

# **Watford Borough Council's Arrangements for dealing with standards allegations under the Localism Act 2011**

## **Context**

These "Arrangements" set out how you may make a complaint that an elected or co-opted member of Watford Borough Council has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council or of a Committee or Sub-Committee of the Council, has failed to comply with that Council's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation as been made.

## **2 The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and which is available for inspection on the Council's website [www.watford.gov.uk](http://www.watford.gov.uk) and on request from the Customer Service Centre at the Town Hall.

## **3 Making a complaint**

If you wish to make a complaint, please write or email to –

The Group Head of Democracy and Governance, Town Hall, Watford, Herts WD17 3EX

Or –

[legalanddemocratic@watford.gov.uk](mailto:legalanddemocratic@watford.gov.uk)

The Group Head of Democracy and Governance is the Council's Monitoring Officer and is a senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Customer Service Centre at the Town Hall.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form or in your letter or email and provide supporting reasons. The Group Head of Democracy and Governance will consider the request and may, in appropriate circumstances, agree to withhold your name and address from the member against whom the complaint is made.

The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Group Head of Democracy and Governance will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4 Will your complaint be investigated?**

The Group Head of Democracy and Governance will review every complaint received and, after consultation with the Independent Person, undertake an initial assessment of the complaint to determine firstly, whether the complaint is admissible and, if so, to decide whether:-

- a) It warrants referral for investigation
- b) It may be suitable for alternative resolution without investigation, (e.g. apology, mediation, training) or
- c) It does not warrant any further action;

This decision will normally be taken within 14 working days of receipt of your complaint. When considering your complaint the Group Head of Democracy and Governance and Independent Person will have regard to the assessment criteria set out in Appendix 3 below. Once a decision has been taken, she will inform you of her decision and the reasons for that decision.

Where she requires additional information in order to come to a decision, she may come back to you for such information, and may request information from the member against whom your complaint is directed.

## **Alternative Dispute Resolution**

In appropriate cases, the Group Head of Democracy and Governance may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Group Head of Democracy and Governance will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Group Head of Democracy and Governance has the power to call in the Police and other regulatory agencies.

## **5 How is the investigation conducted?**

The Council has adopted the following procedure for the investigation of misconduct complaints.

If the Group Head of Democracy and Governance decides that a complaint merits formal investigation, she will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another council or an external investigator.

The Group Head of Democracy and Governance will at the outset discuss with the Investigating Officer how long the Investigating Officer considers he/she will require to complete their investigation.

The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Group Head of Democracy and Governance can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

The Group Head of Democracy and Governance will write to the member against whom you have complained and provide him/her with a copy of your complaint, and inform

him/her that an investigation will be carried out and provide the details of the Investigating Officer.

The Investigating Officer will also interview anybody else he/she deems necessary and may also ask for copies of any documents to assist him/her with the investigation. The Investigating Officer will then contact the member and ask him/her to provide his/her explanation of events, and to identify what documents he needs to see and who he/she needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Group Head of Democracy and Governance.

In the event that the Investigating Officer does not get cooperation from any person he/she wishes to interview. The Investigating Officer will be entitled to conclude his/her report based on the information that has been made available to him/her.

**6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Group Head of Democracy and Governance will review the Investigating Officer's report and, if she is satisfied that the Investigating Officer's report is sufficient, the Group Head of Democracy and Governance will write to you and to the member concerned, notifying you that she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Group Head of Democracy and Governance is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

**7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Group Head of Democracy and Governance will review the Investigating Officer's report and in consultation with the Independent Person will then either send the matter for local hearing before the Standards Committee or, seek an informal resolution if they consider it appropriate.

### 7.1 Local Resolution

The Group Head of Democracy and Governance may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person. Such resolution may include the member accepting that his/her conduct breached the code and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Group Head of Democracy and Governance will report the matter to the Standards Committee for information, but will take no further action.

### 7.2 Local Hearing

If the Group Head of Democracy and Governance considers that local resolution is not appropriate, or is impossible to achieve, the Group Head of Democracy and Governance will report the Investigating Officer's report to the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Two to these arrangements.

In summary, the Group Head of Democracy and Governance will conduct a "prehearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Standards Committee may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Standards Committee.

The member will then have an opportunity to give his/her evidence, to call witnesses and to

make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Standards Committee, with the benefit of any advice from the Independent Person, may conclude that:-

the member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

i)The member breached the code, in which case the Chair will inform the member of this finding and the Standards Committee will then consider what sanction or action, if any, the Standards Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Standards Committee will give the member an opportunity to make representations to it and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.

