

To: All Members of the Standards Sub Committee

Councillors:
Chair – C Fitzsimmons

K Buckley, C Froggatt, I Marks and S Parish

Professor Steven Broomhead
Chief Executive
Town Hall
Sankey Street
Warrington
WA1 1UH

Standards Sub Committee

Date: Tuesday, 16 October 2018

Time: 17:00

Venue: Council Chamber, Town Hall, Sankey Street, Warrington, WA1 1UH

Contact Adam Kellock, Democratic & Member Services, Tel: 01925 442144,
Email: akellock@warrington.gov.uk

AGENDA

1 Apologies

To record any apologies received.

2 Code of Conduct - Declarations of Interest

**Relevant Authorities (Disclosable Pecuniary Interests)
Regulation 2012**

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.

3 Minutes

3 - 4

To confirm the minutes of the meeting of 26 April 2018 as a correct record.

4 Monitoring Officer Update

5 - 40

Report of the Head of Legal and Democratic Services and Monitoring Officer.

STANDARDS SUB COMMITTEE

Item 3

26 April 2018

Present: Councillors – C Fitzsimmons (Chair), K Buckley, C Froggatt, I Marks, S Parish and Mr Donald Clark.

ST 9 Apologies for Absence

Apologies were received from Sheila Mason.

ST 10 Code of Conduct

There were no declarations of interest made.

ST 11 Minutes

The minutes of the meeting held on 14 February 2018 as a correct record.

ST 12 Monitoring Officer Update

The Monitoring Officer provided an update to the committee on the activities that had taken place since the last meeting of the committee.

Since the last meeting of the committee six Code of Conduct complaints had been received with one having been concluded following an investigation which was reported to the committee in February 2018. The Monitoring Officer had also been engaged with queries from members of the public and Councillor on issues relating to standards which did not constitute formal complaints.

Further advice had been provided to Councillors on the disclosure of their pecuniary and non-pecuniary interests. This included a training session held in November 2017 which was well attended by members with a further training session scheduled for June 2018. These sessions were held on a 6 monthly basis to keep members up to date on matters regarding the Code of Conduct and standards. Additional training on the use of social media was also provided and was well attended by members.

The Gifts and Hospitality protocol for officers was in the process of being updated in light of the increasing commercial activities of the Council. Once this update had been completed the Monitoring Officer would consider how it could be adapted for members. Any future protocol would be brought to the committee for consideration.

The Independent Persons attended a further training session on their role with Hoey Ainscough LTD along with a Democratic Services Officer. The session included an update on any new issues for Independent Persons as well as the standards regime in general along with a round table discussion of how a case would be handled through the whole process

from it being received to a resolution being found. The Independent Persons found the session useful as it was helpful to share good practice and hear experiences if Independent Persons in other authorities.

In the report to the last meeting of the committee members were informed of consultation regarding disqualifications from standing for office. It was requested that a response from the Council be submitted in conjunction with the LGA. A copy of the LGA response, which concurred with the views of the committee, was attached which expressed concerns about the inclusion of civil orders and prosecutions barring somebody from standing for office. Further concern was expressed that such disqualifications would need to be replicated at the parliamentary level.

In response to a query regarding the way in which standards were dealt with the committee confirmed that they were content with the procedures and processes that were in place feeling that they were proportionate and appropriate given the sanctions that were available with regular training for members on the Code of Conduct.

Signed

Dated.....

WARRINGTON BOROUGH COUNCIL
STANDARDS SUB COMMITTEE
16 October 2018

Item 4

Report of the: Head of Legal & Democratic Services and Monitoring Officer
Report Author: Matthew Cumberbatch, Head of Legal & Democratic Services and Monitoring Officer
Contact Details: **Email Address:** mcumberbatch@warrington.gov.uk **Telephone:** 01925 442150
Ward Members: All

TITLE OF REPORT: MONITORING OFFICER UPDATE

1. PURPOSE OF REPORT

1.1 To update the Sub Committee on developments relating to the ethical framework for Councillors and to seek members views on further work to be carried out.

2. CONFIDENTIAL OR EXEMPT

2.1 The information in this report is neither confidential nor exempt.

3. INTRODUCTION AND BACKGROUND

3.1 The Standards Sub Committee is responsible for maintaining high standards of ethics and behaviour within the Council. The Monitoring Officer, acting on behalf of the Sub Committee, provides regular updates on his work and any new information or regulations that are relevant.

