

To: All Members of the Standards
Committee: Tina Barnes (Chair); Cllrs
Ayub, D Edwards, McElligott, Orton, Rye,
Skeats, Vickers and Woodward.
c.c. Standing Substitutes - Cllrs Eden,
Duveen and Stanford-Beale

Our Ref:
Your Ref:

Direct: ☎ 0118 937 2153
e-mail: michael.popham@reading.gov.uk

3 July 2013

Your contact is: Michael Popham - Committee Services

NOTICE OF MEETING - STANDARDS COMMITTEE - 11 JULY 2013

A meeting of the Standards Committee will be held on **Thursday 11 July 2013 at 6.30pm** in Committee Room 1, Civic Offices, Reading. The Agenda for the meeting is set out below.

AGENDA

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CIVIC CENTRE EMERGENCY EVACUATION: Please familiarise yourself with the emergency evacuation procedures, which are displayed inside the Council's meeting rooms. If an alarm sounds, leave by the nearest fire exit quickly and calmly and assemble at the Hexagon sign, at the start of Queen's Walk. You will be advised when it is safe to re-enter the building.

STANDARDS COMMITTEE MINUTES - 12 JULY 2012

Present: Mrs T Barnes (Chair);
Councillors D Edwards, Livingston, McElligott, Terry and White;

Apologies: Councillor Benson, Rynn and Skeats.

RESOLVED ITEMS

1. MINUTES

The Minutes of the meeting held on 19 March 2012 were confirmed as a correct record and signed by the Chair.

2. TERMS OF REFERENCE AND ANNUAL REPORT

The Monitoring Officer submitted a report setting out the Committee's terms of reference and constitutional role for the Municipal Year 2012/2013, updating the Committee on developments and complaints during the Municipal Year 2011/2012 and looking forward to the current Municipal Year.

The report advised that Chapter 7 of the Localism Act 2011 had ended the statutory standards regime set up by the Local Government Act 2000, and introduced in its place a duty on local authorities to promote and maintain high standards of conduct by Councillors and Co-opted Members, including adopting a local Member code of conduct. The Act also required local authorities to adopt arrangements to deal with allegations that Members had not complied with their local Code of Conduct, and allowed local authorities to establish a local Standards Committee, and to make Standing Orders relating to aspects of the standards process (Section 31(10)). In the light of recommendations made by the Standards Committee on 19 March 2012, the Annual Council Meeting on 23 May 2012 had agreed to establish a local Standards Committee, with the terms of reference and Standing Orders set out in **Appendix A**.

The report had the local Member Code of Conduct attached at **Appendix B**, which was based on a good practice draft produced by the Association of Council Secretaries and Solicitors (ACScS). The Code retained those elements of the former statutory Model Code which had not been the subject of significant legal challenge. It also set out the statutory requirement for Members to register and declare disclosable pecuniary interests, as informed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Committee was asked to agree the Code, for immediate application, and recommend it for formal adoption to the full Council at its next meeting, on 23 October 2012 and to recommend full Council to incorporate into the Council's Standing Orders provisions for the exclusion of Members from meetings for items of business in which they had a disclosable pecuniary interest, in line with paragraph 7.4 of the attached Code.

The Standing Orders and Rules of Procedure for the Standards Committee, together with this Committee, would form the authority's local arrangements for investigating complaints about Councillors. The new local procedure was set out in a new "Complaints about Councillors" document, attached at **Appendix C** to the report and would be published on the Council's website.

STANDARDS COMMITTEE MINUTES - 12 JULY 2012

Local authorities were now required to appoint one or more Independent Person with statutory responsibilities to be consulted and to advise on complaints made about Members. The 2011 Act also prescribed the recruitment process for the Independent Person. The authority's recruitment documentation was attached at **Appendix D** to the report. The 2011 Act had prevented the Independent Person being a Member of the authority during the preceding five years, but the relevant Commencement Order had recognised the benefit of enabling as a transitional arrangement to allow somebody who was an Independent Member of the Standards Committee, where they were no longer a Member, to be appointed as the Independent Person. The report therefore recommended inviting Mr Hicks, who was the Chair of the (statutory) Standards Committee between 2008 and 2011, to be the authority's Independent Person. It was reported that this appointment could continue until 30 June 2013.

The report also drew attention to the changes in the law with regard to the registration and declaration of interests by Members. There was still a legal requirement on Members to register and declare interests, but the definition of declarable interests had reverted to the pre-2002 form of "pecuniary" (financial). The authority's form for Members to register their pecuniary and other interests had been updated, and was attached at **Appendix E**. All Members of the authority would be asked to complete and return the interest form, within 28 days, and the completed new forms would be published on the Council's website. The report recommended that the Monitoring Officer should be appointed as the Proper Officer for the receipt of requests from Members for a dispensation to take part in decisions on items of business in which they had a disclosable pecuniary interest, in specified circumstances, under Section 33 of the Localism Act 2011.

Over the Municipal Year 2011/12, under the statutory procedure which the Localism Act had now ended, the local Assessment Sub-Committee had met on two occasions, to consider two complaints. Details of the complaints and the action taken were set out in **Appendix F** to the report.

The Register of Gifts and Hospitality offered to Councillors in the financial year 2011/12 was attached to the report at **Appendix G**.

The Committee also noted that, at the Annual Council Meeting, on 23 May 2012, Mrs Tina Barnes, the co-opted Independent Member, had been appointed as Chair of the Committee for the Municipal Year 2012/13.

Resolved -

- (1) That the Committee's terms of reference and new Standing Orders and Rules of Procedure (Appendix A) be endorsed;
- (2) That the new local Member Code of Conduct (Appendix B) be agreed and recommended to full Council for full adoption;
- (3) That the Council be recommended to incorporate into the Council's Standing Orders provisions for the exclusion of Members from meetings for items of business in which they had a disclosable pecuniary

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interest, in line with paragraph 7.4.4 of the local Member Code of Conduct;

- (4) That the new Complaints about Councillors document (Appendix C) be agreed, and the Monitoring Officer be instructed:
 - (a) To publish the new document on the Council's website;
 - (b) To write to all Members of the authority to:
 - draw their attention to the new local Member Code;
 - advise them of the Committee's expectation that they comply with the new local Code from now on, and that any allegations of breaches of the local Code will be dealt with under the Committee's Rules of Procedure and the Complaints about Councillors document;
 - (c) To write to all the Group Leaders to require them to submit their Group Disciplinary procedures to the Monitoring Officer within 4 weeks of receiving the request;
- (5) That with regard to the position of Independent Person:
 - (a) the recruitment documentation (Appendix D) be agreed, subject to the advert for the appointment of the Independent Person being made more specific about the role by including the information set out in paragraph 3 of the "Notes to Applicants" contained within Appendix D to the report;
 - (b) the Monitoring Officer be authorised to start a public recruitment process for an Independent Person during the current Municipal Year, and in this respect:
 - the Committee Chair and the Monitoring Officer be involved in the selection process for Reading;
 - as an interim arrangement, under the transitional arrangements allowed by the Commencement Order, the position of Independent Person be offered to Mr John Hicks, the outgoing Chair of the Committee, until 30 June 2013;
- (6) That with regard to interests:
 - (a) the new form for the registration of Members' interests (Appendix E) be agreed, and the Monitoring Officer be instructed to send this form to all Members to be completed and returned within 28 days of its circulation, and the returned form to be made available for public inspection and published on the authority's website;

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- (b) the Monitoring Officer be appointed as the authority's Proper Officer, under Section 33(1) of the Localism Act 2011, for the receipt of written requests from Members to grant a dispensation relieving the Member from the restrictions on participating in the discussion or voting on any item of business in which they had a disclosable pecuniary interest;
- (7) That the schedule of complaints for the Municipal Year 2011/12 (Appendix F) be noted;
- (8) That the list of gifts and hospitality registered by Members in the financial year 2011/12 be received (Appendix G);
- (9) That the Chair be invited to present these Minutes to the next Council meeting on 23 October 2012, or to provide a written statement to accompany the Minutes, in order to express to all Councillors any matters of concern identified by the Committee.

(The meeting commenced at 6.30pm and closed at 6.56pm).

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READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

TO:	STANDARDS COMMITTEE		
DATE:	11 JULY 2013	AGENDA ITEM:	2
TITLE:	TERMS OF REFERENCE AND ANNUAL REPORT		
CHAIR:	TINA BARNES		
SERVICE:	LEGAL & DEMOCRATIC SERVICES	WARDS:	BOROUGH-WIDE
LEAD OFFICER:	CHRIS BROOKS	TEL:	0118 937 2602 / 72602
JOB TITLE:	HEAD OF LEGAL AND DEMOCRATIC SERVICES	E-MAIL:	chris.brooks@reading.gov.uk

1. PURPOSE AND SUMMARY OF REPORT

1.1 Further to the Council's Annual Meeting held on 22 May 2013, this report:

- a) notes the powers and duties of the local Standards Committee, set up by the Annual Council Meeting for the Municipal Year 2013/14;
- b) attaches the Standing Orders and local arrangements for the Committee and principles for dealing with complaints about Councillors, as recommended by the Standards Committee on 19 March 2012, and adopted by the Annual Council Meeting on 23 May 2012 for information;
- c) asks the Committee to reconfirm the attached local Member Code of Conduct for the authority, as agreed by full Council on 23 October 2012, which incorporated into the Council's Standing Orders provisions for the exclusion of Members from meetings for items of business in which they have a disclosable pecuniary interest;
- d) notes the appointment of Mr David Comben, at the Annual Council Meeting on 22 May 2013, as the Independent Person for the Council, and to thank the outgoing independent person, Mr John Hicks for his contribution to encouraging high standards of conduct by members of the authority.
- e) seeks the Committee's endorsement for a revised Protocol on Member/ Officer Relations.
- f) attaches the list of gifts and hospitality registered as having been accepted by Councillors during 2012/13.

1.2 Chapter 7 of the Localism Act 2011 ended the statutory standards regime set up by the Local Government Act 2000, and introduced in its place a duty on local authorities to promote and maintain high standards of conduct by Councillors and Co-opted Members, including adopting a local Member code of conduct. The Act also required local authorities to adopt arrangements to deal with allegations that Members have not complied with their local Code of Conduct, and allowed local authorities to

establish a local Standards Committee, and to make Standing Orders relating to aspects of the standards process (Section 31(10)). In the light of recommendations made by the Standards Committee on 19 March 2012, the Annual Council Meeting on 23 May 2012 agreed to establish a local Standards Committee. The Annual Council Meeting on 22 May 2013 decided to continue to establish a local Standards Committee, with the terms of reference and Standing Orders set out in **Appendix A**.

- 1.3 The local Member Code of Conduct is attached at **Appendix B**. This is based on a good practice draft produced by the Association of Council Secretaries and Solicitors (ACScS), which retained those elements of the former statutory Model Code which had not been the subject of significant legal challenge. It also sets out the statutory requirement for Members to register and declare disclosable pecuniary interests, as informed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.
- 1.4 The Standing Orders and Rules of Procedure for the Standards Committee, together with this Committee, form the authority's local arrangements for investigating complaints about Councillors. The local procedure is set out in the "Complaints about Councillors" document, attached at **Appendix C**, which is available on the Council's website.
- 1.5 The Committee is asked to review and endorse the revised Protocol for Member/ Officer Relations for approval by Council and inclusion in the Constitution, as attached at **Appendix D** and explained in para. 5.2.9 below.
- 1.6 The Localism Act 2011 required local authorities to appoint one or more Independent Person with statutory responsibilities to be consulted and to advise on complaints made about Members. The 2011 Act stated that the Independent Person cannot have been a Member of the authority during the preceding five years, but allowed, in the relevant Commencement Order, the appointment of a person who had served as an Independent Member of the Standards Committee, but is no longer a Member, to be appointed as the Independent Person as a transitional arrangement in the first year only, to enable local authorities to recruit an independent Person during 2012-13. .
- 1.7 Chapter 7 of the Localism Act 2011 also changed the law with regard to the registration and declaration of interests by Members. There is still a legal requirement on Members to register and declare interests, but the definition of declarable interests has reverted to the pre-2002 form of "pecuniary" (financial). The Secretary of State issued Regulations defining Disclosable Pecuniary Interests on 6 June 2012. Members of the authority were therefore asked to complete and return a new declaration form, within 28 days, and the completed forms have been published on the Council's website.
- 1.8 The Standards Committee has authority to issue a general dispensation to Members, in accordance with Section 33 of the Localism Act 2011 to release Members from the restrictions in Section 31(4) of the Act. The dispensation is granted to allow Members of the authority with a disclosable pecuniary interest to take part and vote on decisions in certain prescribed circumstances. Following the Annual Council Meeting a delegation to the Monitoring Officer to grant a general dispensation to Members has now been established (see below for more details).
- 1.9 Over the Municipal Year 2012/13, under the new local procedure for dealing with complaints about members, I have not been asked to undertake any investigations.

- 1.10 Over the past Municipal Year there was no change to the Committee's Independent Membership. A recruitment process has been followed for the Independent Person, and the appointment of a new Independent Person - Mr David Comben - was endorsed at the Annual Council Meeting on 22 May 2013. Mr Comben is also the Independent Person for Wokingham Borough Council.
- 1.11 As in previous years, a note setting out the gifts and hospitality registered by Councillors during the Municipal Year 2011/12 is attached at **Appendix E**.
- 1.12 At the Annual Council Meeting, the Council formally adopted a new form of governance. The Council has ceased to operate executive arrangements and has established a new Committee System, which involves four standing committees with delegated decision-making powers. The role of the Standards Committee within this structure is largely unaffected although your attention is drawn to the following relevant parts of the Council's constitution and other documents as attached:
- A: Article 9 - The Standards Committee (terms of reference) and Standing Orders and Rules of Procedure
 - B: Part 5 - Code of Conduct for Members
 - C: Complaints about Councillors document
 - D: Officer/ Member Code of Conduct
 - E: List of Gifts / Hospitality Registered by Councillors 2012/13
- 1.13 The Annual Council Meeting, on 22 May 2013, re-appointed Mrs Tina Barnes, the co-opted Independent Member, as Chair of the Committee for the Municipal Year 2013/14.