## **8. What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Group Head of Democracy and Governance to arrange training for the member;
- 8.6 Remove from all outside appointments to which he/she has been appointed or nominated by the authority or ask the Mayor to remove the member from all outside bodies that he/she has been nominated to by the Mayor;

- 8.7 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Standards Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## **9. What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Standards Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Standards Committee resolves to take.

As soon as reasonably practicable thereafter, the Group Head of Democracy and Governance shall prepare a formal decision notice in consultation with the Chair of the Standards Committee, and send a copy to you, to the member, and publish it on the Council's website and report the decision to the next convenient meeting of the Council.

There is no right of appeal for Complainant or the member in respect of an initial assessment decision of the Group Head of Democracy or Governance or the Standards Committee.

If a complainant feels that the Council has failed to deal with their complaint properly they may make a complaint to the Local Government and Social Care Ombudsman or make an application to the High Court.

## **10 Who are the Standards Committee?**

The Standards Committee is a Committee of the Council that five members of the Council, each political party is represented on the Committee. It is appointed on the nomination of party group leaders at Annual Council in May of each year

The Independent Person is invited to attend all meetings of the Standards Committee and his/her views are sought and taken into consideration before the Standards Committee takes any decision on whether the member's conduct constitutes a failure 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.

## **11 Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be “independent” if he/she –

11.1 (a) Is, or has been within the past 5 years, a member, co-opted member or officer of the authority; or

(b) stood for election to the Council: or 11.2 Is a relative, or close friend, of a person within paragraph

11.1 (a) above. For this purpose, “relative” means –

11.2.1 Spouse or civil partner;

11.2.2 Living with the other person as husband and wife or as if they were civil partners;

11.2.3 Grandparent of the other person;

11.2.4 A lineal descendent of a grandparent of the other person;

11.2.5 A parent, sibling or child of a person within paragraphs 11.2.1 or 11.2.2;

11.2.6 A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5; or

11.2.7 Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 as husband and wife or as if they were civil partners.

## **12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13 Appeals**

There is no right of appeal for you as complainant against a decision of the Group Head of Democracy and Governance or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may



make a complaint to the Local Government and Social Care Ombudsman.

Appendix One The authority's Code of Conduct Appendix

Appendix Two Procedure for Hearings

Appendix Three Standards Complaints Assessment Criteria.

## **APPENDIX 1 COUNCILLOR CODE OF CONDUCT PART 1 GENERAL PROVISIONS**

### **Introduction and interpretation**

As a member you are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in Appendix 1 and the provisions of S29 (1) Localism Act 2011

In this Code

“meeting” means any meeting of:

- (a) the authority
- (b) the Executive of the authority
- (c) any of the authority’s or its executive’s committees, sub-committees, task groups, joint committees, joint sub-committees or neighbourhood forums whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members
- (d) any briefings by officers and site visits organised by the authority “member” includes a co-opted member.

### **1. Who does the Code apply to?**

- (1) This Code applies to all members of Watford Borough Council, including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

### **2. What does the Code apply to?**

(1) You must comply with this Code whenever you –

- (a) conduct the business of your authority, or
- (b) you are acting as a representative of your authority,

(2) This Code has effect in relation to your conduct in your official capacity.

(3) Where you act as a representative of your authority—

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **3. General obligations**

(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be-

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

### **4. Confidential Information**

You must not—

(a) disclose information given to you in confidence by anyone, or

(b) information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is— (aa) reasonable and in the public interest; and (bb) made in good faith and in compliance with the reasonable requirements of the authority; or (b) prevent another person from gaining access to information to which that person is entitled by law.

## 5. Conferring an advantage or disadvantage

You-

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority
  - (i) act in accordance with your authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (d) It is a criminal offence under the **Bribery Act 2010** to request, agree, or accept a financial or other advantage intending that you will exercise your role as a councillor improperly, or get another councillor to exercise their role, or a council officer to perform their duties improperly. It does not matter if you do not directly receive or accept the advantage. You are expected to uphold the principles set out at the end of this code and to perform your role in good faith.
- (e) You will be required to disclose in the Council's register of gifts and hospitality any gift or hospitality you receive that is £25 or over. You will need to consider when you are offered any gift or hospitality if the intention behind it is to place you under an obligation to the giver, or be seen to be given to influence the exercise of your role. If you consider that this is the intended consequence you should decline the offer and report it to the Council's

Monitoring Officer

- (f) If anyone attempts to bribe you you must report it as soon as is practicable to the Council's Monitoring Officer.