4. COMPLAINTS

4.1 Since the last meeting of the Standards Sub Committee on 26 April 2018 the Monitoring Officer has received a total of two complaints at the time of writing. A breakdown of these complaints, whether they were against a Borough or Parish Councillors and what action was taken is provided below:

Borough Councillors – Total number of complaints - 2

| Action Taken | Number of Complaints |
|--|----------------------|
| Complaint assessed by the Monitoring Officer and considered by the Independent Persons - No Action taken | 1 |
| Complaint assessed by the Monitoring Officer and | 0 |

| | |
|--|---|
| considered by the Independent Persons – settled without formal investigation | |
| Complaint sent for external investigation (Ongoing) | 0 |
| Complaint sent for external investigation (Resolved – No action taken) | 0 |
| Ongoing | 1 |

Parish Councillors – Total number of complaints - 1

| Action Taken | Number of Complaints |
|---|----------------------|
| Complaint assessed by the Monitoring Officer and considered by the Independent Persons - No Action taken | 1 |
| Complaint Investigated by the Monitoring Officer and considered by the Independent Persons – settled without formal investigation | 0 |
| Complaint sent for external investigation (Ongoing) | 0 |
| Ongoing | 0 |

- 4.2 In addition to the above the Monitoring Officer and Deputy Monitoring Officer have provided advice to members of the public, councillors (at Borough and Parish level), officers and Parish Clerks with regards to issues regarding the Code of Conduct and the complaint process. The Committee will see at Appendix A that a guidance note for Code of conduct complaints has been produced for consideration by the Committee. The guide incorporates common queries and situations and is aimed to inform the public, Councillors and officers. If the Sub-Committee approve the guidance note it will be added to the online materials on the Council’s website. This document is to be considered alongside the overall review of the online materials referred to at paragraph 5.5 below.

5. MONITORING OFFICER ACTIONS

- 5.1 The Monitoring Officer has continued in his wider role regarding standards, ethics, behaviour and the Constitution and has carried out a variety of actions in relation to the role which are outlined below.
- 5.2 Advice has been given to members on their Declaration of Interest forms particularly relating to potential sensitive interests and amendments required as a result of additional responsibilities. All members have been contacted via email to remind them of their responsibilities to keep their Declaration of Interest forms up to date and to update them within 28 days of a change to their interests taking place. This reminder is being sent to members on an annual basis.
- 5.3 Training is provided for members on the Code of Conduct on a bi-annual basis with the invitation extended to Parish Councillors and Clerks. The sessions cover updates on the Code of Conduct and general ethics issues as well as providing practical examples and case studies for members. The next session is scheduled for Monday

22 October at 6pm in the Council Chamber. Attendance at these sessions is high and a total of 36 members have attended one of these sessions over the past 18 months.

- 5.4 An open invitation has been issued to Parish Councils for the Monitoring Officer to attend and provide specific advice on ethical framework of standards based issues. It is advised that Parish Councils could coordinate on a regional basis if they wish to arrange a session with the Monitoring Officer.
- 5.5 The Councils website continues to be a vital resource for members of the public when considering Code of Conduct complaints. The information on the website is continually reviewed and includes links to the Code of Conduct, Complaint Form and Complaints Procedures as well as contact details for the Monitoring Officer and Democratic Services staff. Members are invited to review the Councillor Complaints website and consider any potential updates or amendments to make it as user friendly as possible.

<https://www.warrington.gov.uk/info/201197/contact-us/756/complaints-procedure/4>

- 5.6 The guidance on Gifts and Hospitality set out within the Code of Conduct for Council Employees has been updated in liaison with HR colleagues and is attached at Appendix B to this report. At previous meetings of the Sub Committee members have expressed an opinion that this guidance could be extended to members and potentially included within the Code of Conduct. Members are invited to consider the attached protocol on Gifts and Hospitality and consider whether the same or a similar scheme should be adopted for members.
- 5.7 The terms of reference for the Standards Sub Committee are included within two sections of the Constitution under Part Two – Articles of the Constitution, Article 9 – The Standards Committee and Section A – Responsibilities of Council, Executive Board, Regulatory and Other Committees. Both of these sections are combined in the attached Appendix C. The terms of reference were previously amended to reflect the committees' new position as a sub-committee of the Audit and Corporate Governance Committee. The Monitoring Officer is in the process of reviewing these terms of reference and members are invited to give their views on the current terms of reference and any potential amendments. Any amendments to the terms of reference would also be considered by the Constitution Sub Committee prior to an amendment being recommended to Full Council.
- 5.8 The Councillor Complaints Procedure which provides a breakdown of the process of how a code of conduct complaint made against an elected member will be dealt with is being reviewed by the Monitoring Officer. The existing procedure is attached at Appendix D to the report. Updates to the procedure will aim to improve the efficiency and effectiveness of the process as well as making it clearer for both members of the public and Councillors. Further to this standard template correspondence has been produced for the various stages of the complaints procedure. These include letters to the complainant and councillors outlining how

the process will be carried out at various stages and will assist in improving consistency.

