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Legal and Democratic Services



STANDARDS COMMITTEE

Monday 18 January 2021 at 7.00 pm

Place: Remote Meeting

PLEASE NOTE: this will be a 'virtual meeting'.

The link to the meeting is: <https://attendee.gotowebinar.com/register/4826059308943611918>
Webinar ID: 839-891-539

Telephone (listen-only): 0330 221 9914, Telephone Access code:785-881-879

The members listed below are summoned to attend the Standards Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Liz Frost (Chairman)
Councillor Hannah Dalton (Vice-Chair)
Councillor Kate Chinn
Councillor Robert Foote
Councillor Luke Giles

Councillor Eber Kington
Councillor David Reeve
Councillor Guy Robbins
Councillor Peter Webb

Yours sincerely

A handwritten signature in black ink, appearing to read "J.C. Beldan".

Chief Executive

For further information, please contact Democratic Services, democraticservices@epsom-ewell.gov.uk or tel: 01372 732000

Public information

Please note that this meeting will be a ‘virtual meeting’

This meeting will be held online and is open to the press and public to attend as an observer using free GoToWebinar software, or by telephone.

A link to the online address for this meeting is provided on the first page of this agenda and on the Council’s website. A telephone connection number is also provided on the front page of this agenda as a way to observe the meeting, and will relay the full audio from the meeting as an alternative to online connection.

Information about the terms of reference and membership of this Committee are available on the [Council’s website](#). The website also provides copies of agendas, reports and minutes.

Agendas, reports and minutes for the Committee are also available on the free Modern.Gov app for iPad, Android and Windows devices. For further information on how to access information regarding this Committee, please email us at Democraticservices@epsom-ewell.gov.uk.

Exclusion of the Press and the Public

There are no matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions Schedule 12A of the Local Government (Access to Information) Act 1985. Should any such matters arise during the course of discussion of the below items or should the Chairman agree to discuss any other such matters on the grounds of urgency, the Committee will wish to resolve to exclude the press and public by virtue of the private nature of the business to be transacted.

Questions from the Public

Questions from the public are not permitted at meetings of the Standards Committee. [Part 4 of the Council’s Constitution](#) sets out which Committees are able to receive public questions, and the procedure for doing so.

AGENDA

1. DECLARATIONS OF INTEREST

Members are asked to declare the existence and nature of any Disclosable Pecuniary Interests in respect of any item of business to be considered at the meeting.

2. MINUTES OF THE PREVIOUS MEETING (Pages 5 - 10)

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Committee held on 3 April 2019 and Special Meeting of the Committee held on 19 November 2019 (attached) and to authorise the Chairman to sign them.

3. REVIEW OF CODE OF CONDUCT COMPLAINTS (Pages 11 - 20)

To provide an update on complaints made under the Code of Conduct for Members from 1st February 2018 to 31st December 2020 and the steps taken to both promote and maintain high standards of conduct by Members.

4. UPDATE ON CODE OF CONDUCT FOR MEMBERS (Pages 21 - 56)

To provide an update on the work to promote and maintain high standards of conduct by Members undertaken by the Council.

5. STANDING ORDERS ON PUBLIC QUESTIONS (Pages 57 - 64)

Review of what public participation should like for the future in terms of Council and Committee Meetings.

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Minutes of the Meeting of the STANDARDS COMMITTEE held on 3 April 2019

PRESENT -

Councillor Mike Teasdale (Chairman); Councillors Michael Arthur MBE, Liz Frost, Eber Kington, David Reeve (Items 3 - 4 (1) s) only) and Guy Robbins

In Attendance: Councillor Martin Olney (Items 3 - 4 (1) j) only)

Absent: Councillor John Beckett, Councillor Alex Clarke and Councillor Robert Foote

Officers present: Amardip Healy (Chief Legal Officer) and Tim Richardson (Committee Administrator)

3 DECLARATIONS OF INTEREST

No declarations of interest were made by Councillors regarding items on the agenda.

4 REVISIONS TO PART 5 OF THE CONSTITUTION

The Committee received a report presenting proposed changes to Part 5 of the Council's Constitution. It was noted that this meeting of the Committee would focus primarily upon proposed amendments to the Members Code of Conduct. The Committee would be requested to consider a review of the Planning Protocol, and Codes of Conduct and Practice for Licensing and Gambling Hearings at a future meeting.

Following consideration, it was resolved:

- (1) That the Committee approved the changes to Part 5 of the Constitution as set out at Annex 1, subject to the following specific guidance:**
 - a) That the intended meaning of the word "Council" within the Code of Conduct was unclear in some instances. The Code should be revised to replace the word "Council" with the word "Authority" where appropriate.**
 - b) That references to "co-opted members" be removed from the Code, as the Council had not had any since the passing of the Localism Act 2011.**

- c) That paragraph 2.6 I. be amended to provide a summary of the protected characteristics set out by the Equality Act 2010, rather than list them separately.
- d) That the reference to paragraph “4.8 a)” within paragraph 3.10 d) be corrected to read “3.9 a)”.
- e) That the receipt of annual hospitality offered to Members of the Epsom and Walton Downs Conservators by Epsom Downs Racecourse be included within paragraph 5.2 of the Code, as an item which does not need to be disclosed.
- f) That the values “£50” and “£70” in paragraphs 5.1 and 5.2 e. be amended to read “£100”.
- g) That the font used in paragraph 3.26 was inconsistent with the rest of the document and should be standardised.
- h) That the first sentence of paragraph 3.24 be amended to read as follows: “Where a Member has been involved in campaigning in their political role on an issue which does not impact on their personal and/or professional life, they are not prohibited from participating in a decision in their political role as a Member of the Council.”
- i) That the wording of paragraph 3.25 be amended to read as follows: “When making a decision, Members must consider the matter before them, with an open mind and on the facts presented at the meeting at which the decision is to be taken.”
- j) That the wording “Party Group Leaders” in paragraph 6.5 be amended to “Party Leader or Group Chairman”, and that the wording also be amended to record that in the event of a complaint being made against a Party Leader or Group Chairman, that the Monitoring Officer may consult with another member as appropriate.
- k) That the wording of paragraph 6.7 be amended to read: “The Monitoring Officer will acknowledge receipt of a complaint within 10 working days of receiving it. The Subject Member will be advised that a complaint has been made, a copy of the complaint or a summary as appropriate will be provided, along with details of the complainant.”
- l) That the wording “The Monitoring Officer’s decision is final.” be added to paragraph 6.15.
- m) That the wording of paragraph 6.18 be amended to read: “The Monitoring Officer will conduct a “pre-hearing process”, requiring the Subject Member to give his/her written response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and may

