

## AGENDA

### STANDARDS COMMITTEE MEETING

Date: Tuesday, 27 September 2022

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT\*

Membership:

Councillors Lloyd Bowen, Roger Clark, Steve Davey (Vice-Chair), Nicholas Hampshire, Ken Ingleton, Elliott Jayes, Denise Knights, Hannah Perkin (Chair), Bill Tatton, Ghlin Whelan and Corrie Woodford

Quorum = 3

Independent Person (non-voting): Mrs Patricia Richards and Christopher Webb.

Kent Association of Local Councils representatives (non-voting): Mr Graham Addicott OBE.

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PAGES

#### **\*Information about this meeting**

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  - (d) Anyone unable to use the stairs should make themselves known during this agenda item.
2. Apologies for Absence
  3. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

4. Minutes

To approve the [Minutes](#) of the meeting held on 14 June 2022 (Minute Nos. 80 – 86) as a correct record.

## **Part B Reports for Decision by the Standards Committee**

5. LGA Model Councillor Code of Conduct 5 - 34
6. Member/Officer protocol 35 - 54

**Issued on Friday 16, September 2022**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about this Standards Committee, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

**Chief Executive, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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<b>Standards Committee</b>	
<b>Meeting Date</b>	27 September 2022
<b>Report Title</b>	<b>LGA model code of conduct</b>
<b>EMT Lead</b>	David Clifford
<b>Head of Service</b>	Head of Policy, Governance and Customer Services – Monitoring Officer
<b>Lead Officer</b>	
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<p>The standards committee is recommended to:</p> <ol style="list-style-type: none"> <li>1. <b><i>Propose the adoption</i></b> of the LGA model code of conduct to the policy and resources committee, as a replacement for the current Swale code of conduct (§ 3.20).</li> <li>2. <b><i>Give delegated authority</i></b> to the monitoring officer, in consultation with the standards working group, to undertake consultation with members and senior officers on the adoption and implementation of the model code of conduct (§ 3.22).</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report describes the background to the LGA’s development of a model code of conduct, and sets out the main provisions of the code, highlighting differences to the current Swale code and what these differences are intended to address. The report recommends the adoption of the LGA code in replacement of the current Swale code, and suggests some ways in which such a decision could most beneficially be implemented.

## 2 Background

- 2.1 In 2018 the Committee on Standards in Public Life undertook a review into local government ethical standards, publishing its report into the matter in early 2019. The recommendations and best practice suggestions contained in the report have previously been considered by the Swale standards committee, a process which resulted in several improvements to Swale’s way of working.
- 2.2 The overwhelming majority of the 26 formal recommendations in the report were aimed at government, at least insofar as their implementation would require changes to legislation. (Members will recall that government published its response to the report in March 2022, essentially declining to introduce any legislative changes to parliament.) One of the few recommendations which were not aimed at government was directed to the LGA, which the report recommended should develop a model councillor code of conduct.

2.3 The report's executive summary included the following brief justification for this recommendation:

*There is considerable variation in the length, quality and clarity of [different local authorities'] codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.*

2.4 Following publication of the report, the LGA's legal team worked in consultation with the sector, including monitoring officers and standards committees, to produce a model code. The Swale standards committee was involved in this work, submitting a detailed response to the LGA's consultation on the first draft of the code. The final version of the new code was published in May 2021.

2.5 Swale's current code of conduct was adopted shortly after the coming into force of the relevant provisions of the Localism Act 2011. One of the effects of the 2011 Act had been to hand responsibility for member standards to individual councils within a fairly circumscribed legislative framework, reversing the earlier more centralised and prescriptive approach.

2.6 At the time Swale's code was being drafted, work was ongoing among Kent councils to develop a Kent-wide model, which was subsequently adopted by KCC and most districts, but not Swale. The standards committee has previously reviewed the latest version of the Kent code alongside the new LGA model code and generally found the latter to be preferable.

2.7 The new LGA code is quite different to Swale's current code. By law, all local authority codes have to be consistent with the seven principles of public life developed by the Committee on Standards in Public Life (the so-called 'Nolan principles': selflessness, integrity, objectivity, accountability, openness, honesty and leadership). However, whereas in Swale's code these are listed at the start of the document and can have a tendency to obscure somewhat the actual substance of the code which is set out in subsequent paragraphs, in the LGA model the principles are listed in an appendix.

2.8 With regard to the substance of the two codes, the LGA model is more detailed and less general than Swale's. The Swale code sets out 11 paragraphs describing required behaviours, and while these are always related in some way either to probity or to decency, the relationship is arguably less clear than it could be. The LGA code offers a more specific set of behaviours which must or must not be demonstrated, as well as taking a more considered approach to disclosable interests. It is difficult to argue against the notion that it is simply a better, more comprehensive and more up-to-date code of conduct.

- 2.9 Swale's current code of conduct is provided for information at Appendix I, and the LGA model code, with its own appendices, is set out at Appendix II.

### **3 Proposals**

#### ***Summary of the LGA code***

- 3.1 The LGA code is structured as a series of statements to the effect of "As a councillor, I do/do not do X", with these statements being grouped thematically and benefitting from some helpful supplementary explanatory text. A slightly summarised list of these statements is as follows.