6. INDEPENDENT PERSONS UPDATE

- 6.1 The Council currently maintains two Independent Persons (IP) who have been in place since June 2013 (following statutory changes that came with the Localism Act 2011). Arrangements to comply with the new legislation was agreed by Council in 2012 and included the provision for the appointment of two IP's who are not members of the Standards Committee but who are required to be consulted by the authority upon the receipt of complaints. The IP's role is pivotal in providing integrity within the complaints process as well as being a statutory requirement.
- 6.2 The IP's have attended a number of workshops run by Hoey Ainscough Associates LTD which have provided refresher information on their role and the opportunity to share best practice with IP's from other Local Authorities. A detailed update on the most recent workshop was provided at the last meeting of the committee.
- 6.3 The IP's have continued to be involved with the complaints procedure and have on one occasion met with the Monitoring Officer to consider the two complaints outlined in the table at 4.1 above.
- 6.4 In order to assist them in their role, the IP's have been set up with access to a secure email service, Egress. This system allows emails to be shared with the IP's through a secure server and will allow for confidential complaint information to be shared electronically with feedback also being provided electronically. This will enable opinions to be given on cases without the need to meet face to face with the Monitoring Officer, although this will still be required in more complex cases.

7. OTHER ISSUES

- 7.1 The Committee on Standards in Public Life is in the process of analysing feedback from the consultation into Local Government ethical standards. 317 responses to the consultation which was open from January to May 2018 were received and the committee aims to publish its report by the end of 2018. Members of the sub committee will be kept informed of the process and a further report on the outcome of the consultation will be brought to a future meeting of the committee.
- 7.2 A response to the consultation on disqualifications from standing for office will be shared with members of the sub committee once it has been received.

8. FINANCIAL CONSIDERATIONS

- 8.1 The secure email system Egress incurs a small cost that will be met through the Monitoring Officer budget. There was a £113.18 initial set up fee which covered the first year and thereafter an annual charge of £73.18.

9. LEGAL COMMENT

9.1 The role of the Independent Person is set out at Section 28 of the Localism Act 2011 in relation to their responsibilities in relation to Code of Conduct complaints and at Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) for their role in the process for the dismissal of Chief Officers.

9.2 It is not a legal requirement for Register of Interest forms to be reviewed annually but the forms do need to be kept up to date by the respective Councillors concerned. However, provisions at Chapter 7 of the Localism Act 2011 require Councillors to ensure that the Council is kept up to date regarding their Disclosable Pecuniary Interests. Accordingly, it is reasonable to send a reminder occasionally to assist councillors in meeting their responsibility.

10. RISK ASSESSMENT

10.1 Section 27 of the Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by its members.

10.2 Failure to make appropriate arrangements could call into question the integrity of decisions and expose the Council to the risk of legal challenge. Establishment and review of the Code and the Council's procedures to promote good governance significantly mitigates those risks.

11. EQUALITY AND DIVERSITY/EQUALITY IMPACT ASSESSMENT

11.1 Democratic and Member Services has an up to date Equalities Impact Assessment in place.

12. CONSULTATION

12.1 As indicated above the Committee is invited to take a preliminary view upon the matters raised in this report. The proposals in this report do not require a public consultation.

13. REASONS FOR RECOMMENDATIONS

13.1 To comply with the requirements of the Localism Act 2011, to promote high standards of ethical behaviour and to enable the Monitoring Officer to carry out his role.

14. RECOMMENDATIONS

14.1 That the Sub Committee:

(a) Notes the content of the report and provides any comments as appropriate.

(b) Agree the new Guidance on making a Councillor Code of Conduct complaint document to be published on the Council website.

(c) Reviews the terms of reference of the Standards Committee

(d) Agree to recommend to full Council the changes to the councillor complaints procedure

15. BACKGROUND PAPERS

15.1 Localism Act 2011;

15.2 Warrington Borough Council's Constitution

Contacts for Background Papers:

| Name | E-mail | Telephone |
|---------------------|--------------------------------|------------------|
| Matthew Cumberbatch | mcumberbatch@warrington.gov.uk | 442150 |

Guidance on making a Councillor Code of Conduct complaint

Item 4

This guidance note accompanies the Code of Conduct complaint form [insert link] and the Code of Conduct complaints procedure [insert link]. It is recommended that you consider the guidance before making your complaint.

A Code of Conduct complaint is where someone makes a complaint alleging that a Councillor (either from Warrington Borough Council or from a Parish Council in the Warrington Borough) has acted in breach of their Code of Conduct. It is not the process for complaints about Council officers or services which are dealt with through the Council's normal complaints procedure [insert link].