- issue directions as to the manner in which the hearing will be conducted.”
- n) That the sub-paragraph lettering for paragraph 6.22 was not consistent and required amendment.
 - o) That the following wording be deleted from paragraph 6.22:
 - “a. publish any findings in respect of the Subject Member’s conduct;
 - b. report the findings to the Standards Committee for information;”
 - p) That the wording of paragraph 6.25 be amended to read: “The Monitoring Officer will issue a decision notice, in consultation with the Chairman of the Sub Committee. The decision notice will be sent to the Complainant and the Subject Member. Thereafter, the decision notice or a summary of the decision will be available for public inspection and published in Members Update. The decision will be reported to the next convenient meeting of the Standards Committee for information.”
 - q) That the definition of the term “Nine Principles” in Appendix 1 to the Code be amended to list all Nine Principles.
 - r) That the term “Extra Principles” in Appendix 1 to the Code be removed from the Glossary.
 - s) That the definition of the term “Complainant” in Appendix 1 to the Code be amended to read “means the person who has made an allegation that a Member has failed to comply with the Member’s Code of Conduct”

The Committee noted that Officers would circulate a revised copy of the document following the meeting, incorporating the amendments identified. The Chief Legal Officer informed the Committee that she welcomed Members’ comments on the document prior to its submission to the meeting of the Council on 30 April.

5 VOTE OF THANKS

The Committee expressed its thanks to the Chairman for his work on its behalf, noting the amendments and improvements to the Council’s Constitution which had been approved in the past 4 years.

The meeting began at 10.00 am and ended at 12.07 pm

COUNCILLOR MIKE TEASDALE (CHAIRMAN)

**Minutes of the Meeting of the STANDARDS COMMITTEE held on 19 November
2019**

PRESENT -

Councillor Liz Frost (Chairman); Councillors Kate Chinn, Robert Foote, Eber Kington, David Reeve, Guy Robbins and Peter Webb

In Attendance: Councillor Nigel Collin, Councillor Jan Mason (items 1 - 4 only), Councillor Steven McCormick (items 1 - 4 only) and Councillor Debbie Monksfield (items 1 - 4 only)

Absent: Councillor Hannah Dalton and Councillor Chris Webb

Officers present: Amardip Healy (Chief Legal Officer) and Tim Richardson (Committee Administrator)

1 ATTENDANCE BY MEMBERS OF THE PLANNING COMMITTEE

The Chairman welcomed members of the Planning Committee who were in attendance at the meeting, and invited them to contribute to the Committee's consideration of the items on the agenda.

2 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to items on the agenda.

3 WORKING GROUP TO REVIEW STANDING ORDERS RELATING TO QUESTIONS AT MEETINGS

The Committee agreed to provide time to Officers to produce additional paper copies of supplementary information for the meeting. The supplementary information summarised comments received from Members in relation to items 2 and 3 of the agenda.

Whilst the documents were being produced, the Committee considered a proposal from the Chairman that a Working Group be set up to consider revisions of the Standing Orders of the Constitution relating to questions at meetings of the Council and Committees. If approved by the Committee, matters relating to questions at meetings would be referred to the Working Group, rather than considered by the Committee at this meeting under item 03 of the agenda (Constitution update – revisions to Part 1, 2 and 4).

Following consideration, the Committee resolved:

That a Working Group of 4 Members should be set up to consider revisions of the Standing Orders of the Constitution relating to questions at meetings of the Council and Committees. It was agreed that the members of the Working Group would be: The Chairman of the Standards Committee, The Vice-Chair of the Standards Committee, Councillor Kate Chinn and Councillor Eber Kington.

4 CONSTITUTION UPDATE - PART 5: SECTION 8 PLANNING PROTOCOL

The Committee received a report presenting a review of the 'Model Code of Practice in respect of Planning Matters: Probity in Planning' within Part 5 of the Constitution, and seeking to replace it with a new 'Planning Code of Practice'.

The Committee considered the following matters:

- a) **Arrangements for registration of speakers for Planning Committee.** Members discussed the practical arrangements for enabling registration of public speakers, including the time slots to be made available and arrangements for recording prioritisation of requests. The Committee noted that officers would put suitable arrangements for registration in place.

Following consideration, it was resolved:

That the Committee:

- (1) **Had considered the new draft Planning Code of Practice (Annex 1 to the report) for approval, and**
- (2) **Approved changes to Part 5 Section 8 of the Constitution, and referred it to Council for adoption.**

5 CONSTITUTION UPDATE - REVISIONS TO PART 1, 2 AND 4

The Committee received a report updating and proposing changes to Parts 1, 2 and 4 of the Constitution.

Following consideration, it was resolved:

That the Committee:

- (1) **Had considered the proposed changes to Part 1, 2 and 4 of the Constitution as set out in Annexes 1-3, and**
- (2) **Approved changes to Part 1, 2 and 4 of the Constitution, and referred them to Council for adoption.**

The meeting began at 7.00 pm and ended at 9.52 pm

COUNCILLOR LIZ FROST (CHAIRMAN)

REVIEW OF CODE OF CONDUCT COMPLAINTS

Head of Service:	Amardip Healy, Chief Legal Officer
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1: Table of Member Code of Conduct Complaints from 1.2.2018 to 31.12.2020

Summary

To provide an update on complaints made under the Code of Conduct for Members from 1st February 2018 to 31st December 2020 and the steps taken to both promote and maintain high standards of conduct by Members.