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.
- 1.2 I treat council staff with respect and respect the role they play.
- 2.1 I do not bully any person.
- 2.2 I do not harass any person.
- 2.3 I promote equalities and do not discriminate unlawfully against any person.
- 3.1 I do not compromise the impartiality of council officers.
- 4.1 I do not disclose confidential information unlawfully or in the absence of a duty to do so.
- 4.2 I do not improperly use knowledge gained as a councillor for personal advantage.
- 4.3 I do not prevent anyone from getting information they are entitled to by law.
- 5.1 I do not bring my role or my local authority into disrepute.
- 6.1 I do not use my position improperly to the advantage or disadvantage of myself or anyone else.
- 7.1 I do not misuse council resources.
- 7.2 I will, when using council resources, act in accordance with the council's requirements and ensure they are not used for political purposes.
- 8.1 I undertake code of conduct training provided by my local authority.
- 8.2 I cooperate with any code of conduct investigation and/or determination.
- 8.3 I do not intimidate any person likely to be involved with the administration of any investigation or proceedings.
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the code of conduct.
- 9.1 I register and disclose my interests.
- 10.1 I do not accept gifts or hospitality which could give rise to substantive personal gain, or those from persons seeking advantage from the council

which could give rise to a reasonable suspicion of influence on my part to show favour.

- 10.2 I register any gift or hospitality with an estimated value of at least £50.
- 10.3 I register any significant gift or hospitality which I have been offered but have refused to accept.
- 3.2 Some of these statements are either more specific and more explicit than what is contained in the current Swale code, or are not covered by the Swale code at all. In the former category are the requirements in sections 2 and 3 on bullying, harassment and compromising the impartiality of officers, which within the Swale code are covered broadly but much less explicitly by paragraphs 5, 9 and 10. In the latter category is section 8 on positive cooperation with the code of conduct. There have been examples in the lifetime of the current council of behaviour by members which could have been judged to be a breach of one or more of the requirements in section 8.

### ***Treatment of registrable interests***

- 3.3 Appendix B of the LGA code sets out the requirements on the registration and disclosure of interests. The regime on disclosable pecuniary interests (DPIs) is prescribed by secondary legislation made under authority of the 2011 Act, and the LGA code's requirements on DPIs are thus identical to Swale's current requirements.
- 3.4 In place of Swale's 'disclosable non-pecuniary interests', the LGA code sets out 'other registrable interests'. The fact that such interests are 'registrable' rather than merely 'disclosable' is of relevance in contrast to interests which are disclosable but not registrable, a class of interests (described below) which are not covered by the Swale code. The LGA code's list of other registrable interests is similar to Swale's but slightly expanded. It includes:
- Any unpaid directorships. (Paid directorships are DPIs.)
  - Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority.
  - Any body:
    - Exercising functions of a public nature;
    - Directed to charitable purposes; or
    - One of whose principal purposes includes the influence of public opinion (including any political party or trade union).
- 3.5 A difference between the LGA code and the Swale code is that where a matter to be discussed at a council meeting directly relates to an 'other registrable interest', the consequences are the same as if the interest was a DPI, so that the member must generally not participate in the discussion or vote.



3.6 In this sense, 'directly relates to' means that in the case of a planning application, for example, the application is made by, or the property is owned by, the relevant body. This is intentionally very narrow. The situation in which a relevant body could more broadly be affected by a decision, e.g. in relation to a planning application for a neighbouring property, is covered by the two-tier approach to disclosable non-registrable interests described below.

***Bias and the treatment of disclosable non-registrable interests***

3.7 A reasonable criticism of the legal framework on DPIs is the narrowness of its applicability, with councillors being required to disclose and register the interests only of themselves and their partners. This means that as far as the interests regime is concerned, a member could legitimately participate in a council discussion and vote on a decision about an interest, e.g. a planning application, of their parent, child, business partner or best friend of many years' standing.

3.8 In fact such a scenario would generally be covered by the common law provisions on presumed and apparent bias, and for the sake of the robustness of the decision, members in such a situation would be well advised to recuse themselves from participation, but there would be nothing in the code of conduct to compel this. The LGA code on the other hand does regulate such participation, taking a two-tier approach.

3.9 In the first tier, where a matter to be discussed 'directly relates' to the financial interest or wellbeing of a member or that of a relative or close associate, the member is obliged to treat the matter as if they had a DPI in it. The second tier seeks to resolve the tension between the common law provisions on bias on the one hand and the narrowness of the legal meaning of 'having an interest in' a matter, as established by the 2011 Act, on the other.

3.10 It does this by establishing that when a matter to be discussed 'affects' either a member's own financial interest or wellbeing or that of a relative, a close associate, or a body listed as an 'other registrable interest' of the member, the member must disclose the interest. In determining whether the member may participate in the discussion and vote, two tests are then applied.