NOTE – the Warrington Borough Council Code of conduct can be found at this link [insert link], Parish Councils have their own Code of Conduct which can be obtained by contacting the Clerk to the respective Parish Council and requesting a copy.

The following points are helpful in making sure that you submit a valid Code of Conduct complaint.

1. The complaint has to be in writing. A form is available on our website to assist [insert link]. You do not have to use this form but it is helpful in setting out the details that you should provide.
2. Anonymous complaints will not be considered. If you want to have your name withheld during the complaint process there is an opportunity on the complaint form to make that request. However, the Monitoring Officer will make a decision on the request and if it is decided that your name should not be withheld then you will be asked if you wish to continue with your complaint or withdraw it before proceeding further.
3. You should include as much detail as possible as part of your complaint including and documentary evidence and names of witnesses or those that may provide evidence to support your complaint.
4. Consider what you want the outcome of your complaint to be and set it out in the complaint document. Complaints that are about Council services, policies and/or performance will not be considered as part of this process and may be referred to the relevant service area in accordance with the Council's Complaints Policy.
5. Similarly, complaints that are really about the political policies or performance of a Councillor in their role will not be considered by the Councillor Code of Conduct complaint process. Such complaints may be referred to the councillor and/or their political group for response.
6. Part of the decision as to whether a complaint merits further action such as an investigation will depend upon the type of complaint. For example, complaints that are; frivolous, vexatious, repetitious, considered minor ('tit for tat') and/or relate to incidents or events more than six months old will not usually be considered in the public interest to take any action upon.
7. The Council is limited by legislation as to what sanction can be imposed upon a Councillor who is found to have breached the Code. For example, a Standards Hearing Committee cannot disqualify or suspend a Councillor from holding public office. Accordingly please be aware that if the aforementioned sanctions are what you are seeking then this will not be possible via the Councillor Code of Conduct complaint process.
8. Code of Conduct complaints will usually be considered after other relevant complaints processes have been followed. For example; criminal investigations, political group processes (including mediation processes for councillors), member/officer protocol procedures (for complaints by council employees) and complaints that relate to a incidents/events of another authority will normally be allowed to proceed first followed by consideration

afterwards as to whether it is appropriate for a Code of Conduct complaint on the same matter to be considered.

9. Whilst every attempt is made to make the complaints process as expedient as possible, the process can take some time particularly if the matter is referred to an investigation. Moreover, if you do make a complaint please be aware that you may be contacted to be interviewed as part of any investigation process and you may be asked to attend a hearing of the Standards Committee to give evidence in support of your complaint.

If you wish to have an informal chat about a matter that you think you may wish to make a complaint about you can contact [contact details for MO and Deputy MO].

If you are considering whether a Code of Conduct complaint is the appropriate way of addressing an issue which has arisen with a Councillor you can seek your own independent legal advice.



Gifts and Hospitality Policy and Guidance for Council Employees

This document can be found on Winnie at the following link:

TBC

DOCUMENT STATUS

| Version | Date | Action |
|----------------|-------------|----------------------------------|
| 1 | June 2018 | New Policy and Guidance Document |

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DRAFT

1. INTRODUCTION

- 1.1 Local Government is a service to the public. The work of the Council is for their benefit and at their expense. It is carried out in public view and it is important that the Council responds positively to the challenge this provides. Policy developments at national level illustrate an increased focus upon the high standards expected of local government employees.
- 1.2 This guidance supplements the law, financial regulations, the Council's Code of Conduct for Employees, the Council's Ethical Framework and the Council's Anti - Fraud, Bribery and Corruption Statement.
- 1.3 This policy states the Council's position in relation to the giving and receiving of gifts and hospitality and provides a framework to ensure compliance with the relevant legislation.
- 1.4 The Local Government Act 1972 forbids acceptance by any Local Government Officer of any fee or reward other than proper remuneration. The Bribery Act 2010 which came into force on 1 July 2011 covers both public and private organisations and makes organisations responsible when individuals working on their behalf give or take bribes. Warrington Borough Council take a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity at all times.

2.0 PURPOSE

- 2.1 The receipt or provision of gifts and hospitality are not in themselves unlawful. However these may amount to bribery if given or received with the intention of improperly influencing business or regulatory decisions. It is, however a criminal offence to receive or give any gift, loan, fee, reward or advantage for doing or not doing something or showing favour or disfavour to any person in their official capacity. If such an allegation is made it is for the employee to demonstrate that any alleged rewards have not been corruptly obtained or provided

The purpose of this guidance is to set out the Council's policy on what is and what is not acceptable taking into account the particular nature of the business area concerned.

- 2.2 This Policy and Guidance also sets out the process for declaring gifts and hospitality and a central register will be maintained of such declarations by the Council's Monitoring Officer

3.0 SCOPE

- 3.1 This policy applies to all Council employees and anyone associated with the Council including those working on behalf of the Council in any capacity.

