social media profiles for their role as a councillor and in their private life.

Section 3 – Responsibilities of councillors

16. Councillors are personally responsible for the content they publish on any form of social media. Publishing an untrue statement about a person which is damaging to their reputation may incur a defamation action for which they will be personally liable. The same applies if they pass on any similar untrue statements made by others. Be particularly aware of chains of information which may contain such statements.

17. Councillors will need to monitor and, where appropriate, censor or remove the

contributions made by others to their sites or pages. As well as the risks of a defamation action allowing defamatory or offensive statements to remain on a site could also give rise to Code of Conduct issues where allowing comments to remain could be seen as condoning or endorsing them.

18. Similarly, liking, sharing or retweeting posts could be seen as an endorsement of them and legally this can be a separate instance of publication by the councillor to which all the legal and Code of Conduct considerations would apply.

19. Beyond that it is generally best to allow disagreement rather than to seek to censor it. However, there is no need to respond to everything and unhelpful online arguments should be avoided. Be professional, respectful and polite, even (or especially) when corresponding with those who do not return the courtesy. The council outlines rules for commenting on its social media., see https://www.basingstoke.gov.uk/social-media, and it may be useful to read these and consider your own approach to responding to comments.

20. Careful use of language is required. Sarcasm, irony and ambiguous comments should be avoided.

21. Promptly admit to mistakes.

22. Avoid using social media when tired, angry or upset as your judgment may be impaired. Once published, content is almost impossible to control and can be manipulated without your consent, used in different contexts, or further distributed.

23. Think carefully about who to follow or befriend- online. Online 'friendships' with council officers should be avoided as they may compromise the appearance of impartial advice. It is inadvisable to follow anyone without a good reason – some constituents may find it uncomfortable (and see the Human Rights comments above). Many councillors wait to be followed before returning the compliment.

24 Safeguarding is everyone's business – social media sites are often misused by offenders. If a councillor has any concerns about other site users the councillor has a responsibility to report these.

25. Councillors are advised to make use of stringent privacy settings if they do not want their social media to be accessed publicly. It is advisable to read the terms of service of any social media site accessed and make sure the confidentiality and privacy settings are understood. It is worth remembering, however, that all posts have the ability to be screenshot and posted elsewhere.

26. Always ensure the security of devices to prevent unauthorised access by third parties who may make inappropriate use of the device.

Section 4 – Principles for using social media

These five guiding principles for any social media activities should be followed:

27. Be respectful – set the tone for online conversations by being polite, open and

respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people's confidentiality and do not disclose non-public information or the personal information of others.

28. Be credible and consistent – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.

29. Be honest about who you are – it is important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role, in particular a clear distinction should be drawn between use of an account in your personal capacity and use in your capacity as a councillor. Note that merely stating you are acting in your private capacity may not be sufficient.

30. Be responsive – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you cannot. Respond to questions and comments in a timely manner.

31. Think twice – think carefully about all your social media posts. Once published it will be too late to change your mind. Following these rules and seek further guidance if you need it.

Section 5 – use of social media during committee meetings

32. Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression this gives to others.

33. Mobile devices enable councillors to manage their busy lives when time is at a premium. It is important, however, for councillors not to give the impression that insufficient attention is being given to the discussion at the meeting. That could lead to the relevant decision coming under challenge if councillors are perceived to have made a decision without having properly listened to the debate. It could also result in Code of Conduct complaints of a failure to treat others with respect or of bringing the council into disrepute.

Section 6- inappropriate use of social media by others

34. If you receive a communication which is abusive, intimidatory or threatening keep a record of it, such as a screen shot.

35. You can post that you find the communication abusive, intimidatory or threatening if you want to highlight the poor online behaviour and report it to the social media platform and to the police. If it concerns your role as a councillor you should report it to the Monitoring Officer, who can provide advice, keep records and decide whether any action can be taken by the council.

36. If someone has posted information about you or the council and if the information is defamatory, you should keep a record. You may wish to request that the post is removed and depending on the nature and number of followers seek a correction and/or apology. If the approach is unsuccessful or where a defamatory post causes

serious concern or is a part of a concerted campaign you should inform the Monitoring Officer and you may wish to take advice from your own solicitor.

37. If the post is a complaint about a council service you can ask for contact details and pass the information on to council officers to follow up and inform the individual that this is the course of action you are taking.

Section 7 - further reading

38. The Local Government Association's webpage on Councillors and social media gives helpful advice and guidance, including a section on handling abuse on social media.

Section 8 – complaints

39. These guidelines do not form part of the Code of Conduct for Councillors but there may be instances where councillors' use of social media amounts to a breach of that code and the Monitoring Officer may take these guidelines into account when considering whether such a breach has taken place. The Code of Conduct and procedure for making complaints against councillors is set out in part five of the council's constitution:
https://www.basingstoke.gov.uk/councillor-code-of-conduct

Contact details

For further information please contact Fiona Thomsen, Monitoring Officer, on 01256 845473
Email: Fiona.thomsen@basingstoke.gov.uk
Ann Greaves, Deputy Monitoring Officer, on 01256 845475
Email: ann.greaves@basingstoke.gov.uk

Basingstoke and Deane

Arrangements for dealing

with complaints against

Councillors

Title	Arrangements for dealing with complaints against Councillors
Owner	Monitoring Officer
Version	5
Issue Date	21 July 2023
Next Revision Date	One year from the date of issue or sooner if required to comply with legislation.

1. Introduction

1.1 These arrangements set out how a complaint can be made against an elected or co-opted member of the Borough, Town or Parish Council who is believed to have breached the code of conduct. The arrangements are adopted in accordance with section 28(6) and (7) Localism Act 2011 and have taken account of the guidance on Member Model Code of Conduct Complaints Handling published by the Local Government Association (LGA) September 2021

1.2 Under section 28 Localism Act 2011 the Council is required to appoint at least one Independent Person, whose views must be taken before a decision is taken on an allegation which is to be investigated and whose views can be sought by the council at any other stage or by a member against whom an allegation has been made ("the subject member").

1.3 The Code of Conduct is the ethical standards framework that governs the conduct that is expected of councillors. The Borough Council has adopted a Code of Conduct in line with the Model Code of Conduct published by the LGA in 2020 which is available on the Borough Council's website.

1.4 Each Parish/Town Council may adopt their own Code of Conduct although the Best Practice Recommendation by the Committee on Standards in Public Life in 2019 is that they adopt the same Code of Conduct as Basingstoke and Deane Borough Council or the LGA Model Code of Conduct. A copy of their Code should be found on the relevant Parish/Town Council website.

1.5 Where reference is made in these arrangements to "the parties", this includes the complainant, the councillor whom the complaint has been made against ("the subject member") and where the matter relates to a Parish Council matter, the parish clerk.

2. Making a complaint

It should be noted that under these arrangements steps may be taken, whenever possible to resolve complaints by way of an informal settlement.

If you wish to make a complaint please write to:

Monitoring.officer@basingstoke.gov.uk

Monitoring Officer
Basingstoke and Deane Borough Council
Civic Offices
London Road
Basingstoke
Hampshire
RG21 4AH

All complaints must be made in writing either using the online form at www.basingstoke.gov.uk or by other written means, for example by email and including the required information:

- Your name, address and contact details
- Who you are, for example, a member of the public, a councillor or officer
- Who is the complaint about and which authority or authorities the councillor belongs to.
- Details of the alleged misconduct including, where possible, dates witness details and other supporting information.
- Any relevant background information

A hard copy of the complaints form can be obtained by calling us on 01256 844475 or by e-mailing monitoring.officer@basingstoke.gov.uk

We can assist you if you have a disability that makes it difficult for you to put your complaint in writing or if English is not your first language.

Where a complaint is made against more than one Councillor, a separate complaint form must be completed for each Councillor.

The authority will not normally investigate anonymous complaints unless there is a clear public interest in doing so.

3. People Involved in the Complaints Process

3.1 The Monitoring Officer - is a statutory appointed officer of the Borough Council who is responsible for maintaining the register of councillors' interests and for administering the arrangements in respect of complaints relating to the conduct of councillors. The Monitoring Officer appoints a Deputy Monitoring Officer, who will also have conduct of complaints. References to the Monitoring Officer in these arrangements will also include the Deputy Monitoring Officer.

3.2 The Independent Standards Assessors are individuals who are independent lay members of the Standards Committee. Their role is to provide advice to the Monitoring Officer about alleged breaches of the Code of Conduct by Councillors.

3.3 An Independent Person is appointed under section 28 (7) of the Localism Act 2011. Their view is sought and taken into consideration before any decision is taken on whether a Councillor has failed to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person's view and advice may also be sought by a subject member.

3.4 The Parish/Town Councillor representative is appointed at the annual general meeting of the Basingstoke and District Association of Parish and Town Councils. Their view is sought before any decision is taken on whether a Parish/Town councillor has failed to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

3.5 Where the complaint merits a formal investigation, the Monitoring Officer will appoint an Investigating Officer. They may be a senior officer of the authority, a senior officer of another authority or an external investigator with a recognised qualification.

4. The Complaints Process

Stage 1 – Initial Assessment

4.1 A flow chart detailing the complaint process can be found at Annex 2.

4.2 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days.

4.3 The Monitoring Officer will aim to complete the initial assessment of an allegation within 15 working days of receiving a complaint.

4.4 The Monitoring Officer will normally inform the member against whom a complaint has been made that a complaint has been received and will give details of the complaint to them. The Parish or Town Clerk will also be informed if the complaint relates to one of their councillors. The Monitoring Officer has the discretion, which will only be exercised in exceptional circumstances, not to inform the member of the complaint at this stage if the Monitoring Officer is of the view that there is a risk that an investigation could be frustrated or a case prejudiced by the member knowing the details.

4.5 The complaint must be:

- Against one or more named members of the authority or of a parish or town council the Borough Council is responsible for; and
- Where the named councillor was in office at the time of the alleged conduct; and
- Where the complaint relates to a matter where the councillor was acting as a councillor or representative of the authority, and it is not a private matter
- Where the complaint, if proven, would be a breach of the Code of Conduct under which the councillor was operating at the time of the alleged misconduct

4.6 The Monitoring Officer will consult the Independent Standards Assessor and if the complaint does not fall within 4.5 above the matter will not be considered and the complainant will be informed that there will be no further action. There is no right to seek a review of this decision.

4.7 Where the complaint satisfies the criteria in 4.5 above the Monitoring Officer may consult or meet with such persons as she/he sees fit in order to establish a preliminary view of the circumstances of the complaint. Such consultations will include fact gathering to establish whether there may be a course of action which could be taken to resolve the issues promptly without the need for formal action.

4.8 The Monitoring Officer will then consult with the Independent Standards Assessor, Parish/Town Council representative, if appropriate, and Independent Person to decide whether the complaint merits formal investigation.

4.9 In assessing whether a complaint should be investigated the following factors will be taken into consideration:

- Public Interest – the decision whether to investigate will be a proportionate response to the issues raised and expected outcomes will take into account the wider public interest and the costs of undertaking an investigation. Complaints will only be investigated where the allegations are reasonably considered to be serious and if proven, likely to warrant a sanction.
- Alternative course of action – a complaint will only be investigated where there is no other action which could be taken which would achieve an appropriate outcome in the circumstances of the case
- Robust debate - where the complaint is by one councillor against another or where the debate involves criticism of a senior officer of the council whether in a public forum or in social media channels, a greater allowance for robust political debate may be given, bearing in mind the right to freedom of expression.
- Vexatious or Repeated complaints: a matter will not be referred for investigation where the same or a substantially similar issue has been the subject of a previous allegation and there is no new material evidence submitted or there is nothing further to be gained
- Ulterior Motive – no further action is likely to be taken if the complaint is considered to be motivated by malice, political motivation or retaliation.
- Timing of the alleged conduct – where the alleged conduct took place more than 6 months ago, no further action will be taken unless there are very good reasons for the delay.
- Council decision/action – no further action will be taken where the complaint is essentially against the decision of the council as a whole and cannot properly be directed against individual councillor(s);

4.10 At the end of Stage 1, the Monitoring Officer will write to the complainant and the subject member and inform them that one of the following decisions has been taken:

- No further action will be taken on the allegation
- The matter will be dealt with through a process of informal resolution in the first instance or
- The matter will be referred for a formal investigation

4.11 In cases where no further action will be taken, the decision notice will set out clearly the reasons for the decision, including the views of the Independent Standards Assessor and Independent Person.

4.12 A decision notice will be issued within one working day of the decision being made.

4.13 Unless the Monitoring Officer forms the view that it would be disproportionate, a summary of the outcome will be published on the council's website setting out the conclusions on the complaint and the reasons for the conclusion. There will be no identifying information published. The Monitoring Officer may decide to report a complaint to the Standards Committee as exempt information if it would be disproportionate to publish the outcome on the council's website.

4.14 There is no right of appeal against a decision to take no further action.

4.15 Where the matter will be dealt with through informal resolution or the matter is to be referred for a formal investigation, the complainant and subject member will be informed. If the subject member is a parish or town councillor, their parish or town council should be notified via the clerk.

4.16 The Monitoring Officer reserves the right in exceptional circumstances, to refer a complaint to the Standards Committee to determine if an investigation is the appropriate course of action.