2. RECOMMENDED ACTION

- 2.1 That the Committee's terms of reference and new Standing Orders and Rules of Procedure (Appendix A) be noted;
- 2.2 That the local Member Code of Conduct (Appendix B) be noted;
- 2.3 That the Complaints about Councillors document (Appendix C) be noted;
- 2.4 That the revised Protocol for Officer/ Member Relations be recommended for adoption by Council as attached to the report at Appendix D;
- 2.5 That the appointment of Mr David Comben as the Independent Person be noted;
- 2.6 That the Monitoring Officer be authorised to write to the outgoing Independent Person, Mr John Hicks, on behalf of the Standards Committee to thank him for his contribution to maintaining high standards of behaviour in members of the local authority in his capacity as an independent member and independent Chair of the Standards Committee and in the role of Independent Person;
- 2.7 That the Monitoring Officer's delegated authority to grant a dispensation relieving the Member from the restrictions on participating in the discussion or voting on any item of business in which they have a disclosable pecuniary interest in the prescribed circumstances described in paragraph 6.21(1) of the report be endorsed;

2.8 That the list of gifts and hospitality registered by Members in the financial year 2012/13 be received (Appendix E).

2.9 That the Chair, or the Vice-Chair in her absence, be given the opportunity to present the Minutes of this meeting to the next full Council meeting (22 October 2013), and use that meeting to express to all Councillors matters of concern to the Committee, to be identified at tonight's meeting.

3. POLICY CONTEXT

3.1 Standards and conduct were a key theme in the Labour Government's Modernisation agenda for local government, and were specifically addressed in Part III of the Local Government Act 2000, which introduced a statutory standards regime for local government. At the heart of the statutory regime was the National Code of Conduct for Members, which all local authorities had to adopt from 2002, and which all Members had to agree to observe as part of their declaration of acceptance of office.

3.2 The Local Government and Public Involvement in Health Act 2007 introduced local assessment of complaints, by the authority's own Standards Committee. The Council adopted a new Local Assessment procedure in July 2008. Parliament in 2007 also prescribed by Regulation a revised Model Code of Conduct which the Council adopted, with minor additions, on 15 October 2007.

3.3 The Government announced in May 2010 that its planned Localism Bill would include a proposal to 'abolish the Standards Board regime'. The standards part of the Bill was subject to a number of late amendments in the House of Lords, which the Government accepted without detailed review.

3.4 The Localism Act was passed in November 2011. Chapter 7 deals with standards. The Government introduced a Commencement Order in mid-January 2012, to have effect from 31 January 2012. This ended the ability of Standards for England to accept new referrals from that date; and the Board was abolished from 31 March 2012. A further Commencement Order brought into force the remaining parts of Chapter 7 of the Localism Act 2011 from 1 July 2012. Therefore the local elements of the former statutory regime, including statutory standards committees with the power to suspend Councillors, ended on 30 June 2012, and from 1 July 2012, all standards matters have been the responsibility of the local authority, to be handled under the new arrangements set out below.

3.5 In addition, the Secretary of State issued The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 on 6 June 2012 and these also came into effect on 1 July 2012.

4. LOCALISM ACT 2011 - SUMMARY OF CHANGES

4.1 Chapter 7 of the Localism Act made major changes to the standards regime applying to local authorities. As part of these changes, the definition of interest is changed. Instead of personal and prejudicial interests, relating both to financial matters and to well-being, the Act reverts to the pre-2000 definition of *pecuniary* (financial) interest.

4.2 The key features of the Act, in relation to standards, are as follows:

- o the Statutory Instruments which govern the conduct of Members and which prescribe the Model Code of Conduct have been revoked

- the Standards Board (Standards for England) has been abolished, and none of its functions have transferred to other bodies; and the First-tier Tribunal has lost its jurisdiction over the conduct of local authority members.
- Each local authority now has a statutory duty to promote and maintain high standards of conduct by its Councillors and co-opted members.
- the statutory requirement that local authorities must have a Standards Committee has been abolished; however, local authorities must have a local Member Code of Conduct, and adopt arrangements to deal with allegations that members have not complied with their local Code of Conduct; and may establish a local Standards Committee, and make Standing Orders relating to aspects of the standards process (Section 31(10)).
- Local authorities now have discretion over the contents of their local Member code. However, the code must be consistent with the general principles of behaviour in Part 4 of the current code (the *Nolan* Principles): these are -
 - Selflessness
 - integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- The code must also include provisions in respect of Members registering and disclosing their interests - including maintaining a public register of interests.
- Members must register and disclose both pecuniary interests and "interests other than pecuniary interests". The previous statutory definitions of "personal" and "prejudicial" interest disappear.
- Individual local authorities may determine what interests are to be entered in their register. However, the Act requires all Members - including co-opted Members - to register and declare *disclosable pecuniary interests*. The definition of a *disclosable pecuniary interest* has been specified by Regulations made by the Secretary of State in June 2012.
- A *disclosable pecuniary interest* will extend to spouses, civil and common-law partners - but not more widely to relatives, friends or close associates.
- Members must register pecuniary interests within 28 days of election or when they become aware of or disclose the interest.
- An interest that is recorded in the public register need not be declared at a meeting, but if Members have a *disclosable pecuniary interest*, then they cannot take any part in the discussion or decision-making at the meeting (so therefore in practice they will have to disclose it).
- An authority may make Standing Orders to provide for the exclusion from meetings of Members who have a *disclosable pecuniary interest*.

- 4.3 The authority must put in place arrangements to investigate and decide on allegations of breaches of its code. However, the Act has abolished the statutory standards regime established by the Local Government Act 2000. Therefore there is no longer any statutory provision for a local authority to suspend a Member who has been found to have acted in breach of the code.
- 4.4 These arrangements must include the appointment of an 'Independent Person' whose views the authority must consider before it makes a decision on an allegation that it has decided to investigate; and whose views may be sought by Councillors who are the subject of an allegation. The 'Independent Person' cannot be a current Member or officer of the authority, nor have served in either capacity during the five years immediately preceding their appointment. However, the Commencement Order issued in 6 June 2012 included transitional arrangements which allow a person who was a Co-opted Member of the Standards Committee at any time over the previous five years, but is no longer a member of the Committee, to be appointed at the authority's Independent Person up to 1 July 2013.
- 4.5 An allegation that a Member has failed to disclose a known pecuniary interest will be handled differently. The Localism Act specifies that Members will commit an offence if they fail to disclose a known pecuniary interest and/or participate in the discussion and vote without reasonable excuse; or provide false or misleading information about their interest. The offence will be heard in court. The penalties available to the court are:
- o A fine of up to £5,000
 - o Disqualification of the person from being a Member of the authority, or any other authority, for up to 5 years

5. LOCAL STANDARDS ARRANGEMENTS

5.1 General

- 5.1.1 The Localism Act 2011 has had the effect of returning local government to the situation before the Local Government Act 2000 and the introduction of the statutory standards regime from 2002. In this regard, the Council first set up a local Standards Panel in 1999. It did not adopt a formal Member Code of Conduct until required to do so, in 2002. Instead the Standards Committee adopted principles for dealing with complaints that were flexible, depending on the source of the complaint (ie public, other Councillors, staff), but informed by the authority's (then) three-stage complaints process for dealing with complaints about services. The starting point in each case was that the complaint should normally be referred at the first stage to the Leader of the Councillor's Group to be investigated under the Group's own disciplinary procedure.
- 5.1.2 The report to your meeting of 19 March 2012 reviewed options for setting up a local Standards Committee and how complaints about Councillors might be dealt with, with reference to the arrangements and Standing Orders operated by the Council before 2002. In these regards you agreed to make the following recommendations to the Annual Council Meeting on 23 May 2012:
- (a) adopt a local Member Code of Conduct for the Council and arrangements to promote and maintain high standards of conduct by Members, to come into effect from 1 July 2012;

- (b) base the local Member Code of Conduct on the current Model Code, modified to include revised reference to the updated Nolan Principles set out in the Localism Act 2011, and the registration and declaration of pecuniary and non-pecuniary interests;
 - (c) adopt arrangements to include:
 - (i) a local Standards Committee, with terms of reference and Standing Orders based on those adopted for the predecessor Standards Panel in 1999, which were set out in (...) the report, which would be updated to reflect the requirements of the Localism Act 2011;
 - (ii) a preliminary filter stage by the Monitoring Officer (where the complaint may be rejected on the grounds set out in (...) the report or an informal local resolution reached) followed by a flexible, three-stage Member complaints process as described below:
 - Stage 1: reference to Councillor's Group Leader to be dealt with under Group disciplinary process;
 - Stage 2: investigation commissioned by Chief Executive / Monitoring Officer;
 - Stage 3: investigation report to public Standards Committee;
 - (iii) Standing Orders and principles for dealing with complaints about Councillors for the local Standards Committee to be based on those adopted for the predecessor Standards Panel, in 1999;
 - (iv) continuing to have (independent) co-opted members of the local Standards Committee, subject to the number of co-opted members not exceeding one third of the Panel's total membership, and the minimum requirement being one co-opted member;
 - (v) appointing Mrs Tina Barnes to continue to serve on the successor local Standards Committee as a co-opted Member;
 - (vi) appointing a co-opted member to be the Chair of the successor local Standards Committee in continuation of the current practice.
- 5.1.3 These arrangements were adopted by the Annual Council Meeting in May 2012, and the Council agreed to continue these arrangements at its Annual Meeting on 22 May 2013.

5.2 Member Code of Conduct

- 5.2.1 Section 27 of the Localism Act 2011 places a duty on local authorities to promote and maintain high standards of conduct by Councillors and co-opted Members of the authority. Section 27(2) requires the local authority to adopt a code dealing with the conduct of Councillors and co-opted Members when they are acting in those capacities.
- 5.2.2 Section 28 of the Localism Act deals specifically with the Code of Conduct. Under para. (1), the adopted Code must be consistent with the general principles of public life set out above. These were first stated by the Committee for Standards in Public Life (the Nolan Committee), which were repeated in the White Paper *Modern Local Government: In Touch with the People*, issued in 1998.

- 5.2.3 Under Sections 28(4) and (6), the authority must put in place arrangements under which any allegation of a failure by a Councillor or co-opted member to comply with the local Code of Conduct must be dealt with. This includes both the investigation and taking a decision on such allegations.
- 5.2.4 The Code must also include specific provision for the register and disclosure of interests, and in particular pecuniary interests. Under Section 30(3) of the Localism Act, the Secretary of State issued Regulations in June 2012 to specify the definition of a disclosable pecuniary interest.
- 5.2.5 The former statutory (Model) Code is a known and public document of reference. Given its statutory basis, over the 10 years of the Standards Board's existence, the Tribunal and the courts have defined aspects of its interpretation. However, in recent years, some court interpretations have not always supported the guidance previously issued by the Standards Board: this has been the case recently particularly with regard to bringing your office or authority into disrepute.
- 5.2.6 The Council has adopted a local code from 2012. Under Section 28(5), the Localism Act allows a local authority to revise the existing Code of Conduct, or adopt its own replacement. In either case, the code has to include the provisions that the authority considers appropriate for the registration and disclosure of interests (Section 28(2)).
- 5.2.7 The document attached at **Appendix B** was adapted from a version provided by ACSeS, and based on the former Model Code, but modified in the following ways:
- Specifically including the Nolan Principles, and having an appendix providing guidance on compliance with them;
 - Removal of reference to bringing your office or the authority into disrepute;
 - Making clear that it applies only to when the Member is acting in their role as a Councillor or Co-opted member (and therefore not to their private life);
 - Introducing a reference to complying with the Bribery Act 2010;
 - Introducing a provision not to make vexatious or malicious complaints about other persons.
- 5.2.8 The local Code also includes specific provisions on the registration and disclosure of interests, including pecuniary (financial) interests, and the exclusion from meetings of Members who have a disclosable pecuniary interest. In this regard, Section 31(4) of the Localism Act 2011 prevents Members who have a disclosable pecuniary interest in an item of business being discussed at a meeting from participating in the discussion or voting on that item of business; whilst Section 31(10) allows local authorities to make Standing Orders to exclude such Members from the meeting whilst the discussion and vote on the item of business takes place.

5.3 Protocol on Member/ Officer Relations

- 5.3.1 This is a useful document to be read in conjunction with the Member Code of Conduct and is set out in Part 5 of the Council's Constitution. The document provides guidance on the smooth management of the Council by describing the relative roles and responsibilities of the Councillors and Officers with the intention of enabling them to carry out their roles with certainty and confidence.
- 5.3.2 The Protocol has been amended this year to reflect the adoption of a committee system, of governance. The opportunity has been taken to update the Protocol further to include reference to the two issues set out below. A copy is attached to the

report at **Appendix D** for endorsement prior to its submission to full Council for approval.

- 1) Visits by Councillors to Council premises outside the Civic Offices, to inspect Council equipment, or to observe the provision of Council Services on site or within the community. The Protocol now makes it clear that such visits must be the subject of a written request to the responsible Director or Head of service, organised by that officer, and accompanied by a service manager.
- 2) Working with Councillors on non-Council business. The opportunity has been taken to include in the Protocol advice issued by the Monitoring Officer to all Councillors in 2009, and included in the Councillors' Handbook, to the effect that Councillors who contact officers on personal or business grounds must make clear the separation between their Councillor role and their personal / business role, and officers should respond accordingly.

5.4 Local Standards Committee - Standing Orders and Operating Procedures and Principles for Dealing with Complaints

- 5.4.1 Unlike the Local Government Act 2000, the Localism Act 2011 does not include specific statutory provisions for Standards Committees. However, Section 28(6) of the Localism Act 2011 requires a local authority to have in place arrangements under which allegations about Councillors and co-opted members can be investigated. These arrangements can include a local Standards Committee.
- 5.4.2 In the absence of specific statutory provision in the 2011 Act, this local Standards Committee has been set up, by full Council, as a committee under Section 101(a) of the Local Government Act 1972. It is therefore subject to the statutory provisions concerning proportionality and access to information as any other Committee of the authority.
- 5.4.3 The terms of reference and operating arrangements of the Standards Committee were agreed by the Annual Council Meeting on 23 May 2012, and are set out in Article 9 of the Constitution; they are attached for reference at **Appendix A**.
- 5.4.4 The powers and duties of the local Standards Committee, and its Standing Orders, have been cross-referenced both to those of the former statutory committee, and the Council's Standards Panel that preceded this. There is a significant degree of continuity between these documents, as set out in Article 9 of the constitution.
- 5.4.5 The Standards Board, in 1999, adopted the following principles for dealing with complaints about Councillors, through a three-stage complaints process, which the Committee on 19 March 2012 agreed should form the basis for the new local system. The process is preceded by a filtering stage undertaken by the Monitoring Officer. It is summarised in the "Complaints about Councillors" document, at **Appendix C**. The stages are as follows:

Initial Filter Monitoring Officer to check whether the complaint provides evidence that the Member may have acted in a way that has breached the local Code

Stage 1 Reference to Member's Group Leader for investigation under the Group disciplinary procedure

- Stage 2 Investigation through a formal Council process (if considered appropriate by the Monitoring Officer in consultation with the Independent Person)
- Stage 3 Report to Standards Committee IF the Monitoring Officer, in consultation with the Independent Person, considers that a serious breach of the local Code has occurred.

