



HILLINGDON
LONDON



Standards Committee

Date: WEDNESDAY, 13 JUNE
2012

Time: 7.00 PM

Venue: COMMITTEE ROOM 3 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE UB8
1UW

**Meeting
Details:** Members of the Public and
Press are welcome to attend
this meeting

Members of the Committee:

Allan Edwards, (Independent
Chairman)
Malcolm Ellis, (Independent
Vice-Chairman)
James Keys, (Independent
Member)
Councillors Barrett,
Corthorne,
Curling,
Dann,
Harmsworth,
Hensley,
Lewis and
Riley

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request. Please contact us for
further information.**

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<http://modgov.hillingdon.gov.uk/ieListMeetings.aspx?CId=122&Year=2010>

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Useful information

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Agenda

- 1 Apologies for Absence
- 2 Minutes
To approve the minutes of the meeting of the Committee held on 29 February and 10 May 2012 (*attached*)
- 3 Declarations of Interest
To note any declarations of interest in any matter before the Committee
- 4 Confirmation that all items marked Part I will be considered in public and those marked Part II, in private

PART I

- 5 Review of Work Programme
To consider and update the Committee's Work Programme
- 6 The Localism Act 2011 - a New Ethical Framework
To consider proposals for a new Standards regime in light of the Localism Act 2011, for *recommendation* to Council (*attached*)

PART II

- 7 Complaints Monitoring

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Minutes

Standards Committee
Wednesday, 29 February 2012
Meeting held at Committee Room 4a - Civic
Centre, High Street, Uxbridge UB8 1UW



Present: Allan Edwards (Chairman), Malcolm Ellis (Vice-Chairman), James Keys, Councillors Barrett, Corthorne, Curling, Hensley, Khursheed, Lewis, Markham and Riley

Officers Present: Messrs Alagh and White

1. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Harmsworth, for whom Councillor Curling was substituting

2. MINUTES

RESOLVED: That the minutes of the meeting of the Committee held on 5 September 2011 be taken as read and confirmed.

3. DECLARATIONS OF INTEREST

The Chairman, Vice-Chairman, Mr Keys and Councillor Lewis declared a personal interest in item 8 'The Localism Act 2011 – A New Ethical Framework'.

4. CONFIRMATION THAT ALL ITEMS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND THOSE MARKED PART II, IN PRIVATE

5. REVIEW OF WORK PROGRAMME

The Committee's work programme for 2012 was noted.

6. GIFTS AND HOSPITALITY ANNUAL REPORT

The Committee noted declarations of gifts and hospitality made during 2011 by both officers and Members. It was agreed that the Head of Democratic Services remind Members of the requirement to declare offers that were declined, as well as those accepted. In addition officers would be encouraged, where appropriate to donate gifts to the Mayor's charity.

RESOLVED: That the contents of the report be noted and the Head of Democratic Services remind Members of the requirement to declare offers of gifts or hospitality that are declined, as well as those accepted.

7. STANDARDS AND ETHICS INDICATORS

Members considered the annual report providing summary information on a range of topics by which to gauge the corporate ethical health of the authority.

RESOLVED: That the report be noted.

8. THE LOCALISM ACT 2011 - A NEW ETHICAL FRAMEWORK

Members considered details of the Localism Act 2011 which had received Royal Assent on 15 November 2011 and which made a number of significant changes to the ethical framework for Members and co-opted members of local authorities as it appeared in the Local Government Act 2000. Details of the changes were summarised for Members' information and the steps which the Council had already taken, and which it still needed to take, in order to comply with the requirements of the Act were noted.

In considering the requirements of the Act the Committee noted that the Council would have to adopt a Code of Conduct consistent with the following seven principles [commonly known as the Nolan principles of standards in public life]:

- selflessness;
- integrity;
- objectivity;
- accountability;
- openness;
- honesty;
- leadership.

and that the Code would have to provide for what the Council considered appropriate in respect of the registration in its register and disclosure of both pecuniary and non-pecuniary interests.

In considering the format of the new Code, Members felt that a 'minimalist' approach should be taken and that it should contain only what was required by the Act.

It was agreed that the Code should be accompanied by a Standards Committee to monitor the ethical health of the authority and the operation of the Code. Although it was noted that the likely sanctions that could be applied by the authority to Members found to be in breach of the Code had been greatly watered down by the Act, Members nonetheless concurred that the Standards Committee should retain an Assessment Sub-Committee and a Hearings Sub-Committee to deal with allegations of breaches of the Code. However, Members felt strongly that the Whips' Protocol should play a leading role in the initial consideration of complaints.

The Committee also noted the new role that the Act envisaged for an independent person and that such a person could not be appointed as an independent person if at any time during the previous 5 years the person had been a Member, co-opted member or officer of the authority.

Finally it was noted that Section 25 of the Act made changes to the law on predetermination although the common law rules on bias remained as they were. Although the changes applied to all decision making by Members, nevertheless they principally applied to the areas of planning and licensing. The Monitoring Officer had sent a Briefing Note to all Members of the Council in relation to section 25 which would be reproduced in the Planning Code of Conduct.

RESOLVED: That the report be noted and a further report be prepared by the Borough Solicitor and the Head of Democratic Services for consideration at the next meeting which will ask the Committee to make a number of recommendations to full Council to reflect the comments made above and which will give full effect to the changes made to the ethical framework for Members and co-opted members by the Act.

9. COMPLAINTS MONITORING

This item was discussed in Part II as it contained confidential information as defined in the Local Government (Access to Information) Act 1985.

The Committee noted details of the complaints made against Members in the last six months.

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Minutes

STANDARDS COMMITTEE

10 May 2012

Meeting held at Council Chamber - Civic Centre,
High Street, Uxbridge UB8 1UW



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	<p>Committee Members Present: Councillors Allan Edwards, Malcolm Ellis, Josephine Barrett, Philip Corthorne, Peter Curling, Catherine Dann, Richard Lewis, Paul Harmsworth, John Hensley and John Riley</p> <p>LBH Officers Present: Raj Alagh and Lloyd White</p>	
1.	<p>APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN OF STANDARDS COMMITTEE (<i>Agenda Item 1</i>)</p> <p>RESOLVED: That:</p> <ol style="list-style-type: none"> 1. Mr Allan Edwards be elected Chairman of the Standards Committee for the municipal year 2012/2013; and 2. Mr Malcolm Ellis be elected Vice-Chairman of the Standards Committee for the municipal year 2012/2013. 	Action by
2.	<p>MEMBERSHIP OF STANDARDS COMMITTEE ASSESSMENT SUB-COMMITTEE (<i>Agenda Item 2</i>)</p> <p>RESOLVED: That the membership of the Sub-Committee, as detailed in the lilac Committee Membership 2012/2013 sheets and circulated at the meeting, be agreed.</p>	Action by
3.	<p>MEMBERSHIP OF STANDARDS COMMITTEE REVIEW SUB-COMMITTEE (<i>Agenda Item 3</i>)</p> <p>RESOLVED: That the membership of the Sub-Committee, as detailed in the lilac Committee Membership 2012/2013 sheets and circulated at the meeting, be agreed.</p>	Action by
4.	<p>MEMBERSHIP OF STANDARDS COMMITTEE HEARINGS SUB-COMMITTEE (<i>Agenda Item 4</i>)</p> <p>RESOLVED: That the membership of the Sub-Committee, as detailed in the lilac Committee Membership 2012/2013 sheets and circulated at the meeting, be agreed.</p>	Action by
	The meeting, which commenced at 8.47 pm, closed at 8.48 pm.	

These are the minutes of the above meeting. For more information on any of the resolutions please contact Lloyd White on 01895 556743. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

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WORK PROGRAMME 2012/ 2013

Reporting Officer: Head of Democratic Services

REASON FOR REPORT

To enable the Committee to track the progress of its work in accordance with good project management practice.

RECOMMENDATION: That Members note the Work Programme and make any amendments as appropriate.

BACKGROUND DOCUMENTS: None.

STANDARDS COMMITTEE WORK PROGRAMME (*Shading indicates completed meetings*)

MEETING DATE	AGENDA ITEM
5 September 2011	<ul style="list-style-type: none"> • Review work programme • Update on Revised Code of Conduct / Localism Bill • Complaint Monitoring (Part II)
30 November 2011	<ul style="list-style-type: none"> • Meeting cancelled
29 February 2012	<ul style="list-style-type: none"> • Review work programme • Localism Act 2011 • Standards and Ethics monitoring annual report • Complaint Monitoring (Part II)
13 June 2012	<ul style="list-style-type: none"> • Review work programme • New Standards regime – recommendation to Council • Complaint Monitoring (Part II)
4 September 2012	<ul style="list-style-type: none"> • Review work programme • Complaint Monitoring (Part II)
28 November 2012	<ul style="list-style-type: none"> • Review work programme • Complaint Monitoring (Part II)
27 February 2013	<ul style="list-style-type: none"> • Review work programme • Complaint Monitoring (Part II)

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The Localism Act 2011 – A New Ethical Framework

Reporting Officers: Borough Solicitor and Head of Democratic Services

SUMMARY

1. The Localism Act 2011 ["the Act"] makes a number of significant changes to the ethical framework for Members and Co-opted Members of local authorities as it appeared in the Local Government Act 2000.
2. This report sets out a new proposed ethical framework, including a new Code of Conduct for Hillingdon Members and co-opted members, which the Committee is being asked to recommend to full Council for adoption. The report also refers to a number of existing documents which relate to the Council's current ethical framework.
3. A number of amendments have been made to these documents to reflect the changes made by the Act and Members are also being asked to recommend them to full Council for agreement.

RECOMMENDATIONS: That the Committee recommend to Council at its meeting on 5 July 2012 to:

- a) adopt a new Code of Conduct for Hillingdon Members and Co-opted Members in the form set out at Appendix 1;
- b) agree the amendments to the documents set out at Appendices 2-6;
- c) agree to appoint one existing Independent Member until 30 June 2013.

BACKGROUND INFORMATION

4. Members will recall having received a detailed report from the Borough Solicitor and Head of Democratic Services on 29 February 2012 which summarised the changes made to the ethical framework for Members and co-opted members by the Act. The changes will come into force on 1 July 2012 and it was agreed to consider a further report at this meeting which would ask the Members of the Committee to make a number of recommendations to full Council which will give effect to these changes.