4.17 If the complaint identifies criminal conduct at any time during this procedure, the Monitoring Officer will notify the police or other regulatory authority. Where such a notification is made the Monitoring Officer will only confirm the notification to the complainant or subject member when it is appropriate to do so.

4.18 No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded.

5. Informal Resolution

5.1 At any point in this procedure the Monitoring Officer in consultation with the Independent Standards Assessor and Independent Person, where appropriate, may elect to try and deal with the complaint by way of informal resolution.

5.2 Informal resolution is a means of resolving complaints informally in appropriate cases without the need for a formal investigation. Dealing with a matter by way of informal resolution at the initial assessment stage is not a formal determination that the councillor has failed to comply with the Code of Conduct. This can only be determined by way of a formal investigation.

5.3 The matter may be appropriate for informal resolution in the following circumstances:

- Where there is a misunderstanding of procedures or protocols
- Where there has been misleading, unclear or misunderstood advice from officers
- Where there is a lack of experience or training
- Where there is a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of negative behaviour to such an extent that it becomes difficult to conduct the business of the authority.
- Where there are allegations that that may be symptomatic of governance problems within the authority which are more significant than the allegations themselves

5.4 Informal resolution will not be appropriate when investigation is in the public interest due to the seriousness of the allegations.

5.5 Informal resolution may take a wide range of forms. It may involve:

- The member accepting that his/her conduct was unacceptable and offering an apology or other remedial action
- Referring the matter to group leaders
- The member being required to attend training
- Training for all councillors where there are wider procedure or cultural issues within the authority
- The review and/or development of local authority protocols and procedures where the allegation highlights an authority procedural failing

5.6 Where the Monitoring Officer in consultation with the Independent Standards Assessor believe the complaint can be dealt with through informal resolution, they will inform the subject member and complainant of the intention and give them the opportunity to comment before a final decision is made. It is desirable that any informal resolution is agreed by the complainant and the subject member, but the Monitoring Officer can decide to proceed with it without agreement if considered appropriate to do so.

5.7 If this action does not resolve the complaint, the Monitoring Officer, in consultation with the Independent Standards Assessor, Parish/Town Council representative (if appropriate) and Independent Person, will reconsider whether the complaint merits formal investigation. An investigation will only be conducted where the Monitoring Officer and Independent Person agree that this is the appropriate course of action.

5.8 When informal resolution has been completed, the Monitoring Officer will notify the subject member, the complainant, the Independent Standards Assessor/Independent Person and the relevant town or parish council if appropriate.

5.9 A summary of the outcome will be published on the council's website setting out the conclusions on the complaint and the reasons for the conclusion. There will be no identifying information published.

5.10 There is no right of appeal against a decision to proceed with informal resolution or where the informal resolution does not resolve the complaint, to take no further action.

6. **Stage 2 – Formal Investigation**

6.1. A formal investigation will be carried out in circumstances where a decision has been made either at the initial assessment stage or following an attempt at informal resolution which has not resolved the complaint.

6.2. The Monitoring Officer will appoint an investigating officer and agree a timescale in which to undertake the investigation. This will normally take no more than 6 months from the appointment.

6.3. The investigating officer will establish the scope of the investigation and inform the subject member, the complainant, the Independent Person and the relevant town or parish council if the subject member is a town or parish councillor. The investigating officer will explain the investigation process and will advise the subject member that they have the right to seek the views of the Independent Person and be represented at any interviews with the investigating officer.

6.4. At the end of his/her investigation, the investigating officer will produce a draft report. If the investigating officer is not the Monitoring Officer, they will send the draft report to the Monitoring Officer and the Independent Person to ensure that the investigation has met the scope of the complaint. The investigating officer will then send copies of the draft report, in confidence, to the complainant and the subject member and provide an opportunity for them to comment. Comments are to be supplied within 10 working days of the draft report being sent.

6.5. If at any time the investigation is frustrated, for example, if significant witnesses are not available for interview, the Monitoring Officer can decide what action to take, including in consultation with the Independent Person, terminating the investigation. If the subject member fails to respond to correspondence from the investigating officer, the complaint will be determined. If the complainant fails to respond, the complaint will be treated as withdrawn. All parties are encouraged to respond promptly to any correspondence in relation to the complaint.

6.6. If during the investigation, the investigating officer is of the view that the decision to investigate should be reviewed, he/she can refer the matter back to the Monitoring Officer. This may be because:

- Evidence is uncovered suggesting a case is less serious than may have seemed apparent to the authority originally and that a different decision might therefore have been made about whether to investigate or not.
- After examining the matter in detail, the investigating officer concludes that matters under investigation were not done by the subject member in their role as councillor or as a representative of the authority but rather in a private capacity
- The investigating officer uncovers something which is potentially more serious, and the authority may want to consider referring it to the police, for example.
- The subject member has died, is seriously ill or has resigned from the authority and the investigating officer is of the opinion that it is no longer appropriate to continue with the investigation.
- The subject member has indicated that they wish to make a formal

apology which the investigating officer considers should draw a line under the matter.

In such circumstances, the Monitoring Officer, in consultation with the Independent Person, will decide whether it is appropriate to defer or end the investigation.

6.7. Having received and taken account of the comments made on the draft report, the investigating officer will send his/her final report to the Monitoring Officer and Independent Person, the complainant, subject member and the relevant parish/town council. The report must make one of the following findings on the balance of probabilities:

- That there have been one or more failures to comply with the Code of Conduct or
- That there has not been a failure to comply with the Code of Conduct.

The report concludes there has not been a failure to comply with the Code of Conduct

6.8 If the report concludes that there has not been a failure to comply with the Code of Conduct and this is supported by the Monitoring Officer, in consultation with the Independent Person, the Monitoring Officer will inform the complainant and the subject member that he/she is satisfied no further action is required.

6.9 A summary of the outcome will be published on the council's website setting out the conclusions on the complaint and the reasons for the conclusion. There will be no identifying information published.

The report concludes that there has been a failure to comply with the Code of Conduct

6.10 If the report finds a breach of the Code and this conclusion is supported by the Monitoring Officer and Independent Person, the Monitoring Officer will decide what action to take. This may be to seek informal resolution, to take no further action as the breach is unlikely to lead to any sanction or to refer the matter to a hearing by the Standards Hearing Panel.

6.11 The Monitoring Officer reserves the right to refer the matter to the Standards Committee to determine if a matter should proceed to a hearing taking into account the views of the Independent Person.

6.12 The meeting of the Standards Committee will be open to the press and public unless confidential or exempt information under Part VA Local Government 1972 is likely to be disclosed. The Committee will go into private session if it resolves to do so.

6.13 Where a referral is made to the Hearing Panel the Monitoring Officer will

notify the subject member, the Independent Person and the complainant of the referral, the outcome of the investigation report, and that a formal decision notice will not be issued until after the Hearing Panel meeting.

7 Stage 3 - Referral of the Complaint to the Standards Hearing Panel

Convening the Hearing Panel

7.1 If in accordance with paragraph 6.10 or 6.11 the complaint is referred to a Hearing Panel then the Monitoring Officer will have delegated authority to organise the hearing. Wherever possible this will take place within three months of the date on which the investigating officer's report was completed. Once a date has been set for a hearing the Monitoring Officer will inform the subject member, the Investigating Officer, the Independent Person, the complainant and the clerk of any relevant town or parish council.

7.2 The Hearing Panel will be a sub-committee of the Standards Committee composed of three Borough Councillors with parish or town council representation if the complaint is in relation to a parish or town councillor.

7.3 The Monitoring Officer or a legal advisor to the Hearing Panel will be appointed to advise at the hearing. This advisor will advise on procedural matters, will ensure the subject member understands the procedures, will provide advice to the panel during the hearing and their deliberations and assist the Panel to produce a written decision and a summary of that decision. They will have no involvement in the decision-making process.

Pre Hearing Process

7.4 As soon as the date has been set for a hearing the Hearing Panel will hold a private pre-hearing which will decide:

- Who will chair the Panel
- Whether any of the findings of fact are in dispute and if so, whether they are relevant to the alleged breach.
- Whether any additional evidence is required at the hearing.
- Witnesses it would wish to hear from.
- Whether witnesses the subject member or investigating officer would wish to call are relevant and proportionate.
- Whether there are parts of the hearing which are likely to be held in private or whether any parts of the investigation report or other documents should be withheld from the public prior to the meeting, on the grounds that it contains "exempt" material although the final decision will be made on the day of the hearing.
- Whether there are any potential conflicts of interest and agreement on how these will be managed.
- The allocated time for the hearing.
- Any reasonable adjustments that be required to enable full participation of witnesses.

The pre hearing panel will not debate the merits of the case.

7.5 Prior to the pre hearing the Legal Advisor to the Hearing Panel will arrange for the hearing forms to be sent to the subject member, who will have 10 working days to complete the forms.

7.6 Prior to the hearing the Monitoring Officer will prepare a report for the Hearing Panel which will:

- Summarise the allegation
- Outline the main facts of the case which are agreed
- Outline the main facts which are not agreed
- Indicate whether the subject member and Investigating Officer will be present at the hearing
- Indicate the witnesses, if amy, who will be asked to give evidence
- Outline the proposed procedure for the hearing
- Include the Investigating Officer's report
- Include the views of the Independent Person

The Hearing

7.7 The procedure for the hearing is set out in Annex 1 .

7.8 The Hearing Panel will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 is likely to be disclosed. The Hearing Panel will go into private session if it resolves to do so.

7.9 If the Hearing Panel concludes that the subject member did not fail to comply with the Code of Conduct, it will dismiss the complaint.

7.10 If the Hearing Panel concludes that the subject member did fail to comply with the Code of Conduct, the Panel will then consider what action, if any, the Panel should take. In doing this, the Hearing Panel will give the subject member the opportunity to make representations and will consult the Independent Person.

7.11 A decision notice will be published within 5 working days following the hearing and published on the council's website.

8 Appeals

8.1 If the Hearing Panel finds that the subject member has failed to comply with the Code of Conduct, the subject member may appeal against that finding by requesting an appeal in writing to the Monitoring Officer within 10 working days of the formal notification of the Panel's decision.

8.2 A request for an appeal must set out the basis for the appeal by identifying the aspect(s) of the decision being challenged and the reasons for this. Any supporting information should be provided at this time.

8.3 The Investigation and Disciplinary and Standards Appeals Committee with be convened within two months of the date of receipt of the appeal.

8.4 At the appeal the subject member will have the opportunity to make representations to the Committee as to why they consider that the finding of the Hearing Panel is incorrect.

8.5 The complainant will also be asked to attend the meeting and make representations, as will the Monitoring Officer and any Investigating Officer.

8.6 The Committee, with advice from an Independent Person, will review the earlier decision and may conclude that the subject member did not fail to comply with the Code of Conduct and dismiss the complaint. If the Committee concludes that the subject member did fail to comply with the Code of Conduct, the Committee will inform the subject member that the decision of the Hearing Panel will be upheld. If the Committee upholds the decision in part, the Committee will consider what actions, if any it should take. This may include reconsideration of any sanction which was imposed by the Hearing Panel.

8.7 The decision of the Committee will be the final determination of the matter.

8.8 If the complainant believes that the authority has failed to deal with the complaint properly, they may wish to make a complaint to the Local Government and Social Care Ombudsman.

9 Modifications of procedures

9.1 If the parties are in agreement, the Monitoring Officer may agree to vary this procedure in any particular case where he/she is of the opinion that such a variation is necessary in order to secure the effective and fair consideration of any matter.

9.2 The Monitoring Officer may extend any time limits in these arrangements where it is in the public interest to do so or in order to be fair to both parties.

Annex 1

Standards Hearing Panel Procedure

1. Introduction

1.1 The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

1.2 The expectation is that the hearing will be in public, unless the Hearing Panel determines that it is necessary for part or all of the hearing to be in private session.

1.3 The hearing will be webcast except for any part of the hearing that will be held in private session.

1.4 In accordance with other Council Committee meetings, minutes of the meeting will be taken.

1.5 Neither party will be able to produce further documents at the hearing without the consent of the Hearing Panel.

1.6 Either party may choose to be represented at the hearing.

2. Quorum

2.1 The Hearing Panel shall consist of 3 Borough Councillors. All members of the Hearing Panel must be present throughout the hearing.

2.2 An Independent Person will be present at the Hearing Panel.

2.3 Where the matter relates to a Parish/Town Councillor, a Parish/Town Council representative from the Standards Committee will be invited to attend.

2.4 The Hearing Panel shall nominate a Chair for the hearing.

3. Hearing Procedure

3.1 The Chair will introduce the Hearing Panel and identify any parties not present. If a party is not present the Hearing Panel will determine whether the hearing should be adjourned or heard in the absence of a party.

3.2. All other parties introduce themselves.

3.3 The Chair will then ask if any of the Hearing Panel members have any declarations of interest.

3.4 The Chair will advise that:

3.4.1 All representations and procedural questions go through Chair.

3.4.2 Generally, no evidence may be submitted *for the first time* at the hearing unless all parties and the Hearing Panel agree.