4.0 PRINCIPLES

4.1 The principles of this policy are:

- Individuals covered by this guidance will maintain conduct of the highest standard such that public confidence in their integrity is sustained.
- Employees must refuse offers of gifts or hospitality where any suggestion of improper influence is possible. The acceptance of gifts or hospitality by employees from persons who have, or seek to have, dealings with the authority would be viewed by the public with grave suspicion and would make the employee concerned, and the Council, extremely vulnerable to criticism. This particularly applies where the offer is to an individual employee rather than on a corporate basis.
- Employees will abide by the provisions of this policy and will not use their position within the Council for their personal gain or the personal gain of others.
- Gifts or hospitality of any nature should never be accepted from a tenderer at any stage in the tendering process. This includes the immediate period before or after tenders are invited and during the tender process including between invitation to tender and acceptance.
- Gifts or hospitality of any nature should never be accepted from an existing contractor during any period when the Council and the contractor are discussing amendment, extension or disputes in respect of any contract.
- Gifts are defined not only as material items but can also include offers such as loans, discounts and offers of employment which would provide a personal advantage to the recipient or their friends/family.

4.2 To a large extent the reputation of local government depends on the conduct of its employees and what the public believes about their conduct. Employees are expected to use common sense in assessing any situation where improper influence could be construed and no employee should do anything which could give rise to accusations of improper influence and which could not be justified publicly.

4.3 If an employee is in any doubt about the right course of action to take he/she should always seek the advice of his/her Manager.

4.4 Disciplinary action will be considered in each and every case where an employee fails to comply with this procedure.

5. GIFTS

5.1 Employees are reminded that under the provisions of Section 117 of the Local Government Act 1972, they are forbidden under the cover of their office and

employment to accept any fee or reward other than their proper remuneration. Any person who contravenes this provision would be liable on summary conviction to a fine not exceeding £2500.

- 5.2 Employees should tactfully refuse any personal gifts offered to him/her or to a member of his/her family by or indirectly attributable to, any person or body (i.e. a contractor or supplier) who has, or may have, dealings of any kind whatsoever with the authority. This applies equally to accepting gifts from persons or a body that has applied, or may apply, to the Council for any planning or other kind of decision.

The only exceptions to this rule are:

- Small gifts of only token value (£25.00 or less) often given by way of trade advertisements or of a promotional nature to a wide range of people, e.g. calendars, diaries, mugs, pens, office stationery and similar articles for use in the office.
- Small gifts of only token value (£25.00 or less) given on the conclusion of a courtesy visit, e.g. to a factory or other premises.
- Gifts/token presentations from foreign visitors/dignitaries e.g. presentation wine glasses and pennants which should be retained on Council premises.
- Small gifts (value not exceeding £25.00) where the employee concerned and also perhaps his/her spouse are personal friends of the donor and where refusal would be regarded as inappropriate. In such cases however, whilst the gift may be accepted the employee concerned should explain to the donor the problems of accepting such gifts in the future.

NOTE - Consideration should be given to the reason, timing and value of a gift. Gifts should never be accepted if it is clear that the gift is being offered secretly. Cash gifts of any value are never to be accepted.

- 5.3 In the event that an employee is offered a gift as a “thank you” in appreciation of good customer service. This should generally be politely refused. However, where the gift is a token of appreciation (£25.00 or less) such as flowers or chocolates and it would cause offence to be refused they can be accepted, but must be kept in the office or shared with colleagues. Anything other than a small token gift must be refused with an explanation that it is not possible to accept such gifts. This is particularly important within Social Care services.

- 5.4 In the event of any employee receiving a gift without warning which does not fall in any of the exceptions mentioned above this should immediately be given to his/her Assistant Director/Director. This person will be responsible for deciding whether the gift should be returned or whether it could be forwarded to the Mayor’s Charity Fund (see paragraph 5.5 below) or other deserving cause. In such cases, the person making the decision should inform the donor what has happened to the gift and explain the reason why gifts should not be sent in the future.

5.5 ***Acceptable but only if donated to Mayor's Charity Fund***

Certain uninvited gifts from **suppliers/contractors** may be accepted which would either be difficult to return or which would cause offence if they were returned. These gifts should **not** be retained by the individual who received them but should be forwarded to the Assistant Director/Director and record them in the appropriate register and organise donation to the Mayor's Appeal. These items may include:

- Bottles of wine and spirits
- Boxes of biscuits, chocolates and Easter Eggs
- Books
- Decorative objects such as glass tankards, glass crystal, china ornaments and paperweights
- Prize draw items which take place at trade events where the clear intention is to promote the business (e.g. hampers)

5.6 **If there is any doubt about whether a gift may be accepted the gift should be politely and tactfully refused.**

5.7 With the exception of the gifts described in sections 5.2 and 5.3 above and which are under the value of £25.00, **in all other cases a record should be kept of all gifts offered and whether they were accepted or not.** The action taken should be recorded in the appropriate Gifts and Hospitality register. The process for the recording of gifts and hospitality is outlined as an appendix to this policy.