Duty to Promote and Maintain High Standards of Conduct

5. Section 27 of the Act requires the Council to promote and maintain high standards of conduct by its Members and co-opted members and in discharging this duty, it must adopt a code of conduct. The Council can either revise its existing code or adopt a replacement code.
6. The Act is much less prescriptive than the 2000 legislation in terms of what a code of conduct must contain and this is exemplified by the fact that that it has dispensed with the requirement that the Council must adopt a national model code.
7. However, Section 28 of the Act requires that any code which is adopted by the Council has to be consistent with the following seven principles [commonly know as the Nolan principles of standards in public life]:

- selflessness;
- integrity;
- objectivity;
- accountability;
- openness;
- honesty;
- leadership.

8. Furthermore, a code has to provide for what the Council considers appropriate in respect of the registration in its register and disclosure of both pecuniary and non-pecuniary interests.

A Proposed New Code of Conduct

9. At the last meeting of this Committee on 29 February 2012, Members agreed that any new Code should be 'minimalist' in nature and based on the Nolan principles.
10. Both the DCLG and the LGA have issued suggested codes of conduct for use by local authorities. The DCLG version is the more minimalist of the two, being less prescriptive and cumbersome than the LGA model. A copy of the DCLG Code is attached as Appendix 1. It has been discussed with both the Leader of the Council and the Leader of the Labour Group who have both expressed their preference for it over the LGA model.
11. The Government has still not issued Regulations which define what 'Disclosable Pecuniary Interests' are. Once the Regulations are available, the definition will have to be added to the code.

A New Complaints Procedure

12. In the 29 February report, the Borough Solicitor and Head of Democratic Services pointed out the extremely limited range of sanctions available under the new regime which could be imposed against Members or co-opted members who had been found to have breached the new code of conduct.
13. Furthermore, under the new regime Hillingdon will wish to avoid as far as possible in having to deal formally with a proliferation of complaints which are time-consuming, potentially expensive and distressing for the Members concerned. Therefore, a Whips Protocol has been developed, which is attached as Appendix 2, which is designed to deal with the majority of complaints made by both Hillingdon Members and members of the public. The Protocol has been drafted with input from Members of both political groups and it is intended to be the first port of call when complaints are made against Members and co-opted members.
14. The Act requires the Council to have in place arrangements under which firstly, complaints can be investigated and secondly, decisions on complaints can be made. In spite of the existence of the Protocol, there will still be a number of complaints which will be subject to the formal process. Therefore, the current Members' Code of Conduct complaint form, which is attached as Appendix 3, has been amended to bring it up to date.

15. The Act no longer makes it a requirement to have a Standards Committee in place. Members of the Committee will recall that at the 29 February meeting, they were unanimously in favour of retaining this Committee. They were also of the view that that the Standards Committee should largely retain its current terms of reference and should continue to have a process in place to deal with complaints against Members and co-opted members.
16. It is proposed that the three Sub-Committees which have been set up by the Standards Committee [the Assessment, Review and Hearings Sub-Committees] should be abolished and that under the new system, the Standards Committee itself will both assess and hear complaints against Members and co-opted members. It is also proposed that its membership will reduce from 9 to 5 to facilitate this new role for the Committee. A copy of the revised terms of reference and procedure rules for the Standards Committee are attached as Appendices 4 & 5.

Independent Person

17. The Act envisages a new role for an Independent Person, set out in section 28[7], which states that there must be provision for the appointment by an authority of at least one Independent Person whose views are to be sought and taken into account in relation to the conduct of a Member or co-opted member of the authority.
18. The Act bars existing Standards Committee members who within the last five years have been a Member, co-opted member or officer of the authority in question from being appointed as the Independent Person.
19. However, the Government has recently notified local authorities that transitional provisions should be made allowing an authority to appoint a person as an Independent Person who, although not a member or chairman of a Standards Committee at the time of appointment [or thereafter] has held such a post within the last five years. This transitional provision would apply for the first year of the new arrangements [i.e. until 30 June 2013] and any person appointed under the transitional provisions would be able to continue to hold office after the transitional period, for whatever term the Council saw fit.
20. Although the Regulations giving effect to these transitional provisions have not been issued, it would be in Hillingdon's interests to retain at least one of its existing Independent Members which is consistent with the approach which most other London Boroughs appear to be taking.
21. The retained Independent Person would not be a member of the Standards Committee but provision would be made for Standards Committee Members to consult with him in the event that a formal complaint is made against a Hillingdon Member or co-opted member.

The Planning Code of Conduct for Members

22. Two main changes have been made to this document which is attached as Appendix 6. Firstly, the reference to personal and prejudicial interests which exist in the current

Code have been deleted. They will be replaced by disclosable pecuniary interests and other interests once the Government has issued Regulations in relation to the former. Secondly, under the heading 'Fettering discretion in the planning process', the new provisions on predetermination introduced by the Act have been inserted.

The ICT Usage Policy for Members

23. A copy of the amended Policy is attached as Appendix 7. There are two main changes to this Policy. Firstly, a number of existing provisions within the current Members' Code of Conduct have been deleted. However, there is a new paragraph, which has been lifted from paragraph 4[7] of the proposed new Code which deals with the prohibition of the use of Council resources for party political purposes, particularly in an election period.

CONSULTATION CARRIED OUT OR REQUIRED

24. The Act does not require local authorities to undertake any form of consultation prior to implementing its requirements.

Financial Implications

25. There are no specific financial implications arising from this report. However, the adoption of a Whips Protocol will hopefully assist in resolving complaints without having to resort to expensive, independent investigations.

Legal Implications

26. The legal implications are contained in the body of the report.

Background Papers: Localism Act 2011; Code of Conduct for Members.

**CODE OF CONDUCT FOR MEMBERS
AND CO-OPTED MEMBERS
OF THE LONDON BOROUGH OF HILLINGDON**

**ADOPTED PURSUANT TO A RESOLUTION OF THE COUNCIL
AT A MEETING ON 5 JULY 2012**

Part 1

General Provisions

Introduction and interpretation

1. (1) This Code applies to you as a Member or co-opted member of the London Borough of Hillingdon ["the authority"]
- (2) Co-opted member means 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 sub-committee 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) It is your responsibility to comply with the provisions of this Code.

Scope

2. (1) You must comply with this Code whenever you act in your official capacity as a Member or co-opted member.
- (2) For the avoidance of doubt, this Code does not apply to you in any other circumstances including your personal life.

The Nolan principles

3. This Code is consistent with the following seven principles of standards in public life:
 - selflessness;
 - integrity;
 - objectivity;
 - accountability;
 - openness;
 - honesty;
 - leadership.

General obligations

4. (1) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person. Conferring an advantage includes gaining financial or other material benefits for yourself, your family, a friend or close associate.
- (2) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (3) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- (4) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- (5) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- (6) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in Part 2 below.
- (7) You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for party political purposes (especially in the period between the publication of a Notice of Election and the election date, known as the 'purdah' period) 'However, this paragraph will not apply in circumstances where Members pay for the use of the resources at a rate agreed by the authority. You must have regard to any applicable Local authority Code of Publicity made under the Local Government Act 1986.
- (8) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Part 2

Registering and declaring pecuniary and non-pecuniary interests

5. (1) You must, within 28 days of taking office as a Member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- (2) In addition, you must, within 28 days of taking office as a Member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.
- (3) If an interest has not been entered onto the authority's register, then the Member or co-opted member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.
- (4) Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- (5) Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by Regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary interest or non pecuniary interest as defined by your authority.

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**PROTOCOL FOR HANDLING COMPLAINTS
MADE AGAINST MEMBERS
OF THE
LONDON BOROUGH OF HILLINGDON**

1. INTRODUCTION

- 1.1 As part of the provisions of the Localism Act 2011, the London Borough of Hillingdon ('the Council') formally adopted a Revised Code of Conduct for Members (the Code). at a meeting of full Council held on 5 July 2012 of which this Protocol forms a part.
- 1.2 All Council Members have undertaken in writing to observe the Code and also, upon election to the Council, new Members attend training provided by the Borough Solicitor and Monitoring Officer and the Head of Democratic Services and Deputy Monitoring Officer in relation to the Code.
- 1.3 As part of the adoption of the Code the Council has approved this Protocol ('the Whips' Protocol') for the initial handling of complaints:
a) by Members against fellow Members and
b) by members of the public (including officers) against Members
- 1.4 It should be emphasised that the purpose of this Protocol is not to take away the right of a Member or a member of the public to complain to the Monitoring Officer; instead, its purpose is to set out for those individuals who are thinking of making a complaint against a Member, a number of informal steps which they should follow before escalating their complaint to the Monitoring Officer.
- 1.5 The standard form used to make a complaint to the Monitoring Officer includes a section which those persons who wish to make a complaint will be required to complete in order to demonstrate that they have exhausted the informal process first.

2. THE TERMS OF THE PROTOCOL

The First Stage - Informal referral to the Chief Whip

- 2.1 **Complaints from Members:** Any complaint from a Member about the conduct of another Member (the 'Subject Member'), should be taken up in the first instance with the Chief Whip of the Group to whom the Subject Member belongs. The relevant Chief Whip, in conjunction with the Leader of the Group, will be responsible for asking for details about the complaint and will carry out a preliminary investigation to determine if the complaint is valid. The Chief Whip, in conjunction with the Leader of the Group, will explore every possibility, which can include liaison with the Chief Whip of the complainant Member's Group, of finding a mutually acceptable resolution of the complaint if he / she determines that it is valid.

- 2.2 **Complaints from the public (including officers):** A member of the public wishing to make a complaint about an elected Member will be advised that, in the first instance, their complaint should be taken up with the Chief Whip of the Subject Member's Group. The relevant Chief Whip, in conjunction with the Leader of the Group, will be responsible for asking for details about the complaint and will carry out a preliminary investigation with the agreement of the complainant, investigation to determine if the complaint is valid. The Chief Whip, in conjunction with the Leader of the Group, will explore every possibility, which can include liaison with the Chief Whip of the complainant Member's Group, of finding a mutually acceptable resolution of the complaint if he / she determines that it is valid.