3.11 The first test is whether the member's financial interest or wellbeing (or that of the persons and bodies associated with them, as described) is affected to a greater extent than that of other inhabitants of the same ward. The second is the common law test of whether a reasonable and informed observer would believe the member's view of the public interest to be affected by the existence of the interest. If, but only if, either of these tests is met, the existence of the interest is to be treated as if it were a DPI.

3.12 In its response to the LGA consultation on the draft code, the Swale standards committee expressed some doubt as to the wisdom of extending the code of conduct into the territory of bias in this way, but the final version of the code appears to have resolved any issues, so that the code can now operate as an effective mechanism for protecting council decision-making from members who

may have a bias but still wish to participate in the decision. This is a protection which the current Swale code does not offer.

- 3.13 The one area of the final text of the LGA code on disclosable and registrable interests which may need some further thought is its provisions on disclosable but non-registrable interests which are 'sensitive' in the meaning of the 2011 Act. Section 32 of the Act allows for merely the existence rather than the nature of a DPI to be declared in the event that both the member and the monitoring officer believe that public disclosure of the nature of the interest (e.g. the member's home address) could lead to the member being subject to violence or intimidation.
- 3.14 In dealing with disclosable but non-registrable interests, the LGA model code states that if such an interest is 'sensitive' in the meaning of s32 of the 2011 Act, the nature of the interest does not have to be disclosed. The difficulty with this is that because such an interest would not previously have had to be registered, it will not always be the case that the matter would have been considered by the monitoring officer – and an interest cannot be 'sensitive' in this sense in the absence of such consideration. It would not be difficult to devise some wording to address this issue, but wholesale adoption of the LGA wording in this particular case is probably not advisable.

#### ***Implementation of a decision to adopt the LGA code***

- 3.15 This would seem to be a timely moment to adopt a new code of conduct, with the all-out election in May likely to result in a number of new councillors being elected. There has been a somewhat renewed interest in, and focus on, member standards in Swale in the last year or so, with (for example) the standards committee now meeting quarterly rather than annually, and proposals such as the member-officer protocol and the standards champions beginning to take shape.
- 3.16 The adoption of a new code could be used as a means of further raising the profile of member standards across the council. It would necessarily entail a comprehensive programme of training for all members on the provisions of the new code, which in itself could have a beneficial effect in terms of raising awareness of basic requirements, as well as of the impact of adverse behaviour on the people who are victims of it. The LGA has produced some useful training materials.
- 3.17 Adoption of a new code would probably also necessitate a review of the complaint assessment criteria, which again could be a timely opportunity to reconsider and where relevant improve the way complaints are dealt with.

#### ***Town and parish councils***

- 3.18 As sovereign bodies, the borough's town and parish councils are free to adopt whichever code of member conduct they believe is most appropriate for them, but complaints under the code are all handled by the Swale monitoring officer. There have traditionally been two different codes in operation in different parishes, the

Swale code and the model parish code developed by the National Association of Local Councils.

- 3.19 Adoption of the LGA code by Swale (and potentially also by some parishes) would mean that there would in future be three rather than two different codes in operation in the borough, in addition to the Kent code covering KCC members. However, the existence of two codes has never caused any significant issues, as long as 'twin-hatted' members are always clear on which code is applicable to them depending on the capacity in which they are operating, and it is not anticipated that the introduction of a third code to this mix would create any significant problems.

### ***Recommendations***

- 3.20 The standards committee is now ***recommended*** to propose the adoption of the LGA model code of conduct to the policy and resources committee, as a replacement for the current Swale code of conduct. If agreed by the policy and resources committee, the matter would then need to go on to full council for a final decision.
- 3.21 In the event that the above recommendation is agreed by the standards committee, there will need to be consultation with all members to inform the wider proposal from the policy and resources committee to full council. Consultation will also need to take place with senior officers.
- 3.22 The standards working group (whose membership as previously agreed by the committee comprises Cllrs Bowen, Davey, Ingleton, Jayes, Knights, Perkin and Tatton) has already given preliminary consideration to how this consultation could be undertaken. On this basis, the standards committee is now ***recommended*** to give delegated authority to the monitoring officer, in consultation with the standards working group, to undertake consultation with members and senior officers on the adoption and implementation of the model code of conduct.

## **4 Alternative Options Considered and Rejected**

- 4.1 The foregoing sections of the report set out why the LGA model code is considered to be a superior code, and one that is better suited to Swale's needs, than the existing Swale code. However, there is no legal obligation to adopt the model code, and the retention of the current code is an entirely feasible option if that is members' preference.

## **5 Consultation Undertaken or Proposed**

- 5.1 In the event that the standards committee decides to recommend adoption of the LGA code to the policy and resources committee (for onward recommendation to full council), there will need to be consultation with all members to inform that wider recommendation. Consultation will also need to take place with senior officers. This is discussed in section 3 above.