5.8 There may be occasions where the giving of a gift by the Council may be appropriate. This would normally be a gift of a civic nature to official visitors to the town and would be something of relevance to the Council or the town such as artefacts bearing the Council crest. These would normally be of nominal value. Small promotional items such as pens or coasters bearing the Council logo may be made available for promotional or marketing purposes or for events such as recruitment fairs. The purchase of any such items would be subject to the Council's financial regulations and the established approvals process for purchasing.

6 **GIVING AND RECEIVING HOSPITALITY**

6.1 Any hospitality **given** by employees should be justified as in the public interest. It should always be given in the name of the Council and not in the name of the individual officer. The hospitality given should be on a scale appropriate to the occasion and must not be extravagant. To ensure consistency if there is any doubt about what is appropriate, officers should contact their Assistant Director/Director. The giving of hospitality should have prior approval from a Director or the Chief Executive

- 6.2 Hospitality should only be **accepted** where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality.
- 6.3 **Reasonable and appropriate hospitality can only be accepted and/or offered if it is to meet any of the following criteria**
- (a) establishing or maintaining good business relationships;
 - (b) improving or maintaining our image or reputation; or
 - (c) marketing or presenting our products and/or services effectively.
- 6.4 Wherever **hospitality is offered this must be recorded in the Council's Gifts & Hospitality register. The procedure for doing this is contained in this guidance. The record must also show whether the hospitality was accepted or refused. Where more than one employee attends an event an individual declaration form must be completed in respect of each employee. The record must show why the hospitality is going to be accepted and what benefit it provides to the Council (as referred to in paragraph 6.3). Further, it must confirm that the principles of this policy (as set out in paragraph 4.1) have been met.**
- 6.5 If there is any doubt about whether hospitality may be accepted then the hospitality should be politely and tactfully refused or alternatively advice should be sought from an Assistant Director / Director
- 6.6 The following are examples of hospitality that is acceptable:
- Invitations to attend functions where the employee represents the Council (e.g. dinners where they are invited to speak, opening ceremonies, trade shows, etc.) or functions which they attend by virtue of their position.
 - A working lunch provided to enable the parties to continue to discuss business.
 - Attendance at an event held at a Council owned venue or hosted/sponsored by the Council to the extent that is reasonable and the employee is representing the Council in an official capacity i.e. by virtue of their position within the Council.
 - Attendance at an Awards Ceremony either as a judge or a nominee.
- 6.7 Personal invitations to sporting events or other entertainment with representatives from a company or organisation which has dealings with the Council would normally not be acceptable. However, there may be a rare occasion when it is deemed to be appropriate for the Council to be represented at a particular function for commercial or marketing reasons and the benefits to the Council of such hospitality must be clear (see paragraph 6.3 above and 6.8 below). The benefits to the Council of accepting such hospitality must be clear. Before the acceptance of any such hospitality prior approval

must be granted by an Executive Director or the Chief Executive. Any such offers must be reported and recorded whether accepted or not (see 6.4 above).

6.8 The following checklist should be considered in order to assess any potential conflict:

- a) Have you obtained the prior approval of your Executive Director or the Chief Executive?
- b) Is the donor, or the event, significant in the community or in the Council's area
- c) Are you expected to attend because of your position in the Authority?
- d) Will the event be attended by others in the Authority or in other Authorities?
- e) Have you considered the motivation behind the invitation?
- f) Would the acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future matter involving this Council?
- g) Could you justify the decision to the Council, press and public?
- h) Would you be comfortable with your decision being disclosed under an FOI request or being reported in the press?
- i) Is the extent of the hospitality reasonable and appropriate?
- j) How will you respond to the hospitality?

An example of what is not acceptable:

You are offered tickets to a major sporting event, but only if they agree to do business with the person/organisation offering the tickets.

This would be a bribery offence as the person/organisation making the offer stands to gain a commercial and contractual advantage. It may also be an offence for the Council and the member of staff to accept the offer.

7 SPONSORSHIP – GIVING AND RECEIVING

7.1. If an organisation wants to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

- 7.2. If the Council sponsors an event or service, employees or anyone connected with employees may not benefit from the sponsorship. Similarly, if the Council, gives financial support in the community, impartial advice must be given and there must be no conflict of interest.
- 7.3 Sponsorship must not be received by or provided to political organisations.