The Second Stage

- 2.3 **Complaints from Members:** In the event that an acceptable resolution of the complaint cannot be found, the aggrieved Member should seek appropriate advice from the Monitoring Officer or Deputy Monitoring Officer as to whether the conduct in question is capable of amounting to a breach of the Code. They should be prepared to provide any necessary evidence in support of their complaint. At this stage, the Monitoring Officer or Deputy Monitoring Officer can ask the Chief Whip who carried out the preliminary investigation for copies of any relevant information which he/she has obtained in order to assist them.
- 2.4 **It is not the role of either the Monitoring Officer or Deputy Monitoring Officer to advise at this stage whether the Code has actually been breached** as this is ultimately a function which falls within the sole remit of the Standards Committee.
- 2.5 However, if having reviewed the evidence, the Monitoring Officer or Deputy Monitoring Officer take the view that there is a prima facie breach of the Code, they should advise the respective Chief Whips, the aggrieved Member and the Subject Member accordingly. In these circumstances, the aggrieved Member should either directly, or through his/her Chief Whip, contact the Subject Member and seek an appropriate and immediate remedy.
- 2.6 In order to maintain the integrity of this Protocol at all times, it is imperative that all Members observe the principle that they should not approach the Monitoring Officer or the Deputy Monitoring Officer in relation to matters which have no substance and which could be construed as being vexatious, tit for tat, politically motivated or frivolous.
- 2.7 **Complaints from the public (including officers):** In the event that an acceptable resolution of the complaint cannot be found, the complainant will be informed that he or she can seek appropriate advice from the Monitoring Officer or Deputy Monitoring Officer as to whether the conduct in question is capable of amounting to a breach of the Code. They should be prepared to provide any necessary evidence in support of their complaint. At this stage, the Monitoring Officer or Deputy Monitoring Officer can ask the Chief Whip who carried out the preliminary investigation for copies of any relevant information which he/she has obtained in order to assist them.

- 2.8 As in 2.4 above, **it is not the role of either the Monitoring Officer or Deputy Monitoring Officer to advise at this stage whether the Code has actually been breached** as this is ultimately a function which falls within the sole remit of the Standards Committee.
- 2.9 However, if having reviewed the evidence, the Monitoring Officer or Deputy Monitoring Officer take the view that there is a prima facie breach of the Code, they should advise the relevant Chief Whip, the complainant and the Subject Member accordingly. In these circumstances, the complainant should, through the relevant Chief Whip, contact the Subject Member and seek an appropriate and immediate remedy.

The Third Stage

- 2.10 **Complaints from Members:** Should the matter not be resolved at Stage Two, the Monitoring Officer or Deputy Monitoring Officer will approach the respective Chief Whips, the aggrieved Member and the Subject Member to explore whether the Members are prepared to take part in a mediation/conciliation process which will be facilitated by a suitably qualified independent person. The purpose of this process will be to try to agree a mutually acceptable resolution of the complaint.
- 2.11 **Complaints from the public (including staff):** Should the matter not be resolved at Stage Two, the same process as detailed in 2.10, will be followed.

3. SANCTIONS AND FURTHER ACTION

- 3.1 The process of referring complaints to the Group Whips cannot result in the imposition of any formal sanctions on a Subject Member. Any such sanctions can only be imposed as a result of a meeting of the Standards Committee at the conclusion of a formal investigation into a complaint by the Monitoring Officer.
- 3.2 Should the process detailed above not result in the resolution of the complaint, then the complaint may be referred to the Monitoring Officer for consideration as part of the Council's formal Members' Code of Conduct complaints process.
- 3.3 In such cases the aggrieved Member / complainant will be required to include a statement to the Standards Committee as to why they have chosen to escalate the complaint to the formal stage and why the outcome of the process described above did not resolve it.
- 3.4 Should a complaint be resolved as a result of this Protocol process it shall not be open to the aggrieved Member / complainant submitting the original complaint to further submit the same complaint against the same Member to the Monitoring Officer at a later date.

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APPENDIX 3

MEMBERS' CODE OF CONDUCT COMPLAINT FORM

1. How To Make A Complaint

If you wish to make a complaint about the conduct of an elected Member or co-opted member of the London Borough of Hillingdon, please do so by completing this form. Complaints must be submitted in writing on the prescribed form. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible by using the contact details at the end of this form.

2. What Happens to My Complaint?

As a part of the formal complaints procedure, Hillingdon Council has adopted a protocol (appended to the back of this form), which allows for all complaints against elected Members to be considered initially by the Chief Whip of the Party Group to whom the Member whose conduct is being complained about, belongs.



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The purpose of this Protocol is not to take away the right to complain directly to the Monitoring Officer; instead its purpose is to set out for those persons who are thinking of making a complaint, a number of informal steps which they should follow before escalating their complaint to the Monitoring Officer.

Once the informal process has been exhausted, adjudication of allegations of misconduct against Members of the Council are undertaken in accordance with procedures as set out in the Council's Standards Committee Procedure Rules which can be found in Part 4, Schedule J of the Council's Constitution:

<http://www.hillingdon.gov.uk/index.jsp?articleid=7604>

The Standards Committee has a two stage process for the assessment and adjudication of complaints as follows:

- the Committee will meet to make an initial assessment of your complaint and decide if it is valid;
- the Committee will then meet to conduct a Hearing into the complaint, if appropriate, and determine if action is required.

You will be entitled to attend and speak at the Hearing stage but not at the assessment stage. You will, however be entitled to submit written representations to the Committee in support of the complaint.

The Standards Committee will normally aim to complete the initial assessment of your complaint within 20 working days and will notify you in writing of the result within 5 working days. At that time you will also be notified of the procedures to be followed should further action be required.

For more details of the procedure please contact the Monitoring Officer whose details can be found at the end of this form.



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3. Your details

Please provide us with your name and contact details. **Please note** that your address and contact details will not usually be released unless necessary or to deal with your complaint. However, we will tell the following people that you have made this complaint:

- the Council Member(s) you are complaining about.
- the Monitoring Officer and Deputy Monitoring Officer of the Council.
- The Chief Whip of the Party Group to whom the Council Member(s) you are complaining about belong(s)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about this information being released then please complete section 5 of this form.

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	
Date:	

Please tell us which describes you best:

- Member of the public
- An elected or co-opted Member of a local authority
- An independent member of the standards committee
- Member of Parliament
- Local authority Monitoring Officer
- Other council officer or authority employee
- Other ()



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4. Your Complaint

Please provide us with the name of the Council Member(s) you believe have breached the Code of Conduct.

Title	First name	Last name

Please explain in the next section (or on separate sheets) what the Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account when consideration is given to any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged misconduct and provide their names and contact details if possible.
- You should provide any relevant background information or supporting documentation.



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Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.



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5. Only complete this next section if you are requesting that your identity is kept confidential:

In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. If you wish to make an application for us to withhold your identity or the details of your complaint please complete the section below stating clearly why you believe it would be appropriate for us to do so:

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The request will be considered alongside the initial assessment of your complaint (see section 4 above). We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to do so.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:



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6. Only complete this next section if you are requesting that your complaint should not be dealt with initially through the informal Whips' Office Protocol:

Please refer to that part of the protocol, appended to the back of this form, that applies to your complaint. If you do not wish for your complaint to be subject to this process then please state below the reasons why you wish your complaint to be submitted directly to the Monitoring Officer for consideration under the formal complaints process:

7. If your complaint has been dealt with through the informal Whips' Office Protocol but you are dissatisfied with the outcome, please state that outcome below and why you wish to refer your complaint to the Monitoring Officer:



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8. Equal Opportunities Monitoring Information

Hillingdon Council is committed to providing equality of opportunity to all. To assist the Council in monitoring the effectiveness of its policies would you please complete the following. Thank you for your assistance.

This information is confidential and does not form part of your complaint. It is kept separate from your complaint and is not taken into account when making any decisions about the complaint.

Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female
Please select the age grouping to which you belong:	<input type="checkbox"/> Under 18 <input type="checkbox"/> 18 – 24 <input type="checkbox"/> 25 – 34 <input type="checkbox"/> 35 – 44 <input type="checkbox"/> 45 – 54 <input type="checkbox"/> 55 - 64 <input type="checkbox"/> over 65
Do you consider yourself to be disabled? (The Disability Discrimination Act 1995 defines a disabled person as someone with a physical or mental impairment which has a substantial and long term effect on his or her ability to carry out normal day-to-day activities.)	<input type="checkbox"/> Yes <input type="checkbox"/> No
To which of these ethnic groups do you belong? (This is not a question about your nationality or place of birth, but your ethnic origins). Please select only one	<input type="checkbox"/> Asian or Asian British <input type="checkbox"/> White British <input type="checkbox"/> European <input type="checkbox"/> Black or Black British <input type="checkbox"/> Mixed <input type="checkbox"/> Chinese or other ethnic group

Once complete, please return this form to:

Raj Alagh, Monitoring Officer
London Borough of Hillingdon
The Civic Centre
High Street
Uxbridge
UB8 1UW
01895 250617
Or email: ralagh@hillington.gov.uk

Appendix

WHIPS' PROTOCOL (to be inserted here)



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ARTICLE 9 – THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council has established a Standards Committee. Its functions are not within the remit of the Cabinet.

9.02 Membership

5 Council Members not including the Leader. The Committee will be politically balanced.

9.03 Terms of Reference

- (a) To promote and maintain high standards of conduct by Councillors, Co-opted Members and Church and Parent Governor representatives;
- (b) To assist Councillors, Co-opted Members and Church and Parent Governor representatives to observe the Members' Code of Conduct;
- (c) To monitor the operation of the Members' Code of Conduct;
- (d) To grant dispensations to Councillors, Co-opted Members, Church and Parent Governor representatives on matters relating to the Members' Code of Conduct;
- (e) To consider and hear allegations into the alleged misconduct of Members.
- (f) To oversee the operation of the Officers' Code of Conduct
- (g) To consider periodic reports on a range of standards and ethics indicators
- (h) To consider appeals from staff concerning designations of Politically Restricted Posts under the Local Democracy, Economic Development and Construction Act 2009

9.04 Complaints

In the event that the Standards Committee is required to adjudicate on any issue coming before it, (including in particular, complaints of misconduct against Members or co-opted members of the Council), any such adjudication will be undertaken in accordance with procedures as set out in the Standards Committee Procedure Rules which can be found in Part 4, Schedule J of the Constitution.

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STANDARDS COMMITTEE PROCEDURE RULES – SCHEDULE J



1. INTRODUCTION

- 1.1 Any complaints of misconduct against Members (this definition includes co-opted members) should be made to the Monitoring Officer of the Council.
- 1.2 In accordance with the Protocol for handling complaints against Members, the Monitoring Officer may initially refer the complaint to the appropriate Whips' office for consideration.