Recommendation (s)

The Committee is asked to:

- (1) note the complaints from the 1st February 2018 to the 31 December 2020;**
- (2) note the actions taken to promote and maintain high standards of Conduct by Members.**

1 Reason for Recommendation

- 1.1 To assist and advise the Council in meeting its duty to promote and maintain high standards of conduct by its Members.

2 Background

Member Code of Conduct Complaints

- 2.1 For the period 1 February 2018 to 31 December 2020, Appendix 1 sets out the complaints made, their nature and the action taken or outcome.

Action taken to date

- 2.2 Some of the learning from the early complaints, was that it would be useful to have one document which set out both the Code of Conduct for Members, explained the expectations and also the process for complaints.
- 2.3 One of the biggest sources of complaints from Complainants generally, is that their complaints are not dealt in a timely manner and the process lacks transparency. Having a clear complaints process allows those who may wish to complain consider whether the Members Code of Conduct is engaged and if it is what the process will be. This helps build confidence and trust in the process.
- 2.4 Following a period of review and picking up on the recommendations of the Committee on Standards in Public Life, a new Code of Conduct for Members was approved by Standards Committee in April 2019 and then by Council in the same month.
- 2.5 The new process now includes a guide to help the public understand the complaints process and also a standard complaints form which requires completion. This helps to ensure all the required information is provided at the time a complaint is made to enable complaints to be assessed in within a reasonable timescale.
- 2.6 The new Code has operated over the course of a number of complaints and has worked well. The first key success is by having the necessary information when a complaint is submitted means complaints are turned round in a timely manner. At some Councils this can take months.
- 2.7 The Code requires that the Monitoring Officer “will acknowledge receipt of a complaint within 10 working days of receiving it” (para 6.7 of the Code) and make a decision within 15 working days of receipt as to what action is to be taken (para 6.8 of the Code). These key performance indicators have been achieved.
- 2.8 In terms of the investigation process, although the time it takes cannot be controlled, it is important to instruct someone with the necessary experience of undertaking investigations. Investigations do have a cost attached to them and therefore, the ability to screen complaints to take a view on the proportionality of a complaint to the issues raised and the likely outcomes (para 6.5 of the Code) is an important part of the new Code.

- 2.9 Having a Code with a clear complaints process again ensures the effective use of resources. A complainant may not be happy with an outcome if their complaint is not upheld or indeed not referred for investigation (because it fails to meet the tests or can be resolved by other means), but the fact a fair and transparent process has been followed allows the Monitoring Officer to close the complaint in a time appropriate manner (para 6.2 of the Code).

Learning Lessons from complaints to date

- 2.10 Some of the complaints the Council has received are of a harassing and or of a political nature. Although this is a new feature for the Council, these sorts of complaints have been commonplace for some time up and down the Country.
- 2.11 No Member (be they a complainant or the member complained of) or any Officer (be they a complainant or an investigator) of the Council, should be the subject of vexatious or unreasonable behaviours because they have some involvement in the complaints process. Nor should any such party act, encourage or allow others, to behave in a bullying or threatening manner towards other parties involved in the process. It is important to have in place safeguards to protect both Members and Officers from such conduct, as well as to safeguard the integrity of the complaints and investigation processes.
- 2.12 Another feature is the pressure Members are placed under by third parties to follow certain courses of action. Part 1 of the Constitution sets out at Para 8 “Citizen’s Rights”. This is further expanded in Part 2, Article 3. There is also a section on “Citizens’ Responsibilities”,
- “Citizens must not be violent, abusive, or threatening to Members or Officers . . . The Council will in appropriate cases be prepared to take action to protect its own rights and to support such action by its Members or Officers”.*
- 2.13 The roles and functions of Members is set out in Part 2, Article 5 of the Constitution. However, from some of the complaints it is clear that on some occasions those with an interest in a certain outcome, expect Members not to act with due regard to a Members’ wider role to the ‘whole community’. This is of considerable concern and one which needs to be addressed.

- 2.14 In two of the cases the subject members (those who were complained of) were threatened or victimised for not bowing down to pressure from 3rd parties. This is unacceptable and needs to be addressed. Both cases involved Planning decision making. In one case internal processes have been improved and in the other further work needs to be undertaken to ensure that 3rd parties understand the role of a member within the wider context of all of a member's duties and obligations to the Borough as a whole. The suggestion is that this should be set out clearly in the Constitution within the Article 5.
- 2.15 The Council now has a "Managing unreasonable customer behaviour" (July 2019) Policy, and it specifically includes Members so as to address some of the learning arising from Member Code of Conduct complaints. The Policy is due for review in July 2021 and the Committee may wish to consider further additions to this Policy to support and protect Members from vexatious and unreasonable behaviours.
- 2.16 It is also recommended that when the Committee considers the LGA's model Code of Conduct for Members, consideration be given to how best to address the issues set out in paras 2.10, 2.11 and 2.14 above.

Member Development

- 2.17 The new Code coupled with new Protocol for Managing Member/Officer Relations (Part 5, Section 3 updated July 2018) forms part of a framework for the promotion of high standards of conduct that the Authority expects of its Members. However, it is important that work to support Members in understanding both the Code and the Protocol remains a central part of a Member Development Programme.

Annual Reporting

- 2.18 An annual report on Code of Conduct Complaints brought in a calendar year will now be a standing item on a Standards' Committee agenda. This report will aim to be brought to a meeting either just before or after the start of the Municipal year, looking back at the previous calendar year. The next report will be after at the first meeting held in 2022.