5.5 Sanctions

- 5.5.1 The Localism Act 2011 abolished the statutory standards regime set up by the Local Government Act 2000. Therefore the range of sanctions prescribed by the 2000 Act are no longer available. This means that a local Standards Committee cannot suspend, or partially suspend, a Councillor for up to six months, or require the Councillor to provide a written apology, or to undertake training or conciliation.
- 5.5.2 The lawful sanctions that are available to the local Standards Committee, therefore, are those that were available to a committee set up before the 2000 Act, and they must be exercised by the Committee in a lawful and proportionate manner with due regard to the particular facts and circumstances of the case. They amount to:
- A formal letter to the Councillor found to have breached the code
 - A formal censure motion
 - A formal request to the Councillor's Group Leader to replace him/her as a member of a committee or meeting
- 5.5.3 The Committee meeting will be held in public (unless confidential or exempt information is being considered), and therefore will carry the informal sanction of bad publicity. The Committee may also issue a press release setting out its conclusions. The Committee minutes will be a public document, and published on the Council's website.
- 5.5.4 The Committee could suggest to a Councillor and/or the relevant Group Leader that the Councillor should provide a written apology and/or undertake training or conciliation. However, it will no longer have the power to require compliance.
- 5.5.5 The newly-constrained legal basis of the local Standards Committee - and therefore of the authority - will have the effect of placing greater responsibility for ensuring compliance by Councillors with the duty to promote and maintain high standards of conduct with their political Group, and in particular the Group Leader and Whip. This is why stage 1 of the complaints procedure is for the Monitoring Officer to refer complaints which s/he considers s/he cannot resolve informally to the Group Leader at stage 1 of the complaints process, to give the Group the opportunity of remedying the complaint before it becomes the subject of a more formal investigation.

5.6 Independent Person

- 5.6.1 The Localism Act 2011 requires the local authority, as part of its arrangements, to appoint at least one Independent Person (IP), with the following responsibilities:
- The authority must seek the IP's views, and take them into account, before making a decision on an allegation that it has decided to investigate
 - The authority may also seek the IP's views in other circumstances
 - A Member who is the subject of an allegation may seek the IP's views

- 5.6.2 Therefore, under the three-stage procedure suggested in this report, the Monitoring Officer must seek the IP's views before taking a report on a complaint to the Standards Committee at stage 3; and may do so at an earlier stage in the process, such as when receiving the response of the Group Leader at stage 1, and/or instituting an investigation at stage 2.
- 5.6.3 Section 28(8) sets out the process by which an authority must appoint its IP. This follows the (former) statutory process for appointing non-Councillor members of the (old) Standards Committee. It has the following features:
- The appointment must be made by full Council - it cannot be delegated
 - The IP cannot be a relative or close friend of a serving Member or officer of the authority
 - The vacancy for the IP must be advertised to the public, and the person appointed must have submitted an application to fill the vacancy
 - The IP, when appointed, may be paid Special Responsibility Allowance in respect of their duties as IP, and this does not affect his/her independence of the authority
- 5.6.4 Under Section 28(8), the IP cannot be a person who has been a Member or officer of the authority during the five year period before his/her appointment as the independent person. Therefore, the IP should not be an independent (non-Councillor) member of the old (statutory) standards Committee. However, the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 introduced a transitional arrangement for the appointment of the Independent Person during the first 12 months, by which an authority could appoint as its Independent Person any person who was, but was no longer, a Member of its Standards Committee during the five years up to 30 June 2012. This did not include current Members of the authority. This arrangement only applied in relation to appointments made before 1 July 2013.
- 5.6.5 Under the transitional arrangements in the Commencement Order, Mr John Hicks - the former Chair of the statutory, Standards Committee until 2012 - was appointed to be the authority's Independent Person as an interim arrangement for the 2012/13 Municipal Year, until a new Independent Person had been recruited and appointed by full Council.
- 5.6.6 The recruitment exercise prescribed in the Localism Act has been followed to appoint a new Independent Person to take over from Mr Hicks. A public notice seeking expressions of interest was placed in February 2013, which attracted two applications. Following his interview, Mr David Comben's appointment as the Independent Person was recommended to, and duly accepted by, Council at its Annual Meeting on 22 May 2013.
- 5.6.7 At your meeting on 19 March 2012, you supported the payment of a modest Special Responsibility Allowance to the Independent Person and Independent Chair of the Committee. In this respect, the Council's Scheme for Members' Allowances for the current financial year (2013/14) has remained unchanged and includes the following provisions:
- Chairs of Committees - Tier 2 payment - £2,147 pa
 - Independent Person - Tier 3 payment - £1,074 pa
- 5.6.8 In addition, Co-opted Members of the Standards Committee may be paid a daily allowance for attending meetings of the Committee set up to hear complaints about

Members, the allowance being the daily rate equivalent of the councillors' Basic Allowance. This equates to £32.62 a day.

5.7 Committee Membership

5.7.1 The Committee's Standing Orders (see Appendix A) say that the Standards Committee will be composed of:

- Councillors, subject to each registered political group on the Council having an entitlement to at least one seat;
- At least one, and no more than three, co-opted Independent Member(s) (persons who are not a Councillor or an officer of the Council or who are not disqualified from being a Member of a Committee of the Council under Section 104 of the Local Government Act 1972;
- each political group may nominate named substitute members and those Councillors may attend in the place of appointed Councillors provided that they have received training similar to that received by members of the Committee;
- no more than one Lead Councillor; and the Leader may not be a member of the Standards Committee.

5.7.2 The Independent Member(s) will be co-opted as Members of the Committee appointed under Section 102(4) of the Local Government Act 1972.

5.7.3 In the last Municipal Year (2012-13) the Committee's independent Member was Tina Barnes (appointed 2008) who was also appointed to be the Chair of the Committee. The Annual Council Meeting, on 22 May 2013, re-appointed Mrs Barnes to the Committee as a co-opted member, and also re-appointed her as Chair of the Committee for the current Municipal Year.

5.7.4 For the Municipal Year 2012-13, the Councillor members of the Committee were Councillors Benson, D Edwards, K Edwards, Livingston, McElligott, Rynn, Skeats, Terry, White and Williams, with Councillors Anderson, Eastwood and Rye as the named substitutes. The new members appointed for 2013/14 are Councillors Ayub, D Edwards, McElligott, Orton, Rye, Skeats, Vickers and Woodward with Councillors Eden, Duveen and Stanford-Beale being the Standing Deputies.

6. INTERESTS

6.1 Chapter 7 of the Localism Act 2011 has changed the law with regard to the registration and declaration of interests by Members. There is still a legal requirement on Members to register and declare interests, but the definition of declarable interests has reverted to the pre-2002 form of "pecuniary" (financial).

6.2 The Secretary of State issued The Relevant Authorities (Disclosable Pecuniary Interests) Regulations on 6 June 2012.

6.3 Under Section 30 of the 2011 Act, Councillors - and co-opted Members - must register pecuniary interests that are known to them in the following circumstances:

- within 28 days of becoming a Councillor or co-opted Member of the authority
- Within 28 days of becoming aware of the existence of the interest
- Within 28 days of disclosing the existence of an un-registered pecuniary interest at a meeting of the authority

- 6.4 Members must also notify the Monitoring Officer of any changes to a registered pecuniary interest, again within 28 days of their becoming aware of the change.
- 6.5 Members may give the Monitoring Officer advance notice of a disclosable pecuniary interest that they intend to register within the 28 day period.
- 6.6 Under Section 29 of the 2011 Act, the register of Members' interests must be available for public inspection, and also published on the authority's website. This has been the Council's practice for a number of years.
- 6.7 Under Section 31 of the 2011 Act, Members no longer need to declare an interest in an item of business at a meeting if they have already registered this interest in the published register (Section 31(4)). However, if they have a disclosable pecuniary interest, they cannot take part in the discussion or decision-making on that item of business at the meeting, and so in practice they will have to disclose the interest. In addition, as a result of past case law (in particular the *Richardson v North Yorkshire* judgment), a court will expect Members to leave the meeting room when the business in which they have a disclosable personal interest is being discussed. Under Section 31(10) of the 2011 Act, the local authority may make provision in its Standing Orders for the exclusion from a meeting of a Member with a disclosable pecuniary interest in the item business being discussed.
- 6.8 A Member with a disclosable pecuniary interest in an item of business at a meeting may continue to be present at the meeting to make representations, answer questions and give evidence before leaving, subject to there being equivalent public speaking rights.
- 6.9 Under Section 30(3), the Localism Act 2011 places a duty on Members to register and disclose known pecuniary interests held by "relevant persons". These are the Members' spouse, civil partner, or any person with whom the Member is living as husband and wife or as civil partners. Therefore, the Act extended the legal requirement for public registration to include pecuniary interests held by spouses and partners, which in turn must be open for public inspection and published on the Council's website.
- 6.10 The 2012 Regulations in practice follow the previous Orders which implemented the relevant provisions of the 2000 Local Government Act, and require Members to register the same things. The main differences are as follows:
- The Localism Act 2011 has made the circumstances where pecuniary interests must be registered more complicated than did the 2000 Act.
 - As mentioned above, the duty to register now extends to known pecuniary interests held by a "relevant person" - ie spouse or partner
 - It is not clear whether the Member should register the extent / value of the interest as well as its existence. The old registration (2000) form specifically states that Members did not need to show the extent of their interest.
 - The statutory requirement to register and declare no longer extends to other family members or close associates; and no longer uses the expression "relates to or is likely to affect" in relation to the holding of a disclosable pecuniary interest

- There is no longer a duty to register gifts, or to register interests in public or charitable bodies where the Member has a position of general control or management.

6.12 On the last two bullet points above, there is a separation between Disclosable Pecuniary Interests (which have to be registered), and non-statutory (personal) interests, where there is not a duty to register but the Member is actively encouraged to do so in the interests of transparency and to avoid allegations of bias. It also encourages Members to declare at meetings interests which affect other family members or close associates, again in the interests of openness, transparency and the avoidance of bias; and to not to participate in the discussion or vote and to leave the meeting if the interest is pecuniary.

Bias and Predetermination

6.13 It is important to separate personal interests from the common law principles of bias and predetermination. These may still apply, even if there is no personal interest:

- An *interest* is personal to the Member (and a “relevant person”) and any penalty will apply to the Member. A failure to disclose a personal interest will not invalidate the authority’s decision-making process.
- Bias is “an attitude of mind which prevents the decision maker from making an objective determination of the issue he has to resolve”. This could include membership of a body that has lobbied for or against the issue being decided. The test of bias is whether the relevant circumstances “would lead a fair-minded and informed observer to conclude that there was a real possibility, or a real danger, the two being the same, that the tribunal was biased”.
- Predetermination is making up your mind in advance of taking the decision. This applies particularly to planning and licensing, where Councillors must consider on merits of individual case as presented to committee. Councillors cannot take part in decisions on individual applications if they have already made up their mind. However, predisposition is not the same as predetermination.
- Councillors who may have predetermined their position on a planning or licensing application may still attend meeting to speak on the application through meeting’s normal procedures, and need not leave the meeting. However, they cannot take part in the debate or vote on the application.

6.14 The legal concepts of *Bias* and *Predetermination* are normally linked. At the heart of both is a common law requirement for the decision-maker to have an open mind when making the decision. In either case, redress may be sought through the courts against the Council, not the Member, and if a court finds bias or predetermination, the failure will be by the authority and the court in consequence may set aside the decision made by the authority. The Local Ombudsman may also find maladministration causing injustice by the authority and require the authority to take remedial action, including paying compensation.

6.15 Section 25 of the Localism Act 2011 introduced a new definition of bias and predetermination, which came into effect on 15 January 2012. The Localism Act does not change the common law principle that a decision maker (ie Member) must have an open mind when taking a decision. What it does is to introduce a clarification in relation to any allegation or complaint that a decision-maker appeared to have a closed mind when making a decision which in turn raises a issue about the validity of

the decision taken by the authority. The clarification is that a decision-maker should not be taken to have had a closed mind when taking the decision *just because* [my italics] s/he had previously done anything that directly or indirectly indicated what view the decision-maker took, or might take, in relation to a matter relevant to the decision.

- 6.16 In summary, the courts will continue to require that Members taking a decision, in particular on a planning or licensing matter, did not have a closed mind when they took the decision, but will not expect a Member to have an empty mind.

Dispensations

- 6.17 Under Section 33 of the Localism Act 2011, the authority may grant a dispensation to Members who have a disclosable pecuniary interest in an item of business being conducted at a meeting of the authority at which they are present, to allow them to participate in the discussion and vote on the item of business.

- 6.18 In such cases, the Member must make a written request for a dispensation to a Proper Officer, who is the Monitoring Officer. The Monitoring Officer will then put the request before the Standards Committee, to which the Annual Council Meeting on 23 May 2012 delegated the authority to determine requests for dispensations.

- 6.19 Under Section 33(2) of the Localism Act 2011, a dispensation may only be granted where the authority (ie the Monitoring Officer and the Committee) consider, having had regard to all relevant circumstances, that :

(a) without the dispensation the number of persons prohibited from taking part in the item of business would be so great a proportion of the meeting to impede the transaction of the business

(b) without the dispensation the representation of different political groups at the meeting would be so upset as to alter the likely outcome of any vote relating to the item of business

(c) granting the dispensation is in the interests of persons living in the authority's area

(d) each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive

- 6.20 The authority to grant a dispensation to a Member with a disclosable pecuniary interest can also be delegated to an officer in accordance with the prescribed circumstances.

- 6.21 The Annual Council Meeting on 22 May 2013 agreed to establish a delegation to the Monitoring Officer to grant a general dispensation to members of the authority in the following circumstances:

(1) That a general dispensation be granted to all Members of the authority to take part and vote on decisions related to the functions of your authority in respect of:

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting Council Tax or a precept under the Local Government Finance Act 1992;
- (vii) any other business might reasonably be regarded as affecting the financial position of the Member and/or his/her spouse or partner to a greater extent than the majority of other Council Tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

(2) That the general dispensation apply for four years, subject to its being renewed each year at the Annual Council Meeting.