3.4.3 The Hearing Panel will make its decision after hearing representations; and

3.4.4 The hearing will be conducted in public except when (i) exempt information about the complainant or subject member is disclosed and (ii) members of the Hearing Panel agree after considering the matter following hearing representations.

3.5 The Investigating Officer will be invited to present their report including any documentary evidence and may call witnesses which the Hearing Panel has agreed can attend. The report and documentary evidence must be based on the complaint.

3.6 The subject member (or their representative) may question the Investigating Officer upon the content of the report and any witnesses called. (This is not the subject member's opportunity to state their case.)

3.7 The Independent Person will have the opportunity to ask questions of the Investigating Officer and any witnesses.

3.8 Where appropriate, the Parish/Town Councillor representative will have the opportunity to ask questions of the Investigating Officer and any witnesses.

3.9 Members of the Hearing Panel will have the opportunity to ask questions of the Investigating Officer and any witnesses.

4. The Subject Member's case

4.1 The subject member (or their representative) may present their case and call any witnesses that the Panel has agreed may attend.

4.2 The Investigating Officer may question the subject member and/or any witnesses.

4.3 The Independent Person may question the subject member and/or any witnesses.

4.4 Where appropriate the Parish/Town Councillor representative will have the opportunity to ask questions of the subject member and/or any witnesses.

4.5 Members of the Hearing Panel may question the subject member and/or any witnesses.

5. Summing up

5.1 The Investigating Officer may sum up their case if they wish.

5.2 The subject member (or their representative) may sum up their case if they so wish.

5.3 The summaries of cases must not include any new evidence.

5.4 Where appropriate, the Parish/Town Councillor representative will be asked for their views.

5.5 The Independent Person will be asked for their views.

6. Decision

6.1 Members of the Hearing Panel will suspend the hearing and deliberate, with the benefit of advice from the Legal Advisor, in private to consider the complaint. All other parties shall withdraw from the meeting room, leaving only the members of the Hearing Panel and the Legal Advisor.

6.2 In the event of uncertainty concerning any evidence or advice already given, all parties will be recalled, regardless of the fact that the point in question relates only to the evidence/advice of one of the parties.

6.3 The decisions of the Hearing Panel shall be announced by the Chair to both parties at the conclusion of the hearing in the following terms:

6.3.1 The Hearing Panel has found that the subject member has failed to comply with the Code of Conduct or

6.3.2 The Hearing Panel has found that the subject member has not failed to comply with the Code of Conduct

The substance of any legal advice given to the Hearing Panel in private will be shared with the meeting as a whole.

6.4 The Hearing Panel will give reasons for their findings.

6.5 If the Hearing Panel finds that the subject member has failed to comply with the Code of Conduct, they may consider representations from the Investigating Officer, the subject member, and the Independent Person as to whether the Panel should apply a sanction and what form any sanction should take.

6.6 The Hearing Panel will then, if necessary, deliberate in private as per paragraph 6.1 to consider what action (If any) should be taken. The Hearing Panel will discuss any decision with the Independent Person.

6.7 On the Hearing Panel's return, the Chair will announce their decision.

6.8 The Council has delegated to the Monitoring Officer such of its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct.

6.9 No sanction can prevent subject member functioning as a Councillor. The Hearing Panel can recommend one or more of the following sanctions, where appropriate to the breach in respect of the subject member.

a) Censure or reprimand (or recommend to the parish/town council to issue a censure or reprimand) of the subject member.

b) Publish the findings in respect of the subject member's conduct.

c) Report the findings to Full council or Parish/Town council.

d) Instruct the Monitoring Officer to (or recommend that the parish/town council) recommend training for the subject member.

e) Withdraw facilities (or recommend to the parish/town council to withdraw facilities) that have been provided to the subject member for a specified time, such as limiting access to available IT tools.

f) Exclude the subject member (or recommend to the parish/town council that the subject member be excluded) from council premises or part of for a specified period.

g) Make a recommendation to the leader of the political group that the subject member should be removed from any Committee(s) or Committees or Sub-Committee(s) of the Council or from any positions of responsibility (or recommend such action to the parish/town council);

h) Recommend to Council (or to the parish/town council) that the subject member be replaced on appointments made by the Council; and/or

i) Recommend to Council (or recommend to the parish/town council) to remove the councillor from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish/Town Council.

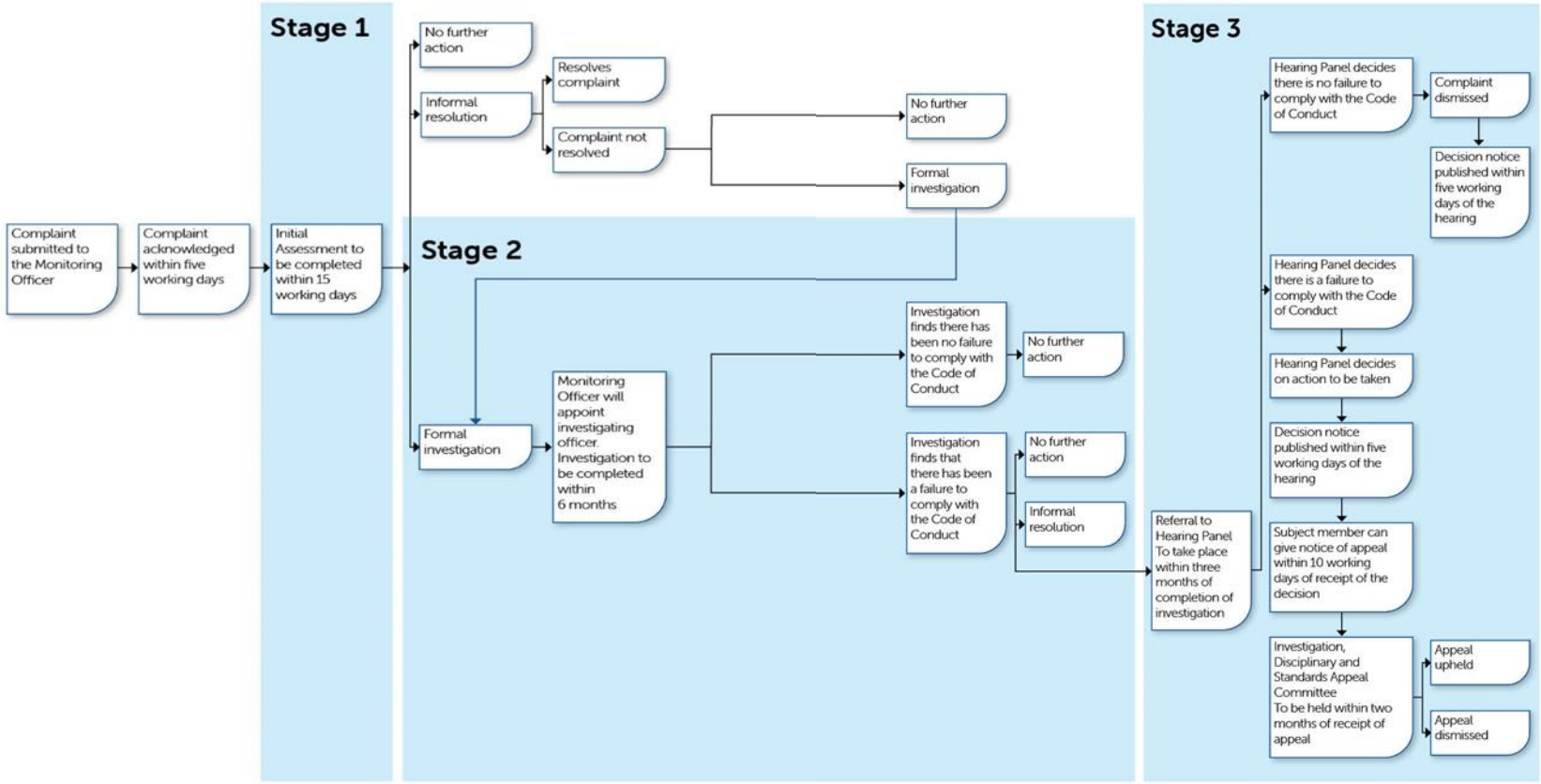
6.10 The Hearing Panel will consider whether it should make any recommendations to the Borough or Parish/Town Council with a view to promoting high standards of conduct among Councillors.

6.11 The Legal Advisor will issue a decision notice to the Parties within 5 working days following the hearing.

6.12 The Hearing Panel's finding will be published on the Borough Council's website, unless an appeal is submitted by the subject member within 10 working days, in which case the decision will be published following the appeal.

Annex 2 Procedure for Complaints against Councillors

Next page


Stage 1
Stage 2
Stage 3
Complaint submitted to the Monitoring Officer
Complaint acknowledged within five working days
Initial Assessment to be completed within 15 working days
No further action
Informal resolution
Resolves complaint
Complaint not resolved
No further action
Formal investigation
Formal investigation
Monitoring Officer will appoint investigating officer. Investigation to be completed within 6 months
Investigation finds there has been no failure to comply with the Code of Conduct
No further action
Investigation finds that there has been a failure to comply with the Code of Conduct
No further action
Informal resolution
Referral to Hearing Panel To take place within three months of completion of investigation
Hearing Panel decides there is no failure to comply with the Code of Conduct
Complaint dismissed
Decision notice published within five working days of the hearing
Hearing Panel decides there is a failure to comply with the Code of Conduct
Hearing Panel decides on action to be taken
Decision notice published within five working days of the hearing
Subject member can give notice of appeal within 10 working days of receipt of the decision
Investigation, Disciplinary and Standards Appeal Committee To be held within two months of receipt of appeal
Appeal upheld
Appeal dismissed

Planning Code of Conduct

This Code has been prepared using advice in the Local Government Association/Planning Advisory Service revised guidance note – Probity in Planning: Advice for councillors and officers making planning decisions (December 2019) and the templated Planning Code of Conduct produced by the Planning Advisory Service in June 2026 reviewing the code in light of the mandatory National Scheme of Delegation.

Key Purpose of Planning

Planning has a positive and proactive role to play at the heart of local government. Its purpose is to translate goals into actions. It balances social, economic and environmental needs to achieve sustainable development. It can deliver important public benefits such as new housing, infrastructure and local employment opportunities.

The system works best when Councillors and officers involved in planning understand and respect their roles and responsibilities and the context and constraints within which they operate.

Planning decisions are based on balancing competing interests and making an informed judgement against a local, regional and national policy framework. In doing this, decisionmakers need an ethos of working in the wider public interest on what can be controversial proposals.

Aim of the Code

In today's place-shaping context, early Councillor engagement is encouraged to ensure that strategic proposals for sustainable development can be harnessed to produce the places that communities need. This Code is intended to reinforce Councillors' community engagement role whilst maintaining good standards of probity that minimises the risk of legal challenge.

Planning decisions can be controversial. The risk of argument and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and planning decisions. Nevertheless, it is important that the decision-making process is open and transparent.

One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors and officers must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that Councils make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.

The process should leave no grounds for suggesting that those participating in a planning decision were biased or that the decision itself was unlawful, irrational or procedurally flawed.

When the Code Applies

This Code applies to Councillors and Officers when they are involved in the planning process. This includes, where applicable, when part of decision-making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or consultative meetings. It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications. If a Councillor has any doubts about the application of this Code to their own circumstances they should seek advice early from the Monitoring Officer, and preferably well before any meeting takes place.

This Code applies to all meetings of the Council's Planning Committee. When the term "Councillor" is used, it means that the text is applicable to all members of the Council. The term "Planning Committee Councillor" means a member or a substitute member of the Council's Planning Committee.

Relationship to the Code of Conduct for Councillors

Councillors are reminded that this Code is designed primarily for Planning Committee Councillors and Councillors who, for whatever reason, find themselves involved in the planning process. It should not be read in isolation. Whilst this Code interprets the Code of Conduct for Councillors in Part V of the Constitution with respect to planning matters, it is subordinate to that Code and in the event of any inconsistencies arising between this Code and the Code of Conduct for Members, the latter shall prevail.

Role and Conduct of Councillors and Officers

Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Councillors are responsible to the electorate as a whole.

General Roles of Councillors and Officers

Officers are not appointed to serve any political group and therefore advise all Councillors. Officers carry out the daily functions of the Council's business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Staff Code of Conduct. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by the Solicitors Regulation Authority. Officers in other professions will have similar codes.

The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Code of Conduct for Councillors is consistent with the principles of selflessness,

integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to Council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council's constitution sets down rules and orders which govern the conduct of Council business.

Relationship between Councillors and Officers

Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and an understanding of each other's positions. This relationship, and the trust and respect that underpins it, must never be abused or compromised.

Planning officers' views, opinions and recommendations will be presented based on their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of a committee or other meeting or its Councillors.

Councillors must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views must be received in written form (e.g. email) and be placed on the planning file, so that they can be considered together with submissions where they are material planning considerations.

Interests: Registration and Disclosure

The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.

A Councillor should refer to the Code of Conduct for Councillors for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. A failure to properly register a Disclosable Pecuniary Interest or to participate in discussion or voting in a meeting on a matter in which a Councillor has a Disclosable Pecuniary Interest, are criminal offences. Ultimately, responsibility for fulfilling these requirements rests with each Councillor.

Registration of Interests

A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.