The Monitoring Officer may also refer the complaint to the Standards Committee who will determine the complaint in accordance with the procedures set out in this Schedule.

Interpretation

- 1.3 'Subject Member' means the Member of the Council who is the subject of an allegation which has been made.
- 1.4 'Investigator' means the Monitoring Officer or his or her nominated representative appointed to carry a full investigation into the circumstances surrounding the complaint.
- 1.5 'Legal advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.
- 1.6 For the purpose of these Rules, 'misconduct' means any conduct by a Member, which is in breach of the Revised Code of Conduct adopted by the Council on 5 July 2012
- 1.7 'Independent member' means a person appointed by the Council under the terms of the Localism Act 2011, who will attend meetings of the Standards Committee in a non-voting capacity, when the Committee is meeting to consider any complaints of misconduct against Members or co-opted members.

2. MAKING A COMPLAINT

- 2.1 In order that members of the public are aware of the procedures for making a complaint against a Member of the Council, the Council will publicise its complaints system:

➤ on its website;

- within its own newspaper;
 - in local libraries and other public areas.
- 2.2 Should any subsequent changes be made to the system, then these will be publicised in a similar manner.
- 2.3 All complaints should be made in writing on the prescribed form (subject to the requirements of the Disability Discrimination Act 2000) and should specify:
- The complainant's name, address and other contact details;
 - The complainant's status e.g. member of the public, Councillor, officer etc;
 - Who the complaint is about and to which authority the Member in question belongs;
 - Full details of the alleged misconduct including where possible dates, witness details and any other supporting information;
 - Equality monitoring data if applicable.
- 2.4 Support will be provided to complainants where English is not their first language.
- 2.5 It should also be made clear to a complainant that his/her identity will normally be disclosed to the Subject Member, unless they specifically request otherwise.

3. ASSESSMENT

- 3.1 Upon receipt of a written complaint, the Monitoring Officer will normally:
- Satisfy himself that the complaint falls within the remit of the Council to consider and is not one that falls within the scope of Part I, Chapter 7, Section 34 of the Localism Act 2011 (relating to non disclosure of Pecuniary Interests);
 - Satisfy himself that the complaint has been subject to consideration by the appropriate Whips' Office in accordance with the adopted Protocol, or that the reasons why this process has not been followed, as stated in the complaint form, are sufficient for it to be referred directly to the Standards Committee.
 - Acknowledge receipt in writing within 3 working days, requesting any additional information that may be required to assist with the assessment of the complaint *
 - Notify the Subject Member that a complaint has been made, giving details of the complainant (unless the complainant has made a request for confidentiality and the Standards Committee has yet to determine whether to grant it), details of the sections of the Code of Conduct to which the alleged breach relates and requesting / inviting any additional information that may be required to assist with the assessment of the complaint *;
 - Notify the Subject Member that a full written summary will be provided once the Standards Committee has met to consider the complaint;

- Arrange for a meeting of the Standards Committee to be held within 20 working days;
- Prepare a report for the Standards Committee, summarising the complaint and giving full details of the alleged breach along with any additional information the Committee may need to assist with its deliberations.

* at this stage seeking additional information should not in anyway amount to an investigation e.g. interviewing witnesses etc, but should be a factual clarification of any ambiguities;

3.2 The Standards Committee, including the non-voting, independent member, will meet in closed session to assess the validity of the complaint and its meetings are not subject to notice and publicity arrangements under Part 5 of the Local Government Act 1972.

3.3 Before the Committee begins its assessment, it should satisfy itself that a complaint:

- is against one or more named Members of the Council and that those Members were in office at the time of the alleged misconduct and the Code of Conduct was in force at that time;
- if proven, would be a breach of the Code of Conduct under which the Member was operating at the time of the alleged misconduct.

3.4 If the complaint fails the tests above then it cannot be investigated and the complainant must be informed that no further action will be taken.

3.5 To ensure that all complaints are dealt with in a fair and even-handed manner, the Committee will ask itself the following questions and follow any further criteria which is subsequently agreed:

- Has the complainant submitted enough information to satisfy the Committee that the complaint should be referred for investigation or other action?
- Is the complaint about someone who is no longer a Member of the authority, but is a Member of another authority? If so, does the Committee wish to refer the complaint to the Monitoring Officer of that other authority?
- Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct?
- Similarly, has the complaint been the subject of an investigation by other regulatory authorities?
- Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
- Is the complaint too trivial to warrant further action?
- Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

3.6 The Committee will reach one of the following decisions on a complaint about a Subject Member's actions in relation to the Code of Conduct within 20 working days:

- **referral of the complaint to the Monitoring Officer.** If the matter is to be the subject of a local investigation, the Monitoring Officer will decide who is to be appointed as the investigator (see paragraph 1.4 above).
 - **that no action** should be taken in respect of the complaint.
- 3.7 The decision of the Committee will be made known in a written summary detailing the main points considered, the conclusion on the complaint and the reasons for that conclusion.
- 3.8 The written summary must be available for public inspection for six years once the subject Member has been sent a copy.
- 3.9 **Other Action** - It may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. The Committee must consult the Monitoring Officer before reaching a decision to take other action which will be dependent on the nature of the complaint but may include:
- arranging for the Subject Member to attend a training course;
 - arranging for that Member and the complainant to engage in a process of conciliation;
 - instituting changes to the procedures of the Council if they have given rise to the complaint.

Notification of Decision

No Action

- 3.10 If the Committee decides to take no action over a complaint, then within 5 working days it will give notice in writing of the decision and the reasons for it.
- 3.11 Where no potential breach of the Code is disclosed, the Committee will explain in the decision notice what the allegation was and why they believe this to be the case.
- 3.12 This notice will be given to the relevant parties i.e. the complainant, the Subject Member and the Chief Executive.

Referral to Monitoring Officer

- 3.13 Within 5 working days a summary of the complaint will be sent to the relevant parties stating that the Committee has referred the matter to the Monitoring Officer for investigation or other action. The decision notice will also explain why a particular referral decision has been made.
- 3.14 The Committee does not have to give the Subject Member a summary of the complaint, if it decides that doing so would be against the public interest or would prejudice any future investigation. The Committee should take advice from the Monitoring Officer in deciding whether it is

against the public interest to inform the Subject Member of the details of the complaint made against them.

- 3.15 It should also take advice from the Monitoring Officer in deciding whether by informing the Subject Member of the details of the complaint, it would prejudice a person's ability to investigate it.

4. WITHDRAWING A COMPLAINT

- 4.1 Should a complainant ask to withdraw their complaint prior to the Standards Committee having made a decision on it, the Committee will need to decide whether to grant the request using the following criteria which may be added to subsequently:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable, underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the Subject Member, or an associate of theirs, to withdraw the complaint?

5. MULTIPLE COMPLAINTS

- 5.1 The Standards Committee may take a view on the best way to handle multiple complaints about the same matter bearing in mind the most practical use of time and resources.

- 5.2 A number of complaints about the same matter may be considered by the Committee at the same meeting. If so, the Monitoring Officer should be asked to present one report and recommendation that draws together all the relevant information and highlights any substantively different or contradictory information.

- 5.3 However, the Committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

6. VEXATIOUS AND REPEAT COMPLAINTS

- 6.1 Whilst the Standards Committee must consider every complaint it receives about behaviour in relation to the Code of Conduct, it may give regard to the Council's existing policy on persistent and vexatious complainants when doing so.

- 6.2 Should a complaint be resolved as a result of the Whips' Protocol and all parties have signified the same in writing, it shall not be open to the complainant submitting the original complaint to further submit the same complaint against the same Member to the Monitoring Officer at a later date.

- 6.3 If the Committee has already dealt with the same complaint by the same person against the same Subject Member, or a complaint which is substantially about the same issues merely re-worded and the Monitoring Officer does not believe that there is any new evidence, then a complaint does not need to be considered.
- 6.4 A person may make frequent allegations about Members, most of which may not have any substance. Despite this, new allegations must still be considered as they may contain a complaint that requires some action to be taken.
- 6.4 Even where restrictions are placed on an individual's contact with the Council, they cannot be prevented from submitting a complaint.

7. CONSIDERATION

- 7.1 Should the Standards Committee decide that a complaint is justified and refer it to the Monitoring Officer for investigation, the Monitoring Officer will arrange to convene a meeting of the Committee, including the non-voting, independent member, to consider the investigation report into the complaint and, if required, conduct a hearing.
- 7.2 Both the complainant and the Subject Member will be invited to the meeting which will normally be held in public. However, there will be occasions when confidential and/or exempt information within the meaning of the Local Government (Access to Information) Act 1985 will need to be considered by the Committee. The Monitoring Officer will in these circumstances advise the Committee whether it is appropriate for all or part of the hearing to be held in private and to restrict the release into public of any or all of the paperwork.
- 7.3 After considering the Monitoring Officer's report, the Committee will either:
- make a finding of no failure; or
 - determine that the matter should proceed to a hearing
- 7.4 As soon as reasonably practicable after accepting the Monitoring Officer's finding of no failure, the Committee shall give written notice of that finding to:
- the Subject Member;
 - the Standards Committee of any other authority concerned;
 - the complainant.
- 7.5 The Committee must also arrange for a notice to be published on the web site of the Council, stating that there has been no breach of the Code of Conduct on the part of the Subject Member.
- 7.6 The only circumstances in which the Notice will not be published is if the Subject Member requests this.

The Hearing of the Complaint

- 7.7 The Committee should work fairly and in a way that encourages the confidence of Members and the public. The procedures should comply with the principles of natural justice and Article 6 of the Human Rights Act 1998 (the right to a fair hearing within a reasonable time). A copy of the Hearing Procedures is appended to this Schedule.
- 7.8 The Subject Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.
- 7.9 The Committee may take legal advice from its legal advisor at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the committee should be shared with the Subject Member and the investigator if they are present.

Witnesses

- 7.10 Although the Subject Member is entitled to call any witnesses he or she wants, the Committee may limit the number of witnesses if it believes that the number called is unreasonable.
- 7.11 The Committee also has the right to govern its own procedures as long as it acts fairly. For this reason, the Committee may choose not to hear from certain witnesses if it believes that they will simply be repeating the evidence of earlier witnesses or if a witness will not be providing evidence that will assist the Committee to reach its decision.