6.22 A dispensation must be granted for a specified period of time, which may not exceed four years.

7. COMPLAINTS

7.1 Complaints to Monitoring Officer

7.1.1 Over the Municipal Year 2012/13, I received no formal complaints requiring referral to the Group Leader to take through the Group procedure.

7.1.2 Consequently, I have not needed to undertake any investigations in 2012/13.

7.2 Local Codes of Conduct and Protocols

7.2.1 The constitution contains the following protocols of relevance to Councillors:

- Planning code of conduct
- Protocol on Member:Officer Relations
- Council Publicity and Elections
- Social Media Protocol
- Working with Reading's MPs

7.2.3 In addition, during 2005 my predecessor and I issued guidance to Councillors on interests in licensing matters, which we updated during 2009/10 due to legislative changes.

7.3 Comments from Chair

7.5.1 I have shared this report with Mrs Barnes as the Chair of the Committee.

8. OPERATIONAL ISSUES

8.1 Gifts and Hospitality

- 8.1.1 The Register of Gifts and Hospitality offered to Councillors in the financial year 2012/13 attached at **Appendix E**. Under para. 7.9 of the Code of Conduct, Members have to give me notification of all gifts and hospitality with a value of over £25. There is an additional column showing the value of the gift. The Councillor Services team also adds all declared gifts to the Councillor's personal register of interests entry.
- 8.1.2 The Localism Act 2011 has ended the statutory requirement for Members to register and declare gifts and hospitality. However, the Council's continues to encourage Members to register gifts and hospitality that they receive in their role as Members, in the interests of openness and transparency.

9. CONTRIBUTION TO STRATEGIC AIMS

- 9.1 One of the Council's strategic aims is to promote the participation of Reading people in local democracy through effective consultation and communication. This is only likely to be successful if people have confidence in the integrity of the Council and its members. The local Standards Committee will assist in building and maintaining that confidence.

10. EQUALITY IMPACT ASSESSMENT

- 10.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2 It is not considered that an Equality Impact Assessment (EIA) is relevant to the decisions arising from this report. This is because the report concerns the adoption, by the Council and this Committee, of new operating arrangements to comply with changes in legislation.
- 10.3 The former Model Code of Conduct included a general obligation on Members not to do anything which may cause the authority to breach any of the equality enactments as defined in Section 33 of the Equality Act 2006. The local Code attached at **Appendix C** repeats this obligation, and makes clear that this means that Members must not discriminate against people on grounds of race, gender, disability, religion or belief, sexual orientation and age. The code also has appended a list of laws conferring special obligations on Members which includes the equality enactments.

11. LEGAL IMPLICATIONS

- 11.1 The standards regime applies to voting Members of Council and Committees, including both Councillors and non-elected Members.
- 11.2 Chapter 7 of the Localism Act 2011 (Sections 26 to 37) ended the statutory requirement for local authorities to have a Standards Committee, revoked the Model Code of Conduct, and abolished Standards for England and the current statutory facility for disqualification through the First-Tier Tribunal. It replaced these by a duty

on local authorities to promote and maintain high standards of conduct by Members, and a requirement to adopt a local code of conduct, and arrangements for investigating allegations that Members had not complied with the local code. Local authorities are able to continue to appoint Standards Committees, but these will not have any statutory status, and there will be no statutory basis for sanctions in cases of breach. The exception to this is where a Member intentionally fails to declare a declarable pecuniary interest, in which case the Member may be found guilty of a criminal offence, and may be fined, and disqualified by the court from serving as a Member for up to five years.

- 11.3 Chapter 7 was enacted by Commencement Order (Regulation). The relevant Order ending the national standards regime came into effect on 31 January 2012. The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012, which changed the local regime, was issued on 6 June 2012 and came into effect from 1 July 2012. The Commencement Order also provided for transitional arrangements in respect of the appointment of the Independent Person, as set out in 5.6.4 above.
- 11.4 The Secretary of State issued the Relevant Authorities (Disclosable Pecuniary Interests) Regulations, dealing with the definition, registration and declaration of pecuniary interests, also on 6 June 2012.
- 11.5 Under Section 28(13-14) of the Localism Act 2011, the function of adopting, revising or replacing a local code of conduct may only be discharged by full Council, and it may not be delegated to the Standards Committee or any other body or person.
- 11.6 As explained above, in the absence of specific statutory provision in the 2011 Act, the local Standards Committee has been set up, by full Council, as a committee under Section 101(a) of the Local Government Act 1972. It is therefore subject to the statutory provisions concerning proportionality and access to information as any other Committee of the authority.

12. FINANCIAL IMPLICATIONS

- 12.1 Subject of course to the number of allegations made against Members of the authority, local investigation and determination under the former statutory procedure generated additional work for the Monitoring Officer and any other officer who undertook a formal investigation. In addition, the Standards Committee was required to set up sub-committee meetings to assess all complaints received, and to hear the individual allegations, which had associated costs of administrative support.
- 12.2 Under the non-statutory local arrangements set out in Appendices A and B, the Council and this Committee has moved back to a more informal, local system, where the first stage focus is on complaints about individual Councillors being pursued within political groups, and any subsequent investigations taking place within a process which is appropriate to the individual complaint, not governed by restrictive external processes, and less resource intensive.
- 12.3 There is no specific budget line in the Council's estimates for standards, or the costs of investigating complaints about Councillors.

13. BACKGROUND PAPERS

Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 (SI 2012 - 1463)
The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 - 1464)

Article 9 – The Standards Committee

LOCAL STANDARDS COMMITTEE - TERMS OF REFERENCE AND STANDING ORDERS

9.1 Standards Committee

9.1.1 The Localism Act requires local authorities to adopt arrangements to deal with allegations that Members have not complied with their local code of conduct. It also allows local authorities to make Standing Orders relating to aspects of the standards process (see Section 31(10)).

9.1.2 As an integral part of these arrangements, the Council has established a Standards Committee, under the provisions of Section 102(1) of the Local Government Act 1972.

9.1.2 The Standards Committee may establish sub-committees under the same provisions.

9.2 Composition

(a) Political Balance

9.2.1 The Councillor membership of the Standards Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

(b) Membership

9.2.2 The Standards Committee will be composed of:

- Councillors, subject to each registered political group on the Council having an entitlement to at least one seat;
- At least one, and no more than three, co-opted Independent Member(s) (persons who are not a Councillor or an officer of the Council or who are not disqualified from being a Member of a Committee of the Council under Section 104 of the Local Government Act 1972
- each political group may nominate named substitute members and those Councillors may attend in the place of appointed Councillors provided that they have received training similar to that received by members of the Committee
- the Leader may not be a member of the Standards Committee

(c) Independent Member(s)

9.2.3 The Independent Member(s) will be co-opted as Members of the Committee appointed under Section 102(4) of the Local Government Act 1972.

(d) Chairing the Committee

9.2.4 The Council will appoint a Member of the Committee to be its Chair.

(e) Quorum

9.2.5 The quorum of the Standards Committee shall be three Members, subject to Councillors from more than one political group being present.

9.2.6 The quorum of any sub-committee of the Committee shall be three members.

(e) **Voting**

9.2.7 Decisions by the Standards Committee shall be reached by a simple majority vote.

9.2.8 Any two Members of the Committee present at the meeting where a decision is taken shall be able to require any matter considered by the Committee to be referred for investigation to the Council's Chief Auditor or the Council's External Auditors.

(f) **Calling of Meetings**

9.2.9 Meetings of the Standards Committee may be called by:

- the Head of Paid Service, or
- the Monitoring Officer, or
- the Leader of the Council, or
- the Leader of any registered political Group on the Council, or
- the Chair of the Standards Committee, or
- a petition signed by at least one fifth of the Councillors serving on the Council (ie ten Councillors)

9.2.10 The meeting will be held in public, under the access to information provisions of Section 100(A) of the Local Government Act 1972. The press and public may be excluded from meetings only where confidential or exempt information is being considered, as defined in the Council's Access to Information Procedure Rules (in part 4 of the Constitution), and subject to the passage of the necessary resolution.

9.3 Role and Function

9.3.1 The general terms of reference of the Standards Committee are to be:

1. To advise and support the authority in meeting its statutory duty of promoting and maintaining high standards of conduct by Councillors and co-opted Members of the authority, under Section 27 of the Localism Act 2011
2. To assist Councillors and co-opted members of the Council to observe the local Member Code of Conduct, and to promote standards of behaviour and conduct by Members which is consistent with the seven principles of public life identified in the First Report of the Committee on Standards in Public Life (the *Nolan* Committee) and repeated in Section 28 of the Localism Act 2011, as follows:
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
3. To receive and consider reports from the Monitoring Officer and Independent Person made under Stage 3 of the Council's Member complaints process, concerning allegations made about Members involving a breach of the local Member Code of Conduct, and/or other Council protocols, in particular the Planning code of conduct and the Protocol on Member/Officer Relations.
4. To monitor the probity and propriety of all aspects of Council business.

5. To scrutinise the conduct of individual Members, political groups and informal groupings, and to issue reprimands to individual Councillors or groups of Councillors in circumstances where breaches of the law, codes of practice or other conduct considered inappropriate have been established.
6. To advise the Council on the adoption or amendment of local codes of conduct and to monitor their effectiveness.
7. To make recommendations to the Council on any matters or issues relating to probity, propriety and general conduct where the Panel considers it appropriate to do so in the interests of maintaining the highest standards in the carrying out of the Council's functions.
8. To refer any matter considered by the Committee for investigation by the Council's Chief Auditor (or other appropriate officer) or the Council's external auditors as it sees appropriate; the Committee may also refer any such matter to the relevant Political Group(s) for their consideration.
9. To advise, train or arrange to train Councillors, co-opted members and church and parent governor representatives on matters relating to the local Member Code of Conduct and local protocols;
10. To promote, oversee and monitor the register of interests of Councillors and co-opted Members of the authority, and their disclosure and declaration of disclosable pecuniary interests;
11. To grant dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct.
12. To consider any other matters as the Council refers to the Committee from time to time.

9.4 Sanctions

- 9.4.1 The Localism Act 2011 has abolished the statutory standards regime set up by the Local Government Act 2000. Therefore the range of sanctions prescribed by the 2000 Act are no longer available. The local Standards Committee will no longer be able to suspend, or partially suspend, a Councillor for up to six months, or require the Councillor to provide a written apology, or to undertake training or conciliation.
- 9.4.2 The lawful sanctions that are available to the local Standards Committee are those that are generally available to a committee set up under the Local Government Act 1972, and they must be exercised by the Committee in a lawful and proportionate manner with due regard to the particular facts and circumstances of the case. They amount to:
 - A formal letter to the Councillor found to have breached the code
 - A formal censure motion
 - A formal request to the Councillor's Group Leader to replace him/her as a member of a committee or meeting
- 9.4.3 The Committee meeting will be held in public (unless confidential or exempt information is being considered), and therefore will carry the informal sanction of bad publicity. The Committee may also issue a press release setting out its conclusions. The Committee minutes will be a public document, and published on the Council's website.

9.4.4 The Committee could suggest to a Councillor and/or the relevant Group Leader that the Councillor should provide a written apology and/or undertake training or conciliation. However, it will no longer have the power to require compliance.

9.5 Independent Person

9.5.1 The Localism Act 2011 requires the local authority, as part of its arrangements, to appoint at least one Independent Person (IP), with the following responsibilities:

- o The authority must seek the IP's views, and take them into account, before making a decision on an allegation that it has decided to investigate
- o The authority may also seek the IP's views in other circumstances
- o A Member who is the subject of an allegation may seek the IP's views

9.5.2 Under the three-stage procedure for dealing with complaints about Members, set out below, the Monitoring Officer must seek the IP's views before taking a complaint to the Standards Committee at stage 3; and may do so at an earlier stage in the process, such as when receiving the response of the Group Leader at stage 1, and/or instituting an investigation at stage 2.

9.5.3 Under Section 28(8) of the Localism Act 2011, the IP cannot be a person who has been a member or officer of the authority during the five year period before his/her appointment as the independent person. Therefore, the IP cannot be a non-Councillor member of the old (statutory) standards Committee.

9.6 Procedure for Dealing with Complaints

9.6.1 The process by which a complaint against a Member will be dealt with will vary slightly, depending on the sources and nature of the complaint. All complaints received against Members regardless of how they are dealt with, will be kept in a register held by the Monitoring Officer that will record details of the complaint and its resolution.

9.6.2 The Monitoring Officer will submit an annual report to a public meeting of the Standards Committee, including an anonymised schedule of complaints made about Councillors over the preceding Municipal Year.

9.6.3 The removal of the statutory powers of Standards Committees to invoke sanctions under the Local Government Act 2000 will place greater emphasis on political Group disciplinary processes - and in particular the Group Leader and Whip - to promote and maintain high standards of conduct, and to ensure that Group Members comply with the local Member Code of Conduct and other agreed Council protocols, and to register and declare disclosable pecuniary interests.

9.6.4 The Council will publish its local Procedure for dealing with Complaints about Councillors on its website. This will include the list of matters which will normally be rejected, as set out in (2) below.

Initial Filter

- (1) All complaints about Members not complying with the local Code of Conduct be referred straight away to the Monitoring Officer, who will record them
- (2) The Monitoring Officer be authorised to review the complaint, and take one of the following courses of action:
 - a. Reject the complaint on the following specified grounds:
 - o Anonymous complaints

- o Complaints about actions that occurred more than 12 months before;
 - o Complaints about comments made in the cut and thrust of political debate;
 - o Minor complaints that s/he sees as trivial, vexatious, malicious, politically motivated or made on a tit-for-tat basis - unless these suggest a more deep-seated problem;
 - o Complaints that are similar to a previously investigated complaint where there is nothing further to be gained from an investigation;
 - o Complaints about a Councillors' private life which are unlikely to affect their fitness for office;
 - o Complaints where there is insufficient information to justify an investigation, or where an investigation is unlikely to be able to come to a firm conclusion on the matter
- b. Explore the complaint informally with the complainant and subject Member, to see whether grounds might exist for an informal local settlement
- c. Refer the complaint to the subject Member's Group Leader, for investigation under the Group's disciplinary procedure

Stage 1

- (3) All registered political Groups on the Council will adopt or update their own Group disciplinary or complaints procedures which they will use to deal with complaints at the first stage. The Group Leaders must share and agree these with the Head of Paid Service and Monitoring Officer. However, it will be the responsibility of the Group Leader and Whip to ensure that the complaint is investigated properly through the adopted Group procedure.
- (4) The Group Leader will be responsible for ensuring the following actions are taken when the Monitoring Officer refers a complaint under (2)(c) above:
- a. write to the complainant to acknowledge receipt of the complaint, and explain the process and timescale to be followed to consider the complaint;
 - b. respond in writing to the complainant at the conclusion of the process, with a copy sent to the Monitoring Officer for the record.
 - c. In the response, set out the courses of action open to the complainant if s/he remains dissatisfied with the first stage response.
- (5) Stage 1 of the process will be confidential to the complainant and the Group process, and the Monitoring Officer will not disclose details of any complaint or Group response without the prior approval of the complainant or the Group Leader, other than in the context of his/her annual and anonymised monitoring report to the Standards Committee.