Disclosure Of Interests

It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a matter to be discussed at Planning Committee, he or she should raise this with the Monitoring Officer as soon as possible.

Personal And Pecuniary Interests

The Council's Code of Conduct for Councillors includes provision for declaration of interests that are wider than Disclosable Pecuniary Interests under the Localism Act 2011. Some personal interests may amount to pecuniary interests that impact on Planning Committee Councillor's ability to participate and vote on that item.

Disclosable Pecuniary Interests

Where a Councillor has a Disclosable Pecuniary Interest relating to an item under discussion, the Councillor may not participate (or participate further) in any discussion of the matter at the meeting or participate in any vote (or further vote) on the matter. The Councillor must also withdraw from the committee room. This means that a Councillor with a Disclosable Pecuniary Interest is precluded from making representations orally to the committee or from making representations on behalf of a party to the hearing.

A Councillor with a Disclosable Pecuniary Interest can still present their views to the committee through other means. For example, the Councillor can:

- make written representations on a planning application in their private capacity – the existence and nature of the interest should be disclosed in such representations, and the Councillor should not seek preferential consideration for their representations – such written representations should be addressed to officers rather than to other Councillors;

- use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; or

- arrange for another Councillor (e.g., a fellow ward Councillor) to represent the views of the Councillor's constituents on matters in which the Councillor has a Disclosable Pecuniary Interest.

Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances a dispensation can be sought from the Monitoring Officer to be present for that item of business.

Members should also have regard to the requirements regarding personal and pecuniary interests under the Code since these may also require a declaration of interest and may impact on members' ability to participate in an item.

Bias: Predetermination and Predisposition

In addition to being aware and taking appropriate action in relation to interests, Planning Committee Councillors need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or

the appearance of bias or predetermination is a principle of natural justice that the decision maker is expected to adhere to.

The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” and likely to leave the committee’s decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.

Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear that, although they have an initial view, they are willing to listen to all the material considerations presented at the committee and to keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such a planning decision.

Section 25 of the 2011 Localism Act provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This enacted the common-law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and are prepared to change their mind in the light of information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider whether the Councillor was biased. It is not enough just to say you have an open mind; you need to act in a way that shows that you have.

For example, a Councillor who states, “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a Councillor who states, “Many people find windfarms ugly and noisy, and I will need a lot of persuading that any more windfarms should be allowed in our area.” The former has a closed mind and is predetermined, whereas the latter is predisposed but is still maintaining an open mind.

Dealing With Lobbying

A Planning Committee Councillor who has been lobbied and wishes to support their constituent or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined their position or have given that impression, they should avoid being part of the decision-making body for that application. A Planning Committee Councillor could speak at Planning Committee (in accordance with the Public Participation Procedure Rules in the Constitution) on behalf of their constituents, having declared their pre-determined position, but could not take part in the planning decision.

Participation as a Planning Committee Councillor where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Councillor considers that they are or have given the impression that they are biased or predetermined, it is unlikely to be appropriate for them to participate in the matter.

Applications Submitted by the Council, Councillors or Officers

Care needs to be taken in the way these applications are dealt with.

Applications submitted by the Council

Proposals for a Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.

The Planning Scheme of Delegation sets out the circumstances when applications submitted by the Council might need to be determined by Committee.

Certain Councillors may, through their other roles outside of Planning Committee (eg a Portfolio Holder), have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Planning Committee, the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. The most appropriate course of action, if that is the case, is that the Councillor concerned may address the Committee in the applicant's speaking slot (see the Public Participation in Meetings Procedure Rules in Part IV of the Constitution) but does not take part in its consideration and determination. It is important that the Councillor should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.

Applications Submitted by Councillors or Officers

It is perfectly legitimate for planning applications to be submitted by Councillors and members of staff. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.

If a councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing.

The Planning Scheme of Delegation sets out the circumstances when applications submitted by councillors and officers might need to be determined by Committee.

The procedures to be followed in Committee when determining such applications are as follows:

- The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary Interest for that Councillor and they will need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Code of Conduct for Councillors.

- If such a Councillor does not have a Disclosable Pecuniary Interest, they may address the Committee as the applicant in accordance with the Council's public speaking procedures.

- If such a Councillor has a Disclosable Pecuniary Interest, they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf, unless they have received a specific dispensation for this purpose from the Monitoring Officer.

- The Planning Committee Councillor must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.

The principle in the final bullet point also applies to an application submitted by a member of staff when it is considered in Committee.

Lobbying of and by Councillors

Lobbying is a normal part of the planning process. Lobbying is where those who may be affected by a planning decision, whether through an application, enforcement action, a site allocation in a development plan or an emerging policy, seek to influence it through an approach to their Ward Councillor or to a Councillor sitting on a relevant committee or taking an executive decision.

As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the Councillors themselves."

Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense are exercised by all the parties involved.

Lobbying of Councillors

A Planning Committee Councillor should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Councillors must ensure that it is made clear to any lobbyists that they will only be able to reach a final decision on any planning matter after they have heard all the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

Planning Committee Councillors who are subject to lobbying should therefore:

- Suggest to lobbyists that they write to the Planning and Development Manager in order that their views can be considered and included in the officer report prepared for determination under delegated powers or by committee;

- refer the matter to another ward councillor;

- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;

- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (e.g., refreshments at a meeting), ensure that they comply with the provisions in the Code of Conduct for Councillors on gifts and hospitality; and

- inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality, including where they have been declined), who will in turn advise the appropriate officers to follow the matter up where necessary.

Planning Committee Councillors should note that, subject to the requirements to ensure that they comply with the Code of Conduct for Councillors and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:

- listening or receiving viewpoints from residents or other interested parties;

- making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;

- seeking information through appropriate channels, which generally would be officers in the Planning Service; or

- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the

debate. This point is distinct from a Planning Committee Member who is pre-determined on an application and wishes to speak under the Public Participation Rules as a Ward Councillor.

In the interest of openness and transparency, Planning Committee Councillors should declare at the meeting any lobbying to which they have been subject.

It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual Councillor.

Lobbying by Councillors

Planning Committee Councillors should not become a member of, lead or represent a national or local organisation that regularly lobbies to promote or oppose planning proposals. If a Councillor does, they may appear to be biased. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have such an interest, unless they have received a specific dispensation for this purpose from the Monitoring Officer.

Planning Committee Councillors can join general groups which reflect their areas of interest, and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest and consider whether that also amounts to a pecuniary interest where that organisation has made representations on a particular proposal or other planning matter. Where a Planning Committee Councillor is able to participate, they should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.

Councillors should not excessively lobby Planning Committee Councillors regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, is likely to compromise, or could be seen as compromising an officer’s impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of an application for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.

Planning Committee Councillors should not decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Planning Committee Councillor to do so.

As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.

Pre-Application Discussions

Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. For this reason, the Council have developed a pre-application process that enables engagement at the pre-application stage.

For major strategic applications, the Council offers a service to potential applicants, which includes presenting their schemes to a Pre-Application Panel Meeting. Pre-Application Panel Meetings are open to all Councillors and are made up of the Councillors who attend the meeting on that day. This is the way in which Planning Committee Councillors can engage with these schemes, where officers will be in attendance and take notes of the discussion to be appended to the final pre-application response. There should therefore be no need to attend any other meetings with potential applicants or their agents/representatives outside of this process.

For other application types, potential applicants may seek to meet Planning Committee Councillors. For minor or household applications, these can be treated as a form of lobbying and Councillors, including Planning Committee Councillors, should follow the advice on lobbying set out above.

Where an application is more substantial, but not subject to a pre-application committee presentation, these meetings will be subject to the following procedures:

- No meeting involving Planning Committee Councillors on their own shall be convened without the presence of a Council planning officer for the entire duration of the meeting.

- Both this Code and the Code of Conduct for Councillors will apply when attending such meetings.

- Any Planning Committee Councillor involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.

- Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.

- Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.

- Councillors should not become drawn into any negotiations, which should be done by officers to ensure that the authority's position is co-ordinated.

- A contemporaneous note of the meeting should be prepared by the planning officer attending and a copy sent to all parties for their comments on accuracy.

- The final version of the note of the meeting will be placed on the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.

Councillors should not seek to arrange meetings that would circumvent the Council's normal pre-application procedures, including the need to charge applicants for such meetings.

Planning Committee Councillors should not attend pre-application meetings that are not organised through officers.

Post-Submission Discussions

A Planning Committee Councillor should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.

There are limited circumstances when Planning Committee Councillors may legitimately engage in post-submission discussions. An example would be in the case of a very large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers as a Technical Briefing and run under the procedures set out in the Planning Committee Procedures.

If a Planning Committee Councillor is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether it would be prudent in the circumstances to make notes when contacted. A Councillor should report to the Head of Planning and Infrastructure or Planning and Development Manager any significant contact with the applicant or other parties, explaining the nature and purpose of the contact and their involvement, so that it can be recorded on the planning file. Any material received by a Councillor from an applicant, their agent or objectors in relation to an application should be passed onto the Head of Planning and Infrastructure or Planning and Development Manager ahead of the determination of the application. In the interests of transparency, any such contact should be declared at the subsequent committee meeting that considers the application.

Planning Committee Councillors should not attend post-submission meetings that are not organised through officers.

Committee Site Viewings

The purpose of a site viewing is for members of the Planning Committee to gain knowledge of the application site and its relationship to adjacent sites. Where a Schedule 2 application is to be referred to Planning Committee following consideration of the Gateway Test, the Nominating Officer and the Nominating Member will consider at the

Gateway Meeting whether a site viewing is to take place prior to the Planning Committee meeting having had regard to whether the impact of the proposal is difficult to visualise from the plans and any supporting material, including photographs taken by Officers.

An Own Interest Application referred to Planning Committee for transparency reasons will not normally trigger the requirement for a site viewing.

The site viewing should consist simply of a site inspection, led by the Chair or Vice-Chair, with Officer assistance, and should be attended only by members of the Planning Committee, relevant ward Councillors and Officers, save that in parished areas a properly accredited Parish/Town Council representative may also attend the site viewing. The Chair should clarify who is present on site and ask the Officer to present the application at the start of the viewing. Ward Councillors and the Parish/Town Council representatives should also be asked if there are particular points that they wish to be examined on site. No lobbying should occur, and no opinions should be put forward by these persons. The points made should be factual. The applicant, his/her agent or any objectors shall not be permitted to present a case at the viewing. Planning Committee Councillors should always stay together to ensure they hear the same information presented by the attending officer. Walking off separately with an interested party, whether applicant or objector, may otherwise give the perception of bias.

No decisions are made at the site viewings. It is essential that Councillors and Officers ensure that those attending are not led to believe that a decision has been taken on the spot, or that conclusive views have been reached.

Following the site viewing, Officers will prepare a note of any relevant information obtained from the site viewing to add to the Update report on the application.

Planning Appeals

Appeals against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.

If a Councillor wishes to attend a public inquiry or hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the Head of Planning and Infrastructure or the Planning and Development Manager to ensure that they are aware of the process and that the Councillor does not act in a manner which compromises their position as a Councillor, brings the Council into disrepute, prejudices the Council's case or puts the decision made by the Council at risk of challenge.

A Planning Committee Councillor cannot attend an appeal on behalf of the Council's Planning Committee, even if they sat on the Committee that made the decision, unless this is as part of the Council's case as decided by the Head of Planning and Infrastructure or the Planning and Development Manager. The decision of the Committee will be recorded in the minute and set out in the decision notice. A planning officer or appointed representative will present the Council's case on its planning merits, in accordance with the Committee's decision. The inspector is required to determine the appeal on its planning merits and therefore all representations by the Council will be so directed.

Where the appealed decision was contrary to the officer's recommendation, officers may still be able to present the Council's case. Where this is not the case, the matter will be presented by a planning consultant employed by the Council.

Planning Enforcement

It is perfectly legitimate for Councillors to bring to the attention of the Head of Planning and Infrastructure suspected breaches of planning control so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the Head of Planning and Infrastructure via the online form on the Planning Enforcement web page.

The Council's planning enforcement service operates to a priority system set out in the council's Planning Enforcement Statement so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service within the resources available. Councillors must not seek to have matters that they have raised given preferential treatment merely because they are a Councillor.

Councillor Training

Councillors may not participate in decision making at meetings of the Council's Planning Committee unless they have attended mandatory training arranged annually. This will be provided by the Council's Planning and Legal Services and will cover the principles of planning and probity in planning.

All Planning Committee Councillors (and substitutes) must attend this training annually, or as otherwise recommended individually or collectively by the Monitoring Officer.

All Planning Committee Councillors should also attend any other specialised training sessions provided, since these will be designed to extend and deepen their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role.

Training will also be provided on planning related matters for all other councillors who wish to attend.

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WORKING TOGETHER FOR LOCAL PEOPLE:
PROTOCOL FOR COUNCILLOR/ OFFICER RELATIONS

1. INTRODUCTION

1.1 Together, Councillors and Officers (the terms used for Councillors and Council employees respectively) combine the essential skills, experience and knowledge to lead an effective public sector organisation. Councillors provide a democratic mandate and political leadership for the Council whereas Officers contribute the professional expertise and experience to deliver the policy framework agreed by Councillors.