3 Risk Assessment

Legal or other duties

3.1 Impact Assessment

- 3.1.1 None for the purposes of this report.

3.2 Crime & Disorder

- 3.2.1 None for the purposes of this report.

3.3 Safeguarding

3.3.1 None for the purposes of this report.

3.4 Dependencies

3.4.1 None for the purposes of this report.

3.5 Other

3.5.1 None.

4 Financial Implications

4.1 None arising from the contents of this report.

4.2 **Section 151 Officer's comments:** None arising from the contents of this report.

5 Legal Implications

5.1 These have been incorporated within the body of the report.

5.2 **Monitoring Officer's comments:** These have been incorporated within the body of the report.

6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged: Effective Council.

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

6.3 **Climate & Environmental Impact of recommendations:** None

6.4 **Sustainability Policy & Community Safety Implications:** None

6.5 **Partnerships:** None

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Reports to Standards Committee, Revisions to Part 5 of the Constitution & to Council April 2019.

Other papers:

- "Local Government Ethical Standards. A Review by the Committee on Standards in Public Life", dated January 2019.

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

- Managing unreasonable customer behaviour, July 2019

https://www.epsom-ewell.gov.uk/sites/default/files/documents/council/Unacceptable%20Customer%20Behaviour%20Policy%20-%20July%202019_1.pdf

Member Code of Conduct Complaints from January 2018 to December 2020

n/yr	Made by/ or referral	Allegations	Action taken	Outcome
2018				
3 complaints made				
1/18	Public	Driving incident on the public highway	No action taken. The Code only applies when acting as a Member	Closed
2/18	Public	Details not set out	No action as complainant failed to progress	Closed
3/18	Public	A number of complaints relating to support from a Ward Member on a planning application	Investigation, finding of breach of Code of Conduct and referred to Standards Hearings Sub Committee Finding of a breach and recommended: <ul style="list-style-type: none"> • training on planning matters; • member not to use personal email address when corresponding on Council business 	All actions completed. Closed

2019**5 complaints made**

1/19	Public	A number of complaints relating a planning application	MO referred for investigation without preliminary investigation. No breach of Code of Conduct	Closed
2/19	MO referral following complaints	Making allegations of breaching the law	MO referred for investigation without preliminary investigation. Investigation, finding of breach of Code of Conduct. Recommendation of an apology to the Mayor	Apology given and accepted. Closed
3/19	Member	Failure to declare interests on an agenda item and of not being truthful in a statement to the press	Preliminary Investigation no finding of breach of Code of Conduct, but advice provided	Closed
4/19	Public	Conflicts of interests on the part of a decision making committee member	MO referred for investigation without preliminary investigation. Investigation, no finding of breach of Code of Conduct	Closed
5/19	Public	Complaints relating to non council business activities	No action taken. The Code only applies when acting as a Member	Closed

2020**4 complaints made**

1/20	Public	Lack of local engagement on a local issue	Not proportionate use of resources to the issues and the likely outcomes. Local resolution to the issues raised	Closed
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2/20	Public	Lack of local engagement on a local issue	Not proportionate use of resources to the issues and the likely outcomes. Local resolution	Closed
3/20	Self referral by Member	A public allegation of a conflict of interests	MO referred for investigation without preliminary investigation. Investigation, no finding of breach of Code of Conduct	Closed
4/20	Public	Failure to treat another member with respect during a committee meeting	Preliminary Investigation no finding of breach of Code of Conduct	Closed

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UPDATE ON CODE OF CONDUCT FOR MEMBERS

Head of Service:	Amardip Healy, Chief Legal Officer
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	1: Council's response to LGA Model Code of Conduct Consultation 2: LGA adopted Code of Conduct for Members 3: Draft Response to Ethical Standards Letter

Summary

To provide an update on the work to promote and maintain high standards of conduct by Members and also to consider a response to the Committee on Standards in Public Life to their open letter.

Recommendation (s)

The Committee is asked to:

- (1) note the actions taken to promote and maintain high standards of Conduct by Members;
- (2) consider a response to the ethical standards letter from the Committee on Standards in Public Life and delegate to the Monitoring Officer after consultation with the Chairman, to respond.

1 Reason for Recommendation

- 1.1 To provide an update on recent work and activity on the ethical framework for members and also to agree a reply to the open letter from the Committee on Standards in Public Life to all local authorities.

2 Background

- 2.1 The Localism Act 2011 significantly amended the statutory arrangements governing the conduct of elected members. It added a duty on local authorities to “promote and maintain high standards of conduct by members of the authority” (section 27(1) Localism Act 2011). As part of discharging this duty, authorities had to “adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity” (section 21(2)).
- 2.2 The Council adopted the new regime in 2012 with the standard Code of Conduct for Members.
- 2.3 Although a Standards Committee existed in 2012, the Committee was not an operational Committee until 2018. This was in part due to there being no complaints of breaches of the Code of Conduct for Members.
- 2.4 As a result of the Localism Act, in 2018 an audit was undertaken of those matters the Act required to have in place. The resultant changes have included:
 - 2.4.1 the publication of Members Interests Forms on the Council’s website (section 29(5) Localism Act 2011);
 - 2.4.2 the updating of the Council’s webpage on complaints against Member and a regular program of meetings for Standards Committee;
 - 2.4.3 updating the Council’s Constitution (Part 1, 2, 4 December 2019; Part 3 July 2018;
 - 2.4.4 producing a new Protocol for managing Member/Officer relations (Part 5 July 2018) a new Code of Conduct for Members (Part 5 April 2019).
- 2.5 The work on the Constitution remains ongoing and work on promoting and maintaining high standards of conduct on part of Members through updating the remainder of Part 5, namely meetings protocols for planning committee and licensing sub committees dealing with liquor licensing and gambling matters, is continuing.