## **PART 2 MEMBERS INTERESTS**

### **6. Disclosable Pecuniary Interests**

6.1 You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours
- (b) An interest of your spouse
- (c) An interest of your civil partner
- (d) An interest of a person you are living with as a spouse or civil partner

And in the case of paragraphs 6.1 (b) – 6.1 (d) you are aware that that other person has the interest

6.2 “Disclosable pecuniary interests” are defined by The Relevant Authorities(Disclosable Pecuniary Interests) Regulations 2012 and are:

It relates to or is likely to affect:

- i. any employment ,office trade, profession or vocation carried on for profit or gain;
- ii. any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992
- iii. any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council
  - (a) under which goods or services are to be provided or works to be executed; and
  - (b) which has not been fully discharged

Any beneficial interest in land which is within the Council's area

Any licence (alone or jointly with others) to occupy land in the Council's area for a month or

longer

vi. Any tenancy where to your knowledge

(a) the landlord is the Council

(b) the tenant is a body in which the relevant person has a beneficial interest

vii. Any beneficial interest in securities of a body where-

(a) that body to your knowledge has a place of business or land in the Council's area; 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 more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

## **7. Other Pecuniary Interests**

You have a pecuniary interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your financial position or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, affected by the decision;

## **8 Non-Pecuniary Interests**

8.1 You have a non-pecuniary interest in any business of your authority where either:

(a) it relates to or is likely to affect-

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

ii. any body

1 exercising functions of a public nature;

2 directed to charitable purposes; or

3 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;

- iii. a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, affected by the decision;

## **9. “Relevant Persons”**

9.1 For the purposes of paragraphs 7 (a) and 8.1(a) i -iii a relevant person is-

- (a) A member of your family or any person with whom you have a close association;
- (b) Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) Any body of which such persons are a member or in a position of general control or management and to which you are appointed or nominated by your authority
- (e) any body of a type described in paragraph 8(a) i. and ii. of which such persons are members or in a position of general control or management

## **10. Disclosure of Interests**

10.1 Subject to sub-paragraphs 10.2 to 10.5, where you have a disclosable pecuniary interest, any other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your register of Interests or for which you have made a pending notification

10.2 Sub-paragraph 10.1 only applies where you are aware or ought reasonably to be aware of the existence of the pecuniary interest

10.3 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 10.1 but by virtue of paragraph 13 (sensitive interests) details of the interest are not registered in your authority’s published register of members’ interest and that

the interest is a disclosable pecuniary interest (if that is the case) but you need not disclose the nature of the interest to the meeting

10.4 Where you have a pecuniary interest in any business of your authority and a function of your authority may be discharged by you acting alone in relation to that business, you must ensure you notify the authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business

10.5 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 10.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest

10.6 In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

## **11. Effect of Disclosable Pecuniary Interests on participation**

11.1 You may not

- a) if present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority and
- b) you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and
- c) you are aware that sub-paragraph 11.1.b is met:
  - i. ii. participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting  
and must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the authority's proper officer
- d) exercise executive functions in relation to that business and
- e) Seek improperly to influence a decision about that business

11.2 If a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in



relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself)

11.3 If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:

11.3.1 Disclose the existence and nature of the interest in accordance with paragraph 10.1 (but subject to paragraph 10.3)

11.3.2 Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from your authority's proper officer in a case where paragraph 11.3 applies immediately after making your representations or in any other case when the business is under consideration unless you have obtained a dispensation from your authority's proper officer or it relates to the functions of the authority in respect of-

- i. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of or are entitled to the receipt of such pay
- ii. an allowance, payment or indemnity given to members,
- iii. any ceremonial honour given to members
- iv Setting council tax under the Local Government Finance Act 1992

### **PART 3 REGISTER OF MEMBERS INTERESTS**

#### **12. Registration of Members' Interests**

Subject to paragraph 13, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the authority register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:
  - i. disclosable pecuniary interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time
- (c) Subject to paragraph 13, you must within 28 days of becoming aware of any new disclosable pecuniary interest as referred to in paragraph 6 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any disclosable pecuniary interest registered under paragraphs 12. i. above by providing written notification to your authority's Monitoring Officer

#### **13. Sensitive Information**

- 13.1 Where you have a disclosable pecuniary interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and your authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.
- 13.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 13.1 is no longer sensitive information, notify your authority's monitoring officer
- 13.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

## **CODE OF CONDUCT APPENDIX 1**

### **THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011 SELFLESSNESS**

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

#### **INTEGRITY**

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

#### **OBJECTIVITY**

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

#### **ACCOUNTABILITY**

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

#### **OPENNESS**

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

#### **HONESTY**

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

#### **LEADERSHIP**

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

## PROTOCOLS

Alongside this Code are a number of Protocols which will be the responsibility of the Standards Committee to monitor, but will not form part of the formal Code of Conduct.