1.2 Whilst collaborative working is the accepted norm for Councillor and Officer relations, it is important to recognise and take account of their different roles. This is important for day-to-day interaction between Councillors and Officers and for the public perception of the Council; by ensuring transparency between the political role of Councillors and the professional, impartial role of Officers.

1.3 The Protocol's purpose is to provide guidance on Councillor-officer relations,

- greater clarity on some key areas of interaction;
- promote good working relations; and
- enhance mutual respect.

1.4 Hence this Protocol is based on a series of principles, explanations and should be interpreted in a purposeful manner, noting that the document is not intended to be comprehensive, nor a prescriptive checklist. The Protocol should be read alongside other documents relevant to the interaction between Councillors and Officers.

1.5 To assist in providing that clarity the Protocol seeks to:

- broadly describe the respective roles of Councillors and Officers;
- understand the different relationships between Councillors and Officers; and
- describe a framework to facilitate enhanced working relationships.

1.6 The aim of this document is to help to clarify expectations and thus help promote good working relations between Councillors and Officers, e.g. enhance mutual professional respect. Hence the code applies to all Councillors, co-optees, officers and other advisors. If there any questions of interpretation please discuss those with the Monitoring Officer.

2. THE DIFFERENT ROLES OF COUNCILLORS AND OFFICERS

2.1 Like all effective partnerships, Councillor-officer relations are based on the following principles:

- Mutual trust and respect of the different roles of Councillors and Officers;
- A common purpose; providing the best possible service to the residents and other stakeholders of Basingstoke and Deane; and
- A commitment to collaborative, non-adversarial resolution of disputes.

2.2 Building and maintaining mutual trust and respect begins with understanding the distinct role and contribution of Councillors and officers, respect for the boundaries and duties for these distinct roles.

2.3 Councillors are elected by those individuals eligible and registered to vote. They are elected for a set term of office and once elected represent all the electorate in their ward, not just those who voted for them. Councillors can form political groups and the largest group or a combination of groups usually form an administration to provide the political leadership for the authority.

2.4 Officers (except political assistants) are required to be politically impartial; they serve the whole Council and not particular groups or Councillors. This is particularly important for senior officers, who are prevented by law from political activities beyond party membership. Some officers have mandatory statutory responsibilities including the Head of Paid Service, Monitoring Officer and Chief Finance Officer. Councillors must respect these duties and that they may be required to give advice or make decisions which Councillors may not agree with or like.

2.5 The remainder of this Protocol will address specific areas of Councillor-officer interaction.

3. THE RESPONSIBILITY OF COUNCILLORS

a. Providing political leadership.

b. Determining the budget and policy framework for the Council.

c. Monitoring and reviewing the performance of the Council in implementing that policy and delivering services.

d. Representing the Council externally and acting as advocates on behalf of their residents.

4. THE RESPONSIBILITY OF OFFICERS

a. Ensure the Council acts lawfully and with financial propriety, even if that is against the wishes of Councillors.

b. The day to day management of the Authority's services, the organisation and its resources inclusive of Officers.

c. Initiate, implement and manage policy which accords with the overall framework set by Councillors.

d. Give professional advice to all Councillors.

5. MUTUAL RESPONSIBILITIES OF COUNCILLORS AND OFFICERS

a. Work in partnership.

b. Respect for respective roles, workloads and pressures.

c. Respect, dignity, courtesy, integrity, mutual support and appropriate confidentiality.

d. To undertake training and development in order to carry out their role effectively.

e. Not to subject the other to bullying or harassment.

6. PERSONAL RELATIONSHIPS

6.1 Mutual respect between Councillors and Officers is essential for the delivery of good local government. Close personal familiarity in public between individual Councillors and Officers can damage this relationship and should be avoided as it can prove embarrassing to other Councillors and Officers. The Council recognises that such relationships may exist or develop overtime. In order to maintain the integrity of the individuals concerned and the Council, such relationships should never be hidden.

6.2 Councillors should declare such relationships to the Monitoring Officer and Officers should declare such relationships to their Executive Director in writing. This includes any family relationships.

7. CONTACT BETWEEN COUNCILLORS AND OFFICERS

7.1 Contact between Councillors and Officers should be at a level appropriate to the issue being raised. Routine matters should be raised with an appropriate officer however concerns about a service should normally be raised with an Executive Director or Head of Service.

7.2 Officers should not shy away from providing advice based upon their professional judgment. Where an individual Councillor may have a contrary view s/he should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.

7.3 Certain Officers e.g. Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section151 Officer) are Statutory Chief Officers and have responsibilities in law over and above their obligations to the Council and to individual Councillors. Councillors must:

- respect these obligations;
- not obstruct Officers in the discharge of these responsibilities;
- not seek to unduly influence them in the carrying out of these responsibilities; and
- not treat Officers any less favourably for discharging these responsibilities.

8. CABINET/ COMMITTEE CHAIRS AND SENIOR OFFICERS

8.1 It is important that there should be a close working relationship between a Cabinet Member or a Chair of a Committee/Sub-Committee and senior Officers. Such Councillors will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, however occasionally Officers will be under a duty to submit a report that Councillors are not supportive of. Any such divergences should be referred to the Head of Paid Service and the relevant group leader or the Leader.

8.2 It is a generally accepted convention in local government that the Administration and its Cabinet Councillors will be supported by Officers in policy development. Any advice provided and drafts of documents/ policies in the course of the development of proposals by the Administration and in support of its decision making will be confidential to the Administration.

9. OPPOSITION COUNCILLORS

9.1 All Councillors should be treated equally. However, it has to be recognised that the relationship between senior officers and the Cabinet/ Committee Chairs will differ from that with other Councillors, given the need to offer advice to support the development of policy and decision making.

10. POLITICAL GROUPS

10.1 Officers serve the Council as a whole and not exclusively any political group, except for Political Assistants.

10.2 It is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior officers may provide briefings to such groups but must at all times maintain political neutrality. In practice such officer support is likely to be in most demand from whichever political group forms the administration at the time

10.3 Requests for Officers to brief any political group (or Independent Forum) meeting must be made through a Head of Service or Executive Director. Where the group includes non-councillors this may restrict the information that can be disclosed. Any request for advice, together with the advice given to a political group or Councillor will be treated with strict confidentiality, however, Councillors should be aware that this would not prevent officers from disclosing such information to other officers of the Council so far as is necessary to perform their duties.

11. CRITICISM/COMPLAINTS

11.1 Councillors and Officers should not criticise or undermine respect for the other at any meeting where Council business is being considered or transacted, in any public forum or through any communications (email, articles, and press briefings/releases). This would damage effective working relationships and the public's confidence in the Council.

11.2 If Councillors feel that they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an Officer or group of Officers they should raise the matter with the relevant Executive Director. If the Councillor is not satisfied that action has been taken within a reasonable period by the Executive Director, they should raise the matter with the Head of Paid Service.

11.3 Except as above Councillors should not raise matters relating to the conduct or capability of an individual Council Officer or of Officers collectively, at any meetings other than those held for that specific purpose with the relevant line manager. This is a long-standing tradition in public service as Officers have no means of responding to criticisms such as this in public. Where an Officer feels that they have not been properly treated with respect and courtesy or is concerned about any action or statement relating to her/himself or a colleague by a Councillor they should raise the matter with their line manager, or other senior Officer as appropriate.

12. CORRESPONDENCE BETWEEN COUNCILLORS AND OFFICERS

12.1 Correspondence between an individual Councillor and an Officer on a matter relating to a single constituent should not normally be copied (by the Officer) to any other Councillor. Where, exceptionally, it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor before the email is sent. In other words, a system of “silent or blind copies” should not be employed. Where the Councillor/Officer has legitimately copied in others it is in order for the Councillor/Officer replying to copy in those individuals with the response.

12.2 In some cases issues are raised by, or with, individual Councillors relating to a matter of general interest in a Council Ward. Recognising that it is in the best interests of the Council to ensure that all Councillors are properly informed of general issues in their Ward, copies of correspondence will normally be sent to all Councillors for the particular area unless the Councillor specifically requests that correspondence is not copied to other Councillors or, there is a political, or other reason, why this is not appropriate. Where correspondence is copied to other Councillors this will be made clear to the original Councillor.

12.3 Letters by Officers on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

12.4 Officers will respond to enquiries made by Councillors within agreed time frames set out in the customer charter. On occasions a response may generate a further enquiry and officers shall seek to assist Councillors with the enquiries. However where such enquiries start to impact on the officer’s workload and priorities set by their manager, the officer will refer the matter to their line manager. The line manager/ or other senior manager may seek a meeting with the Councillor so that issue can be fully aired and consideration given to a comprehensive

response to avoid a protracted exchange of emails. Where in the opinion of the Executive Director the enquiry is not a proportionate use of or is distracting Officer resource from the delivery of the Council Plan, service obligations or priorities set by their manager, the Executive Director may indicate that in the absence of a meeting to resolve the issue no further dialogue will be entered into with the Councillor on the subject. If a Councillor is not satisfied with the Officer's response (s)he should raise the matter with their group leader and the Head of Paid service.

12.5 Where correspondence from a Councillor or Officer is considered by the recipient to be rude, intemperate or offensive, the recipient will have the ability to decline to respond to the correspondence, notifying the author that this is the case, and to refer the matter to their Group Leader or if an Officer to their Head of Service or Executive Director as appropriate.

13. LOCAL ISSUES

13.1 Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should be informed or involved, as appropriate, normally this should be as part of the initial development of the consultation. Similarly whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected should, as a matter of course, be given as much notice of the meeting as possible and be invited to attend the meeting. Local Councillors should normally be informed of council issued press releases prior to their release.

14. CEREMONIAL EVENTS

14.1 The Mayor, or in his/her absence the Deputy Mayor, will be the appropriate person to lead/ represent the Council at ceremonial events which are of particular significance or are not specifically associated with the office of the Leader, a particular Portfolio/Committee/Sub-Committee.

14.2 Local Councillors should always be informed of, and, where possible, invited to ceremonial events taking place within their own Wards. Any Councillor taking part in a ceremonial event must not seek disproportionate personal publicity nor use the occasion for party political advantage bearing in mind that the Councillor is representing the Council as a whole. Further guidance is contained in the Communications Handbook/ Media guidelines.

15. THE MANAGEMENT OF OFFICERS

15.1 The management of Officers (including Political Assistants) is the responsibility of managers and ultimately the Chief Executive as Head of Paid Service. Officers will support, advise and respond to Councillors requests but Councillors cannot instruct Officers to do any piece of work or take any course of action.

15.2 In some Officer appointments Councillors take part in selecting and appointing an Officer. As a matter of law the candidate who best meets the specification for the role as advertised should be appointed and a Councillor should not let his/her political or personal preferences influence their judgement. The Council has legal

obligations in relation to equal opportunities both as an employer and as a public body. Councillors are required to comply with these legal obligations and to adhere to the Council's equal opportunities policy in their dealings with staff/ potential staff.

15.3 If, in the course of performing their duties, Councillors receive allegations of misconduct by an officer these should be referred with any supporting information to the appropriate Executive Director or Head of Human Resources and Organisational Development (HR & OD). If the above has been followed and the Councillor still has concerns, or if s/he feels the matter is very serious, then the Councillor may contact the Head of Paid Service.

15.4 Councillors should not seek or request personal information about individual officers nor seek to contact Officers outside of working hours or at home unless by prior agreement, an existing provision or arrangement.

15.5 If a Councillor or Officer believes they have been subjected to unlawful discrimination or treated in a manner that contravenes the Council's equal opportunities policy then this should be reported by a Councillor to their group leader and by an officer to the Head of HR and OD.

16. PUBLIC RELATIONS AND PRESS RELEASES

16.1 The Council's Communications and Marketing Officers serve the Council as a whole and must operate within the limits of the statutory framework which prohibits publishing material which appears to be designed to affect public support for a political party.

16.2 Council press releases drafted by officers and will often contain quotations from the Mayor, Deputy Mayor, Leader, a Cabinet Member or the Chair or Vice-Chair of the Committee or Sub-Committee whose service is involved. Such press releases will not indicate the Councillors party political affiliation.

16.3 Individual Councillors may issue personal press releases. If issued, these must contain a clear statement that it is a personal publication to avoid any possibility of confusion with a Council press release.

16.4 Further guidance on the legal constraints placed on local authority publicity during an election period can be obtained from the Communications and Marketing Office and/or the Monitoring Officer.

17. COUNCILLORS ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

17.1 Further information is contained within the council's constitution and may be added to this protocol following a review of this subject matter by the Scrutiny Committee in 2017/18.

17.2 **Access to formal meeting Papers (including background papers)**

Further information is contained within the council's constitution and may be added to this protocol following a review of this subject matter by the Scrutiny Committee in 2017/18.

17.3 **Confidential/Exempt Information**

Further information is contained within the Council's Constitution and may be added to this protocol following a review of this subject matter by the Scrutiny Committee in 2017/18.

17.4 **Legal advice**

Further information is contained within the Council's Constitution and may be added to this protocol following a review of this subject matter by the Scrutiny Committee in 2017/18.

17.5 **Policy development/ advice to political groups**

Further information is contained within the Council's Constitution and may be added to this protocol following a review of this subject matter by the Scrutiny Committee in 2017/18.