8 **RAISING CONCERNS**

- 8.1 It is the responsibility of all Council employees, contractors and partners to be vigilant regarding improper offers and/or acceptance of gifts and hospitality.
- 8.2 The Council has a secure route to raising any concerns via our whistleblowing procedure, the link for guidance on the use of this policy is provided here:

<https://intranet.wla.int/Employee/Documents/whistleblowing%20policy.pdf#search=whistleblowing%20policy>

APPENDIX 1

PROCEDURE FOR THE DECLARATION OF GIFTS AND HOSPITALITY

1. All declarations of Gifts and Hospitality must be made on the standard Council pro forma with sign of by the relevant Chief Officer as provided for on the form. Levels of authorisation are as follows:

| Employee Grade | Authorising Signatory |
|-----------------------|---------------------------------|
| Up to Grade 15 | Assistant Director |
| Grade 16 | Executive Director |
| Assistant Director | Executive Director |
| Executive Director | Chief Executive |
| Chief Executive | Council Leader or Deputy Leader |

2. Blank forms are available via WINNIE and should be forwarded to the approving manager.
3. The approving manager should forward completed forms to the Council's Monitoring Officer where the central register will be maintained. The forms will be reviewed on a regular basis including a regular assessment by the Council's internal auditors.
4. All gifts which are above the value of £25.00 must be declared whether accepted or not. The only exceptions are those gifts which are both valued at £25.00 or less and fall within the definitions provided at paragraphs 5.2 and 5.3 of the policy. If accepted what happens to those gifts i.e. given to the Mayor's charity must also be detailed.
5. All gifts of any value offered in the field of Social Care whether accepted or not must be declared.

6. The giving of hospitality must be approved beforehand by the relevant Executive Director or the Chief Executive.
7. All offers of hospitality whether accepted or not must be declared and the outcome recorded. No hospitality of any form should be accepted until approval has been given.

DRAFT



Declaration of Gifts or Hospitality Offered To Employees

Employees should, wherever practicably possible, seek approval from their Assistant Director, Executive Director or the Chief Executive **BEFORE** acceptance of any offers of gifts or hospitality other than the low intrinsic value gifts as outlined in the Gifts and Hospitality Policy and Guidance.

Offers of gifts or hospitality, other than the exceptions of low value gifts, whether accepted or not, must be formally registered using this form, within 10 working days of offer.

For further details and information please see the full policy. Particular reference should be made to paragraph 6.7. ([link to be included when on WINNIE](#))

| | | | |
|-----------------------|--|--------------------|--|
| Name | | Directorate | |
| Service | | Contact no: | |
| E mail address | | | |

I confirm that I have been offered gifts / hospitality as follows:

| | |
|---|--|
| Details of gift / hospitality | |
| Date of hospitality | |
| Estimated value | |
| Organisation/person offering gift /hospitality (6.7b) | |
| Relationship of organisation/individual with the Council | |
| Reason for the gift / hospitality being offered (6.7e) | |
| If you have refused the hospitality or refused/returned the gift, please tick here (6.7f) | |
| Reason for acceptance if accepted to include benefit to the council (6.7i) | |

| | |
|--|--|
| | |
|--|--|

| | |
|---------------|-------------|
| Signed | Date |
|---------------|-------------|

| |
|---|
| Action taken by authorised signatory: (Action could include: authorise acceptance, authorise sharing with other staff, not authorise acceptance, gift forwarded to Mayor's |
|---|

| | |
|-----------------------------|-------------|
| Authorised signature | Date |
|-----------------------------|-------------|

| |
|--|
| |
|--|

| | |
|-------------------------------------|-------------|
| Monitoring officer signature | Date |
|-------------------------------------|-------------|

| |
|--|
| |
|--|

Date recorded in central register:



Declaration of Gifts or Hospitality Provided

Employees should seek approval from the relevant Executive Director or the Chief Executive **BEFORE** giving gifts or providing hospitality.

All such gifts and hospitality must be declared using this pro forma and forwarded to the Office of the Council's Monitoring Officer to be held in the central record.