Evidence

- 7.12 The Committee controls the procedure and evidence presented at a hearing, including the way witnesses are questioned.
- 7.13 The Subject Member must be allowed to make representations, either verbally or in writing and challenge any of the findings of fact contained in the Monitoring Officer's report. If the Subject Member prefers, these representations can be made through his or her nominated representative. The Subject Member must also be given the opportunity to give evidence to the Committee and call witnesses to give evidence.
- 7.14 In many cases, the Committee may not need to consider any evidence other than the investigator's report. If more evidence is needed or if people do not agree with certain findings of fact in the investigator's report, the Committee may need to hear from witnesses.
- 7.15 The Committee can question witnesses directly. It can also allow witnesses to be questioned and cross-examined by the Subject Member or the investigator or their representatives. The Committee can ask that these questions be directed through the Chairman.

- 7.16 If the Subject Member fails to attend a hearing of which that Member has been given notice, the Committee may:
- unless it is satisfied that there is sufficient reason for such failure, consider the allegation and make a determination in the absence of the Subject Member; or
 - adjourn the hearing to another date.
- 7.17 The Committee may, at any stage prior to the conclusion of the hearing, adjourn it and require the Monitoring Officer to seek further information or undertake further investigation on any point specified by it.

The Findings of the Standards Committee

- 7.18 In accordance with Part 1, Chapter 7, Section 11 of the Localism Act 2011, following its hearing, the Committee can make one of the following findings:
- the Subject Member has not failed to follow the Council's Code of Conduct;
 - the Subject Member has failed to follow the Council's Code of Conduct, but no action needs to be taken; or
 - the Subject Member has failed to follow the Council's Code of Conduct and an appropriate sanction should be imposed.

Penalties

- 7.19 If the Committee finds that a Subject Member has failed to follow the Code of Conduct and that he or she should be penalised, it may determine what penalty should be imposed.
- 7.20 When deciding a penalty, the Committee should make sure that it is reasonable and in proportion to the Subject Member's behaviour, reflects the nature and seriousness of the breach of the Code and seeks where possible to make reparations for any damage caused. Before deciding what penalty to set, the Committee should consider the following questions, together with any other relevant circumstances:
- What was the Subject Member's intention? Did the Subject Member know that he/she was failing to follow the Code of Conduct?
 - Did the Subject Member get advice from officers before the incident? Was that advice acted on in good faith?
 - Has there been a breach of trust?
 - Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
 - What was the result of failing to follow the Code of Conduct?
 - How serious was the incident?
 - Does the Subject Member accept that he or she was at fault?
 - Did the Subject Member apologise to the relevant people?
 - Has the Subject Member previously been warned or reprimanded for similar misconduct?

- Has the Subject Member failed to follow the Code of Conduct before?
- Is the Subject Member likely to do the same thing again?

7.21 After taking into consideration those matters above, the Sub-Committee may do any one or a combination of the following:

- censure the Subject Member. The Council or a Committee of the Council, can issue a formal censure through a motion;
- issue a press release or otherwise publicise a decision that the Subject Member has breached the Members' Code of Conduct;
- send the Subject Member a formal letter;
- remove the Subject Member from a Committee of the Council provided that this decision is made by the Council itself following agreement from the relevant Party Group and not by a Committee of the Council.

7.22 Any sanction imposed shall commence immediately following its imposition by the Sub-Committee.

7.23 As soon as is reasonably practicable after making a finding, the Committee will give notification of its findings and should announce its decision at the end of the hearing whenever it is practicable to do so. It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day, before people's memories fade.

APPENDIX

HEARING PROCEDURES FOR THE STANDARDS COMMITTEE

Representation

1. The Subject Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

Legal advice

2. The Committee may take legal advice from its legal advisor at any time during the hearing or while it is considering the outcome.

Setting the scene

3. After all the Members and everyone involved have been formally introduced, the Chairman should explain how the Committee is going to run the hearing.

Findings of fact

4. The Committee should consider whether or not there are any significant disagreements about the facts contained in the investigator's report. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.
5. If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report including, with the Committee's permission, calling any necessary supporting witnesses to give evidence. The Committee may give the Subject Member an opportunity to challenge any evidence put forward by any witness called by the investigator.
6. The Subject Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
7. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the Subject Member.
8. If the Subject Member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.
9. Once the Committee has heard the evidence, the Chairman will announce the Committee's Findings of Fact.

Did the subject Member fail to follow the Code?

10. The Committee then needs to consider whether or not, based on the facts it has found, the Subject Member has failed to follow the Code of Conduct.
11. The Subject Member should be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.
12. The Committee should then consider any verbal or written representations from the investigator and the Subject Member should be invited to make any final relevant points.
13. The Committee may, at any time, question anyone involved on any point they raise in their representations.
14. The Committee will ask the room to be vacated to consider the representations and then the Chairman will then announce the Committee's decision as to whether or not the Subject Member has failed to follow the Code of Conduct.

If the Subject Member has failed to follow the Code

15. If the Committee decides that the Subject Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the Subject Member as to:
 - a. whether or not the Committee should set a penalty; and
 - b. what form any penalty should take.
16. The Committee may question the investigator and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
17. The Committee will ask the room to be vacated whilst considering whether or not to impose a penalty on the Subject Member and, if so, what the penalty should be. Upon the return of those present, the Chairman will announce the Committee's decision.
18. Whenever it is practicable to do so a short written decision will be provided on the day and a full written decision issued shortly after the Hearing.

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PART 5 - CODES



PLANNING CODE OF CONDUCT FOR MEMBERS

Introduction

1. This Planning Code of Conduct for Members has been prepared in accordance with advice provided in the Local Government Association's "Probity in Planning – the role of Members & Officers" together with guidance contained in Audit Commission papers and Public Interest Reports. It draws on the Model Code produced by the Association of Council Secretaries and Solicitors in consultation with the District Audit Service, the Local Government Ombudsman and Standards for England. The aim of this Planning Code of Conduct for Members is to ensure that when exercising their planning judgment, both Members and officers can be seen to be open and transparent in the decision making process.
2. The role of a Member of the planning authority is to make planning decisions openly, impartially, with sound judgment and for justifiable planning reasons. The role of a Member on a Planning Committee involves a balance between representing the needs and interests of constituents and the community with the need to maintain impartial and sound decision making on what can be highly controversial proposals.
3. The Planning Code of Conduct for Members applies at all times when any Member is involved in the planning process. This includes taking part in decision making meetings of the Planning Committees and on less formal occasions, such as meetings with officers or the public and other consultative meetings. It applies equally to planning enforcement matters or site specific policy issues as it does to planning applications. The Planning Code of Conduct for Members (this Code) is both complementary and additional to the Members' Code of Conduct.
4. Members and officers should read this Code thoroughly and apply themselves to it consistently. If Members have any doubts about the application of this Code they should seek early advice, preferably well in advance of any meeting, from the Monitoring Officer or the Head of Democratic Services.

Relationship to Members' Code of Conduct

5. Members are reminded that this Code is designed primarily for Members of the Planning Committees and Members who, for whatever reason, find themselves involved in the planning process. The Code is

supplemental to the Members' Code of Conduct found at Part 5 (A) of the Council's Constitution.

6. Members should first adhere to the Members' Code of Conduct and thereafter apply this Code together when involved in the planning process. If Members do not abide by this Code they may put the Council at risk of proceedings on the legality or maladministration of the related decision; and put themselves at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Members' Code of Conduct, a complaint being made to the Standards Committee.

Development proposals and interests (To replace with Disclosable Pecuniary Interests and other Interests)

7. The Localism Act 2011 and the Members' Code of Conduct place requirements on Members about the registration and declaration of their interests and the consequences of having such interests. These must be followed scrupulously and Members should review their interests regularly. Ultimate responsibility for declaring an interest rests individually with each Member.

General roles of Members and officers

8. Members and officers have different, but complementary roles. Both serve the public. Officers are responsible to the Council as a whole, whilst Members are responsible to both the Council and the electorate.
9. Officers advise Members and the Council. Officers carry out the daily functions of the Council's business in accordance with council, cabinet or committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers' Code of Conduct contained at Part 5 (B) of the Constitution. 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 Law Society.
10. Members are bound by the Members' Code of Conduct contained in Part 5 (A) of the Constitution. Breaches of the Members' Code of Conduct can result in a Member being reported to the Monitoring Officer of the Council and/or the Standards Committee.
11. Mutual trust, respect and understanding between Members and officers are the keys to achieving effective local government. A successful relationship between Members and officers can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.

Fettering discretion in the planning process

12. Section 25 of the Localism Act 2011 came into force on 15 January 2012 and this provision makes it clear that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind simply because such person had done anything directly or indirectly that indicated what view the decision-maker took, or would or might take, about the subject matter and that it was relevant to the decision required.
13. This provision applies to all local authorities in England and Wales and is still subject to the following legal principles:
 - Members must continue to declare interests whenever they arise at meetings they attend.
 - Planning Committee Members must, when making decisions, take into account all relevant material planning considerations.
 - The case law on bias remains unaffected by Section 25 and Members will therefore need to approach all decision-making with an open mind.
 - Members should take into account all relevant considerations and discount irrelevant considerations in accordance with the Wednesbury principles of reasonable decision making.
14. Given that the law on bias has remained unchanged by the Localism Act, the safest course for Planning Committee Members is to avoid making public statements (including expressing views in for example, e-mails) as to their support for or opposition to any application which would give the impression that they had made up their minds before the formal consideration of the application at the Committee meeting.
15. If a Member has made such a statement, then they must be satisfied that they can still consider the application with an open mind and are prepared to take into account any new information or new arguments in favour of or against the proposed development before the decision is made. If they cannot be so satisfied, then they should refrain from taking any part in the decision.
16. Members should not use any political group or other meeting prior to meetings of a Planning Committee to determine how a Member or group of Members will vote on agenda items.

The party whip

17. Members cannot accept an instruction from anyone to determine an application in a particular manner; they must determine the issue on its merits. Accordingly, whilst they may accord appropriate weight to the views of other Members, whether expressed in the committee meeting or in prior discussions, they must determine the application on its merits and should not take into account any factor which they are not

prepared to state in open committee. Therefore, it is inappropriate for any party group to instruct its Members to vote in a particular way on an application or to apply any sanction to any Member who votes contrary to the group's collective views.