## 6 Implications

Issue	Implications
Corporate Plan	Maintaining and enforcing high standards of member conduct is essential to the achievement of all of the council's corporate strategic objectives. Adoption of a new code of conduct would particularly support the objectives in the fourth corporate plan priority, to 'renew local democracy and make the council fit for the future'.
Financial, Resource and Property	No implications identified at this stage.
Legal, Statutory and Procurement	The legal implications are as set out in the body of the report. Adoption of the LGA code could have a positive impact on Swale's ability to prevent members with presumed or apparent bias from weakening the robustness of council decisions by participating in them. The introduction of the new code, perhaps particularly the enhanced provisions on interests, would need to be accompanied by a comprehensive programme of training for all members.
Crime and Disorder	No implications identified at this stage.
Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No significant concrete implications identified at this stage, but the effects of adverse member behaviour on the health and wellbeing of those who are the victims of it, whether other members, officers or members of the public, should not be underestimated. The LGA model code is arguably better suited to addressing problems of bullying, harassment and victimisation than is the current Swale code.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	A requirement on members to promote equality and not to discriminate unlawfully is included in the LGA model code. While a similar requirement can be read into the current Swale code, particularly paragraphs 3, 8, 9 and 10, it would probably be preferable to have the requirement stated explicitly and with

	sufficient clarity as to facilitate a more straightforward evaluation of alleged breaches.
Privacy and Data Protection	No implications identified at this stage.

**7 Appendices**

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Swale’s current code of conduct
  - Appendix II: LGA model code of conduct

**8 Background Papers**

- 8.1 There are no background papers.

## APPENDIX I: SWALE'S CURRENT CODE OF CONDUCT

As a Member or co-opted Member of *Swale Borough Council* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority:

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in Swale Borough Council this will be done as follows:

### Registering and declaring pecuniary and non-pecuniary interests

I must, within 28 days of taking office as a Member or co-opted Member, notify my authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is mine, my spouse's or civil partner's, or is the pecuniary interest of somebody with whom I am living with as a husband or wife, or as if we were civil partners.

In addition, I must, within 28 days of taking office as a Member or co-opted Member, notify my Authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which my authority has decided should be included in the register.

If an interest has not been entered onto the Authority's register, I must disclose the interest to any meeting of the Authority at which I am present, where I have a disclosable interest in any matter being considered and where the matter is not a

'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the Authority's register or the subject of pending notification, I must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, I may not participate in any discussion of, vote on, or discharge any function related to any matter in which I have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, I must observe the restrictions my Authority places on my involvement in matters where I have a pecuniary or non-pecuniary interest as defined by my Authority.

The following sets out the disclosable pecuniary interests I am required to register under the Code of Conduct, The Localism Act and the SI No. 1464 The Relevant Authorities (Disclosable Pecuniary Interests Regulations 2012):

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>(2)</sup> .
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a Member or co-opted Member of an authority having an interest, and the nature of the interest being such that the Member or co-opted Member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the Member or co-opted Member, or a person connected with the Member or co-opted Member, being subject to violence or intimidation.

<sup>(2)</sup> 1992 c. 52.

Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and  (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

The following sets out disclosable non-pecuniary interests which my authority has decided should be included in the register.

<i>Subject</i>	<i>Description</i>
Appointments and nominations by the Authority	Name the outside body and the position you are appointed or nominated to e.g. member, trustee, director, observer etc. and name the Authority which appointed you e.g. Swale Borough Council.
Bodies which exercise functions of a public nature	Name the body and say what position you hold e.g. Councillor XYZ Parish Council, Governor ABC School etc.
Bodies which influence public opinion or policy (including any political party or trade union)	Name the body and say what position you hold e.g. secretary or member of the ABC for Action Group, or member of ABC Trade Union



As a Member of Swale Borough Council, my conduct will in particular address the statutory principles of the Code of Conduct by:

1. Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
2. Dealing with representations or enquiries from residents, Members of our communities and visitors fairly, appropriately and impartially.
3. Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Swale area or the good governance of the Authority in a proper manner.
4. Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a Member/co-opted Member of this authority.
5. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
6. Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
7. Contributing to making this Authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other Members to account but restricting access to information when the wider public interest or the law requires it.
8. Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
9. Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
10. Always treating people with respect, including the organisations and public I engage with and those I work alongside.
11. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

**APPENDIX II: LGA MODEL CODE OF CONDUCT**

[PDF document provided separately]

## **Local Government Association**

### **Model Councillor Code of Conduct 2020**

#### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

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

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

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

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

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

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

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

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

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

In undertaking my role:

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

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

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

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

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

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

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

## **Standards of councillor conduct**

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

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

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

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

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

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

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

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

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

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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

### **3. Impartiality of officers of the council**

**As a councillor:**

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

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

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

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

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

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

## **5. Disrepute**

**As a councillor:**

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

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

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

## **6. Use of position**

**As a councillor:**

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

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport



- access and use of local authority buildings and rooms.