Drivers for wider change in the public sector

- 2.6 The Committee on Standards in Public Life advises the Government on ethical standards across the whole of public life in the UK. It monitors and reports on issues relating to the standards of conduct of all public office holders, including monitoring the impact of changes to the local government standards regime by the Localism Act 2011.

- 2.7 The Committee on Standards in Public Life held two rounds of roundtable meetings in April 2018 with Monitoring Officers, clerks and Independent Persons and then academics and think-tanks on the health of the standards structure in local government. In January 2019 the Committee published its “Local Government Ethical Standards report”, where it made a number of recommendations to local authorities, the Local Government Association and Government on best practice to improve ethical standards in local government.
- 2.8 The key recommendation to the Local Government Association was that it should produce a Model Member Code of Conduct for local authorities to consider adopting so as to address the multitude of Codes which invariably existed within areas. This has been actioned by the LGA and is dealt with later in this report.
- 2.9 Key recommendations to Government included giving Councils the power to impose sanctions against a councillor who breaches the Code, alongside an appeals process. The imposition of such sanctions would require legislative change. The Government’s response is still awaited.

LGA Model Code Consultation

- 2.10 The Committee on Standards in Public Life 2019 Report found a rising local government concern about the increasing incidence of public, member to member and officer/member intimidation and abuse and overall behavioural standards. This led to a number of recommendations and the LGA’s programme of work on civility in public life.
- 2.11 Over the summer of 2020 the Local Government Association started a consultation process on a new draft Model Member Code of Conduct. The Consultation ran for 10 weeks from June to August and the Council submitted a response (Appendix 1).
- 2.12 The LGA have approved a Model Code on the 3 December 2020 and a copy is attached at Appendix 2.
- 2.13 Once the LGA issues advice on their new recommended Code, the matter will be brought back to Standards Committee to consider next steps.

Committee on Standards in Public Life letter to all local authorities

- 2.14 The Committee on Standards in Public Life has continued to take an interest in how local authorities have acted to their 2019 report.
- 2.15 On the 20 July 2020 the Committee published a letter to all local authorities. Although a copy of this letter appears not to have been sent to the Council it is a letter the Council should respond to.

- 2.16 A draft response has been prepared (Appendix 3) and the Committee's observations and comments are sought to enable a reply to be sent by the Council's Monitoring Officer.

3 Risk Assessment

Legal or other duties

3.1 Impact Assessment

3.1.1 None for the purposes of this report.

3.2 Crime & Disorder

3.2.1 None for the purposes of this report.

3.3 Safeguarding

3.3.1 None for the purposes of this report.

3.4 Dependencies

3.4.1 None for the purposes of this report.

3.5 Other

3.5.1 None for the purposes of this report.

4 Financial Implications

4.1 None for the purposes of this report.

4.2 **Section 151 Officer's comments:** None for the purposes of this report.

5 Legal Implications

5.1 These have been incorporated within the body of the report.

5.2 **Monitoring Officer's comments:** None for the purposes of this report.

6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged: Effective Council.

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan.

6.3 **Climate & Environmental Impact of recommendations:** None

6.4 **Sustainability Policy & Community Safety Implications:** None

6.5 **Partnerships:** None

7 **Background papers**

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Reports to Standards Committee, Revisions to Part 5 of the Constitution & to Council, April 2019.

Other papers:

- Committee on Standards in Public Life: Local government ethical standards: roundtable transcript and summary note

<https://www.gov.uk/government/publications/local-government-ethical-standards-roundtable-transcript-and-summary-note>

- Local Government Ethical Standards report,

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

- Local Government ethical standards: letter to local authorities

<https://www.gov.uk/government/publications/local-government-ethical-standards-letter-to-local-authorities>

- Local Government Association Model Member Code of Conduct Consultation

<https://www.local.gov.uk/local-government-association-model-member-code-conduct-consultation>

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Table Epsom & Ewell Borough Council: Responses to draft LGA Code of Conduct Consultation

Summary

Epsom & Ewell Borough Council updated its Code of Conduct for Members April 2019 following publication of “Local Government Ethical Standards. A Review by the Committee on Standards in Public Life”, January 2019 (‘the Report’).

The new Members Code therefore sits as one holistic document. It provides one central place for all related and linked information to sit. This is because one of the recommendations from the Report is around ensure transparency of processes and decision making. It can be a challenge for anyone looking for various documents to find them and then understand how they all relate to each other. For this reason we felt it best for the Code to actually contain all the key elements of a code of conduct process, including how complaints will be dealt with.

Another recommendation relates to the access to more than one Independent Person. The Council was already implemented a change, by working with a number of other Surrey Councils in setting up a Panel of Independent Persons. This another example of how this Council continues to proactively promote an effective standards regime.

We have also added to the standard Nolan Principles with two extra principles. We felt it was important in a society which has moved on from when the Nolan Principles were first set, to add the wider sense of duty which is now part of the norm. We therefore added:

8: Duty to uphold the law	Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.
9: Stewardship	In discharging their duties and responsibilities Members must ensure that the Council’s resources are used both lawfully and prudently.

The aim of any Code which manages conduct, is to ensure ethical practice, along with a culture which supports this. The Council does not suffer from a culture of poor ethical behaviour, however, this has not acted as a barrier to having a more detailed Code. Through the process of effective induction and ongoing training, against an existing backdrop of an ethical culture, this Council's Code has continued the tradition of good leadership and behaviours by Members.

Sadly this is not always the case elsewhere as the Report reflects and we can understand why the work undertaken by the LGA for a generic Code is important. However, as it stands at present, it appears that this Council's Code is much stronger and more transparent than the generic one produced for consultation, which may be a missed opportunity for change which some Authorities clearly need.