1. Rules relating to Access to Information
2. Relations between Members and Officers

### 1. Rules Relating to Access to Information

The Council's Constitution contains the Council's Access to Information Procedure Rules which sets out the entitlements of Members to information.

In addition Members have statutory rights under the Local Government Act 1972 to see documents relating to reports going to the Executive or Committees.

Also Members have a right to inspect any documents if they have "a need to know", i.e. if it is reasonably necessary to fulfil their duties as a Councillor. A Member will normally have a "need to know" if they are a member of the Executive or if they are a member of the Audit Committee, Development Control Committee, Licensing Committee, Functions Committee or Neighbourhood Forum and the document relates to a matter within the responsibility of that Committee. Similarly a particular involvement as either a Ward Member or as part of a scrutiny process will often amount to the "need to know". Otherwise in the case of documents which are confidential, e.g. because they deal with personal circumstances or commercially sensitive information, the Councillor will have to justify why they wish to see a particular document.

If documents are not confidential they will be made available to Councillors on request unless there is a doubt about the reason for the request, e.g. if they are being sought to assist an individual to contest action by the Council.

The ultimate decision on whether there is a good reason for access to the information is for the Executive in relation to the exercise of an Executive function, or the Council or Committee in relation to the exercise of a non-Executive function to decide, but any dispute about whether a Member has a "need to know" in respect of a particular document will be referred initially to the appropriate Head of Service. If the dispute cannot be resolved by the Head of Service, it will be referred to the Corporate Director or Managing Director for decision. The Head of Legal & Property Services will advise at all stages. These rules apply to documents in the possession of the Council, and not for example documents in the possession of a particular political group.

Finally, any information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council.

## **2. Protocol on the Council – Relationships between Officers and Members**

Every Local Authority should have its own written statement or protocol governing relations between Members and Officers" (*Third report of the Committee on Standards in Public Life – the Nolan Committee*)

### **Definitions**

- 1 Unless the context indicates otherwise, references to the term "Council" include the Executive, Overview and Scrutiny Committees and other Committees and Sub-Committees.
- 2 For the purposes of this Protocol, the term "Executive" refers to the Mayor and Cabinet.
- 3 Unless the context indicates otherwise, the terms "Member" and "Members" include non-elected (i.e. co-opted) Members as well as elected Councillors.
- 4 "Officers" mean all persons employed by the Council – either directly or through an Agency or engaged as a Consultant.
- 5 "Chief Officer" has the meaning set out in Article 12.01(b) of the Constitution.
- 6 "S151 Officer" means the Officer exercising the duties prescribed by law for the financial administration of the Council.

### **Principles**

7. Members and Officers must at all times observe this Protocol.
8. The Protocol has been approved by the Council's Standards Committee who will monitor its operation.
9. The Protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
10. Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

11. Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.
12. The Council has adopted Codes of Conduct for both Members and Officers. Both represent best practice. The Members' Code follows the National Code which in turn is based on the general principles governing members' conduct enshrined in law, viz:
- *Selflessness* – serving only the public interest
  - *Honesty and integrity* – not allowing these to be questioned; not behaving improperly
  - *Objectivity* – taking decisions on merit
  - *Accountability* – to the public; being open to scrutiny
  - *Openness* – giving reasons for decisions
  - *Personal judgement* – reaching one's own conclusions and acting accordingly
  - *Respect for others* – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/Officer)
  - *Duty to uphold the law* – not acting unlawfully
  - *Stewardship* – ensuring the prudent use of a council's resources
  - *Leadership* – acting in a way which has public confidence
13. These principles underpin this Protocol. They will also be reflected in a new National Code of Conduct for employees due in the near future and on which the Office of the Deputy Prime Minister began a three months' consultation period in August 2004.
14. Until such time as a new national Code appears, Officers are bound by the Council's own Code of Conduct for staff and, in some cases, by the Codes of their Professional Associations.
15. Breaches of this protocol by a member may result in a complaint to the Council's Standards Committee if it appears the members' Code has also been breached. Breaches by an Officer may lead to disciplinary action.