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

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

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

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

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

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

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

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

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

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

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
  
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

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

#### **Openness**

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

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

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

## Appendix B Registering interests

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

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

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

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

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

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

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

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

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

### Table 1: Disclosable Pecuniary Interests

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

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

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

**Table 2: Other Registrable Interests**

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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



## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

<b>Standards Committee</b>	
<b>Meeting Date</b>	27 September 2022
<b>Report Title</b>	<b>Member-officer protocol</b>
<b>EMT Lead</b>	David Clifford
<b>Head of Service</b>	Head of Policy, Governance and Customer Services – Monitoring Officer
<b>Lead Officer</b>	Robin Harris Interim Team Leader (Contentious and Corporate Governance) Deputy Monitoring Officer
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<p>The standards committee is recommended to:</p> <ol style="list-style-type: none"> <li>1. <b>Consider</b> whether the draft protocol at Appendix I is fit for purpose and if not, propose amendments to the form, substance and structure.</li> <li>2. <b>Consider</b> how members and officers should be consulted on the content of the protocol as the drafting progresses.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report introduces a draft version of a member-officer protocol, the concept for which was agreed at the standards committee meeting in June. The report seeks the further views of standards committee members on the specific points the protocol would cover and how members and officers should be involved in the process of agreeing a final protocol.

## 2 Background

- 2.1 Most councils' constitutions include a member-officer protocol setting out the respective roles of members and officers and providing some elementary regulation of the relations between members and officers. While there is no legal requirement for councils to adopt such a protocol, Swale is unusual in not having one.
- 2.2 It is timely to consider the creation of a member-officer protocol, with the all-out election in May likely to result in a number of new councillors being elected. There has been a somewhat renewed interest in, and focus on, member standards in Swale in the last year or so, with (for example) the standards committee now meeting quarterly rather than annually, the proposed adoption of a new code of conduct and the standards champions beginning to take shape.

### 3 Proposals

- 3.1 Following the Standards Committee Decision in June Officers have worked up a first draft member-officer protocol for further consideration by the Standards Committee.
- 3.2 The standards working group was clear that the process of adopting a protocol would need to be as inclusive as possible, and that it should not be about either members telling officers what it should say or the other way around. Rather, a meaningful level of consultation with both members and officers should take place so that both groups of people feel that the final protocol accurately covers what they believe the member-officer relationship should be.
- 3.3 With this in mind, the standards committee is now **recommended** to consider whether the draft protocol at Appendix I is fit for purpose and if not, propose amendments to the form, substance and structure.
- 3.4 Finally, the committee is **recommended** to consider how members and officers should be consulted on the content of any protocol as the drafting progresses.

### 4 Alternative Options Considered and Rejected

- 4.1 There is no obligation on the council to adopt a member-officer protocol, so the committee could choose to reject the proposed document. However, most councils do include a protocol along these lines in their constitutions as a means of regulating the relations between members and officers. There is no legally mandated format for these protocols, so the specific content is for Swale's members and officers to agree.

### 5 Consultation Undertaken or Proposed

- 5.1 Following discussion by the standards committee, it is proposed that the draft protocol goes to EMT and SMT for senior officer input and to an informal meeting of all members to gain the widest possible member feedback.

### 6 Implications

Issue	Implications
Corporate Plan	The idea of a member-officer protocol supports the council's fourth priority of 'Renewing local democracy and making the council fit for the future'.
Financial, Resource and Property	No implications identified at this stage.

Legal, Statutory and Procurement	There is no legal obligation to adopt a member-officer protocol, but equally there are no specific legal constraints on what a protocol can cover.
Crime and Disorder	No implications identified at this stage.
Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	No implications identified at this stage.
Privacy and Data Protection	No implications identified at this stage.

## **7 Appendices**

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: First Draft Member Protocol

## **8 Background Papers**

8.1 There are no background papers.

# APPENDIX I: DRAFT MEMBER-OFFICER PROTOCOL

## Protocol for Member/ Officer Relations

### 1 Introduction

- 1.1 Mutual trust and respect between members and officers is core to the Council's governance strategy and working culture. It is an essential partnership necessary for the effective and successful operation of the Council.
- 1.2 The Member Code of Conduct states "*The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*" Therefore, this Protocol supplements the Member Codes of Conduct.
- 1.3 The Council has adopted Codes of Conduct for both officers and members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government.
- 1.4 This Protocol guides members and officers of the Council in their relations with one another. Members and officers have a responsibility to act fairly, honestly, in good faith.
- 1.5 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues, which most commonly arise. It is hoped however, that the approach, which it adopts to these issues, will serve as a guide to dealing with other issues.
- 1.6 Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

### 2 The Role of Members and Officers and Effective Relations

- 2.1 Members and officers are indispensable to one another and mutual respect between both is essential. It is important to recognise and take account of their different roles. This is necessary for the day-to-day interaction between members and officers and for the public perception of the council by ensuring transparency between the political role of members and the professional, impartial, role of officers
- 2.2 Members provide a democratic mandate to the council, whereas officers contribute to the professional expertise needed to deliver the policy framework agreed by members.
- 2.3 Members are accountable to the electorate and serve only for as long as their term of office lasts whereas officers are employees of the council and accountable to it.
- 2.4 An officer's role essentially is to put policies into effect and organise the provision of services. Officers may also be delegated by members to make policy decisions. Officers may have to advise members from time to time that certain courses of action cannot be carried out. Officers, therefore, have a duty to give unbiased professional advice.
- 2.5 Ultimately, officers serve the Council as a whole and not any political group, combination of groups or any individual member. Nonetheless, officers may properly be called upon to assist the deliberations of political groups and to help individual members in their different roles.
- 2.6 Mutual respect and good communication are the key to establishing good member and officer relations.
- 2.7 Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.
- 2.8 In order to be effective, both members and officers should discuss and agree the values and behaviours they expect from each other in a relationship of mutual trust.
- 2.9 Members and officers should communicate clearly and openly avoiding ambiguity and the risk of misunderstanding.