Contact with developers, applicants and objectors

18. Members should refer those who approach them for planning, procedure or technical advice to officers.
19. Members should not agree to any formal meeting with applicants, developers or groups of objectors where it is possible to avoid it. Where a Member feels that a formal meeting would be useful in clarifying the issues relating to a planning matter, they should never seek to arrange that meeting themselves but should request the Deputy Chief Executive, Corporate Director of Planning, Environment, Education and Community Services to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Planning Committee.
20. In dealing with approaches on planning matters Members should:
 - follow the rules on lobbying¹;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them and ensure that this is recorded on the planning file.
21. In addition in respect of presentations by applicants / developers Members should:
 - **not** attend a planning presentation unless an officer is present and/or it has been organised by officers;
 - **ask** relevant questions for the purposes of clarifying their understanding of the proposals;
 - **remember** that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Planning Committee;
 - **be aware** that a presentation is a form of lobbying and Members must not express any strong view or state how they or other Members might vote.

¹ see paragraphs 32-38 below

Access to planning officers

22. Officers are required to manage council services in accordance with the policy and instructions adopted by elected Members through formal Cabinet/committee decisions. Like all other officers of the Council, planning officers are appointed to serve the Council as a whole and not any political group.
23. Any Member wishing to discuss a particular planning matter with a planning officer should make an appointment with the relevant officer through formal reception arrangements (reception desk or Director/Service Head's PA). The request for such a meeting may be refused if the officer considers it may lead to a breach of any code of conduct, or prejudice the proper and effective impartial assessment of an application, or it is otherwise reasonable to refuse an appointment. Where an appointment has been refused the Member concerned may request that the matter may be reviewed by the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services, whose decision shall be final.
24. The Council is expected to make a decision on all applications within statutory timescales. This is not always possible, particularly for applications that are to be considered by committee. Applications are always included on the agenda of the first available Planning Committee after completion of the officer's report so that a decision can be taken in the shortest possible time.
25. Planning applications must be dealt with in a timely manner in accordance with statutory guidance and Members should not request officers to delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers or other interested parties.

Material considerations

26. The emphasis in determining applications is upon a plan led system. Section 54a of the Town & Country Planning Act, 1990 requires all planning applications to be determined by reference to the Local Development Framework (LDF), if material to the application, and any other material considerations. If the LDF is material to the application then the statutory position is that the application should be determined in accordance with the LDF unless material considerations indicate otherwise.
27. Material considerations include national planning guidance in the form of Government Circulars, Planning Policy Guidance Notes, Planning Policy Statements, Non Statutory Development Control Guidelines and case law.
28. Examples of material considerations are:-

- appearance and character of development;
 - traffic generation, highway safety and parking;
 - overshadowing, overbearing, overlooking and loss of privacy;
 - noise disturbance and other loss of amenity;
 - layout and density of buildings;
 - relevant planning policies.
29. Matters which are not material considerations include:-
- a) boundary disputes, covenants or other property rights;
 - b) personal remarks;
 - c) reduction in property values;
 - d) loss of private view.
30. The personal circumstances of an applicant for planning permission are not generally a material consideration because they do not relate to the character or use of the land. However, when considering applications which include an applicant's home or the effect of the development on neighbouring homes, Members should have regard to Article 8 Schedule 1 of the Human Rights Act, 1998 which states:-
- “1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
 2. *There shall be no interference by a public authority with the exercise of this right except such is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.*”
31. What constitutes a material consideration is a matter of law. The weight to be attached to the consideration is a matter of planning judgment for the decision maker having regard to the planning evidence.

Lobbying of and by Members

32. Lobbying is a normal and perfectly proper part of the political process. Members of the public, applicants or local interest groups will often seek to influence a decision through an approach to their ward Member.
33. The Nolan Committee's Third Report states:
“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 via the local elected representatives, the Members themselves” (para 288)

34. Any Code of Conduct which fails to take account of the realities of the political/representative process will not carry credibility with experienced elected Members.
35. Lobbying can, unless care is taken, lead to the impartiality and integrity of a Member being called into question. Despite the removal of the rules concerning pre-determination, when being lobbied, Members, and particularly Members of the Planning Committees, should take care not to express an opinion which may be perceived as indicating that they have already made up their mind on a particular matter before having had the benefit of considering the evidence and arguments both for and against the proposal. Members of the Planning Committees should exclude themselves from any such discussions at the earliest opportunity.
36. In such situations, Members should refer those who approach them for planning, procedure or technical advice to officers and suggest to the lobbyists that they write to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services in order that their views can be included in the officer reports prepared for the Planning Committees or for determination under delegated powers. Even if such lobbying does not give rise to a declarable interest, Members of the Planning Committees should declare any lobbying to which they have been subject.
37. Where a Member receives information (including plans, data, correspondence etc) in respect of an application, they should pass it onto the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services as soon as practicably possible so that it can be taken into account and included in the report on the application.
38. Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant evidence during the sitting of the relevant Planning Committee.

Applications submitted by Members or officers

39. Proposals to their own authority by serving and former Members and officers and their close friends and relatives can easily give rise to suspicions of impropriety if not handled properly. Proposals can take the form of either planning applications or development plan proposals. This advice also relates to enforcement matters.
40. It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of favouritism. Accordingly a Member or an officer making an application should follow the procedures set out below:

- (a) if a Member or an officer submit their own proposal to the Council which they serve, they should take no part in its processing or the decision making process;
 - (b) Members who act as agents/consultants for people pursuing a planning matter with the authority should take no part in its processing or the decision making process;
 - (c) the Member or officer concerned in (a) or (b) should inform the Monitoring Officer of such proposals no later than the date on which formal proposals are submitted.
41. For the sake of transparency in decision making, where any Member or officer or former Member or former officer is involved in a planning or related application to the Council, this shall be referred to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services, as soon as possible who shall decide whether or not the application should be referred to the appropriate Planning Committee, or determined in the usual way under delegated powers if the application is in accordance with development plans and all other material planning considerations. In respect of former Members or former officers this requirement shall apply for a period of four years following their departure from the Council.
42. The consideration in Committee of a proposal from a Member in such circumstances would be considered as a prejudicial interest and that Member would be required to withdraw from any consideration of the matter. In this circumstance although the rights set out in paragraph 13 above apply and the Member may address the Planning Committee as applicant it would be highly desirable to appoint an independent agent to represent his/her views.
43. Members of the Planning Committee must consider in accordance with the Code of Conduct for Members whether the nature of any relationship with the person (either a Member or an officer) submitting the planning application requires that they make a declaration of interest and if necessary also withdraw from the meeting.

Applications submitted by the Council

44. Proposals for a Council's own development can also give rise to suspicions of impropriety. Whilst it is perfectly legitimate for such proposals to be submitted to and determined by the Local Planning Authority, it is vital to ensure that they are handled in a way that gives no grounds for accusations of favouritism. Accordingly, proposals for a Council's own development will be treated no differently from any other application.

Site visits

45. Members should try to attend site visits organised by the Council where possible. However, a site visit should not be requested unless Members feel it is strictly necessary because:

- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
46. Information gained from site visits should be reported back to the Planning Committee, so that all Members have the same information. The visit should be treated only as an opportunity to seek information and to observe the site. During the visit Members should ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
47. During the visit Members should not hear representations from any other party, [with the exception of the ward Member(s) whose address must focus only on site factors and site issues]. If approached by the applicant or a third party, Members should advise them that they should make representations in writing to the authority and direct them to or inform the officer present. Members should exercise caution when expressing opinions or views to anyone.
48. Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
- the Member feels it is essential to visit the site other than through attending the official site visit; and
 - the Member has first spoken to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services about their intention to do so and why (which will be recorded on the file); and
 - the Member can ensure that they will comply with these good practice rules on site visits.

Public speaking at meetings

49. The Constitution² provides for a representative of a petition with 20 or more signatures of borough residents to address a committee meeting for up to five minutes on the subject of the petition. Members of the Committee may ask questions of the petitioners for up to three minutes. Where the petition is opposing a planning application and is being reported to a Planning Committee, the applicant or their agent may address the Committee for up to five minutes in support of the application.
50. Members of the Planning Committees should not allow Members of the public or other Members of the Council to communicate with them, or act in a way which gives the perception that this is happening, during

² Committee Standing Orders Schedule B, paragraph 13

the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or as a Member making representations on behalf of constituents, as this may give the appearance of bias. Members should not frame questions so as to permit additional time for an individual speech by a Member of the public.

Pre-application discussions

51. Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and is encouraged by organisations such as the Local Government Association and the National Planning Forum. A Member should not normally be involved in discussions with a developer or agent when a planning application is imminent or has been submitted but remains to be determined. Potentially, these negotiations could be interpreted, particularly by objectors to a proposal, as part of a lobbying process.
52. Where Members need clarification about an application which may be dealt with through appropriate pre-application discussions (for example, in the case of a large scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives), the request should be made to the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services.
53. In order to avoid the potential for criticism or challenge, pre-application discussions generally should follow the guidelines below. Subsequent discussions should also be in accordance with the following guidelines:
 - (a) officers 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;
 - (b) any advice given should be consistent and in accordance with the LDF. Officers should agree, prior to any meeting, on a consistent interpretation of LDF policies;
 - (c) a contemporaneous note of the meeting should be prepared by the council officer attending wherever possible and a copy sent to all parties for their agreement;
 - (d) the final version of the note of the meeting should form part of the planning file should a planning application subsequently be received and thereby be open to public inspection.

Decision making

54. In making decisions on planning matters Members should:
 - ensure that, if they request a proposal to go before the Planning Committee rather than be determined through officer delegation, that their reasons are recorded and repeated in the report to the Committee;

- come to meetings with an open mind and demonstrate that they are open-minded;
- comply with section 54A of the Town and Country Planning Act 1990 and make decisions in accordance with the LDF unless material considerations indicate otherwise;
- come to their decision only after due consideration of all of the information reasonably required upon which to base a decision. If they feel there is insufficient time to digest new information or that there is simply insufficient information before them, request that further information. If necessary, defer or refuse;
- not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the officers' introduction to the matter;
- have recorded the reasons for the Committee's decision to defer any proposal;
- make sure that if they are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that they clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Members must be aware that they may have to justify the resulting decision by giving evidence in the event of any challenge.

Planning appeals

55. Appeals by applicants against the decisions of the Council, and which are heard by an Inspector, are open to the public and Members are able to attend. Members are encouraged to do so, as many have found them to be a good learning experience. This part of the Code is concerned with Members who wish to participate in these appeals.

56. If Members wish to attend a public inquiry or informal hearing as ward Members they are free to do so. It is strongly recommended that they discuss their participation with the Deputy Chief Executive & Corporate Director of Planning, Environment, Education and Community Services or the Head of Planning and Enforcement to ensure that they are aware of the process and that they do not act in a manner which may expose the Council to a claim of costs.