## **The Role of Members**

16. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant Chief Officer(s) and/or the Monitoring Officer.
17. Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Authority's policy framework, strategic plans and budget.
18. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
19. Every elected Member represents the interests of, and is an advocate for, his/her Ward and individual constituents. He/she represents the Council in the Ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
20. Some Members have roles relating to their position as members of the Executive, Overview and Scrutiny Committees or other Committees and Sub-Committees of the Council.
21. Members of the Executive can have individual delegated powers. They may determine matters within their portfolios but implementation of their decisions is the responsibility of Officers.
22. Members serving on Overview and Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
23. Members who serve on other Committees and Sub-Committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
24. Some members may be appointed to represent the Council on local, regional or national bodies.
25. As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
26. Members are not authorised to instruct Officers other than:
  - Through the formal decision-making process

- To request the provision of consumable resources provided by the Council for Members' use
- Where staff have been specifically allocated to give support to a Member or group of Members; and
- In the case of the Mayor's Political Assistant

27. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.

28. Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the S151 Officer.

29. Members must respect the impartiality of Officers and do nothing to compromise it e.g. by insisting that an Officer change his/her professional advice.

30. Members have a duty under their Code of Conduct:

- Not to do anything which may cause the Council to break any equality laws, and
- To treat others with respect

31. Under the Code, a Member must not when acting as a Member:

- Bring the Council or his/her position as a Member into disrepute, or
- Use his/her position as a Member improperly to gain an advantage or disadvantage for his/herself or any other person



## **The Role of Officers**

32. Officers are responsible for giving advice and information to Members to enable them to fulfil their roles. In seeking advice and information Members should have regard to the workload of officers and the Council's management structure. Members should usually address requests for advice and information to the Chief Officer of the respective department. In providing advice and information Officers will take into account all available relevant factors. Officers will be entitled to refuse to provide information where the information has been provided to the Member on a previous occasion and circumstances have not changed, or if the collating of the information would, in the view of the Chief Officer, unduly tie up officer resources to the detriment of the effective operation of the service. In this situation the Member will be so informed by the Chief Officer and will be entitled to make the request to the Managing Director who will be the final arbiter.
33. Under the direction and control of the Council (including, as appropriate, the Executive, Committees and Sub-Committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
34. Officers have a duty to implement decisions of the Council, the Executive, Committees and Sub-Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution and duly minuted.
35. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced either by their own personal views or by undue pressure from any Member or Group. Whilst officers implement the lawful policies of the ruling administration they must, when exercising their professional judgement, act in the best interests of the Council.
36. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
37. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
38. Officers have the right not to support Members in any role other than that of Member and not to engaged in actions incompatible with this Protocol. In particular, to comply with the provisions relating to politically restricted posts if they occupy such a post.

## **The Relationship between Members and Officers: General**

39. The conduct of Members and Officers should be such as to instil mutual confidence and trust.
40. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
41. Informal and collaborative two-way contact between Members and Officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
42. Members and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
43. It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.
44. Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
45. With the exception of the Mayor's Political Assistant, Officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such Officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns to the Head of Service, at least in the first instance.
46. Officers will do their best to give timely responses to Members' enquiries. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting Officers' work by imposing their own priorities.
47. Members will endeavour to give timely responses to enquiries from Officers.

48. An Officer shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an Officer raising on a personal basis, and in his/her own time, a matter with his/her Ward Member.

49. Members and Officers should respect each other's free (i.e. non-Council) time.

### **The Council as an Employer**

50. Officers are employed by the Council as a whole.

51. Members' roles are limited to:

- The appointment of specified senior posts
- Determining Human Resources Policies and Conditions of Employment
- Hearing and determining Appeals

52. Members shall not act outside these roles.

53. If participating in the appointment of Officers, Members should:

- Remember that the sole criterion is merit (other than in the case of Political Assistants, where political consideration may apply)
- Never canvass support for a particular candidate
- Not take part where one of the candidates is a close friend or relative
- Not be influenced by personal preferences, and
- Not favour a candidate by giving him/her information not available to the other candidates

54. A Member should not sit on an Appeal Hearing if the appellant is a friend, a relative or an Officer with whom the Member has had a close working relationship.

## **Chairman and Officers**

55. Officers will respect the position of Chairman and provide appropriate support.

## **Executive Members and Officers**

56. Executive Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Chief Officers will be responsible for instructing staff to implement the Executive's decisions.

57. In addition to individual members of the Executive, Chief Officers (including the Monitoring Officer and the S151 Officer) have the right to submit papers to the Executive as a whole or to individual Executive members for consideration.