2.10 Members and officers should work in a spirit of partnership, to turn the council's core values and priorities into practical policies for implementation.

2.11 Officers can expect from Members:

- political leadership and direction.
- respect, dignity and courtesy.
- Not to be treated or considered as subordinate or subservient but a partner within their respective roles
- an understanding of and support for respective roles, workload and pressures.
- not to be subjected to bullying.
- not to be harassed or placed undue pressure.
- not to use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly.
- to comply with the Member Code of Conduct.

2.12 Members can expect officers to:

- behave in a professional manner and courteous manner.
- To respect, have dignity and courtesy.
- maintain confidentiality.
- perform their duties effectively, efficiently and with political neutrality.
- avoid personal close familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly.
- report to their director any time that a Member asks or pressurises the officer to deal with a matter outside of Council procedure or policy.
- demonstrate an understanding of and support for respective roles, workload and pressures.
- comply with the Officer Code of Conduct

2.13

<b>Communication and Consultation</b>		
Being clear about the Council's priorities	Prioritisation taking account of aims and constraints.	Options and platforms for consultation and communication



<p>Understanding people's concerns</p> <p>Signalling political change</p>	<p>Understanding and responding to community concerns</p> <p>Focus on the positive</p> <p>Promoting community interaction and leveraging community action</p>	<p>Managing and facilitating the change (meetings in the community etc)</p>
<b>Partnership Working</b>		
<p>Understanding that councillors have a community leadership role that goes beyond the Council's services</p> <p>Be clear about what we can and cannot do (and what we are responsible for)</p> <p>Provide the political willingness to work in partnership and understand this may involve some loss of control/sovereignty</p>	<p>Agree services to be delivered in partnership</p> <p>Sign up to the aims and ambitions of the partnership</p> <p>Facilitate 'connectivity' – e.g. with parish and town councils, VCS</p> <p>Leveraging capacity from partnerships and communities</p>	<p>Being clear about the resource required to lobby or undertake work on behalf of a partner</p> <p>Resource and service partnerships as required</p>
<b>Governance</b>		
<p>Provide a political steer on political architecture and decision-making</p>	<p>Understand, oversee and approve key control mechanisms</p>	<p>Advise on what is required to meet statutory obligations and ensure they are met</p>

Providing a political steer on appetite for risk	Set the approach to risk and be clear on the appetite for it  Work together on a realistic and deliverable budget	Set and manage departmental budgets and operational risks
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### 3 Officer Impartiality and Undue Pressure

- 3.1 Members must not do anything which compromises or is likely to compromise Officers' impartiality.
- 3.2 The Council operates through a system of groups of councillors, based on political affiliation. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. Officers must at all times, maintain political neutrality ( see para' 17 [Officer Code of Conduct](#))
- 3.3 The support provided by Officers can take many forms, ranging from the meeting with a Chairman and Vice-Chairman before a committee meeting to a presentation to a full political group meeting. Officers will provide support and advice to the executive, scrutiny and regulatory functions of the Council. Officers will also provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents.
- 3.4 Officer, therefore, must ensure that there is no conflict of interest in their advice or conduct.
- 3.5 Whilst in practice such support is likely to be in most demand from whichever political group is for the time being in control of the Council, it should be available to all political groups. The advice given by Officers to different political groups should be consistent.
- 3.6 Members must respect officers' impartiality.
- 3.7 [The LGA Members Code of Conduct states](#), paragraph 3, "*Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Members can*

*question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, members must not try and force officers to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity”.*

- 3.8 Therefore, a member should not apply undue pressure on an officer to do anything which he/she is not empowered or authorised to do, or which is against the Officer’s professional judgement, or to undertake work outside normal duties or normal hours (other than within accepted working patterns, e.g. evening meetings). Members should be aware that to exert pressure improperly on an officer in this way may be a breach of the Council's Code of Conduct for Members.
- 3.9 Similarly, an officer must neither seek to use undue influence on an individual member to decide in her/his favour nor raise personal matters to do with her/his job nor make claims or allegations about other employees. The Council has formal procedures for consultation, grievance and discipline set out in [Part 5.1 Members Code of Conduct](#) .

#### **4 Service Standards**

- 4.1 Officers and members will do their best to give timely responses to enquiries from one another. This will be in accordance with the minimum service standards. Enquiries should be responded to no later than 10 working day unless a holding response, setting out the reasons for delay is given. However, neither officers should not have unreasonable requests placed on them.

#### **5 Confidentiality and access to information**

- 5.1 [The Officers Code of Conduct](#) emphasises importance of maintaining confidential information. For example, officers will provide advice and information to Members on declarations of interests. However, members will know the nature and extent of any interest they may have. It is the Member’s responsibility, therefore, to decide whether any interest should be declared. Officers must, when requested to do so, respect members’ confidentiality when providing advice on

declarations of interest but may otherwise draw to a members' attention the need to declare a known interest.