57. A Member cannot attend an appeal on behalf of the Planning Committees. The decision of the Committee will be documented in the minutes and the case officer 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 should be so directed. Where the appealed decision was contrary to the officer recommendation, officers are generally able to present the Council's case in a satisfactory manner. On the rare occasions where this may not be possible, the case will be presented by a planning consultant employed by the Council.

Member training

58. Members may not participate in decision making at meetings of the Planning Committees unless they have attended the mandatory planning training sessions prescribed by the Council on probity and planning. This includes Members who are acting as a substitute for regular Members of these committees.
59. All Planning Committee Members (and substitutes) should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, regulations, procedures, codes of practice and development plans, which will assist them in carrying out their role properly and effectively.

PART 5 - CODES

E

INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) USAGE POLICY FOR MEMBERS OF THE COUNCIL

Introduction

1. The use of Information and Communications Technology (ICT) is now integral to supporting the role of an elected Member of a local authority. The Council provides all Councillors with electronic facilities, which includes computer hardware and software, access to the internet and e-mail. It is therefore essential that there is clarity not only about what equipment is available and how technical support is provided but also how technical innovation is dealt with and the manner in which the equipment, which is provided out of public funds, is used. This usage policy outlines proper use of the facilities and the Members' responsibilities in using it. It should be read in conjunction with the Members' Code of Conduct and the Protocol for Member and Officer Relations which complement this policy and contain relevant guidance and requirements.

Purpose

2. The purpose of this policy is to; -
 - protect the security and integrity of the Council's computer facilities;
 - clarify the issues and give guidance about the use of the Council's equipment, including computer and telephone facilities; and
 - in doing so, protect Members who use the Council's computer facilities.

Members' Code of Conduct

3. All Members of the Council have signed a written undertaking to observe the Council's Members' Code of Conduct (the Code). A Member must comply with the Code whenever he/she is acting in an official capacity.
4. There is a particular provision within the Code which provides that a Member must, when using or authorising the use by others of the resources of the authority, ensure that such resources are not used improperly for party political purposes (particularly during the period between the publication of a Notice of Election and an election day itself) and they must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Scope

5. This policy applies to all Members of the Council and applies to the use of any council communication equipment or facilities, including computer or telephone.

Definitions

6. Council equipment and facilities – This includes any items of Council communications hardware, such as computer equipment or telephones, or software such as e-mail and internet use.

CIT – Corporate Information Technology

ICT – Information and Communication Technology

Use of council resources

7. General principles for the use of Council resources are that:
 - public resources (i.e. equipment, facilities, staff time etc) may only be used in accordance with the Code;
 - You must be able to defend the use of Council resources – if you feel you cannot, you are probably misusing them;
 - There is a general *de minimis* exception – by which is meant usage which would otherwise be contrary to this document, but is so small in extent, and inconsequential in its effect, that a reasonable person, knowing all the facts, would take the view that it should not be thought of as included in what is being controlled, prohibited or otherwise included with this guidance;
 - if in doubt, refer to the Code;
 - always apply common sense – it is a good barometer of what is likely to be acceptable, and what is not;
 - always seek advice before doing something you feel may be on the margins.

Policy

8. Computer and telephone facilities are an essential and integral part of everyday working life and the Council's computer facilities are widely accessible and will increase in the future.
9. This policy is applicable to internal and external transactions using the Council's computer facilities or accessing the council's systems using other equipment either in the workplace or in any other location.
10. Members must ensure that they have the skills necessary to use Council computer systems before doing so and advice can be obtained from the Head of Democratic Services on the availability of suitable training.
11. High standards of conduct and probity are as relevant to the use of the Council computer facilities as they are to all other aspects of work and Members must conduct themselves in line with all appropriate Codes. For example, the relevant provision of the Members Code is set out above. Unlawful or improper computer usage may expose the Council and/or the individual Member to significant legal liabilities and negative publicity and a complaint to the Standards Committee. Breach of this policy may result in referral to the relevant Party Whip with a recommendation for withdrawal of access to certain

computer facilities and may lead to action in line with the Code.

12. This document details the parameters of acceptable use and deals with the following issues: -

- Access to the Council's computer systems
- Authority to express views
- Monitoring computer and telephone usage
- Confidentiality, security and accuracy of data
- Guidance on copyright, legal and contractual issues
- Network efficiency
- Personal use of the Council's computer facilities
- Inappropriate use, prohibited sites and offensive material
- Other use

(i) Access to the Council's Computer Systems

- (a) The Council will provide access to and use of various computer facilities as may be determined from time to time. Although the Council wishes to encourage Members to gain and improve their skills, personal understanding, knowledge and development is a secondary consideration.
- (b) Where a Member is not available, (e.g. due to sickness absence or leave) and access to data is required, the relevant party will be advised.
- (c) In cases where there is a need to investigate any potential breaches of this policy appropriate advice must be sought from the Head of Democratic Services, the Deputy Director of ICT, Highways and Business Services and the Borough Solicitor.

(ii) Authority to Express Views

Members using Council computer facilities including e-mail and the internet must act in accordance with the Code and ensure that these facilities are used in connection with council business subject to the exceptions in paragraph (vii) below. They must not be used for any purpose other than those directly concerned with official Council business, or the work of elected Members. 'Official Council business' means matters relating to a Member's duties as an elected councillor; as a member of the executive, a committee or scrutiny or policy overview committee, sub-committee or working party; or as a Council representative on another body or organisation. The e-mail facility provided should be used by Members to engage in correspondence relevant to their role with other Members, officers, other public bodies, their constituents, the public in general and to encourage citizens to contact them when appropriate.

(iii) Monitoring Computer and Telephone Usage

- (a) Use of the Council's computer and telephone facilities is regularly monitored to ensure that the standards within this policy are adhered to, probity maintained and potential breaches of codes identified.

- (b) Software systems are in place that monitor and / or record all usage, including every web site visited, chat, newsgroup, e-mails, and file transfers into and out of internal networks. Usage patterns will be monitored to ensure that council resources are being properly utilised.
- (c) The Council reserves the right to inspect any files stored in all areas of its network and equipment to assure compliance with this policy. This includes the local hard or removable (such as CDs or USB sticks) drives of any machine used by Members. All computer transactions and data within the Council's computer systems or obtained by accessing the Council's systems using other equipment either in the workplace, at their home or in any other location in working time or in their own time belong to the Council. The Council has the absolute right to monitor, inspect or use all transactions and data in any appropriate proceedings at any time, without notice. Personal data is not exempt.
- (d) The provisions of the Human Rights Act 1998 will be observed by the Council when monitoring computer and telephone usage.
- (e) If there are any concerns as to whether the contents of these paragraphs are not being complied with, they will be referred to the Head of Democratic Services in the first instance.

(iv) Confidentiality, Security and Accuracy of Data

- (a) The Council is legally responsible for all information stored in its computer systems or transmitted by it and for any improper, inadvertent or negligent disclosure. This principle applies even if Members store information in the computer systems which is not related to their role as Council Members. Security of data is of primary concern and security measures are in place to ensure the confidentiality of data held by the Council, including data on clients, members, staff, property and also that which could be commercially sensitive.
- (b) Members must co-operate with all security measures and arrangements, and can be held accountable for any breaches of security or confidentiality.
- (c) User IDs and passwords maintain individual accountability for computer access and must be kept secure, confidential and not inappropriately disclosed. Document passwords and read only restrictions should also be used where appropriate.
- (d) Members must not disclose passwords or give access to unauthorised users, and are responsible for changing their passwords if they suspect that an unauthorised person may be aware of their password.
- (e) All external e-mails sent will automatically include a confidentiality and disclaimer notice.
- (f) Members must take care to address e-mails and files correctly to avoid sensitive information being sent or widely distributed to inappropriate individuals or organisations.
- (g) Much of the data held by the Council on individuals is covered by Data Protection legislation. Disclosure of this information, even unintentionally, can be in breach of the Data Protection Code of Practice. Members should ensure the accuracy of data that they are responsible for storing, updating or transmitting, and must not amend or

- alter e-mails they receive. Files containing sensitive or confidential Council data that are transferred across the Internet must be encrypted.
- (h) Systems to protect the safety and security of the Council's networks and additional devices have been and will continue to be installed. Members must not attempt to disable, defeat or circumvent any Council security facility.
 - (i) Modems can provide an intruder with access to the Council's network. Therefore any computer used for independent dial-up or leased-line connections must not be part of the Council's network, unless explicitly authorised by the Deputy Director of ICT, Highways and Business Services. Connections to the Internet using modems from network connected computers are specifically prohibited. To ensure security it may be necessary to prevent machines with sensitive data or applications from connecting to the Internet, or for certain users to be prevented from using certain facilities such as file transfers.
 - (j) To prevent unauthorised use Members should not leave computers unattended for long periods when switched on and should use document passwords and screen savers for confidentiality if they leave their machine unattended for short periods. Internet connections will be automatically disconnected after a period of inactivity.
 - (k) It is inappropriate to reveal confidential Council information, customer data, trade secrets, and any other material covered by existing Council security policies and procedures into public forums such as chats and newsgroups. Members releasing protected information, whether or not the release is inadvertent, may be in breach of existing data security policies and procedures and the Data Protection Act 1998.

(v) Guidance on Copyright, Legal and Contractual Issues

- (a) Members must conduct themselves honestly and appropriately when using the Council's computer facilities in line with other business dealings, copyright, software licensing rules, property rights, privacy and prerogatives of others.
- (b) Downloading and copying data and software for Members' own or work use or sending the works of others to third parties without permission can infringe copyright.
- (c) Although downloaded data from the Internet may be allowed for individual use copyright may be breached if e-mailed or if the data is incorporated into a Council document. The copyright position should always be checked and the appropriate permissions or acknowledgements sought. In the case of subscription services Members should ensure that the appropriate licences are obtained.
- (d) Downloaded software must be used only under the terms of its licence, and should be added to the appropriate inventory records. Software or files downloaded via the Internet into the Council network become the property of the Council. Members must arrange to have such software properly licensed and registered where required. To ensure personal protection from any problems software should only be downloaded after permission has been received from the Council's Deputy Director of ICT, Highways and Business Services. Software downloaded without permission may be deleted automatically.