17.6 **Requests by Councillors – Procedures**

Further information is contained within the council's constitution and may be added to this protocol following a review of this subject matter by the Scrutiny Committee in 2017/18.

18. USE OF COUNCIL INFORMATION – CONFIDENTIALITY

Further information is contained within the council's constitution and may be added to this protocol following a review of this subject matter by the Scrutiny Committee in 2017/18.

19. WHEN THINGS GO WRONG

19.1 **Procedure for Councillors**

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Executive Director, or Head of Paid Service as appropriate. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedures.

19.2 **Procedure for Officers**

From time to time the relationship between Councillors and Officers may become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior Officer (including the Monitoring Officer), the Councillor or his or her group leader, Officers will have recourse to local complaints procedures if the informal process fails.

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CHIEF FINANCE OFFICER (SECTION 151 OFFICER) PROTOCOL

1. General Introduction to Statutory Responsibilities

1.1. The Chief Finance Officer (CFO) is a statutory appointment under Section 151 of the Local Government Act 1972. This protocol provides some general information on how those statutory requirements will be discharged at Basingstoke & Deane Borough Council.

1.2. The Local Government Act 1972 requires that every local authority in England and Wales should "make arrangements for the proper administration of their financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs"

1.3. A summary list of the Chief Finance Officer's statutory responsibilities is detailed in the attached Annex 2. The Chief Finance Officer's ability to discharge these duties and responsibilities will depend, to a large extent on Councillors and Officers:

a. Complying with the Council's financial procedures;

b. Making lawful payments;

c. Not taking action that would result in unlawful payments or unlawful action.

1.4 At Basingstoke & Deane Borough Council the current responsibilities of the Chief Finance Officer's role rest with the Executive Director of Corporate Services who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so the Chief Finance Officer will also safeguard, so far as is possible, Councillors and officers, whilst acting in their official capacities, from financial difficulties.

1.5. The Council's Constitution and Financial Regulations also set out specific roles and responsibilities for the Chief Finance Officer role.

2. The Role of the Chief Financial Officer in Local Government (CIPFA)

2.1. The 'Role of the Chief Financial Officer in Local Government' statement produced by Chartered Institute of Public Finance & Accountancy (CIPFA), identifies five key roles that are critical to the achievement of a Chief Finance Officer's (CFO) statutory responsibilities (Annex 1):-

(i) The CFO is a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the authority's strategic objectives sustainably and in the public interest.

(ii) The CFO must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and alignment with the authority's overall financial strategy.

(iii) The CFO must lead the promotion and delivery by the whole authority of good financial management so the public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

(iv) The CFO must lead and direct a finance function that is resourced to be fit for purpose.

(v) The CFO must be professionally qualified and suitably experienced.

3. Working Arrangements

3.1. The following arrangements and understandings between the CFO, Councillors and the Council's Strategic Leadership Team ('SLT') are designed to ensure effective discharge of the Council's business and functions.

3.2. Access to information and meetings

3.3. SLT comprises of the Chief Executive and three Executive Directors that meet weekly.

3.4. The Chief Finance Officer will:

a) Be alerted by Councillors and Officers to any emerging issues around financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or a deficit;

b) Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council (including meetings at which 'Officer Delegated' decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);

c) Have the right to attend (including the right to be heard) any meeting of the Council (including meetings at which 'officer delegated' decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);

d) Attend SLT meetings; and

e) In carrying out any investigation(s) and/or exercising his or her fiduciary duties have unqualified and unrestricted access to any information held by the Council and to any Officer or Councillor who can assist in the discharge of his or her functions.

Relationships

3.5. Having good working relations with Councillors and Officers will assist in the discharge of statutory responsibilities by the CFO. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Councillors and Officers must, therefore, work with the CFO (and staff) to discharge the Council's statutory and discretionary responsibilities.

3.6. The Chief Finance Officer will:

a. Ensure the other Statutory Officers (Head of Paid Service and Monitoring Officer) are kept up to date with relevant information regarding financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;

b. Be a member of the Stewardship Team which considers and recommends action in connection with Corporate Governance issues and other matters of concern regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;

c. Develop an effective working liaison and relationship with the External Auditor, (including having authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);

d. After consulting with the Head of Paid Service and Monitoring Officer, the CFO must make a formal report to the Council under S114 of the Local Government and Finance Act 1988 where a decision has been, or is about to be, made which will result in unlawful expenditure, unlawful loss or deficiency or an unlawful entry in the Council's accounts. The CFO must also make a formal report to Council if it appears that the Council's expenditure is likely to exceed its resources in any financial year;

e. Report directly to the Chief Executive and be the lead Officer for the Audit and Accounts Committee.

Resources

3.7. The Chief Finance Officer will;

a. have access to sufficient resources to enable him or her to address any matters concerning their CFO functions;

b. Nominate a suitably qualified deputy and keep him or her briefed on any relevant issues that s/he may be required to deal with in the absence of the CFO; and

c. Report to Council as necessary on the staff, accommodation and resources required to discharge statutory functions.

4. Other

4.1. To ensure the effective and efficient discharge of the arrangements set out in section 3 above, Councillors and Officers will report any breaches of statutory duty or procedures and other vires or constitutional concerns to the CFO, as soon as practicable.

4.2. The CFO is available for Councillors and Officers to consult on any issues of the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.

4.3. The CFO is the responsible Officer for the provision of internal audit services to the Council.

4.4. To ensure the effective discharge of this Protocol, the CFO will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the CFO role.

Key Roles of the Chief Finance Officer

Maintaining Strong Financial Management Underpinned By Effective Financial Controls

1. Advising on corporate risk profiling and management, including safeguarding assets, risk avoidance and insurance.
2. Advising on effective systems of internal control.
3. Ensuring there is an effective system of internal financial control.
4. Ensuring that financial management arrangements are sound and effective.
5. Ensuring a prudential financial framework is in place.
6. Ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well documented internal financial controls.
7. Securing effective arrangements for prudential borrowing, treasury management, pensions and trust funds.
8. Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny.
9. Advising on anti-fraud and anti-corruption strategies and measures.
10. Securing effective systems of financial administration.
11. Ensuring that statutory and other accounts and associated claims and returns in respect of grant are prepared.
12. Contributing to the management of the authority.
13. Ensuring that the authority's financial resources are well managed.
14. Contributing to cross-authority issues and to the development of the authority.

Contributing To Corporate Management and Leadership

15. Contributing to the effective leadership of the authority.

Supporting and Advising Democratically Elected Representatives

16. Advising on protocols setting out the respective roles and responsibilities of Councillors and officers for financial management.
17. Providing advice to Councillors on developing an overall financial strategy that serves policy and service objectives.
18. Helping Councillors to identify priorities, prepare the annual funding plan/budget and identify how resources will be used.
19. Helping Councillors to monitor financial performance against the annual funding plan/budget.
20. Ensuring that all 'branches' of the authority (including the full Council, Cabinet and Scrutiny functions where such arrangements exist, administration and opposition groups and individual Councillors) receive advice and information.

Supporting and Advising Officers in Their Operational Roles

21. Ensuring that there is an effective approach to financial management.
22. Ensuring that financial strategies serve policy and service objectives.
23. Ensuring that the authority's resources are well managed.
24. Ensuring that budgets are properly managed.
25. Ensuring that financial advice and information is provided.
26. Advising on performance management and measurement.

Leading and Managing an Effective and Responsive Financial Service

27. Securing high standards of performance and service to the public.
28. Demonstrating accountability to members of the public and the community by providing robust financial and performance information.
29. Establishing a good, professional working relationship with external auditors, inspectors and other statutory agencies.
30. Ensuring that the services provided by the finance function are in line with the expectations and needs of its internal stakeholders.
31. Ensuring there are high standards of performance throughout the finance function.
32. Leading and managing the finance function.
33. Acting as head of profession for all finance staff in the authority.

Summary of Statutory and Legislative Framework for Chief Finance Officer Protocol

	Description	Source
1	Responsibility for the proper administration of the financial affairs of the Council	Section 151 Local Government Act 1972
2	The treasurer is not merely the servant of the authority but holds a fiduciary responsibility to the local taxpayers	Attorney General v De Winton 1906
3	Duty to nominate a member of his/her staff as Chief Financial Officer (if unable to act owing to absence or illness)	Section 114 Local Government Finance Act 1988
4	Duty to report on decisions incurring unlawful expenditure, unlawful loss or deficiency to the Council, or unlawful item of account	Section 114, 114A, 115, 116 Local Government Finance Act 1988
5	Duty to report if the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure	Section 114 Local Government Finance Act 1988
6	Duty to report on the adequacy of the Council's proposed financial reserves and report on previous years' financial reserves if it appears that controlled reserves are, or are likely to be, inadequate, including recommendations for appropriate actions to rectify	Section 25 and 27 Local Government Act 2003
7	Duty to report on the robustness of the Council's budget calculations and assist the Council in carrying out regular budget monitoring	Section 25 and 28 Local Government Act 2003
8	Responsible for: • the Council's accounting records and that they are maintained in accordance with proper practices and kept up to date • accounting control systems and ensuring that they are observed • grant claims • measures to enable the prevention and detection of inaccuracies and fraud • identification of the duties of **O**fficers dealing with financial transactions and divisions of responsibility	Accounts and Audit Regulations 2003 (Amended 2006, 2011 and 2015) Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

	• writing off of accounts • certifying the statement of accounts • providing internal audit	
9	Responsibility for borrowing, investment accounts and financial administration	Sections 1-92 Local Government Act 2003

CHIEF INTERNAL AUDITOR PROTOCOL

1. GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES

1.1. Section 151 of the Local Government Act 1972 states that every local authority in England and Wales should '*make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility for the administration of those affairs.*' Chartered Institute of Public Finance & Accountancy (CIPFA) has defined 'proper administration' in that it should include '*compliance with statutory requirements for accounting and internal audit*'.

1.2. The CIPFA Statement on the Role of the Chief Financial Officer in Local Government states that the Chief Financial Officer (CFO) must:

- Ensure an effective internal audit function is resourced and maintained;
- Ensure that the authority has put in place effective arrangements for internal audit of the control environment;
- Support the authority's internal audit arrangements; and
- Ensure that the Audit & Accounts Committee receives the necessary advice and information, so that both functions can operate effectively.

1.3. The relationship between the Chief Internal Auditor (CIA) and the CFO is therefore of particular importance in local government.

1.4. Accounts and Audit Regulations 2015 state that '*A relevant Authority must undertake an effective internal audit* to evaluate the effectiveness of its risk management control and governance processes, taking into account public sector internal auditing standards or guidance (2(5))

1.5. The internal audit service provided will comply with the CIPFA Public Sector Internal Audit Standards (PSIAS). The PSIAS came into effect on 2016 and supersedes the 2013 CIPFA.

1.6. The definition of 'Internal Auditing', according to Public Sector Internal Audit Standards is:

> *"An independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes"*

2. THE ROLE OF THE CIA

2.1 The 'Role of the Head of Internal Audit in Public Service Organisations' statement produced by Chartered Institute of Public Finance & Accountancy (CIPFA) identifies principles that defines the governance arrangements and the core activities and behaviours that belong to the role of the CIA. These are:

- Assist in delivering the organisation's strategic objectives by objectively assessing the adequacy of governance and the management of existing risks**;** commenting on responses to emerging risks and proposed developments.
- Provide an objective and evidence based opinion on all aspects of governance, risk management and internal control.
- Have a regular and open engagement across the organisation, particularly with the Leadership Team and with the Audit & Accounts Committee.
- Lead and direct an internal audit service that is resourced to be fit for purpose.

2.2 To provide this role it is essential that the CIA discharges his or her responsibilities in an independent manner and in a way, which will enhances the reputation of the Council. In doing so the CIA is expected to act in a positive manner and with determination.

2.3 It is therefore necessary to ensure that the CIA is a senior and experienced Officer with the independence, standing and skills to properly carry out the role.

2.4 The CIA's ability to carry out the responsibilities of the post effectively also depends on excellent working relationships with Officers and Councillors and so securing access to information and debate particularly at the early stages of projects and policy developments.

2.5 The following arrangements and understandings between the CIA and colleagues and Councillors are designed to help ensure the effective discharge of his or her functions:

- The CIA will seek to develop a close working relationship with the CFO.
- The CIA will seek to develop a close working relationship with the Chair of the Audit & Accounts Committee and the External Auditor including the giving and receiving of relevant information whether confidential or otherwise.
- The CIA will be a member of the Council's Stewardship Team whose role is to provide advice and guidance to the Strategic Leadership Team Senior Management Group (SMG) on the Council's governance arrangements.

3 WORKING ARRANGEMENTS

3.1 Audit & Accounts Committee

3.1.1 The CIA will:

- Produce the following annually for approval by the Audit & Accounts Committee:
  - (i) Internal Audit Charter
  - (ii) Internal Audit Plan

- Produce an annual report to the Audit & Accounts Committee which will include an opinion on the effectiveness of the Council's risk management, and control and governance processes.

- Produce progress reports throughout the year for the Audit & Accounts Committee on the work carried out by the Internal Audit team. This will include:

    (i) A summary report, including recommendations**,** for each completed audit assignment.
    (ii) An assurance statement on the controls for the system, function or process audited.
    (iii) Summary of outstanding recommendations.
    (iv) Carry out an annual review of the internal audit service against the Public Sector Internal Auditing Standards.