- 5.2 Officers are reminded that the misuse of confidential information is a breach of the Officers Code of Conduct; thus, regarded as a disciplinary offence.
- 5.3 Any Council information provided to a member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the member's duties as a Member of the Council.
- 5.4 Officers should make it clear to members if they are giving them confidential information. If a member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.
- 5.5 Each member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any Council, Panel or Committee agenda. This is set out in [Part 4.2 Access to Information Rules and Procedures](#).
- 5.6 [The Members Code of Conduct](#), states "*[Members] Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.*" Accordingly, Members are expected to comply with Paragraph 10, [Part 4.2 Access to Information Rules and Procedures](#). Members do not have an automatic right of access to all documents relating to confidential or "Exempt" items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, applications for grants, contracts, industrial relations negotiations, legal advice and criminal investigations.
- 5.7 In respect of such confidential information, Members will normally receive, or have access to all papers unless they are of particular sensitivity. A Member may have access to such sensitive documentation insofar as it is reasonably necessary to enable them to properly perform their duties as a Member of the Council. The relevant

question to be asked is whether they need to know the information to perform such duties.

- 5.8 Any Council information provided to a member must only be used by the Member in connection with the proper performance of the member's duties as a member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust.
- 5.9 Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 5.10 Any confidential information provided to members should be clearly marked as such prior to its provision.
- 5.11 Further advice regarding members' rights to inspect Council documents may be obtained from the Monitoring Officer.

## **6 Officer relations with specific members**

- 6.1 The working relationship between Senior Officers and the Leader/Committee Chairman will be particularly close. Committee Chairman will have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the Committee Chairman in respect of reports or questions at Panel, Committee and Council Meetings. This relationship, however, must not:
- compromise officers' duties to all members of the Council;
  - be so close as to give the appearance of partiality on the part of the officer;
  - undermine the confidentiality of any discussions that officers are privy to;
  - compromise officers' professional responsibility to advise Members that a particular course of action should not be pursued;
  - abrogate officer responsibility for action taken under Delegated Powers.
- 6.2 Committee Chairmen are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to Officers (under the Scheme of Delegations to Officers), they will often wish to consult the relevant Chairman about

the action which they propose to take, but the responsibility for the final decision remains with the Officer who is accountable for it.

## **7 Officer attendance at political group meetings**

7.1 Officer advice and support will be provided to: -

- Council Meetings;
- Meetings of any Committees established by the Council;
- Meetings of Committees/Sub-Committees and Panels;
- Working Parties/Forums, etc.;
- Chairmen/Vice-Chairmen of Committees and Panels;
- All Members of Council on Council business

7.2 Senior officers may be invited to attend political group meetings. The Chief Executive will decide whether such attendance may take place. If it is agreed that an officer can attend a political group meeting, the Chief Executive will inform the other group leaders and offer a similar facility.

7.3 Officer attendance at group meetings must be approved in advance, by the relevant Director.

7.4 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business.

7.5 Officers will not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

7.6 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal Council decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

7.7 Where officers provide factual information and advice to a political group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant committee of the Council.

7.8 It must not be assumed that an officer is supportive of a particular policy or view considered at a political group meeting simply because they have attended or provided information to the meeting.

- 7.9 Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by that political group, will not relay the content of such discussions to another political group or to other Members. This will not prevent an officer providing feedback to other officers on a need-to-know basis. Factual information upon which advice is based will, if requested, be available to all political groups.
- 7.10 The duration of an officer's attendance at a political group meeting will be at the discretion of the group, but an officer may leave at any time if they feel it is no longer appropriate to be there.
- 7.11 An Officer accepting an invitation to any one political group meeting will not decline an invitation to advise another group about the same matter.
- 7.12 Officers should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.
- 7.13 No Member will refer in public or at meetings of the Council, to advice or information given by officers to a political group meeting.
- 7.14 At political group meetings, where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business.
- 7.15 Special care needs to be exercised whenever officers are involved in providing information and advice to a meeting of a political group which includes persons who are not members of the Council. Such persons will not be bound by the codes of conduct [for Members and employees] (in particular, the provisions concerning the declarations of interest and confidentiality) and for this and other reasons, officers may not be able to provide the same level of information and advice as they would to a members only meeting.
- 7.16 Should any difficulty or uncertainty arise in the area of officer advice to political groups, this will be raised with the relevant Director, who should discuss the matter with the group leader.

## **8. Friendships/relationships between members and officers**

- 8.1 Informal and collaborative two-way contact between members and officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection.

- 8.2 Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Close personal familiarity should be avoided; i.e. 'be friendly, but don't be friends'.
- 8.3 Members and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

## **9. Use of council resources and facilities**

- 9.1 The only basis on which the Council can lawfully provide support services to Members (e.g. stationery, typing, printing, photocopying, transport, computers etc), is to assist them in discharging their role as members of the Council.
- 9.2 Members should not approach or pressure staff to carry out duties or provide resources or support in a biased or partisan way. Examples are:
- business which is solely to do with a political party;
  - work in connection with a ward or constituency party political meeting;
  - electioneering;
  - work associated with an event attended by a member in a capacity other than as a member of the Council;
  - private personal correspondence;
  - work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
  - support to a member in his/her capacity as a councillor of another local authority.