58. Chief Officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including, without exception, the Monitoring Officer and S151 Officer, and will not direct Officers in the framing of recommendations.

59. Before any formal decisions with a financial implication are taken by the Executive, the S151 officer and the Chief Officer(s) for the service(s) concerned must be consulted. This is to ensure that those Officers who are budget holders:

- Are aware of the proposed decision
- Have the opportunity to offer advice, and
- Are subsequently able properly to authorise the financial transactions needed to implement decisions.

60. An individual Executive member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other Members and Officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.

61. Executive members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.

62. Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to

which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

### **Overview and Scrutiny Members and Officers**

63. Chairmen and other leading Overview and Scrutiny members shall maintain regular contact with the Officer(s) providing the principal support to the Overview and Scrutiny function. In consultation with Chairmen, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
64. An Overview and Scrutiny Committee or its Chairman acting on its behalf may require Officers to attend Overview and Scrutiny meetings. Members should not normally expect junior officers to give evidence. All requests should be made to Chief Officers in the first instance.
65. When making requests for Officer attendance, Overview and Scrutiny members shall have regard to the workload of Officers.
66. It is recognised that Officers required to appear before an Overview and Scrutiny Committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, an Officer may have a conflict of interest. Both Members and Officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – from the Council's Scrutiny Officer or externally.
67. Subject to 66 above, officers should be prepared to justify advice given to the Council, the Executive or other Committees and Sub-Committees even when the advice was not accepted.
68. Officers must also be prepared to justify decisions they have taken under delegated powers.
69. In giving evidence, Officers must not be asked to give political views.
70. Officers should respect members in the way they respond to members' questions.
71. Members should not question Officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.
72. Overview and Scrutiny proceedings must not be used to question the capability or competence of Officers. Chairmen and Members need to make a distinction between reviewing the policies and performance of the Council and its services and appraising the personal performance of staff. The latter is not an Overview and Scrutiny function.
73. In exercising the right to call-in a decision of the Executive, Overview and Scrutiny members

must seek Officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

### **Members of Other Committees or Sub-Committees and Officers**

74. The appropriate Officers will offer to arrange regular informal meetings with Chairmen, Vice-Chairmen and spokesmen of Committees and Sub-Committees.
75. Chief Officers (including the Monitoring Officer and the S151 Officer) have the right to present reports and give advice to Committees and Sub-Committees.
76. Members of a Committee or Sub-Committee shall take decisions within the remit of that Committee or Sub-Committee and will not otherwise instruct Officers to act.
77. At some Committee or Sub-Committee meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chairman. In these circumstances it is the officer, not the Chairman, who takes the action and is responsible for it. A Chairman has no legal power to take decisions on behalf of a Committee or Sub-Committee, neither should he/she apply inappropriate pressure on the Officer.

### **Party Groups and Officers (excluding Political Assistants)**

78. Chief Officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.
79. Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.
80. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
81. Party group meetings are not empowered to make decisions on behalf of the Council and conclusions reached at such meetings do not rank as formal decisions. The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
82. Where officers provide factual information and advice to a party group in relation to a matter of

Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

83. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.
84. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an Officer providing feedback to other senior officers on a need-to-know basis.
85. In their dealings with party groups, Officers must treat each group in a fair and even-handed manner.
86. Members must not do anything which compromises or is likely to compromise Officers' impartiality.
87. The duration of an Officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
88. An Officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
89. An Officer who is not a Chief Officer shall not be invited to attend a party group meeting, but a senior officer may nominate another Officer to attend on his/her behalf.
90. An Officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
91. No Member will refer in public or at meetings of the Council to advice or information given by Officers to a party group meeting.
92. At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

93. Any particular cases of difficulty or uncertainty in relation to this part of the Protocol should be raised with the Managing Director and the relevant party group leader.

### **Mayor's Political Assistant**

94. This Officer has been appointed by the Council exclusively to provide support to the Mayor. This function is to assist the interests and work of the Mayor. This is in contrast to all other staff whose duty is to serve the Council as a whole.

95. The Mayor's Political Assistant will be treated in accordance with and expected to observe all Codes, Policies and Practices relating to the Council's staff. This includes the courtesy and consideration which the Council expects its Officers to show to one another.

96. The Mayor's Political Assistant will have no line management responsibility or power of direction over other staff.

97. The Mayor's Political Assistant is not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the Mayor.

98. The level of access to Council documents and information shall be that enjoyed by Members.

### **Local Members and Officers**

99. To enable them to carry out their Ward role effectively, Members need to be fully informed about matters affecting their Ward. Chief Officers must ensure that all relevant staff are aware of the requirement to keep Ward Members informed, thus allowing Members to contribute to the decision-making process and develop their respective role.