Epsom & Ewell Borough Council: Responses to draft LGA Code of Conduct Consultation

Additional suggestions for the Model Code

To consider the addition of the following, which we feel would address concerns which are generally prevalent in the sector:

1	The Code should be one document which sets out its purpose, the principles, deals with interests, gifts, dispensations and the complaints process. Invariably the latter is missing and this can hamper the ability of those who are not familiar to understand the processes.
2	The interest section in any code must go beyond the simple statement of the law on pecuniary and non-pecuniary interests. It should highlight bias, predetermination, predisposition and lobbying and advise where Members can get further advice.
3	The Code should tie into other Council documents such as other protocols (eg Member officer protocol, planning protocol), codes of conduct, and unreasonable behaviour polices. Often Members need the same protection as staff in cases of unacceptable behaviour which they inevitably at some point face.
4	The target of most thinking, is that the Code of Conduct's only purpose is to promote good behaviour of its Members. It should also act as a tool to support and defend members from unacceptable behaviours from 3rd parties.
5	There should be a consideration of further principles to be added to the Nolan principles to reflect the changes in public expectation.
6	There should also be a glossary of terms used in the Code. This will help the public to better understand and interpret the Code, and helps as a quick reference guide.

Responses to draft LGA Code of Conduct Consultation

Paras	Subject matter	Current wording	Comments
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Para 1	Civility	<ol style="list-style-type: none"> 1. Treating other councillors and members of the public with civility. 2. Treating council employees, employees and representatives of partner organisations and those volunteering for the councils with civility and respecting the role that they play. <p>As a councillor you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a civil manner. You should not subject individuals, groups of people or organisations to unreasonable or excessive personal attack.</p>	The use of the words 'unreasonable' and 'excessive' is subjective. Care needs to be taken that this does not lead to either greater conflict or an increase in complaints of a trivial nature.
Paras 5 & 6	Confidentiality and access to information	<ol style="list-style-type: none"> 5. Not disclosing information given to me in confidence or disclosing information acquired by me which I believe is of a confidential nature, unless I have received the consent of a person authorised to give it or I am required by law to do so. 	With reference to para 6, it would be useful to have a reference to GDPR and FOI in this section

		6. Not preventing anyone getting information that they are entitled to by law.	
Para 9	Use of council resources and facilities	<p>9. Not misusing council resources.</p> <p>You may be provided with resources and facilities by the council to assist you in carrying out your duties as a councillor. Examples include office support, stationery and equipment such as phones, and computers and transport. These are given to you to help you carry out your role as a councillor more effectively <u>and not to benefit you personally</u> of which you are a member or in a position of general control or management</p>	<p>It is unclear from the wording the extent of this. A simple oversight could result in a breach. The Code should be consistent with policies which exist for Members and staff on use of resources.</p> <p>Would be better to add examples and also clarify that Council resources must not be used for election purposes.</p>
Para 11 & 12	Gifts and hospitality	11. Not accepting significant gifts or hospitality from persons seeking to acquire, develop or do business with the council or from persons who may apply to the council for any permission, licence or other significant advantage.	This provision is unclear. For example, para (11) What is a 'significant' gift? Is it the monetary value? It says 'not accepting', then 'exercise caution'!

		<p>12. Registering with the monitoring officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.</p> <p>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 member. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you may wish to notify your monitoring officer of any significant gifts you are offered but refuse which you think may have been offered to influence you.</p>	<p>We are required to register gifts whether or not we accept them – this says ‘may wish to notify’, but only if you believe they are a bribe. We feel this is weak and does not promote the sense of transparency the public now expects.</p> <p>Setting the value of a notifiable gift at £25 is out of date. If all offers are subject to notification an amount of £100 would better reflect current costs.</p>
Page 7 & 8	Internal resolution procedure	<p>The internal resolution procedure</p> <p>The internal resolution procedure should be proportionate, allow for members to appeal allegations and decisions, and allow for an escalating scale of intervention. The procedure should be voted on by the council as a whole.</p>	<p>Calling something an ‘internal resolution process’ may leave members of the public feeling their complaints are not being taken seriously. It is an investigation process.</p> <p>To allow an appeal process for Members only would not be fair to those bringing complaints. If there are</p>

		<p>7. where of a serious nature, a bar on chairing advisory or special committees for up to two months</p> <p>8. where of a serious nature, a bar on attending committees for up to two months.</p>	<p>to be options, then these should be available to both sides.</p> <p>If the complaints handling process was part of the Code then Council would be agreeing the process.</p> <p>Whilst such additional sanctions may be welcome are they the ones we would opt to include.</p> <p>Why only bar from chairing advisory or special committees? Excluding someone from attending committees because they regularly use their private accounts for council emails or for regular data breaches or being seriously uncivil to residents seems to be an odd way to change a habit.</p> <p>There may be no meetings that they were eligible to attend for 2 months – so could be pointless. This only mentions Committees, what about Council meetings?</p>
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	Appendix B	<p>Table 2: Other Registerable Interests</p> <p>Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;</p> <p>Any Body—</p> <p>(a) exercising functions of a public nature;</p> <p>(b) directed to charitable purposes; or</p> <p>(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</p> <p>of which you are a member or in a position of general control or management</p>	<p>This is does not appear clear. It suggests that you do not have an interest unless you are appointed or nominated by the Council. Being appointed by the Council is obvious, however, it is when it is not obvious which needs to be recorded.</p> <p>Therefore, if you were e.g. Chairman of the Civic Society you would not have a registerable interest, but if you were appointed by the Council to the Management of Citizens Advice by the Council, you would have a registerable interest.</p> <p>This should be wider to ensure greater transparency with the deletion of the words “and to which you are appointed or nominated by the council”</p>
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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 behaviours 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 and/or as a representative of your council
- you are claiming to act as a councillor and/or as a representative of your council
- you are giving the impression that you are acting as a councillor and/or as a representative of your council
- you refer publicly to your role as a councillor or use knowledge you could only obtain in your role 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.

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 your 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 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 declare my interests.

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 declare 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 declared 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 declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and declaring 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 declare 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

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. 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.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
4. 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.