Stage 2

- (6) If the complainant is dissatisfied with the response, a second stage might be invoked. This would involve the complaint being investigated through a formal Council process, to be agreed between the Monitoring Officer and the Independent Person.
- (7) The Monitoring Officer will share the complaint with the Independent Person, and seek the Independent Person's views on:

- a. the merits of the complaint
 - b. whether it should be subject to a formal Council investigation process
 - c. if so, the process and timescale to be followed.
- (8) The Monitoring Officer will respond to the complainant, explaining the process and timescale to be followed, if any; and requesting any further information that s/he considers necessary to assist the process.
- (9) Whilst it is important that the Head of Paid Service has overall management of the complaints process, the Monitoring Officer will play the leading role in commissioning the investigatory process. Because of the necessary relationship between the Head of Paid Service and Leading Members of the Authority, it will not always be appropriate, or possible, for the Head of Paid Service personally to carry out investigations. In such circumstances, it might be appropriate for the Monitoring Officer to carry out the investigation personally, or to appoint another senior officer or an external individual to do so. It is important for Members to appreciate that the Head of Paid Service and the Monitoring Officer act as a “check and balance” on each other’s actions in this as in other matters.
- (10) At the completion of the investigation, the Monitoring Officer will share the investigation report with the Independent Person and discuss its findings and possible courses of action.
- (11) The Monitoring Officer will then write to the complainant to set out the results of the formal investigation and, where appropriate, the views of the Independent Person.
- (12) If the Monitoring Officer and Independent Person concur with any finding in an investigation report that there has been a serious breach of the local Member Code of Conduct, which requires the application of a sanction available to the Standards Committee to address, the Monitoring Officer may choose at this stage to put the findings directly to the local Standards Committee for its consideration.

Stage 3

- (13) If the complainant is still dissatisfied, the Monitoring Officer may refer the complaint to the Standards Committee at the third stage. In such circumstances, the Committee will consider a report from the Monitoring Officer outlining the results of the previous stages and decide whether any further investigation or information was needed before it arrived at its own conclusions.
- (14) The decision to refer a complaint to the Standards Committee will be for the Monitoring Officer, having regard to the views of the Independent Person. The complainant will not have a right to require a complaint to be considered by the Standards Committee, or to appeal against a decision of the Monitoring officer not to proceed to this stage.
- (15) The Monitoring Officer will set out the views of the Independent Person in the report to the Standards Committee.
- (16) At this stage, the meeting of the Standards Committee will be held in public, with an agenda published five working days before the meeting. The Committee will be subject to the access to information provisions of Section 100(A) of the Local Government Act 1972, and may only resolve to exclude the press and public if it considers that there will be a disclosure of exempt

information as defined in that Section, or confidential information on a third party as defined in Section 40 of the Freedom of Information Act 2000.

- (17) The limited sanctions available to the Committee are set out in para. 9.4 above.

General

(18) Subject to a complaint getting through the preliminary filter stage, the stage at which a complaint enters the process will depend upon the nature of and implications flowing from it. It might be appropriate to start the process at a different stage or proceed by a different order. The general principle should be that a complaint will be dealt with at the most appropriate point at the first stage and will then be escalated to a higher authority if the complainant was not satisfied, and eventually to the Standards Committee.

(19) It is important that the process is operated flexibly and with common sense. The previous statutory process was administratively complex and slow because of the requirements to follow a prescribed process and the possibility of legal challenge.

9.7 Examples of Application of Procedure

9.7.1 The following are examples of how a complaint might be dealt with depending on the source of the complaint.

(1) The Public

- a) The principles described above could be applied to complaints from members of the public.
- b) However, if a complaint could not be resolved through the various stages described, the complainant would be advised to consider taking the complaint to the Local Government Ombudsman. If the Local Government Ombudsman considered that a Member had been at fault to the extent of breaching the local Member Code of Conduct or the law, the Ombudsman will name the Member concerned in the Report.
- c) In the event of a member being named in a formal report by the Ombudsman, the Monitoring Officer would then refer the matter to the Standards Committee.

(2) Ombudsman

- a) The Ombudsman's principal focus is on actions of maladministration that cause injustice. This can include a failure to act. The Ombudsman can make findings of maladministration against a Councillor, and grounds for such a finding could include a failure by a Councillor to follow any agreed local protocol.
- b) Irrespective of the origin of the complaint to the Ombudsman, if a Member were named in a formal report by the Local Government Ombudsman, it would be appropriate for the Monitoring Officer to refer that report to the Standards Committee. In all cases where the Ombudsman issues a formal report, a local authority is obliged to advertise the fact and, where there has been a finding of maladministration, to tell the Ombudsman what action it proposes to take.

(3) Councillors

- a) Occasionally, there are complaints by one Member about the conduct of another Member. More often than not such complaints arise as a result of something said during a heated debate in the Council Chamber.
- b) Members are protected by qualified privilege with regard to anything they say in the course of carrying out their functions as Councillors and this includes debate in the Council Chamber.
- c) It would be inappropriate for such complaints to be referred directly to the Standards Committee, unless the Head of Paid Service or the Monitoring Officer considered there to be a significant breach of Standing Orders or the Council was in danger of being sued for defamation. Such cases should be referred to the Group Leader or Leaders concerned, in the first instance, to see if the matter can be resolved within the political groups' own procedures.
- d) If the complaint cannot not be resolved at this stage, it could then be referred to the Standards Committee.
- e) The route for dealing with complaints about other matters, eg allegations of misuse of Council property, might depend upon the seriousness of the allegation and the potential consequences for the Council.

(4) Staff

- a) Complaints by staff against Councillors usually arise when a member of staff feels that they have been unfairly criticised or are being harassed by an elected Member. Conduct of this nature by another member of staff would lead to a complaint in accordance with either the grievance procedure or the harassment procedure. However, those procedures do not make any provision for circumstances where the complaint concerns an elected member.
- b) In such cases, complaints by members of staff about Councillors will normally be referred to the relevant Group Leader in the first instance. If not resolved to the satisfaction of the member of staff concerned, the complaint could then be investigated by the Monitoring Officer or another senior officer nominated by the Head of Paid Service. A course of action or solution would be recommended.
- c) If this did not produce a satisfactory resolution or the complaint persisted, the complaint would be referred to the Standards Committee.

May 2013



MEMBER CODE OF CONDUCT

1. This Code is adopted, pursuant to Section 27(2) of the Localism Act 2011, to give force to the Council's statutory duty, under Section 27(1) of the Act, to promote and maintain high standards of Conduct by Councillors and co-opted members of the authority.
2. This Code is not intended to be an exhaustive list of all the obligations placed on Councillors and co-opted members of this authority. It is your responsibility to comply with the following provisions of this Code as well as other legal obligations beyond the scope of this Code.
3. It shall be a defence to an allegation that you have failed to comply with the Code if you can demonstrate that your conduct was reasonable in all the circumstances.

4. GENERAL PRINCIPLES

- 4.1 This Code is based on and consistent with the following seven Principles which are set out in Section 28 of the Localism Act 2011, and which were originally set out by the Nolan Committee on Standards in Public Life:

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits.

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

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

Leadership

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

- 4.2 In following these principles, you must be aware of the laws that confer special obligations on Councillors and co-opted Members, as set out in **Appendix 1**.
- 4.3 You should also follow the guidance for compliance with the General Principles and the Code of Conduct, as set out in **Appendix 2**.

5. DEFINITIONS

- 5.1 This Code applies to all:

- a) Councillor members of this authority, and
- b) co-opted members of this authority

when you are acting in your role as a Councillor/ co-opted member. This includes when you are acting on authority business and / or ward business, representing the Council, or carrying out the business of an office to which you have been appointed by the Council, such as Leader, Lead Councillor or Committee Chair.

- 5.2 A "co-opted member" for the purpose of this Code, as 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".

- 5.3 A reference to a "Meeting" shall include reference to a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority and shall include reference to any meeting convened for a briefing from an officer or for a site visit, but shall not include any party group meeting when not being briefed by an officer of the authority.

6. GENERAL OBLIGATIONS FOR MEMBERS AND CO-OPTED MEMBERS

- 6.1 When acting in your role as a Councillor or co-opted member of the authority:
 - (1) Do comply with the Member Code of Conduct, the Council's constitution and other protocols adopted by the authority in addition to this Code in respect of Member conduct, including:
 - (a) Planning Code of Conduct
 - (b) Protocol on Member / Officer relations
 - (c) Council Publicity and Elections
 - (d) Social Media Protocol
 - (2) Do treat others with respect.
 - (3) Do ensure that you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Member and on the Council as a whole.

APPENDIX B

- (4) Do not do anything which may cause the authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006(a)). This means that you must not discriminate against people on grounds of race, gender, disability, religion or belief, sexual orientation and age.
 - (5) Do not bully any person.
 - (6) Do not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
 - (7) Do not use your position as a Member improperly for personal gain or to advantage other people.
 - (8) Do not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - a) you have the consent of a person authorised to give it;
 - b) you are required by law to do so;
 - c) 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
 - d) the disclosure is—
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the authority
 - (9) Do not prevent another person from gaining access to information to which that person is entitled by law.
 - (10) Do not make vexatious or malicious complaints against other persons.
- 6.2 When making decisions on behalf of or as part of the authority:
- (1) Do have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to their statutory duties.
 - (2) Do give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.
 - (3) Do consult with the Monitoring Officer where there is doubt about the authority's powers to act; or whether the action proposed lies within the policy framework of the authority; or where the legal consequences of action or failure to act by the authority might have important repercussions.
 - (4) Do consult with the Chief Finance Officer where there is doubt about the authority's ability to fund an action; or whether the action proposed lies within the budget framework of the authority; or where the financial consequences of action or failure to act by the authority might have important repercussions
- 6.3 When using or authorising the use by others of the resources of the authority:
- (1) Do act in accordance with the authority's reasonable requirements including the requirements of the authority's ITC policy and the policies and procedures listed in the Council's constitution which you are deemed to have read;
 - (2) Do make sure that such resources are not used improperly for political purposes (including party political purposes); and

- (3) Do have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (4) Do not improperly use knowledge gained solely as a result of your role as a member for the advancement of your disclosable pecuniary interests.

7. REGISTRATION AND DISCLOSURE OF INTERESTS BY COUNCILLORS AND CO-OPTED MEMBERS

7.1. Disclosable Pecuniary Interests

7.1.1 Under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, you will have a disclosable pecuniary (financial) interest in any business of the authority which falls within any of the following categories:

- (a) Any employment, office, trade, profession or vocation carried out by you for gain
- (b) Any payment or provision or any other financial benefit (except from the authority) made or provided to you in the preceding 12 months in respect of expenses incurred by you in carrying out your duties as a Member or towards your election expenses
- (c) Any person or body which, to your knowledge, has a place of business or land in the authority's area, and in which you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth (1%) of the total issued share capital of that body
- (d) Any contract for goods, services or works made between the authority and you, or a firm in which you are a partner, or a corporate body in which you are a Director, or where you have a beneficial interest in the securities of that firm or corporate body.
- (e) Any land, licence or corporate tenancy in the authority's area in which you have a beneficial interest
- (f) Any land where the landlord is the authority and the tenant is a firm in which you are a partner, or a company of which you are as remunerated Director, or a person or body specified in (c) above
- (g) Any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer

7.1.2 You will also have a disclosable pecuniary interest which you must register if the above interests are held by a "relevant person" as described by the 2012 Regulations and Section 30(3) of the Localism Act 2011. A "relevant person" is:

- Your spouse or civil partner
- A person with whom you are living as husband and wife, or
- A person with whom you are living as if you are civil partners

7.2. Registration of Interests

7.2.1 You must register in writing any disclosable pecuniary interest that you, and/or your spouse or partner, have in a public Register of Members' Interests maintained by the authority's Monitoring Officer under Section 29 of the Localism Act 2011, within 28 days of:

- (a) this Code being approved by the authority;
- (b) your election or appointment to office as a Member;
- (c) your becoming aware of the existence of the interest;
- (d) Your disclosing the existence of an interest that you have not previously registered at a meeting of the authority.

7.2.2 You must register any new or changed pecuniary interest held by you, or your spouse or partner, with the Monitoring Officer, in writing, within 28 days of your becoming aware of the new or changed interest.

7.3 Non-Pecuniary Interests

7.3.1 The Localism Act 2011 does not place a duty on Members to register non-pecuniary interests. However, you are actively encouraged to register and declare any non-financial interests held by you or your spouse or partner, in the interests of transparency and to avoid allegations of personal bias.

7.3.2 In particular you are actively encouraged to register the following interests:

- (a) membership, or holding a position of general control or management, of a body or bodies to which you have been appointed or nominated by the authority
- (b) membership or holding a position of general control or management of any body that:
 - exercises functions of a public nature
 - is directed to charitable purposes
 - one of whose principle purposes includes the influence of public opinion or policy (including any political party or trades union)
- (c) any body or person from whom you have received a gift or hospitality with an estimated value of at least £25.

7.4 Declaration of Interests at Meetings

7.4.1 You should declare any interest that you and/or your spouse or partner hold, under 7.1 and 7.3 above, which relates to or is likely to affect an item of Council business being transacted at any meeting of the authority at which you are present.

7.4.2 In the interests of transparency, openness and the avoidance of bias, you should also declare any pecuniary interest, under 7.1 above, which relates to or is likely to affect an item of Council business being transacted at any meeting of the authority at which you are present, that is held by a member of your family or the family of your spouse or partner, or by a person with whom you or your spouse or partner have a close association.