100. This requirement is particularly important:

- During the formative stages of Policy development, where practicable
- In relation to significant or sensitive operational matters
- Whenever any form of public consultation exercise is undertaken, and
- During an overview and scrutiny investigation

101. Issues may affect a single Ward. Where they have a wider impact, a number of local Members will need to be kept informed.

102. Whenever a public meeting is organised by the Council to consider a local issue, all the



Members representing the Wards affected should be invited to attend the meeting as a matter of course.

103. If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant Officer. Provided the meeting has not been arranged on a party political basis:

- An Officer may attend, but is not obliged to do so, and
- The meeting may be held in Council owned premises

104. No such meetings should be arranged or held in the immediate run-up to Council elections.

105. Whilst support for Members' Ward work is legitimate, care should be taken if staff are asked to accompany Members to Ward surgeries. In such circumstances:

- The surgeries must be open to the general public, and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties

106. Officers must never be asked to attend Ward or Constituency political party meetings.

107. It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

108. In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

## **Members' Access to Documents and Information**

109. This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's Constitution.
110. Members may request Officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- It is in the public domain, and
  - It is not barred by the Data Protection Act from being given
111. Every member of the Executive, an Overview and Scrutiny Committee, and/or any other Committee or Sub-Committee has a right to inspect documents about the business of that Overview and Scrutiny Committee, other Committee or Sub-Committee or the Executive.
112. A Member who is not a member of a specific Overview and Scrutiny Committee, other Committee or Sub-Committee, or the Executive may have access to any document of that specific part of the Council provided:
- He/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a Member (the "need to know" principle), and
  - The documents do not contain "confidential" or "exempt" information as defined by the law.
113. Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a Member's request.
114. A Member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:
- Where to do so is likely to be in breach of the Data Protection Act, or
  - Where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the Members' Code of Conduct.
115. Information given to a Member must only be used for the purpose for which it was requested.
116. It is an accepted convention that a member of one party group will not have a need to know

and therefore a right to inspect a document which forms part of the internal workings of another party group.

117. Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
118. When requested to do so, Officers will keep confidential from other Members advice requested by a Member.
119. Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

## **Media Relations**

120. All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
121. Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
122. Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
123. Before responding to enquiries from the media, Officers shall ensure they are authorised to do so.
124. Likewise, Officers will inform the Council's Communications Manager of issues likely to be of media interest, since that unit is often the media's first point of contact.
125. If a Member is contacted by, or contacts, the media on an issue, he/she should:
  - Indicate in what capacity he/she is speaking (e.g. as Ward Member, in a personal capacity, as an Executive member, on behalf of the Council, or on behalf of a party group),
  - Be sure of what he/she wants to say or not to say,
  - If necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Communications Office and/or relevant Chief Officer, except in relation to a statement which is party political in nature,
  - Consider the likely consequences for the Council of his/her statement (e.g. commitment to

a particular course of action, image, allegations of jumping to conclusions),

- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter
- Consider whether to consult other relevant members, and
- Take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

## **Correspondence**

126. Correspondence between an individual Member and an Officer should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.
127. Official letters written on behalf of the Council should normally be in the name of the relevant Officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of an Executive member or the Chairman of an Overview and Scrutiny Committee.
128. The Chairman may initiate correspondence in his/her own name.
129. The Mayor may initiate correspondence in his/her own name.
130. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.
131. When writing in an individual capacity as a Ward member, a member must make clear that fact.

## **Access to Premises**

132. Officers have the right to enter Council land and premises to carry out their work. Some Officers have the legal power to enter property in the ownership of others.
133. Members have a right of access to Council land and premises to fulfil their duties.
134. When making visits as individual members, Members should:
- Whenever practicable, notify and make advance arrangements with the appropriate manager or Officer in charge
  - Comply with health and safety, security and other workplace rules
  - Not interfere with the services or activities being provided at the time of the visit
  - If outside his/her own Ward, notify the Ward member(s) beforehand, and
  - Take special care at schools and establishment serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

## **Use of Council Resources**

141. The Council provides all Members with services such as printing and photocopying and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

142. Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:

- Where facilities are provided in Members' homes at the Council's expense
- In relation to any locally agreed arrangements e.g. payment for private photocopying, and
- Regarding ICT security