3.2. **Corporate Governance**

3.2.1. The CIA will:

(i) be an active member of the Council's Stewardship Team.

(ii) Carry out an annual audit review of the Governance arrangements of the Council against the adopted Local Code of Corporate Governance.

3.3. **Rights of Access**

3.3.1 The CIA will have :

(i) The right to enter at all times any premises or land occupied by the Council and have access to all council property.

(ii) Access to all records, documents and correspondence relating to any activities of the Council held by Councillors or employees, if necessary, immediately on demand.

(iii) The right to receive such information and explanations as are necessary concerning any matter under examination from Councillors or employees.

(iv) Require any Council employee or agent, on demand, to produce cash, stores or any other Council property held under their control.

(v) Remove and hold in safe custody any books, records, vouchers or other material where they may be required as evidence in an investigation of suspected fraud or irregularity.

(vi) Require an employee to surrender any keys or cards allowing access to Council premises or assets and to leave the Council's premises immediately.

(vii) Where he or she considers it necessary, direct access to the Chief Executive, Leader of the Council and Chair of Audit & Accounts Committee without prior consultation with the CFO.

3.4. **Confidentiality**

3.4.1. Openness in the dissemination of information and decision-making should be the norm in the Council, however, the CIA must respect the confidentiality of the information to which he or she has access to at work and must not use it for personal gain or pass it on to others who might use it in this way.

3.4.2. The CIA must not inform anyone inside or outside the Council who is not entitled to know for the purpose of their job, what is discussed at Council meetings held in private or exempt sessions, nor about the contents of Council documents which are confidential or exempt.

3.5. **Notifying and Consulting the CIA**

3.5.1 Councillors and Officers will notify the CFO, CIA and Monitoring Officer of all emerging issues of fraud, corruption and impropriety.

3.5.2 Whenever any matter arises which involve, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the authority, the Head of Service concerned shall forthwith notify the CIA who shall take such steps as are considered necessary by way of investigation and report.

3.5.3 Heads of Service will ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the CIA prior to implementation.

3.6 Reporting

3.6.1. Where the CIA becomes aware of any potentially reportable incident he or she will report the matter to the CFO.

3.6.2. The CIA will have the right, following consultation with the Chief Executive**,** Monitoring Officer and CFO, to notify the Police and/or other regulatory bodies of concern in respect of any matter.

3.6.3. Where the CIA has previously given advice or otherwise been involved in a potentially reportable matter in such a way that a conflict of interest would arise should he or she carry out their CIA function then the CIA will arrange for those functions to be carried out by an independent third party.

3.7. **Risk Management**

3.7.1 The CIA will:

(i) Maintain the Council's Risk Management Policy
(ii) Carry out an audit of the effectiveness of the risk management process each year
(iii) Maintain the corporate risk register
(iv) Co-ordinate a regular update of the corporate risk register resulting in a report to Audit and Accounts Committee

3.8. **Resources**

3.8.1. The CIA will report, to the CFO, the 'resource implications' for each year. This will detail the resources required to discharge his or her functions.

3.8.2. The CIA will carry out an annual review of the Internal Audit function to ensure that it is compliant with the Public Sector Internal Audit Standards as published by CIPFA in collaboration with Chartered Institute of Internal Auditors.

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AUDIT ARRANGEMENTS

1. The Council must undertake an effective internal audit to evaluate the effectiveness of its risk management control and governance processes, taking in to account the Public Sector Internal Audit Standards as required by the Accounts and Audit Regulations 2015.

2. The Council's Chief Financial Officer is responsible for the provision of internal audit services to the Council and for maintaining an adequate and effective system of internal audit. Further information on the Council's accounting arrangements and audit are available from the Executive Director of Corporate Services.

3. The Council is subject to external audit of its financial affairs, through auditors appointed by the Council. External auditors have an important role to play in ensuring that there is accountability for public money, stewardship of public resources and effective corporate governance. In particular the external auditor will:

   a) provide an opinion on the accounts and financial statements of the Council;

   b) review the arrangements for value for money;

   c) give electors the opportunity to raise questions about the accounts and deal with any objections raised pursuant to the provisions of the Local Audit and Accountability Act 2014; and

   d) deal with Advisory Notices under the Local Government Act 2000, where the auditor considers that there may be the potential for unlawful expenditure.

4. External auditors operate within the Code of Audit Practice and other requirements laid down by Regulations.

5. The role of Audit Committee/Audit Panel will be carried out by the Council's Audit & Accounts Committee.

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TREASURY MANAGEMENT

1. The Council is responsible for:-

    a) Setting the Treasury Management Policy which sets out the main policy objectives.

    b) Approving the annual Treasury Management Strategy Statement.

    c) Approving the Annual Investment Strategy which sets out:

        (i) the amount that can be prudently invested in long term investments.
        (ii) the type of investment instruments that can be used.
        (iii) any limits for each type of investment (maximum periods and amounts).
        (iv) any limits for exposure to fixed and variable interest rates.
        (v) the maximum amount that can be invested with a counterparty.
        (vi) the minimum credit rating allowed for new investments.
        (vii) the approved Prudential Indicators.
        (viii) the Authorised Affordable Borrowing Limit.
        (ix) a Treasury Management mid-year review from Cabinet.

2. The Cabinet is responsible for:

    a) Recommending to Council the Treasury Management Strategy Statement and Annual Investment Strategy.

    b) Reporting the annual and half yearly treasury management activity to the Full Council.

3. The Chief Finance Officer (Executive Director of Corporate Services) is responsible for:

    a) Recommending to Council via Cabinet the Treasury Management Strategy Statement and Annual Investment Strategy.

    b) Reporting the annual and half yearly treasury management activity to the full Council via Cabinet.

    c) Determining the delivery methodology for, and implementation of, the Treasury Management and Investment Strategies.

    d) Deciding on the amounts to invest, instruments to use, and counterparties to invest in, subject to the limits set in the Investment Strategy.

    e) Selecting suitable lending criteria that fulfil the requirements of the Investment Strategy.

    f) Maintaining and updating Treasury Management Practices (TMP's) that ensure all decisions on borrowing, investment or financing are in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.

4. The Audit and Accounts Committee is responsible for the scrutiny of Treasury Management Activity.

OVERVIEW AND SCRUTINY AND CABINET

PROTOCOL

1. INTRODUCTION

1.1 Scrutiny is a key element of the leader/cabinet model of decision making. It is important, therefore, that members of the Overview and Scrutiny committees, members of Cabinet and officers understand the function of overview and scrutiny and work collaboratively to ensure that it can fulfil its functions as set out in the constitution in a positive and proactive way.

2. PURPOSE OF PROTOCOL

2.1 The aim of this protocol is not to change the respective constitutional positions, roles or responsibilities of either the Cabinet or the Overview and Scrutiny committees. It is designed to assist all members of the Overview and Scrutiny committees, any member who may sit on a scrutiny task and finish group and all members of the Cabinet.

2.2 It seeks to clarify relationships between the two functions and help ensure the effective conduct of overview and scrutiny business.

2.3 Effective overview and scrutiny should:

- Provide constructive “critical friend” challenge
- Amplify the voices and concerns of the public
- Be led by independent people who take responsibility for their role
- Drive improvement in public services

3. OBJECTIVES

3.1 The objectives of this protocol are to:

(i) To establish a positive framework and build upon the procedures laid out in the Council’s Constitution which exist to enable the Overview and Scrutiny Committees to work effectively.

(ii) To maximise the personal effectiveness of overview and scrutiny members, cabinet members and officers by enabling them fully to understand their powers, roles and responsibilities in relation to the scrutiny function.

(iii) To promote and maintain an ethos of mutual respect, trust and courtesy in the inter-relationships between overview and scrutiny members, cabinet members and officers and a climate of openness leading to constructive debate with a view to ensuring service improvements.

(iv) To create a culture of holding the Cabinet to account on behalf of the electorate, by monitoring the effectiveness of the council's policies and through the regular review of its performance in relation to service delivery, with a view to ensuring service improvements.

(v) To define and clarify the role of the Cabinet as an integral component of the scrutiny process.

4. FUNCTIONS OF THE OVERVIEW AND SCRUTINY COMMITTEES

4.1 The functions of the Overview and Scrutiny committees are contained in Article 6 of Part 2 and the Overview and Scrutiny Procedure Rules in Part 4 of the constitution. These include:

(i) The power to review or scrutinise decisions made, or other actions taken, in connection with the discharge of any of the council's functions whether by the Cabinet or decisions by another part of the council which are not the responsibility of the Cabinet.

(ii) The power to make reports or recommendations to the Council or the Cabinet with respect to the discharge of any functions.

(iii) To assist the Council and the Cabinet in the development of the policy framework and budget

(iv) To consider any matter which affects the council's area or its inhabitants;

(v) To exercise the right to "call–in" for reconsideration of decisions made, but not yet implemented, by the Cabinet and officers

(vi) The power to require members of the Cabinet and senior officers to attend before it to answer questions.

(vii) The power to request other persons eg partners to attend meetings

(viii) A Councillor's Call for Action

5. HOLDING THE CABINET TO ACCOUNT

5.1 One of the fundamental principles of scrutiny is the ability to hold the Cabinet to account.

5.2 Holding the Cabinet to account can involve scrutinising executive functions at a number of different stages of the decision-making process:

- Before decisions are made (pre-decision scrutiny)
- Before they are implemented (Call-in)
- After they are implemented

5.3 There are a number of ways in which the scrutiny process can operate:

- Using the “call-in procedure” set out in paragraph 18 of the Overview and Scrutiny Rules of Procedure in Part 4 of the constitution.

This procedure enables 5 councillors, within 5 days of publication of a decision by cabinet, a cabinet committee, an individual member of cabinet or a Key Decision by an officer, to give notice that they wish to challenge or “call-in” the decision. This leads to the Overview and Scrutiny Committee reviewing the decision and can lead to the committee making recommendations to the Cabinet or decision maker.

There is also provision for a minimum of one third of the members of the council to “call-in” an executive decision direct to full council for debate if of such importance to warrant it. This may result in recommendations being made back to the decision maker.

The “call-in” form can be found at: (*to be added)*

- “Work Programme Suggestion” – any member can request the inclusion of an item on any overview and scrutiny committee by submitting a “work programme suggestion” form to Democratic Services.

  The “work programme suggestion” form can be found at:
  Work Programme Suggestion form

- Examining the council’s forward plan which is published monthly at:
  Basingstoke and Deane Borough Council

The Forward Plan gives advance notice of issues to be considered by Cabinet and the date upon which this will take place. This provides an early opportunity for Overview and Scrutiny members to identify forthcoming matters and to review whether Overview and Scrutiny committees should undertake “pre-decision” scrutiny. The forward plan should be considered when overview and scrutiny committees are drawing up their work programmes.

- Calling the Cabinet portfolio holder to give evidence – this may be in relation to an item being considered by one of the overview and scrutiny committees or the work of a single issue task and finish group.

- Responding to a Council motion referring a matter to one of the committees.

6. RELATIONSHIP BETWEEN CABINET AND OVERVIEW AND SCRUTINY

6.1 The relationship between the Cabinet and Overview and Scrutiny is governed in part by law and in part by the Council's constitution. The purpose of this section of the protocol is to set out the principles which will be followed by the Cabinet and Overview and Scrutiny members.

6.2 Cabinet and Overview and Scrutiny have different functions and responsibilities but the aim of both should be to secure the best outcomes for the people who live and work in Basingstoke and Deane.

6.3 The following principles set how the working relationship should operate:

(i) Cabinet and Overview and Scrutiny will work alongside each other in a positive manner. Cabinet recognises that Overview and Scrutiny has a number of rights, such as "call-in" and requiring cabinet members to attend its meetings and will respect those rights. Overview and Scrutiny committees will exercise those rights responsibly.

(ii) All participants in the working relationship between Cabinet and Overview and Scrutiny will look to work within a spirit of mutual trust and constructive challenge.

(iii) The relationship between Cabinet and Overview and Scrutiny will be open and transparent.

7. OVERVIEW AND SCRUTINY WORK PROGRAMME

7.1 At the first meetings of the municipal year members of each Overview and Scrutiny committee will agree their annual work plan. It is recognised that there needs to be flexibility as important and unforeseen matters arise during the course of the year.

7.2 These work plans will be informed by a work planning workshop attended by Chairs and Vice Chairs, the Leader/Deputy Leader, any Cabinet Members who wish to attend, Group Leaders, Directors or nominee, [Scrutiny Officer], Democratic Services officers after the annual council meeting and prior to first meetings of the overview and scrutiny committees.

7.3 In adding items for review to the annual work plan, the Chairs of the Overview and Scrutiny Committees will have regard to the following factors:

- The Council priority the item links to;
- If the item is of significant community concern;
- If the issue is significant to Partners and/or Stakeholders;
- What the added value is of doing the work;
- What evidence there is to support the work;
- If the work can be completed within a time proportionate to the task identified;
- If the work is being done somewhere else

7.4 Prior to the workshop Directors will:

- Review the council priority plans and forward plan and consult the lead Cabinet Members on any matters in their portfolio where they wish to request Overview and Scrutiny to assist in undertaking a review to assist policy development
- Consult their Departmental Management Teams for work programme suggestions
- Consider whether there are any areas of work of partner organisations which would be appropriate for a review.