APPENDIX B

- 7.4.3 Under Section 31(4) of the Localism Act 2011, any Members who are aware that they have a disclosable pecuniary interest in an item of business being considered at a meeting at which they are present may not participate in the discussion, or vote, on the item of business at the meeting.
- 7.4.4 If you declare that you have a pecuniary interest which relates to or is likely to affect an item of Council business being transacted at a meeting of the authority at which you are present, you may make representations, answer questions and give evidence on the item of business, subject to there being equivalent public speaking rights, but you may not participate in the discussion or vote on the item of business, and you should leave the meeting before any discussion on the item of business takes place at the meeting and before the vote on the item of business is taken.
- 7.4.5 You should declare the interest as soon as you become aware of it at the meeting. Each public meeting will have a "Declaration of Interests" item at the start of its agenda.
- 7.4.6 You should declare both the existence of an interest, and details of the interest. All declared interests will be recorded in the minutes of the meeting.
- 7.4.7 If you realise that you, and/or your spouse/partner, have a disclosable pecuniary interest in an item of business at a meeting which you have not previously registered, then you must both declare the interest at the meeting and then give written notice to the Monitoring Officer, within 28 days of the meeting, of the existence and nature of the interest, for inclusion in the authority's published register.

7.5 Declaration of Interests by Single Members

- 7.5.1 Members who, by virtue of any office that they hold on behalf of the authority, are in a position to take decisions on behalf of the authority, are bound by the same requirements as in 7.4 above, and in this respect you should:
- (a) Make a public declaration of any interest that you, and/or your spouse or partner, have in any item of business of the authority that they are considering; and
 - (b) Not consider or take a decision on any item of business in which you, and/or your spouse/partner, have a disclosable pecuniary interest.

7.6 Sensitive Interests

- 7.6.1 This applies to a situation where a Member considers that the disclosure of the details of your interest - including that of your spouse or partner - could lead to you, or a person connected with you, being subject to violence or intimidation.
- 7.6.2 In such circumstances you should share your concerns with the authority's Monitoring Officer. If the Monitoring Officer agrees with you, s/he will not include details of the interest in the authority's Register of Interests, but may state that you had registered an interest the details of which had been withheld under Section 32(2) of the Localism Act 2011.
- 7.6.3 Similarly, if the Monitoring Officer has accepted that you have a sensitive interest under Section 32 of the Localism Act 2011, you should declare the existence of the interest at any meeting at which you are present but you need not declare the details of the interest.

7.7 Dispensations

- 7.7.1 The authority may grant a dispensation to Members who have a disclosable pecuniary interest in an item of business being conducted at a meeting of the authority at which they are present, to allow them to participate in the discussion and vote on the item of business.
- 7.7.2 In such cases, you must make a written request for a dispensation to the Monitoring Officer, who will put the request before the Standards Committee. Under Section 33(2) of the Localism Act 2011, a dispensation may only be granted where the Monitoring Officer and/or the Committee consider, having had regard to all relevant circumstances, that:
- (a) without the dispensation the number of persons prohibited from taking part in the item of business would be so great a proportion of the meeting as to impede the transaction of the business
 - (b) without the dispensation the representation of different political groups at the meeting would be so upset as to alter the likely outcome of any vote relating to the item of business
 - (c) granting the dispensation is in the interests of persons living in the authority's area
 - (d) each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive
- 7.7.3 The Standards Committee or Monitoring Officer will grant a dispensation for a specified period of time, which may not exceed four years.

7.8 Sanctions

- 7.8.1 Under Section 34 of the Localism Act 2011 Members will be committing an offence if you:
- (a) fail, without reasonable excuse, to register or declare a disclosable pecuniary interest (7.1)
 - (b) participate in any discussion or vote on an item of business in which you have such an interest (7.4)
 - (c) register or declare false or misleading information, or are reckless as to whether the information is true or misleading
- 7.8.2 Such offences will be heard in court, on a prosecution initiated by the Director of Public Prosecutions. The penalties available to the court are:
- (a) a fine of up to £5,000
 - (b) disqualification from being a Member of the authority, or any other authority, for up to 5 years

7.9 Registration of Gifts and Hospitality

- 7.9.1 If you receive any gift or hospitality over the value of £25 in your role as a Member of the authority, you must provide written notification to the Monitoring Officer within 28 days of the existence and nature of that gift or hospitality. The Monitoring Officer will record this in a gift book, and will publish details of all gifts and hospitality registered by Members each year to the Council's Standards Committee.

Reading Borough Council
Standards Committee
12 July 2012

5th version
June 2012 JGP

Laws conferring special obligations on Councillors and co-opted Members

Bribery Act 2010

Localism Act 2011

Data Protection Act 1998

Freedom of Information Act 2000

Employment Rights Act 1996

Local Government Act 1972

Equality enactments including

- the Equal Pay Act 1970 (c. 41),
- the Sex Discrimination Act 1975,
- the Race Relations Act 1976,
- the Disability Discrimination Act 1995,
- the Employment Equality (Sexual Orientation) Regulations 2003
- the Employment Equality (Religion or Belief) Regulations 2003
- the Employment Equality (Age) Regulations 2006
- the Equality Act 2006 and regulations made under this Act

Guidance on Compliance with the General Principles

1. As Councillors or co-opted members of Reading Borough Council, we have a responsibility to represent local people and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.
2. When acting in this capacity we are committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS

- We will champion the needs of our residents and put their interests first.
- We will take representations from our residents seriously and not allow other pressures, including our own financial interests, to deter us from pursuing casework or otherwise advocating for our electors in order to achieve a result.

INTEGRITY

- We will not compromise our position by placing ourselves under obligations to outside individuals or organisations who might seek to influence the way we perform our duties as Councillors/co-opted members of this authority.

OBJECTIVITY

- We will listen to the interests of all parties, remain objective and make decisions on merit, for example when making public appointments, awarding contracts, or recommending individuals for rewards and benefits.

ACCOUNTABILITY

- We will be bold in taking decisions and be accountable for them when scrutinised internally and externally, including by our residents.

OPENNESS

- We will make our decisions as open and transparent as possible to enable our residents to understand the reasoning behind them and be informed when holding us to account for them.
- We will only restrict information when the wider public interest or the law clearly demands it.

HONESTY

- We will act in accordance with all our legal obligations as outlined in Appendix 1, as well as any requirements contained within the Council's constitution, policies and procedures.

LEADERSHIP

- We have a duty to provide leadership and accountability for public services which may require us to champion our residents' interests with other organisations as well as the council's own departments.
- We will value our colleagues and staff and lead by example by seeking always to treat people we work alongside with respect.



Complaints about Councillors

You can make a complaint about a Councillor if you consider that the Councillor has acted in a way that breaches the Code of Conduct for Members. The code can be found on the Council's website: here is the reference <http://www.reading.gov.uk/councilanddemocracy/General.asp?id=SX9452-A782B536>

What is the Member Code of Conduct?

The Code is a local document agreed by the Borough's Standards Committee on 12 July 2012. It sets out the standards of moral and ethical conduct that are expected from a Member.

Councillors are the elected Members of the Borough Council. The Code will also apply to any co-opted Members of Council Committees.

Under the Localism Act 2011, all local authorities have a duty to promote and maintain high standards of conduct by Councillors and co-opted Members of the authority. To do this, they must adopt a code setting out the conduct expected from their Members when they are acting as a Councillor or co-opted Member.

All Reading Councillors, when they are elected, are asked to sign to say that they will faithfully fulfil their duties as a Councillor to the best of their judgment and ability.

The Code of Conduct says that Councillors should **DO** the following things:

- Follow the Code when they are representing the Council
- Follow other local codes and protocols
- Treat others with respect
- Comply with the Bribery Act 2010
- Declare any disclosable pecuniary (financial) interests they have in the business of the authority
- Register their personal interests in the Council's Register of Members Interests, and keep their entry up-to-date. The Register can also be found on the Council's website, at <http://www.reading.gov.uk/councilanddemocracy/councillorinformation/General.asp?id=SX9452-A77FE0D0>
- Register gifts and hospitality received in their role as a Councillor, worth more than £25

The Code of Conduct says that Councillors should **NOT DO** the following things:

- Breach any of the equality enactments (ie discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age;
- Bully any person
- Compromise the impartiality of people who work for the Council;
- Use their position improperly for personal gain or to advantage other people
- Disclose confidential information, other than in exceptional circumstances;
- Prevent anyone from getting information they are entitled to.
- Make vexatious or malicious complaints against somebody else
- Use the Council's resources improperly for party political purposes;
- Attend meetings or be involved in decision making or voting where they have a disclosable financial interest - except when speaking when the general public are also allowed to do so.

The Code of Conduct applies to Councillors when they are:

- Carrying out Council business;
- Carrying out ward business;
- Carrying out the business of an office to which they have been elected or appointed by the Council (eg Leader, Chair);
- Acting as a representative of the Council.

The Code does not apply to Councillors' personal life.

What are Interests?

Councillors will have a disclosable *Pecuniary (Financial) Interest* in an item of business being considered by the Council where a decision on a matter would affect the financial position of:

- o The Councillor and/or their spouse or partner
- o A body employing any of those persons
- o Any corporate body in which such persons hold shares above £25,000 in nominal value

To a greater extent than other people in the ward affected by the decision.

How do I Complain?

If you have evidence that a Councillor has acted in a way that breaches the Code of Conduct, you can complain to the Council's Monitoring Officer, at the following address:

Chris Brooks
Monitoring Officer
Reading Borough Council
Civic Offices
Reading RG1 7TD

Your complaint must be in writing. You can submit it in three ways:

- By letter (post to above address)
- By e-mail - to Cttee.Services@reading.gov.uk
- By completing the proforma below.

In your complaint you must specify the following:

- Name of Councillor
- When the breach occurred
- Details of breach - ie the thing you are complaining about
- The redress you are seeking - ie what would you like the Councillor to do about it?

What will happen when I complain?

Firstly, the Council's Monitoring Officer will acknowledge receipt of your complaint. He may also contact you to clarify any aspects of the complaint.

The complaint will then follow a complaints process which has an initial filter and then up to three stages.

Initial Filter

At this stage, the Monitoring Officer will consider whether the complaint provides evidence to suggest that a Councillor may have acted in a way that has breached the local Code of Conduct whilst carrying out the business of the Council. The Monitoring Officer may do three things:

(1) Reject the complaint on one of the following grounds:

- There is no evidence of any action which breaches the Member Code of Conduct
- The complaint is about the Councillor's private life;
- The complaint has been made anonymously
- The complaint is about actions that occurred more than 12 months before;

- The complaint is about comments made in the cut and thrust of political debate;
 - The complaint is trivial, vexatious, malicious, politically motivated or made on a tit-for-tat basis - unless these suggest a more deep-seated problem;
 - The complaint is similar to a previously investigated complaint where there is nothing further to be gained from an investigation;
 - The complaint gives insufficient information to justify an investigation, or where an investigation is unlikely to be able to come to a firm conclusion on the matter
- (2) Explore the complaint informally with you, and the Councillor who is the subject of your complaint, to see whether there is any scope for settling the complaint informally;
- (3) Where the Monitoring Officer considers that the complaint may suggest that a serious breach of the Member Code of Conduct may have occurred, and there does not appear to be scope for an informal local settlement, he will refer the complaint to the Leader of the political Group of which the Councillor is a member, to be investigated under the Group's disciplinary procedure.

Stage 1

Where the Monitoring Officer refers the complaint for investigation under the disciplinary procedure of the Councillor's Group, the Group Leader will be responsible for ensuring that the following things happen:

- (4) You receive written confirmation of receipt of the complaint, and the process and timescale the Group will follow to look into it;
- (5) At the end of the process, the Group Leader will write to you again to set out the findings of the Group investigation, and the action, if any, that the Group intends to take with regard to the Councillor.
- (6) The Group Leader will copy this response to the Monitoring Officer. Apart from this, this stage of the complaints process will be confidential to yourself and the political Group.

If you are not satisfied with the response you receive from the Group Leader, you may refer your complaint back to the Monitoring Officer.

Stage 2

The Monitoring Officer will consider whether your complaint should now be investigated through a formal Council process.

In doing this, the Monitoring Officer will share your complaint with the Council's **Independent Person**. The Independent Person is somebody that every local authority has to appoint, and whose views must be sought and taken into account before the

authority makes a decision on the outcome of any investigation that it undertakes formally.

- (7) The Monitoring Officer will seek the Independent Person's views on:
 - o the merits of the complaint
 - o whether it should be subject to a formal Council investigation process
 - o if so, the process and timescale to be followed.
- (8) The Monitoring Officer will then write to you to explain the process and timescale to be followed, if any; and to request any further information that he considers necessary to assist the process.
- (9) At the completion of the investigation, the Monitoring Officer will share the investigation report with the Independent Person and discuss its findings and possible courses of action.
- (10) The Monitoring Officer will then write to you to set out the results of the formal investigation and, where appropriate, the views of the Independent Person.

Stage 3

- (11) If the Monitoring Officer and Independent Person concur with any finding in an investigation report that there has been a serious breach of the local Member Code of Conduct, which requires the application of a sanction available to the Standards Committee to address, the Monitoring Officer may decide at this stage to put the findings directly to the local Standards Committee for their consideration.
- (12) The Monitoring Officer will tell you if he decides to do this.
- (13) When this happens, the Committee will consider a report from the Monitoring Officer outlining the results of the previous stages and decide whether any further investigation or information was needed before it arrived at its own conclusions.
- (14) The decision to refer a complaint to the Standards Committee will be for the Monitoring Officer, having regard to the views of the Independent Person. You will not have a right to require a complaint to be considered by the Standards Committee, or to appeal against a decision of the Monitoring Officer not to proceed to this stage.

READING BOROUGH COUNCIL

COMPLAINTS ABOUT COUNCILLORS

COMPLAINT FORM

NB - You should only complete the parts of this form in boxes. The remainder of the form is explanatory text.

YOUR DETAILS

1. Who are you?

Title:	
First name:	
Surname:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile phone:	
E-mail address:	

We will tell the following people that you have made this complaint:

- The Councillor(s) you are complaining about
- The Council's Monitoring Officer
- The Leader of the political Group of which the Councillor is a member.

We will tell them your name, but not your address. The Monitoring Officer will be given full details of your complaint. He will provide the Councillor(s) and the Group Leader with a summary of your complaint, unless in his judgment it is necessary for them to have the full details in order to deal with it.

If you have serious concern about your name, or the full details, of your complaint being given to the Councillor(s) you are complaining about, and/or the assessment sub-committee, please fill in section 8 of this form, below.