143. Members should not put pressure on staff to provide resources or support which Officers are not permitted to give. Examples are:

- Business which is solely to do with a political party
- Work in connection with a Ward or constituency party political meeting
- Electioneering
- Work associated with an event attended by a member in a capacity other than as a Member of the Council
- Private personal correspondence
- Working connection with another body or organisation where a Member's involvement is other than as a member of the Council, and
- Support to a Member in his/her capacity as a Councillor of another local authority

## **Interpretation, Complaints and Allegations of Breaches**

144. This part of the Protocol should be read in conjunction with any “Whistle-Blowing” Policy the Council may have.
145. Members or Officers with questions about the implementation or interpretation of any part of this Protocol should seek the guidance of the Monitoring Officer.
146. A member who is unhappy about the actions taken by, or conduct of, an Officer should:
- Avoid personal attacks on, or abuse of, the Officer at all times
  - Ensure that any criticism is will founded and constructive
  - Never make a criticism in public, and
  - Take up the concern with the Officer privately
147. If direct discussion with the Officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the Officer’s manager or the relevant Chief Officer.
148. A serious breach of this Protocol by an Officer may lead to an investigation under the Council’s Disciplinary Procedure.
149. An Officer who believes a Member may have acted other than in accordance with this Protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the Members’ Code of Conduct and may be referred to the Council’s Standards Committee.

## **Appendix 2 Procedure for Hearings.**

1. The Group Head of Democracy and Governance will request the convening of a Standards Committee such Committee to sit no earlier than 21 working days from the date of the request
2. The Group Head of Democracy and Governance will notify the member of the decision to convene a Standards Committee hearing and ask the member to provide her with a written response to the Investigating Officers report within 5 working days with the purpose of narrowing the issues of dispute at the hearing. The member will also be required to indicate any witnesses he/she would intend to call
3. The Group Head of Democracy and Governance will notify the Investigating Officer and complainant of the decision to convene a hearing.
4. On receipt of the member's written response or if no response is received after 5 working days the Group Head of Democracy and Governance will meet with the Chair of the Standards Committee to agree any specific directions to be set for the hearing, these can include clarifying which areas are disputed and evidence needs to be adduced on, witnesses required, documents to be submitted.
5. If any directions are set the Group Head of Democracy and Governance will write to both the member and the Investigating Officer with those directions.
6. The Investigating Officer will be informed of those areas of his/her report in dispute and be asked what witnesses he/she intends to call and will be required to respond within 5 working days.
7. All papers to be relied on by any party must be submitted to the Group Head of Democracy and Governance no later than 5 clear days before the date of the Hearing with a copy sent to the other party.
8. The member will be entitled to employ a representative to speak on his/her behalf at the hearing. If a member chooses to employ a representative he/she does so at their own expense.
9. At the Hearing the procedure to be followed will be:
  1. Consideration of whether the matter should be dealt with in private or public
  2. Investigating Officer to present his/her case
  3. Questions by Committee and member to Investigating Officer and any witnesses
  4. Member or his/her representative to present his/her case
  5. Questions by Committee and Investigating Officer to member and any witnesses
  6. Investigating officer sums up
  7. Member or his/her representative sums up
  8. Committee takes view of Independent Person
  9. Committee makes decision if code breached or not
  10. If Committee decides code breached Committee asks member or his/her representative to



make any representations before considers sanction.

11. Committee takes view of Independent Person

12. Committee announces decision.

10. Following the hearing the Group Head of Democracy and Governance will after consulting with the Committee Chair, on behalf of the Committee formally notify the member and the complainant of the Committee's decision within 5 working days of the Hearing.

## **Appendix 3**

### **Standards Complaints Assessment Criteria**

#### **Complaints which would not normally be referred for Investigation**

1. The complaint is not considered sufficiently serious to warrant Investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complainant appears to be politically motivated; or
4. It appears that there can be no breach of the Code; or
5. It is about someone who is no longer a member of the Council; or
6. There is insufficient information available for a referral; or
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee; or
9. It is an anonymous complaint.
10. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

#### **Complaints which may be referred to the Standards Committee**

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Managing Director or the Group Head of Democracy and Governance and it would be difficult for the Group Head of Democracy and Governance to deal with it; or
4. The complaint is about a high profile member such as the Elected Mayor, Portfolio Holder or Group Leader and it would be difficult for the Group Head of Democracy and Governance to deal with it; or
5. Such complaints that the Group Head of Democracy and Governance considers should be referred.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public

money and officers' and members' time. This is an important consideration where the complaint is relatively minor.