7.5 In drawing up the annual work plan, the workshop will consider:

- Council Plan
- Cabinet Forward Plan
- Work suggestion forms
- Council motions
- Budget setting timetable
- The timetable for other key projects eg key dates in the local plan review
- Performance information
- Actions arising out of the Annual Governance Statement
- Updates arising out of previous overview and scrutiny recommendations which were agreed by Cabinet or Cabinet Member
- Preparation of Annual Overview and Scrutiny Plan

7.6 The work planning workshop should:

- prioritise and timetable the subject areas;
- determine which committee's work programme will consider an item;
- recommend which matters should be for consideration by the whole committee and which are appropriate for task and finish groups.

7.7 The Chairs of the Overview and Scrutiny Committees will be responsible for co-ordinating the work programmes of the overview and scrutiny committees and the decision as to which Committee will consider a matter will be resolved by the Chairs. As far as possible the matter will be considered by one committee only. Exceptionally a joint meeting of the Committees may be arranged.

7.8 It should be noted that there are six ordinary meetings each of Resources, Residents Services, Environment and Infrastructure O&S committees and three of South Ham and Buckskin Regeneration O&S committee and extraordinary meetings can be added where it is necessary.

7.9 Subject to the agreement of the Chair, reports which are for information or noting only should be disseminated to members outside of the formal overview and scrutiny committee agenda arrangements via the Democratic Services Team. It is recognised, however, that there are some reports, for example, relating to performance monitoring which will be presented to committee as information reports.

7.10 The Chairs of the Overview and Scrutiny Committees and the Lead Directors or nominee will hold regular work planning meetings and there will be a joint meeting of chairs once a quarter.

8. CONDUCT OF AN OVERVIEW AND SCRUTINY MEETING

8.1 Overview and Scrutiny committees should seek to promote an atmosphere of openness and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between Overview and Scrutiny committee members, the Cabinet, officers and other participants.

8.2 Overview and Scrutiny committee members should be prepared to ask searching and challenging questions of Cabinet members and officers, who, in turn, should be willing to respond to any question put. It should, however, be stated that Overview and Scrutiny committee members should be aware of and show an understanding of the fact that Cabinet members may not be in a position to answer every question immediately or in detail.

8.3 Cabinet members should, in so far as is possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet members should also value the contribution of Overview and Scrutiny members who raise questions and should respond in an appropriate and professional manner.

8.4 The Chair of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.

8.5 The Chair, supported by officers, should provide leadership and guidance on all overview and scrutiny matters and should promote the committee's role to improve services and monitor the effectiveness of council policies.

8.6 Overview and Scrutiny committees should keep in mind the statutory guidance that scrutiny work should be conducted in a non-party political manner.

9. ATTENDANCE BY CABINET MEMBERS AT OVERVIEW AND SCRUTINY MEETINGS

9.1 Each Overview and Scrutiny committee chair will have discretion to decide whether a cabinet member is required to attend a committee meeting. However, Cabinet members will normally be expected to attend meetings of the committees for the purposes of being held to account in relation to decisions taken and to answer questions in relation to proposed decisions.

9.2 Cabinet members are encouraged to attend meetings to gauge the views of the Overview and Scrutiny members on any issues falling within their remit.

9.3 An open discussion and exchange of views will be of importance to the Cabinet member and Overview and Scrutiny members, particularly where consideration is being given to the development of the council's budget or policy framework.

9.4 Depending on the nature of the agenda item, either the Cabinet member or officer will be asked to present the item. Members of the committee should be aware that although officers can reply to specific questions regarding the operational performance of a service, the reasoning behind why a decision was made should be directed to the Cabinet member.

9.5 If a Cabinet member is required to attend an overview and scrutiny meeting for a specific reason, then he/she should receive sufficient notification of the reasons why they are being invited. This should be, if possible, notified to them in writing.

10. ATTENDANCE BY OFFICERS AT OVERVIEW AND SCRUTINY MEETINGS

10.1 Meetings of Overview and Scrutiny will be attended by the assigned Lead Director or nominee and Heads of Service or lead officers with responsibility for any agenda item under discussion.

10.2 The role of the Lead Director or nominee will be to liaise with the Chair regarding the meeting agenda and work programmes in between meetings and at the meeting to assist the committee through the provision of professional advice and to ensure access to relevant information and personnel.

10.3 Officers will be expected to contribute proactively to a debate on an agenda item. Officers can be required to attend a meeting to present an agenda item report and to answer questions to provide advice regarding operational aspects of a particular service. This will allow committee members to question officers on the likely impact of any decisions made by the cabinet and for members to gather a greater appreciation of reasons why a course of action was agreed upon.

10.4 The attendance of officers at the Overview and Scrutiny Committees will be at the request of the Chair, who will have regard to the appropriate level of seniority of attendees.

10.5 An officer requested to attend a meeting of an Overview and Scrutiny meeting should make reasonable efforts to do so. Where an officer is unable to attend on a particular date he/she should notify the Chair and Lead Director or nominee as soon as possible, in order to agree the most appropriate course of action, which may include attendance of an alternative representative.

10.6 Officers in attendance at the Overview and Scrutiny committee should be prepared to assist the Cabinet member in the provision of information to the committee in response to any question raised.

10.7 Relevant Directors and Heads of Service will normally be expected to attend any meeting of an Overview and Scrutiny committee at which it is intended to consider a “call-in” request in relation to their service.

10.8 Officers will be permitted to leave an Overview and Scrutiny committee once discussion on the relevant item has ended. However, in certain circumstances, officers may wish to remain for other agenda items, should they feel that they may be able to answer any questions and if they can constructively contribute to the debate. This should only be for an operational services perspective and for which a service area that the officer has responsibility.

11. TASK AND FINISH GROUPS

11.1 The Overview and Scrutiny committees may appoint small groups (Task and Finish Groups) to carry out detailed examination of particular topics for report back to them.

11.2 These reviews will be agreed as part of the work programme following discussion with the Lead Director or nominee and cabinet member to agree scope and consider resource requirements, capacity and timing.

11.3 The terms of reference for any review will be agreed by the Overview and Scrutiny committee.

11.4 The Task and Finish Group will nominate a chair of the group. The attendance of officers and third parties at the Task and Finish Group will generally be at the request of the Chair of the Task and Finish Group. The Chair will be responsible for the preparation of the report at the completion of the Task and Finish Group.

11.5 The relevant Cabinet member can assist the review in a number of ways including:

- At the outset of the review, when the Committee and Task and Finish Group is considering scope, methodology and witnesses to give evidence;
- During the review when the Cabinet member can be invited to give evidence;
- At the end of the review after the task and finish group has produced the first draft of the report

11.6 During the review the Chair of the Task and Finish Group is recommended to meet the Cabinet member and officers:

- To discuss the proposed scope, methodology and sources of evidence for the review and to consider feedback and suggestions provided;
- To highlight and examine areas of potential agreement or disagreement in relation to the report's findings and recommendations to ascertain if any areas of disagreement can be resolved at the draft report stage or identify if any further work needs to be done by the task and finish group.

11.7 Although this dialogue is encouraged, it is recognised that the Overview and Scrutiny committees and their Task and Finish Groups are independent of the Cabinet and as such agreement may not be possible on all the findings and conclusions in the report.

11.8 It is recognised that senior officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. At the commencement of a Task and Finish Group, the Chair of the Task and Finish Group will notify the relevant Director who will then contribute to the review in terms of:

- Allocating a lead officer to support the review with technical information and evidence;
- Assist with the scoping of the review providing advice on the purpose, remit and outcomes;
- Assist with providing information in relation to relevant witnesses from within their service areas or from external organisations;

11.9 The Director will be given the opportunity to comment and/or make recommendations on a completed draft report in terms of any factual errors.

The decision as to whether to incorporate any suggested amendments will remain with the Task and Finish Group.

The report is likely to include:

- Analysis of evidence against proposals for improvement;
- Clear, concise, evidence based recommendations which have been subject to feasibility considerations;
- Identification of areas for improvements and methods for measuring the impact of improvements;
- Identification of realistic timeframes for implementation;
- Highlight implications in relation to financial, legal, equality and diversity, HR, climate change and ecological issues.

11.10 A completed report, together with any comments provided by officers will be considered by the Overview and Scrutiny Committee before it is forwarded to the Cabinet who will consider whether or not to implement the recommendations contained within the report.

11.11 The Chair of the Overview and Scrutiny Committee and/or the Chair of the Task and Finish Group will attend the Cabinet meeting to present their report.

11.12 The Cabinet may decide to approve the recommendations subject to amendment. Reasons for refusal and/or amendment should be provided by Cabinet.

11.13 If the content of a report, including any recommendations, is likely to impact on any external organisation, the Cabinet will have the opportunity to pass comment, including whether or not it endorses the recommendations, before the report is passed to the external body.

11.14 Directors will be responsible for implementing any recommendations which are approved by Cabinet and also for providing updates as requested by the Overview and Scrutiny Committee.

11.15 The Overview and Scrutiny Committee will monitor the implementation and impact of recommendations and include relevant information on the outcomes of the review in the Overview and Scrutiny annual report.

12. "CALL-IN" OF A CABINET DECISION, A CABINET COMMITTEE DECISION OR CABINET MEMBER'S DECISION OR A KEY DECISION BY AN OFFICER

12.1 The procedures for "call-in" of decisions are contained in the Council's Constitution - part 4 - paragraph 18 of the Overview and Scrutiny Procedure Rules.

12.2 When a decision is made by the Cabinet, a Cabinet committee, an individual Cabinet member or a key decision is made by an officer, the decision shall be published normally within two working days of the date when the decision was made. The relevant "call-in" period will expire on the fifth working day after the publication of the decision. A decision cannot be implemented until the expiry of the fifth working day and the decision has not been "called-in".

12.3 The "call-in" period can be waived if a decision is urgent and been made in accordance with the Urgency Procedure Rules.

12.4 A valid notice of "call-in" has to be:

- Signed by any five councillors
- Sets out the reasons for the call-in
- Submitted to the Monitoring Officer within 5 working days of the date of publication of the decision.

12.5 The reasons for "call-in" must be legitimate and not designed to impede the proper transaction of business for vexatious, frivolous, repetitive or other improper purposes. The validity of the "call-in" will be considered by the Monitoring Officer.

12.6 If the Monitoring Officer considers the "call-in" to be valid an Overview and Scrutiny meeting will be convened within 15 working days in consultation with the Chair of the committee.

12.7 If the Monitoring Officer does not consider the "call-in" to be valid, he/she will consult the Chair of the Overview and Scrutiny Committee. If it is not accepted the Monitoring Officer will report to the next meeting of the Overview and Scrutiny Committee with details of the request and the reasons for not accepting it.

12.8 Unless there are extenuating circumstances, the relevant Cabinet member will be expected to attend the Overview and Scrutiny Committee meeting when a call-in is being considered together with the Director or representative who may be placed to present greater detailed information which led up to the decision. It should, however, always be the decision maker that is held to account.

12.9 The Overview and Scrutiny Committee cannot overturn the decision that has been called in. It may either concur with the decisions (in which case the decision takes immediate effect) or it can refer the decision back to the decision maker for reconsideration setting out the nature of the committee's concerns. The decision maker will reconsider the matter within 10 working days.

13. RECOMMENDATIONS MADE BY OVERVIEW AND SCRUTINY COMMITTEES

13.1 The minutes of each overview and scrutiny committee will include any recommendations made during a committee meeting and the reasons for those recommendations. On a quarterly basis the committees will, by way of a tracker, monitor progress of each recommendation, with updates provided by the relevant officers.

13.2 Recommendations on proposals for policy/service development by an Overview and Scrutiny Committee will form a report from the Committee to the Cabinet for consideration.

13.3 Cabinet will consider reports from the Overview and Scrutiny committees at a meeting within two months of receipt.

13.4 The Chair of the Overview and Scrutiny committee may attend the Cabinet meeting and report the committee's views in person.

13.5 The Cabinet response to the report of the Overview and Scrutiny Committee in paragraph 13.3 above will be presented to the next meeting of the relevant Overview and Scrutiny Committee.

13.6 Where the Cabinet has delegated decision making to an individual Cabinet member the committee will submit a copy of its report to him/her for consideration. The Cabinet member must consider the report and respond in writing to the committee within two months of its receipt.

14. MONITORING AND REVIEW

14.1 The Council's Monitoring Officer will monitor compliance with the protocol and liaise with Cabinet, Overview and Scrutiny members and the Senior Leadership Team. Any matters arising will be reported to Council through the Overview and Scrutiny Annual Report.

15. OVERVIEW AND SCRUTINY ANNUAL REPORT

15.1 The Overview and Scrutiny Committees will produce an annual report for Council which will include the following information:

- Evidence on delivery of the work plan
- Details of Scrutiny Reviews
- Details on recommendations to Cabinet, outcomes and implementation
- Evaluation of the impact of overview and scrutiny and lessons learnt.

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