## **10. Criticism and complaints**

- 10.1 Members and officers must conduct themselves in a way that is acceptable within a professional environment. They must afford dignity, trust and respect to everyone and themselves. They must have awareness of the effect of their behaviour on others and only make reasonable and manageable demands.



10.2 Members and officers must not conduct themselves in an unacceptable manner. [The Members Code of Conduct](#) states:

*" Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.*

*Always treating people with respect, including the organisations and public I engage with and those I work alongside".*

10.3 In line with the above, [LGA model of Code of Conduct](#) , at paragraph 2, explicitly states members must not bully, harass or discriminate.

10.4 Bullying is characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others. Examples of bullying include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- physical or psychological threats or actions towards an individual or their personal property
- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium

- smear campaigns.

10.5 Bullying behaviour should be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. Members are entitled to challenge fellow councillors and officers as to why they hold their views. However, if the criticism is a personal threat or abusive or offensive in nature, members are likely to cross the line of what is acceptable behaviour.

10.6 Harassment is conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person. Examples of harassment include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning
- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment

There is not an exhaustive list of acts of harassment that may constitute a criminal offence. Examples may include, but are not limited to physical assault:

- making violent or death threats
- stalking
- hate crimes

- sexual harassment

10.6 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic e.g. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Examples of discriminatory behaviour include but are not limited to:

- exclusion or victimisation based on the Protected Characteristics
- treating someone less favourably or limiting their opportunities based on any of the Protected Characteristics
- comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics
- promoting negative stereotypes relating to individual's or group's characteristics
- racial or ethnic slurs, insults, or jokes
- intolerance toward religious customs
- mimicking, mocking, or belittling a person's disability
- homophobic, biphobic or transphobic comments or slurs
- discriminating against pregnant people or mothers
- declaring ('outing') someone's religion or sexuality or threatening to do so against their will
- deliberate, unwarranted application of an authority's practice, policy or rule in a way that may constitute indirect discrimination
- instructing, causing, inducing, or knowingly helping someone to commit an act of unlawful discrimination under the Equality Act 2010.

10.7 Members and officers personality and life experiences will naturally incline them to think and act in certain ways. They may form views about others based on those experiences, such as having an affinity with someone because they have a similar approach to life or thinking less of someone because they are from a different generation. This is known as "unconscious bias" and it can lead people to make decisions based on biases or false assumptions. Members need to be alert to the potential

of unconscious bias and ensure they make decisions based on evidence, and not on assumptions they have made based on biases.

10.8 Members must not intimidate or attempt to intimidate any Officer who is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Member Code of Conduct.

10.9 A Member who is unhappy about the actions taken by, or conduct of, an Officer should:

- avoid personal attacks on, or abuse of, the Officer at all times;
- ensure that any criticism is well founded and constructive;
- never make a criticism in public;
- take up the concern with the Officer privately. If direct discussion with the Officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the Officer's Manager or the relevant Director.

10.10 Members and Officers should not criticise or undermine respect for the other at meetings of the Full Council, Committee or Sub-Committees, or in any public forum.

10.11 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings held in public. Officers should observe the same rule in respect of Members.

10.12 If a member believes that they have not been treated with proper courtesy or has a concern about the conduct or capability of an officer, then they should raise the matter confidentially with the Chief Executive or relevant Director who may utilise the Council's formal disciplinary procedures if this is considered appropriate. If the member is still not satisfied with the action that has been taken, then they may raise the matter confidentially with the Chief Executive, or a Director if the Chief Executive considered the original concern, who will look into the matter afresh. If they believe that there is a case to answer, then they may utilise the Council's formal disciplinary procedures. If the Chief Executive/Director suggests no action they will inform the Member and relevant Group Leader of this.

10.13 If an officer feels that they have not been treated with respect or is concerned about any action or statement relating to themselves or a

colleague by a member, or the conduct of a Member, they should raise the matter with their line manager. If they are not satisfied with any action that has been taken as a result, they should raise the matter with the Chief Executive or their Director. If the Chief Executive or Director is of the opinion that the Member has acted in breach of the Members' Code of Conduct, they should make a complaint to the Monitoring Officer.

## 11. **Oversight, breaches and further advice**

- 11.1 The Executive Management Team and Standards Committee oversees compliance of this Protocol.
- 11.2 If a member believes an Officer may have acted other than in accordance with this Protocol, he/she should raise their concern with the relevant Director who will consider how the complaint or allegation should be dealt with. A breach of this Protocol by an Officer may lead to an investigation under the Council's Disciplinary Policy and Procedure.
- 11.3 If an Officer believes a member may have acted other than in accordance with this Protocol, he/she should raise their concern with the Monitoring Officer who will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.
- 11.4 Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

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