2. Please tick which of the following descriptions fits you best:

<input type="checkbox"/> Member of the public <input type="checkbox"/> Councillor or Co-opted Member of the authority <input type="checkbox"/> Independent member of the Standards Committee <input type="checkbox"/> MP <input type="checkbox"/> Monitoring Officer <input type="checkbox"/> Other Council employee <input type="checkbox"/> Other (please specify)
--

YOUR COMPLAINT

3. Who are you complaining about?

Which Councillors or Members do you believe have breached the Code of Conduct?

Title	First name	Surname	Position in Council (eg Leader, Chair of Committee)

4. Which part of the Member Code of Conduct do you think they have breached?

Please tick - you may tick more than one box	
<input type="checkbox"/> Not following the Code or other protocols when they are acting as a Member or representing the Council <input type="checkbox"/> Not declaring any personal and pecuniary interests they have in the business of the authority <input type="checkbox"/> Not treating others with respect <input type="checkbox"/> Not complying with the Bribery Act 2010 <input type="checkbox"/> Using the Council’s resources for unauthorised party political purposes <input type="checkbox"/> Compromising the impartiality of people who work for the Council <input type="checkbox"/> Discriminating against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age	

- Bullying
- Using their position improperly for personal gain or to advantage other people
- Disclosing confidential information, other than in exceptional circumstances
- Preventing anyone from getting information they are entitled to
- Making vexatious or malicious complaints about somebody else
- Not registering their disclosable pecuniary interests in the Council's Register of Members Interests, or keeping their entry up-to-date
- Not declaring their disclosable pecuniary interests at meetings
- Attending meetings or being involved in decision making where they have a disclosable pecuniary interest - except when speaking when the general public are also allowed to do so

5. How has the Code of Conduct been breached?

Please set out in the box below what the Councillor or Member has done which you believe has breached the Code of Conduct.

Where you are complaining about more than one Councillor or Member, you should make clear what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information that you want the Monitoring Officer to take into account when considering your complaint. You should, where possible:

- Be specific about what exactly you are alleging the Councillor said or did
 - eg - If you are complaining that the Councillor insulted you, you should state what the Councillor said.
- Provide details of the dates and times of the alleged incidents
 - If you cannot give precise dates, then give a general timeframe
- Confirm whether there were any witnesses - and if so, give their names and contact details if known
- Provide all relevant background information

Details of Complaint

Please continue on another sheet if you need more space

6. Redress

How would you like the Councillor(s) you are complaining about to remedy your complaint?

7. Disclosure of Personal Information

In the interests of fairness and natural justice, we believe that any Councillors who are complained about have a right to know:

- that a complaint has been made about them
- who has made the complaint
- what the complaint is

We will not withhold your identify or the details of your complaint unless you specifically ask us to do so, and then only in the following circumstances:

- to preserve the evidence

- to protect you or other witnesses from intimidation or bullying
- where there is a legal requirement not to disclose
- where the information you are providing in your complaint would be exempt or confidential under the Freedom of Information Act 2000 or Data Protection Act 1998, and the public interest would not be best served by disclosing it

Please provide details of why you believe we should not disclose your name or details of your complaint

8. Additional Help

Complaints must be made in writing - including fax or electronic submissions.

If you have a disability that prevents you from making your complaint in writing, please ring the Monitoring Officer on (0118) 937 2359 to discuss other ways for you to make your complaint.

If English is not your first language, please contact the Council's translation and interpretation service on 0118 939 0033.

If you would like this note printed in large print and double space, please ring the Monitoring Officer on 937 2359.

Chair, Standards Committee
July 2012

Protocol on Member/Officer Relations

COUNCILLOR/OFFICER PROTOCOL

1. INTRODUCTION

1.1 This document provides a guide to both Councillors and Officers on the matters listed below, to facilitate the smooth management of the Council in a way that will enable Councillors and Officers to carry out their roles with certainty and confidence in the provision of excellent services to the public:

- Roles of Councillors and officers
- Councillors' access to information, to Council documents, and meetings
- Agenda preparation
- Scrutiny
- Corporate values

1.2 The protocol seeks to reinforce principles which are highlighted in the statutory General Principles governing the conduct of Councillors, the Council's Code of Conduct for Members, the Planning Code of Conduct, the Officers' Code of Conduct and the Council's Values statement. These documents aim to maintain and embrace the high standards of local government and ensure the integrity of Councillors and employees at all levels.

1.3 It also incorporates guidance from the Information Commissioner in relation to correspondence relating to constituents and the disclosure of personal information to and by Councillors.

1.4 If Councillors or officers are in any doubt as to the application or interpretation of the guidance, the matter should be raised in the first instance with the Corporate Director or Head of Service of the relevant Directorate; and if the matter remains unresolved, with the Monitoring Officer or Head of Paid Service (Managing Director).

1.5 The protocol also applies to non-Councillor members of the Council's Standards Committee, the Adult Social Care, Children's Services & Education Committee, and the Health & Wellbeing Board, and any other co-opted member.

2. ROLE OF COUNCILLORS AND OFFICERS

2.1 Both Councillors and officers are servants of the public and they are indispensable to one another. The roles of Councillors are set out in Article 2 of the Council's constitution; they are principally those of determining the strategy and policies of the Council and of acting as representatives of the communities from which they are elected. Officers are responsible to the Council and their functions concentrate on management, advising Councillors in their formulation of strategy and policies and the implementation of the strategy and policies. The roles of the Council's statutory officers are set out in Article 12 of the constitution.

2.2 The Council has adopted a set of values that define the organisation's culture and set the framework for a way of working. These are to:

- Be open and honest with our dealings with colleagues and the public;
- Learn from what we do, encouraging innovation and creativity;
- Work together to achieve best results;

- Value and respect the diversity within our workforce, services and community;
- Take responsibility for what we do and how we do it;
- Set high standards and support people in meeting them.

2.3 The Values confer a commitment on both Councillors and officers on how to work together and deliver services to the community. The Protocol and Values should complement each other in order to achieve this. Councillors and officers should always bear in mind the Values in their dealings with each other and the public.

2.4 Any complaints about Member/Officer relationships should in the first instance be referred to the relevant Director or the Council's Head of the Paid Service, who will decide how the complaint should be dealt with having regard to any relevant Council procedures.

3. COUNCILLORS' ACCESS TO INFORMATION, TO COUNCIL DOCUMENTS AND MEETINGS

Documents and Information

3.1 Information and access to it is now the subject of a variety of legislation including the Local Government Acts 1972 and 2000 and Regulations made in accordance with those Acts, and the Data Protection Act 1998 and Freedom of Information Act 2000. The 1998 and 2000 Acts apply significant controls on the way in which information relating to living individuals is both handled and disclosed.

3.2 Councillors have a statutory right to see any document containing material relating to any business to be considered at Council or Committee meetings except where those documents contain certain types of confidential or "exempt" information as defined in the access to information legislation or the Freedom of Information Act 2000. In addition, Councillors are entitled to any information that they require to enable them to do their job as a Councillor (the "need to know" principle) although it is necessary to be careful not to breach the data protection legislation.

3.3 Unless the "need to know" principle is satisfied, Councillors may not request information which is confidential or exempt under the provision of the Access to Information, Data Protection or Freedom of Information legislation. The Council's data protection registration covers the sharing of information between officers and Councillors, for the conduct of the Council's business. Under the registration, Councillors may have access to, and process, information, including personal information, in the same way as officers, subject to the Council determining what the information is used for.

Correspondence

3.4 Correspondence on Council business between Councillors and officers is not private, and takes place under the Council's data protection registration. The issue of confidentiality only arises in three specified circumstances:

- 1) where the correspondence is on a subject matter where the information is confidential or exempt under the provisions of the Access to Information, Data Protection or Freedom of Information legislation: this would normally include ward-based correspondence about individuals or clients (see paras. 3.7-3.9 below)
- 2) where the correspondence is covered by a data sharing protocol which places restrictions on its circulation

- 3) where the correspondence takes the form of a request for a confidential briefing under para. 3.21 below.
- 3.5 In general terms, correspondence with the Council should be through the Councillor Services team, who will record and monitor it through the Front Office database. This includes complaints, general enquiries, and requests for information.

Personal Information

- 3.6 Councillors do not have a general right of access to information about individuals or clients, or the services they receive from the Council, unless they can clearly establish a "need to know" with regard to that particular information or the individual in question. The Data Protection Act 1998 specifically prevents information about living individuals being disclosed to anybody unless the subjects have been told that the information will be used for that purpose or they have consented to the disclosure.
- 3.7 Councillors who are asked by a ward resident to represent them on a particular matter have a right to expect reasonable access to information in order to represent that resident effectively. With regard to personal information this will normally be limited to information about that individual and may not extend to information about other associated individuals, for example other members of the family or household, or neighbours.
- 3.8 The more general principles concerning when officers may share personal information with Councillors, and the use that Councillors can make of that information, are set out in paras. 3.15-3.16 below.

Attendance at Meetings

- 3.9 Standing Order 32 (see Part 4 of the Constitution) sets out the rights of Councillors who are not members of a Committee to attend meetings and to speak, at the invitation of the Chair, including items on the confidential part of an Agenda.

Briefings, Reports etc

- 3.10 The Local Government Act 2000 brought into existence single party executive forms of decision-making overseen by a scrutiny process. From 2013, the authority has resolved to adopt a committee system form of governance, where decisions are made by Committees on which all political groups on the Council are represented in proportion to the Groups' political strength on the Council. However the authority has continued to recognise the controlling political Group on the Council as the Administration and, as set out in Article 6 of the Constitution, to appoint the Leader of that Group as the Leader of the Council, and to recognise that Group's membership of the Policy Committee as Lead Councillors with responsibility for a service portfolio.
- 3.11 The Lead Councillor Members of the Policy Committee have a specific role to play in managing their portfolio of responsibilities, and a greater degree of accountability for those responsibilities to the Policy Committee and to the Committee(s) responsible for the services and functions in their portfolio. Lead Councillors will, therefore, be consulted, individually or collectively, by officers on matters within their portfolio in advance of reports or advice being published or given by officers. Similar processes will apply to the Chairs and Vice-Chairs of the Council's Committees.
- 3.12 All Councillors will have an important role to play in the provision of services and functions by the Council, and need to have access to information and advice to a degree which will enable them to participate fully as councillors and to take decisions as members of Committees of the Council.

- 3.13 As a result, all individual councillors are entitled to information or briefings from relevant officers to enable them to fulfil their roles and obligations to their constituents on the understanding that information/advice will not be given on matters which have not yet come forward as proposals or are not in the public domain other than through the Council's formal procedures such as questions to Council or Committee or through an overview or scrutiny process undertaken by a Committee. However, Councillors should not ask officers for their personal opinion on the matter in question, and in responding to requests from Councillors for information or briefings, officers should proffer their professional advice and not their personal opinion.
- 3.14 Lead Councillors or Committee Chairs are entitled to receive all non-personal information necessary for them to carry out their official duties. Officers should seek to ensure that their Lead Councillor or Committee Chair are fully briefed on all matters for which they are responsible, and are not put in a position of being less informed on a matter concerning a service for which they are responsible than a fellow Councillor or member of the public. Therefore as general rule, officers will copy responses in writing to requests from Councillors for information or briefings to the responsible Lead Councillor / Chair, and where Councillors request oral briefings the officer will normally give the same information to the Lead Councillor / Chair, subject to the information:
- a) being necessary for the Lead Councillor or Chair to conduct their official duties
 - b) not being provided through a confidential briefing (see para 3.20 below)
- 3.15 Where the information is personal to a constituent or other third party, officers will normally only share this with a Councillor in the following circumstances:
- a) to the Lead Councillor or Chair
 - o where the information is covered by any local information sharing protocol, and its disclosure to the Lead Councillor or Chair is consistent with that protocol;
 - o in other cases, where the disclosure of the personal details is necessary to help the constituent, and to enable the Lead Councillor or Chair to carry out their official duties.

In these cases, the officer must specify to the Lead Councillor or Chair the purpose for which the personal information is being provided (eg for the conduct of their official duties), and the Lead Councillor or Chair must use the personal information solely for this purpose.
 - b) to the ward Councillor
 - o where the disclosure is to help a constituent and to address his/her concerns
 - o where the councillor represents the ward in which the individual lives, and
 - o where the councillor makes it clear that he/she is representing the individual in any request for their personal information;
 - o where the information is necessary to respond to the individual's enquiry or complaint
 - o where the disclosure is consistent with any information sharing protocol
- 3.16 Any Councillor, including Lead Councillors or Chairs, who receive personal information on a constituent or other third party from another Councillor or an officer under the Council's DPA registration must take care:

- a) To use that information solely for the purpose for which it has been provided;
 - b) Only to disclose the personal information to another ward councillor in the following circumstances:
 - o To address the constituent's concerns
 - o Where the particular issue raises a matter which concerns other councillors in the same ward
 - o Where the constituent has been told that this is going to happen, and why it is necessary (and has not objected to the disclosure)
 - c) Not to disclose that information outside the Council without the third party's consent; and should be aware that to do so could put the authority in breach of the Data Protection Act, and the Councillor in breach of para. 6 (obligation 8) of the Member Code of Conduct. Personal information provided under the Council's DPA registration must not be used for party political purposes.
 - d) To comply with the Council's ICT security policy statement when using, storing or processing the personal information away from the Council's premises.
- 3.17 Where a Councillor has made a written request for information or briefing to an officer, and has copied that request to other persons, as a general rule the officer will respond in writing to all persons so named. However, where an officer considers that in his/her professional judgment it is inappropriate to provide the information or briefing to any of the other persons, or alternatively that the information or briefing should be provided to other persons not named in the original request, s/he will explain this in the written response to the Councillor.
- 3.18 Subject to para. 3.17 above, and to any standing instructions given by ward Councillors to the contrary, an officer responding to a Councillor on ward business will not, as a matter of course, copy the response to other ward Councillors. All standing instructions from ward Councillors in individual wards which vary this arrangement should be reviewed each year after the local election.
- However, officers will notify all ward Councillors of physical works to be undertaken in their ward, once the decision to do the works has been taken.
- 3.19 Officers should not respond to outstanding enquiries from former Councillors once they have ceased to serve of the Council. Where the enquiry involved correspondence from a constituent, officers will send the response directly to the constituent and explain why they are doing so.