- (e) Members must safeguard council publications covered by copyright. The Council retains the copyright to any original material posted to any forum, newsgroup, chat or World Wide Web page by any Member in the course of their duties. To ensure personal protection from any problems Members must not upload any software licensed to the Council or data owned or licensed by the Council without explicit authorisation from the Council's Deputy Director of ICT, Highways and Business Services responsible for the software or data.
- (f) Transactions through these facilities must be treated in the same way as other transactions on the Council's headed paper.
- (g) The use of computer facilities can lead to contractual obligations in the same way as oral or other written forms of transactions. There are limitations as to whether in some cases these transactions can constitute valid legal agreements. Members should therefore ensure that they do not exceed their powers to enter into contracts or authorise expenditure. If Members are uncertain of the position, they should contact the Borough Solicitor or Head of Democratic Services for advice.
- (h) Computer records should not be relied on where there is a legal requirement for other record keeping to take place. Adequate records of computer transactions on behalf of the Council need to take place either through archiving, or other electronic or non-electronic back up methods. Where appropriate, confirmation of receipt of important e-mails should be gained which may be disclosed in litigation. If in doubt about the legal position, once again, advice from the Borough Solicitor must be sought.

(vi) Network Efficiency

- (a) Members must regularly delete or archive files no longer required or needed for immediate access.
- (b) Any file that is uploaded or downloaded must be scanned for viruses before it is run or accessed. In general this should be achieved through the use of memory resident or network virus checking software. Any files, including files received as e-mail attachments, should not be imported without first checking for viruses using approved software. If in doubt Members must consult the Council's Deputy Director of ICT, Highways and Business Services via the Helpdesk number (6556).
- (c) Unnecessary or unauthorised e-mail and Internet usage causes network and server congestion, slows other users, takes up work time, consumes supplies and ties up printers and other shared resources.
- (d) Where possible Members should schedule communications-intensive operations such as large file transfers, video downloads, mass e-mailing for off-peak times.
- (e) Video and audio streaming and downloading technologies represent significant data traffic that can cause local network congestion. Video and audio downloading should be avoided where possible.
- (f) See also Appendix A on e-mail guidelines.

(vii) Personal Use of the Council's Computer Facilities

- (a) Whilst ICT equipment supplied by the Council is intended primarily to be used for council purposes, provided there is no cost to the Council or

any liability for the Council arising from its use for secondary purposes, it is a matter for each individual Councillor as to whether or not they use it for other purposes. If Councillors do use ICT equipment for other purposes, they must satisfy themselves that this secondary use is acceptable and appropriate.

Examples would be personal e-mail correspondence, researching hobbies, downloading audio files etc. If such other use goes beyond the 'de minimis' referred to in paragraph 7 then Members may authorise an appropriate deduction to be made from their basic allowance as a contribution towards the cost of providing the equipment, and consumables such as printer cartridges and paper. Costs incurred of less than £2 a month can reasonably be regarded as 'de minimis'.

The estimated cost of the equipment over its life cycle is £20 per week so that if personal use was equivalent to one day a week then £3 would be a reasonable contribution towards the cost of the equipment. In this circumstance Members would authorise a monthly deduction from their basic allowance.

Paper costs approximately £2 a ream (500 sheets) while cartridges for the printers supplied to members range from between £10 & £15 (colour is more expensive). Most cartridges will print up to 500 standard pages

- (b) The following statement is attached to any e-mail sent by a Member, regardless of whether or not it is personal.

'Hillingdon Council routinely monitors the content of emails sent and received via its network for the purposes of ensuring compliance with its policies and procedures.'

The contents of this message are for the attention and use of the intended addressee only. If you are not the intended recipient or addresses, or the person responsible for sending the message you may not copy, forward, disclose or otherwise use it or any part of it in any way. To do so maybe unlawful. If you receive this email by mistake please advise the sender immediately.

Where opinions are expressed they are not necessarily those of the London Borough of Hillingdon'.

- (c) The Council's computer facilities are not to be used for advertising or sending personal messages (e.g. room to rent) to large groups internally or externally.
- (d) The Council is not liable for any problems arising out of the purchase of goods or financial transactions by members on a personal basis using the Council's computer facilities.

(viii) Inappropriate Use, Prohibited Sites and Offensive Material

- (a) Members must not use computer facilities to access or send transactions that are, libellous, harassing and defamatory or cause offence to an

- individual and their dignity or contain offensive comments based on, for example, gender, race, age, sexuality or disability or religious belief.
- (b) False statements, or information, which adversely affects a person's, or an organisation's, reputation must not be made.
 - (c) Members will be liable for any statements that are not sanctioned by the Council and which may breach equalities or indeed other legislation.
 - (d) Members must not access or participate in chat rooms, newsgroups, list servers, e-mail subscription services or other new information sharing technologies unless they have the documented express permission of the Deputy Director of ICT, Highways and Business Services or nominated representative. In cases of any doubt advice must be sought from ICT.
 - (e) Members must not deliberately access or deliberately carry out search procedures that result in access to inappropriate Internet sites or material. This may include pornographic, racist or other sites that are not appropriate for members of a public authority to use Council equipment or software to access. Members must not store, view, print or redistribute any inappropriate document or graphic file.
 - (f) To ensure that Members are, as far as practicable, protected from inappropriate and offensive sites, software has been introduced to block access to such sites.
 - (g) If a Member accidentally connects to a site that contains inappropriate or offensive material that has not been blocked, they must disconnect from that site immediately using the "Home" button on the web browser. Members must then immediately cease to use the search that produced the material.
 - (h) No Member may use council facilities knowingly to download or distribute pirated software or data, entertainment software or games, or to play games against opponents over the Internet.
 - (i) No Member may use the Council's computer facilities to deliberately propagate any virus, worm, Trojan horse, trap-door program code or any other harmful programs.
 - (j) Members must not amend transactions received.
 - (k) Members using the council computer facilities must identify themselves honestly, accurately and completely and must not impersonate any other person particularly when in chat rooms or newsgroups, or when setting up accounts on outside computer systems.

(ix) Other use

- (a) Most Councillors are elected on a party political platform and the organisation of local authorities into political groups is recognised in law.
- (b) It is legitimate to use the ICT equipment provided for activities which are pursuant to the conduct of the Council's business including the organisation of group meetings, conducting correspondence including that with political parties which arises because of a Councillor's membership of and/or role within the Council or responding to requests for information. Despite this Members may consider it prudent to make a contribution towards the cost of the equipment and any consumables used as envisaged in paragraph 12 (vii) (a) above.

- (c) Members are not permitted to use any resources, including ICT resources, provided by the authority for party political purposes (see paragraph 4 above). This would include:
- advocating support for the candidacy of one candidate or political party as opposed to another during an election period,
 - soliciting support from electors
 - preparing a party newsletter for party members or for members of the public.
 - Preparing or maintaining databases of party supporters or mailing lists to be used for eliciting support for a party or candidate

Members should be aware that they should not use any equipment provided to them at the Council Tax payers' expense for Party Political purposes, which members of other parties or candidates would not have access to.

Equipment

13. The following equipment is provided for home use;

- Notebook or desktop PC
- Docking station (as appropriate)
- 17 inch TFT monitor
- Printer/Fax/Scanner (all in one)
- Keyboard and mouse
- Broadband internet connection

Similar equipment is also available for use in the Group Office computer rooms.

14. All this equipment is fully supported by the ICT Service Desk between 8.00 am and 5.30 pm which can be contacted as follows:

ICT Service Desk on 01895 556556
<mailto:ICTServiceDesk@Hillingdon.Gov.UK>

Technological changes

15. The equipment provided is designed to last for the life of the Council (i.e. for four years) and be capable of handling technological changes such as new or enhanced software that may be introduced on Council systems. However, it is recognised that the speed of technological innovation means that new hardware and software may become available which might assist Members in connection with Council business. Any request for hardware or software additional to that provided generally to Members will be determined by the Head of Democratic Services (with technical input from the Deputy Director of ICT, Highways and Business Services) after consultation with the Cabinet Member for Finance and Business Services in accordance with the following criteria:

- will it assist in the conduct of the Council's business?
- is it consistent and compatible with the Council's technical standards?
- is it relevant to a particular role carried out by Members?
- can the cost be managed within existing budget provision?

Responsibilities

16. The lead officer for Members' ICT is the Head of Democratic Services with technical advice and guidance from the Deputy Director of ICT, Highways and Business Services. The Cabinet Member for Finance and Business Services has general oversight of the operation of these guidelines.

Declaration

17. I declare that I have read and understood this policy and will adhere to it in the use of the ICT equipment provided to me by the London Borough of Hillingdon.

Signature.....

Name (capitals).....

Date.....

E-Mail Guidelines for Members

- (a) E-mails enable clear communication, especially for remote sites, disparate workgroups, flexible working arrangements and interdepartmental / organisational partnerships.
- (b) E-mails should not be used as a deliberate means of avoiding personal contact where one face to face discussion can avoid an exchange of numerous e-mails.
- (c) Limit the number of copies to those that are necessary.
- (d) Do not unnecessarily broadcast information widely. Constant bombardment of individuals by irrelevant or unsolicited e-mail is time wasting.
- (e) E-mails should be checked regularly or where this is not possible arrangements should be made for them to be redirected to the appropriate Party Group offices
- (f) Reply promptly to all e-mail messages requiring a reply. Where a prompt, detailed, response is not possible, send a short e-mail acknowledging receipt and giving an estimate of when you will provide a detailed response.
- (g) Do not unnecessarily print out and store hard copies of e-mails.
- (h) Do not either write in capitals as this can be perceived as shouting, or adopt a more aggressive tone in e-mails than you would in a face to face discussion and abide by the corporate standards for written communication.
- (i) E-mail and the Internet provide an immense and unprecedented way to communicate council messages. If authorised to use them, it is important to maintain clarity, consistency and integrity of the Council's corporate image and policy.
- (j) Do not attach long files or include graphics and logos if this is not necessary.
- (k) Members must regularly delete or archive files no longer required or needed for immediate access.
- (l) Summary checklist
 - Is e-mail the best way to communicate this message?
 - Think before you write.
 - Use the spell check facility
 - Think before you print.
 - Only copy in people who you would be prepared to talk to about the subject.
 - Re-read before you send.
 - Delete or electronically file/archive e-mail as soon as it is dealt with.

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By virtue of paragraph(s) 7c of Part 1 of Schedule 12A
of the Local Government (Access to Information) Act 1985 as amended.

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