Declaring interests

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare 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 declare the nature of the interest, just that you have an interest.
6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare 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', again you do not have to declare the nature of the interest.
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) or a financial interest or well-being of a relative or close associate, you must declare 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 declare 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 friend, relative, close associate; or
 - c. a body included in those you need to declare under Disclosable Pecuniary Interests

you must disclose the interest.

9. Where the matter 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 must declare 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 declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

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

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

	<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>
Land and Property	<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>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<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>
Securities	<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 has 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 Registerable Interests

Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;	
Any Body -	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) 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 as a whole, 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.

Draft : EEBC response to CSPL Best Practice Recommendations

CSPL Best Practice Recommendations	EEBC Response
<p>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.</p>	<p>See Section 6, Para 2.4 (h) of new Code adopted in July 2019.</p> <p>Definition and examples have not been included but note the contents of para 2.4 to explain why. It is felt that the use of definitions was not appropriate.</p>
<p>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.</p>	<p>Section 6 of Code sets out the complaints process in full. Para 6.3 includes a requirement that members will cooperate at all stages with an investigation into any allegation of adherence or complaint.</p> <p>Para 6.4 sets out all requirements that complaints must be on a prescribed form. It also confirms anonymous complaints, unless there is a clear public interest issue, will not be investigated.</p> <p>Para 6.5 gives the Monitoring Officer a wide remit in terms of criteria for assessment to see if complaints should be investigated.</p>

<p>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.</p>	<p>A new Code was introduced and the outcome of the LGA Model work was awaited before the next review. The Council has extended the principles of public life it holds itself to in line with the requirements placed on it to promote and maintain high standards of conduct by Members.</p> <p>The Code must sit within a wider context of responsibilities some Members hold within their authorities. For this reason it is not felt a public consultation exercise would provide any particular benefit to the Localism Act duties.</p>
<p>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.</p>	<p>The Code is within the Council's Constitution and the Council has a dedicated web page for Member Complaints. The page includes guidance on making a complaint, a the prescribed form and the Code</p> <p>Copies are available on request.</p>
<p>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.</p>	<p>Paper based records kept at present, which is open to public inspection and these are updated as declarations are made.</p>

<p>Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>The Complaints process is set out in the Code itself, there is a dedicated form and supporting guidance which are on the Council's website to assist anyone in making a complaint and on what can and cannot be investigated.</p>
<p>Best practice 7: Local authorities should have access to at least two Independent Persons.</p>	<p>The Council has a Panel of more than 2 IPs to select from.</p>
<p>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.</p>	<p>The IP is consulted on the process as needed, see para 6.5 of the Code.</p> <p>The IP's views must be sought at any determination of a complaint at sub committee hearing, see para 6.21 and 6.27</p>
<p>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.</p>	<p>Para 6.25 set out the process of notification which includes publishing and public inspection.</p>

<p>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.</p>	<p>The Complaints process is set out in the Code itself, there is a dedicated form and supporting guidance which are on the Council's website to assist anyone in making a complaint and on what can and cannot be investigated.</p>
<p>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 as a whole, rather than the clerk in all but exceptional circumstances.</p>	<p>The Council area does not have Parish Councils.</p>
<p>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.</p>	<p>The Council area does not have Parish Councils.</p>
<p>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.</p>	<p>The Monitoring Officer does not undertake investigation work, only a preliminary assessment if felt appropriate in the event the matter is straight forward or not sensitive. If not, an Investigator is asked to conduct an investigation.</p> <p>All Investigations are either carried out by a lawyer from the Legal Team or from private practice.</p>

<p>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.</p>	<p>The Council is the sole shareholder in a Company. All Audit and financial requirements and good practice requirements are adhered to.</p>
<p>Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>Meetings happen with the Chief Executive and when necessary with Monitoring Officer.</p>

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STANDING ORDERS ON PUBLIC QUESTIONS

Head of Service:	Amardip Healy, Chief Legal Officer
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1: Terms of Reference for Working Group

Summary

Review of what public participation should like for the future in terms of Council and Committee Meetings.

Recommendation (s)

The Committee is asked to:

- (1) note the recommendation of the Committee's Working Group:**
 - (a) not to change Standing Order CPR1.1;**
 - (b) to recommend a review of the role of public participation within the Council's Standing Orders;**
 - (c) to consider how public participation within the Standing Orders processes can be made more accessible and inclusive.**
- (2) agree for a Working Group to be set up to carry out a review of public participation Standing Orders and to make recommendations on any changes;**
- (3) to agree the terms of reference for the Working Group, set out at Appendix 1;**
- (4) agree the Committee's current Working Group be extended with an invitation to the Chairman of Audit, Crime & Disorder and Scrutiny Committee to nominate two members to sit on the Working Group.**

1 Reason for Recommendation

- 1.1 The Committee's Working Group has recommended a fundamental review of the Council's approach to public participation within Standing Orders.

2 Background

- 2.1 In December 2018 Standing Orders were changed to only permit public questions sessions to deal with matters which were not agenda items for that meeting.
- 2.2 There is minimal use of public questions at meetings by the general public, however, when questions were being raised they were directed towards agenda items. This sometimes had the consequence of creating a challenging environment for decision making. Although this can be the case for Committees such as Planning Committee, it is unusual for this to be the case for strategic decision making committees such as Policy Committees. Inevitably, it sometimes left those who asked questions feeling they were not being heard. The issue of only being able to ask questions, when really what someone wanted to do was to make a statement or lobby, also added to the sense of frustration. There would also be a lack of balance in terms of those who may be interested in an agenda item. This would invariably leave a Committee hearing from only one side of a debate.
- 2.3 A request was made by a Council Member to reverse the changes to CPR1.1, which now prevents members of the public asking questions on items listed on a meeting's agenda, where public questions are permissible.
- 2.4 Following the meeting of Standard Committee on the 19 November 2019, it was agreed a Working Group would be set up to consider changes to Standing Orders around questions at Council and Committee Meetings. Following an unexpected Election in December 2019 and the Covid19 pandemic, the Working Group only met on the 7 September 2020. The Working Group was made up of the Chairman and Vice Chair of Standards Committee, Councillors Liz Frost and Hannah Dalton, along with Councillors Kate Chinn and Eber Kington.
- 2.5 As a result of Covid19, legislation and regulations enabled Councils to hold remote meetings. This change could have enabled more members of the public to actively engage with the Council's Committee processes, since they no longer needed to attend a meeting in person.
- 2.6 Up until the 12 August 2020, the breakdown of meetings and public viewing was as follows:

Committee	Date	Public attendance
E&WD Conservators	12 May	20
Planning Committee	13 May	20
E&WD Conservators	22 May	5
Planning Committee	18 June	15 (inclusive of public speakers)
Nonsuch JMC	22 June	2
E&WD Conservators	22 June	2
S&R Committee	2 July	4
Planning Committee	9 July	71 (inclusive 5 public speakers)
Extraordinary Council	14 July	3
E&SC Committee	16 July	1
Council	21 July	6
Planning Committee	27 July	26 (inclusive of public speakers)
S&R Committee	28 July	1

- 2.7 The remote meetings of Planning Committee have dealt with a number of contentious planning applications. Holding them remotely, has allowed more members of the public to hear and see meetings, which otherwise may not have happened if the meetings were in person, due to the space restrictions of the Chamber. In terms of other Committees, the makeup of those viewing has tended to be of interested Council Officers and or Members, with very few members of the general public. To date, of all meetings held since the start of the current Municipal year, only one Policy Committee received a request to ask questions. This request related to an agenda item and therefore was refused.

Recommendations of the Working Group

- 2.8 The Working Group had a wide ranging discussion on the role and function of public questions within the current Standing Orders. They felt there were broader issues to be considered which they framed as follows:
- (a) how does the Council encourage those who live, work or are educated in the Borough, engage with Council/Committee meetings?
 - (b) how does the Council promote the opportunities of public participation particularly with those who may fall within the hard to reach groups.
- 2.9 The Working Group felt it was important to explore how the Council could encourage people to come and speak at Committee meetings. This could involve a move away from public questions at Committees to one where statements could be made, similar to the approach at Planning Committee.
- 2.10 As a result, the Working Group concluded that a fundamental review of Standing Orders around public access should be recommended rather than looking at single matters in isolation. For this reason they felt it best not to recommend any changes to CPR1.1, but instead to look at public participation more generally within the context of Standing Orders.
- 2.11 To enable proposals for change to be developed, the Committee are asked to set up a Member Working Group to report Standards Committee. The suggestion is to allow the current Working Group to continue, and to be extended so as to include two nominations from the Audit, Crime & Disorder and Scrutiny Committee. The purpose of nominations from the Scrutiny Committee is to enable a different perspective around governance.
- 2.12 A draft of the terms of reference are included at Appendix 1. They are broad so as to enable a wider discussion around what could support more effective public engagement and access. However, the remit is tied to the Council's Procedure Rules.
- 2.13 It is important to distinguish between public participation within Standing Orders and how the Council engages with the public in other matters. The latter is not within the scope of this report or of the work of Standards Committee.

3 Risk Assessment

Legal or other duties

3.1 Impact Assessment

3.1.1 None arising from the contents of this report.

3.2 Crime & Disorder

3.2.1 None arising from the contents of this report.

3.3 Safeguarding

3.3.1 None arising from the contents of this report.

3.4 Dependencies

3.4.1 None arising from the contents of this report.

3.5 Other

3.5.1 None arising from the contents of this report.

4 Financial Implications

4.1 None arising from the contents of this report.

4.2 **Section 151 Officer's comments:** None arising from the contents of this report.

5 Legal Implications

5.1 There are no legal implications arising from the contents of this report.

5.2 **Monitoring Officer's comments:** None arising from the contents of this report.

6 Policies, Plans & Partnerships

6.1 **Council's Key Priorities:** The following Key Priorities are engaged: Effective Council.

6.2 **Service Plans:** The matter is not included within the current Service Delivery Plan, but the updating of the Constitution remains an overarching priority.

6.3 **Climate & Environmental Impact of recommendations:** none arising from contents of this report.

6.4 **Sustainability Policy & Community Safety Implications:** none arising from contents of this report.

6.5 **Partnerships:** none arising from contents of this report.

7 Background papers

7.1 The documents referred to in compiling this report are as follows:

Previous reports:

- Report to Standards Committee on the 19 November 2019 on changes to Part 4 of the Constitution

Other papers:

- Working Group papers
- Part 4 Standing Orders

Standards Committee Member Working Group

Review of Public Participation Standing Orders

Governance Arrangements

Reporting Line

- Reporting to Standards Committee

Composition

- Chairman/Chair : Chairman of Standards Committee
- Size : Members (including Chairman/Chair)
- Representation: Standards Committee x 4
Audit, Crime & Disorder and Scrutiny Committee x 2
- Nomination Process: Standards Committee
Chairman of ACDSC
- Confirmation of Appointments: Chairman of Standards Committee
- Substitutes: Substitutes are not allowed to sit
- Changes to Nominations: Notification to Chairman of Standards Committee

Period of Operation

- As required by Standards Committee – work to be completed in time for the new Municipal Year in May 2021.

Terms of Reference

1. The objective is to review current arrangements for public participation within the Council's Procedure rules.
2. The focus of the review is to respond, as far as possible, to the following questions:
 - a. how does the Council encourage those who live, work or are educated in the Borough, to engage with Council/Committee meetings?
 - b. how does the Council promote the opportunities of public participation particularly with those who may fall within the hard to reach groups.
3. To develop proposals for changes to the Council's Procedural Rules in time for the start of the new Municipal Year in May 2021

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