Visits to Premises etc

- 1) A Councillor who is entitled to ask for a briefing under this Protocol may request the briefing in the form of a visit to Council premises outside the Civic Offices, to inspect Council equipment, or to observe the provision of Council Services on site or within the community. In such cases, the Councillor must put the request in writing to the Director or Head of Service responsible for the service in question, and must specify his/her locus for requesting the briefing, and the purpose of the briefing. The Director or Head of Service may refuse to arrange the visit or inspection if its purpose is not consistent with this Protocol, or is operationally inconvenient for the service, or may give rise to health and safety considerations, in which case the Director or Head of Service will explain their reasons in writing to the Councillor.

- 2) Where a Head of Service arranges a briefing visit or inspection for one or more Councillors, s/he will confirm the arrangements, including date, time and location, with the Councillor(s) beforehand in writing, and will be present, or arrange for a service manager to be present, to meet with the Councillor(s) and to accompany the visit or inspection.
- 3) Councillors may not visit Council premises, inspect Council equipment, or deal directly with Council staff undertaking their duties on site or within the community, outside the provisions of this Protocol.
- 4) In line with para. 3.14 above, the Head of Service will let the responsible Lead Councillor and Committee Chair know of the request to visit Council premises, inspect Council equipment and/or to observe the provision of Council services on site or within the community, and the arrangements made to meet the request.
- 5) The rules set out in this Protocol relating to briefings and reports will apply to any such visits or inspections. This includes the provisions of para. 3.13, concerning Councillors not asking officers for their personal opinions on a matter in question; and in para. 3.14, concerning officers giving the same information to the Lead Councillor and Committee Chair as was given to a Councillor during a visit or inspection.

Confidential Briefings

- 3.20 A briefing in confidence may only be requested from Directors or Heads of Service, and will only be given to Councillors who are not Lead Councillors or Committee Chairs in the following circumstances:
- a) Where the advice is requested by the Councillor on a personal matter (eg concerning declarations of interest or where advice is required on the wording of a resolution or the interpretation of law, Standing Orders or a code of conduct);
 - b) Where the advice is requested in confidence by the Leader or Deputy Leader of a political group, or any other nominated officer of the group, for the purposes of that Group.
 - c) Councillors may ask for advice / guidance as to whether their action / proposals are within the law and on questions of probity eg in connection with Council or other resolutions, financial or other types of interest.
- 3.21 A confidential briefing does not have to relate solely to exempt (Part II) business.

Briefings for Political Groups

- 3.22 The existence of political groups within local authorities is now specifically recognised by law. Lead Officers may properly be called upon to give information and advice to party group meetings. It may be appropriate for senior officers to give advice on the formulation of strategy and policy options to all political groups but it would be inappropriate for political groups to expect officers to give advice on or to undertake research to inform the formulation of proposals which are or would be contrary to the approved policies of the Council or its Committees, except in the formulation of alternative budget proposals for presentation to the annual budget meeting.
- 3.23 When officers do provide information and advice to a Lead Councillor, a political group representative or a political group meeting, it is not a substitute for providing all necessary information and advice to the Council or its Committees when the matter in question is considered.

- 3.24 Officers may not attend Group meetings except by invitation. Groups may ask Lead Officers to attend a meeting to provide information and advice in relation to relevant matters of Council business on the agenda for the meeting. Any request for an officer to attend a Group meeting should be directed to the Head of Paid Service or relevant Director and indicate the subject matter upon which information and/or advice is to be sought. If the Head of Paid Service or Director is of the opinion that it would be inappropriate for an officer requested to attend, the reasons for that view should be discussed with the party leader or other relevant group officer immediately.
- 3.25 If officer attendance is appropriate, the Head of Paid Service or the relevant Director shall determine which officers should attend. However, officers should not be present when party business is being discussed and must not be involved in advising on matters of party business.
- 3.26 When attending Group meetings to provide information, the officer must make clear the status of the information being presented (eg whether it is confidential or exempt), and may specify that the information can only be presented to Councillors and not to other people attending the Group; and the Group must adhere to these conditions. The unauthorised disclosure by any Group Councillor of exempt or confidential information given to the Group by an officer can amount to a breach of the Code of Conduct for Members.
- 3.27 Both Councillors and officers should refrain from any conduct which could lead to the political impartiality of officers being called into question. It is a requirement of the Code of Conduct that Members should not do anything which compromises or is likely to compromise the impartiality of staff. Officers may at their discretion decline to disclose exempt information (i.e. information which if contained in a Committee report would lead to it being placed in the blue part of the Agenda).
- 3.28 Advice / information or reports given by an Officer to a political Group must remain confidential to the Group to whom it is given. (This does not prevent the same advice/information being given to another Group if requested by them).
- 3.29 Councillors and officers shall respect the confidentiality of political Group meetings and meetings with Lead Councillors and the existence and content of any such discussions shall not be relayed directly or indirectly to Councillors of another group without the consent of the Group Chair or Secretary, or Lead Councillor.

Accounts

- 3.30 Councillors also have all the rights acquired by members of the public to see the authority's accounts and the general right to see all books, deeds etc, which are included in the annual audit. The period of inspection takes place over a three week period after the publication of the Council's final accounts for the previous financial year, and usually occurs during August.

Working with Councillors on Non-Council Business

- 1) It is recognised and accepted in law that Councillors will need to deal with the Council in a number of personal capacities: as private citizens; as local residents and receivers of services; as members of local voluntary, community and interest groups; as householders; and also as employees, Directors, owners or shareholders in local businesses or property. Councillors are required to complete and keep updated a public register of all of their financial interests; and to declare any personal and pecuniary interests which arise when they are taking decisions.
- 2) Councillors who contact the Council in a personal or business capacity must do so within the terms of the local Member Code of Conduct, and any failure to do so

may involve a breach of the Code. Councillors are also required to comply with the authority's Planning Code of Conduct, and advice on Licensing applications.

- 4) Councillors, when communicating with the Council on personal (not Council) business, should:
 - Contact the Council from their home or business address or contact
 - Make clear both that they are a Councillor, but that their contact on this occasion is personal (ie not as a Councillor)
 - Not contact the Council using their Council e-mail account, nor through Members' Services
 - Make the contact or request in writing, and make clear in writing that they are acting in a personal capacity
- 5) Officers, when responding to a Councillor on personal business, will:
 - Respond in writing to the Councillor in his/her personal capacity, and not address him/her as Councillor
 - Send the communication to the Councillor's home or business address or contact by Royal Mail (not the Council's courier service); and not send responses by e-mail through the Councillor's RBC e-mail account
 - In all cases, treat the Councillor no differently from any other member of the public making a similar request
 - If officers consider that a Councillor is making an inappropriate request, they should notify their Head of Service and the Monitoring Officer.
- 6) All communications with Councillors on their personal business should be recorded through Front Office. Services should do this directly, and not through Councillor Services, who will only log onto Front Office enquiries by Councillors acting in their capacity as a Councillor.
- 7) Councillors who are communicating on personal business will be treated as members of the public. Councillors can not demonstrate a "need to know" that goes beyond their public rights under the Freedom of Information Act when they are not acting as a Councillor, and are not covered for personal business by the Council's DPA registration.
- 8) Councillors who are submitting development proposals and planning applications in respect of any land or property in which they have a beneficial interest must do so in line with para. 4 of the Planning Code of Conduct, and in particular:
 - must make clear that they are a Councillor
 - must not take any part in the decision-making process (this would be a breach of the Member Code of Conduct, through failure to declare a disclosable pecuniary interest)
 - should not seek to influence the case officer's assessment or recommendation on their proposal

The same rules apply in relation to applications made by the Councillors' spouse or partner. In the interests of transparency and openness, the local member code of Conduct extends them to include applications made by other members of a Councillors' family or any other person with whom the Councillor has a close association; in such cases the interest will not be a disclosable pecuniary interest, and the Councillor should declare a personal interest.

4. AGENDA PREPARATION

Agenda Co-ordination

- 4.1 The Agenda for Council meetings will be constituted in accordance with the provisions of Standing Order 5 set out in the Council and Committee Procedure Rules in Part 4 of the Constitution.
- 4.2 Agendas for Committee meetings will be compiled in accordance with the provisions of Standing Order 36C of the Council and Committee Procedure Rules. They state that the Head of Legal and Democratic Services will determine the agenda for Committee meetings, subject to consultation with the Leader, the Chair and the responsible Lead Councillor(s), as well as the Head of Paid Service, Chief Financial Officer, and lead officer(s) for the Committee. The following may request the Clerk to the Cabinet to include an item on the Agenda for the next meeting of a Committee (subject to the Access to Information Regulations being met):
- Leader
Responsible Lead Councillor;
- 4.3 An Opposition Group Leader or the Mayor may ask the Leader to put an item on the Agenda of a Cabinet meeting for consideration, and if the Head of Legal and Democratic Services agrees the item will be considered at the next available meeting, subject to there being no more than two such reports per Committee meeting. The notice of the meeting will give the name of the Councillor who asked for the item to be included.
- 4.4 The Head of Paid Service, Monitoring Officer and/or the Chief Financial Officer may include items for consideration on the Agenda of any Cabinet meeting and may require that a meeting of the Cabinet be called in pursuance of the statutory duties.
- 4.5 Under Standing Order 29, any three members of a Committee may call a meeting of that Committee at any time.

Reports

- 4.6 It must be remembered that officers are required to draft reports for Council and Committees which contain proper professional advice, and all relevant information, and no irrelevant information, necessary to allow the meeting to make a reasonable decision, in line with the *Wednesbury* Principles.
- 4.7 All reports should be submitted to the Council or Committees under the name of the Director or Statutory Officer, and Directors and Statutory Officers shall be fully responsible and accountable for the contents of any reports submitted in their names.
- 4.8 All reports submitted to the Council or Committees must also state the name of the responsible Lead Councillor(s), and the officer submitting the report will consult with the Lead Councillor(s) on the recommendations made in the report before submitting the report to the meeting.

Consultative and Advisory Bodies

- 4.9 Councillors and officers will also attend meetings of consultative and advisory bodies on which are represented representatives of partnership bodies, local businesses, voluntary groups and other agencies. At such meetings Councillors and officers may provide appropriate information and advice on Council business but shall not disclose any exempt or confidential material, including personal information except where its disclosure is provided for by an information sharing protocol, in which case this must be explained.

5. OVERVIEW AND SCRUTINY

- 5.1 A Committee may resolve to undertake an overview or scrutiny exercise of any function or service delegated to it, or of a partner organisation providing public services locally in Reading. In addition, under the provisions of Standing Order 25, full Council may request a Committee to undertake a scrutiny review. In such cases, the Overview and Scrutiny Procedure Rules will apply, as set out in Part 4 of the Constitution.
- 5.2 A scrutiny exercise undertaken under the Overview and Scrutiny Procedure Rules may include the scrutiny and review of decisions made or actions taken in accordance with the discharge of any Council functions covered by the Committee. In addition to reviewing documentation, in fulfilling the scrutiny role, a Committee, or a task-and-finish group of Members set up by a Committee to undertake the scrutiny exercise, may require any Lead Councillor and/or senior officer to attend before them to provide evidence in relation to matters within their remit. The Committee or task-and-finish group may request information on any particular decision or series of decisions, the extent to which the actions taken implement Council policy and their performance.
- 5.3 Lead Councillors and officers are required to attend such scrutiny exercises if requested, unless exceptional circumstances prevent this, in which case arrangements for an alternative date will be made in consultation with the Lead Councillor and Chair of the Panel. They are also required to answer all questions asked of them, unless they would otherwise have grounds for not answering the question if it were put to them in a court of law.
- 5.4 Officers who are not Corporate Directors or Heads of Service and who are requested to attend to give evidence at a scrutiny exercise can, at the officers' request, be accompanied by a senior manager or a Trades Union representative. This request cannot be reasonably denied by the Committee or task-and-finish group.
- 5.4 Councillors and officers may not be accompanied by an external legal representative without the specific approval of the Monitoring Officer.

6. CORPORATE VALUES

- 6.1 Councillors and officers should always bear in mind the corporate values in their dealings with each other. Mutual respect between officers and Councillors is essential to good local government. It is important that any dealing between Councillors and officers should observe reasonable standards of courtesy and that neither Councillors or officers should seek to take advantage of their position, intimidate the other party or seek to exert duress.
- 6.2 Close personal familiarity between Councillors and officers can damage their relationship and prove embarrassing to other Councillors and officers. However, it is clearly important that there should be a close professional working relationship between the Lead Councillor and the Director and other senior officers with service responsibilities within the Lead Councillor's portfolio; and also between the Director and senior officers and their Committee Chair(s).

Disputes

- 6.3 Taking into account the corporate values and with Councillors and officers respecting integrity, the majority of disagreements should be resolved quickly and amicably. However, if there is a serious dispute, the matter should be discussed in the first instance between the Councillor and the officer concerned. If such discussions do not produce an acceptable resolution the matter should be referred to relevant senior managers and senior party leaders, ultimately resulting in referral to the Head of Paid Service. In addition, any officer can make a complaint

that a Councillor has acted in breach of the Member Code of Conduct to the Monitoring Officer.

Other relevant Codes etc

6.4 These include:

- Code of Conduct for Members
- Code of Conduct for Officers
- Planning Code of Conduct for Members
- Working with Reading's MPs - Guidelines
- Publicity in Elections
- Whistleblowing Policy

June 2013
10th draft

Register of Gifts and Hospitality for Councillors During Municipal Year 2012-13

Date	Councillor	Nature of gift/hospitality	Value	Offered By	Accepted
01-Jun-12	Marian Livingston	Tickets for Nigel Kennedy Concert at Hexagon Theatre X2	£100 (total)	Hexagon Director	Yes
25-Jul-12	Mark Ralph	Dinner at Raj Tandoori, Caversham Park Village	£20	Mr Burgess	Yes
24-Aug-12	James Anderson	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Daisy Benson	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Melanie Eastwood	Reading Festival Tickets X1	£200	Festival Republic	Yes
24-Aug-12	Paul Gittings	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Sarah Hacker	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Tim Harris	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Ed Hopper	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Graeme Hoskin	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Gul Khan	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Chris Maskell	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Eileen McElligott	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Rebecca Rye	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Jeanette Skeats	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Jane Stanford-Beale	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Tom Stanway	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Bet Tickner	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
24-Aug-12	Paul Woodward	Reading Festival Tickets X2	£400 (total)	Festival Republic	Yes
12-Dec-12	Jeanette Skeats	Afternoon Tea	unknown	John Sykes	Yes
21-Feb-13	Jo Lovelock	Pen, Pencil and Letter Opener set	£25	Mayor of Clonmell	Yes