For further details and information please see the full policy. Particular reference should be made to paragraph 6.7. ([link to be included when on WINNIE](#))

| | | | |
|-----------------------|--|--------------------|--|
| Name | | Directorate | |
| Service | | Contact no: | |
| E mail address | | | |

I confirm that I propose to provide gifts / hospitality as follows:

| | |
|--|--|
| Details of gift / hospitality | |
| Date of hospitality | |
| Estimated value | |
| Organisation/person to whom gifts / hospitality are to be offered. (Where multiple organisations they can be listed together here). | |
| Relationship of organisation/individual with the Council | |

| | |
|--|--|
| Reason for the gift / hospitality being provided and the benefits to the Council | |
|--|--|

| | |
|---------------|-------------|
| Signed | Date |
|---------------|-------------|

| |
|---|
| Comments by authorised signatory: (e.g. reasons for supporting the proposal) |
|---|

| | |
|-----------------------------|-------------|
| Authorised signature | Date |
| | |

| | |
|-------------------------------------|-------------|
| Monitoring officer signature | Date |
| | |

Date recorded on the central register:

PART TWO
ARTICLES OF THE CONSTITUTION

ARTICLE 9 – THE STANDARDS SUB COMMITTEE

9.1 Statutory Background

- 9.1.1. The Council has established a Standards Sub Committee to discharge its functions under Chapter 7 of Part 1 of the Localism Act 2011 and exists as a Sub Committee of the Audit and Corporate Governance Committee.

9.2 Composition and Voting

- 9.2.1 The Council has decided that its Standards Committee shall consist of 5 Borough Councillors There is no restriction as to members of the Executive Board serving on this Committee.
- 9.2.2 The Chair of the Committee will be appointed at the Annual Council meeting from among the ordinary members of the Committee.
- 9.2.3 The Council will appoint up to three Independent Persons for the purposes of providing advice in the case of alleged breaches of the Members' Code of Conduct. The Independent Persons are not members of the Committee.

9.4 Role and Function

- 9.4.1 The Standards Sub Committee will be responsible for discharging the Council's functions under Chapter 7 of Part 1 of the Localism Act 2011, including:
- (a) considering and determining dispensations to Councillors relating to their interests as set out in the Members' Code of Conduct;
 - (b) promoting high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Councillors (including co-opted Members or persons acting in a similar capacity) and for employees in accordance with best practice and Government Guidance;
 - (c) providing advice to the Council in respect of its duty to adopt, revise or replace a Code of Conduct under Section 27(2) of the Localism Act 2011 and advising the Council on the adoption or revision of the Officers' Code of Conduct and the Protocol on Member/Officer Relations;
 - (d) ensuring that Councillors receive advice and training as appropriate on matters relating to the Members' Code of Conduct;
 - (e) issuing advice to Members on the treatment of disclosable pecuniary interests, other interests and on conduct matters generally;

- (f) ensuring the Council maintains appropriate links with the Commission for Local Administration in England (Ombudsman).
- (g) referring issues which impinge on staff conduct, performance, terms of employment, training and development to the appropriate and responsible Manager in the first instance;
- (h) promoting high standards of responsiveness by the Council to its clients and contacts
- (i) advising other persons/bodies on probity and ethics as appropriate particularly where that person or body is exercising functions on behalf of the Council.
- (j) supporting the Council's Statutory Officers, as appropriate, or their authorised deputies, in the performance of their duties.
- (k) dealing with any reports from the Monitoring Officer on any matter which relates to Part 1, Chapter 7 of the Localism Act 2011;
- (l) ensuring that the Council's whistle blowing policy is operated effectively.
- (m) providing recommendations to Council on the arrangements required for investigations and decisions on allegations of a failure to comply with the relevant Member Codes of the Council or a parish or town council, including arrangements for the appointment of at least one Independent Person to provide advice.
- n) exercising all powers, responsibilities and functions related to the consideration of complaints made to the Committee with regards to member conduct, except those reserved to the Monitoring Officer and a Hearings Sub-Committee under the arrangements made by Council under s28(6) of the Localism Act 2011;
- o) requesting the advice of an Independent Person, as necessary, in respect of the matters described at n) above.

9.4.2 The Committee will exercise the functions set down in 9.4.1 in relation to parish and town councils in so far as they are applicable.

9.4 Arrangements for dealing with Misconduct Complaints

9.5.1 The Monitoring Officer will be responsible for:-

- (a) receiving complaints;
- (b) determining (in consultation with an Independent Person) whether the complaint merits formal investigation, or referring this decision to the Standards Sub Committee, as appropriate;
- (c) arranging for a formal investigation;
- (d) closing the matter where no evidence of a breach is found;

- (e) seeking local resolution, as appropriate, where there is evidence of a breach (in consultation with an Independent Person);
- (f) referring a matter for a determination to a Sub-Committee of the Standards Committee, where local resolution is not appropriate or possible.

9.5.2 A matter referred under 9.5.1(f) above will be heard by a Sub-Committee of the Committee comprising three Members and in the case of a parish or town council matter, comprising an additional fourth member who is a co-opted non-voting parish councillor from a parish other than the parish on which the member complained about holds office.

9.5.3 Following any formal investigation of an allegation, the views of an Independent Person must be sought and must be taken into account by the Monitoring Officer, before taking a decision as to whether to close the matter or to confirm a local resolution and must be taken into account by a Sub-Committee on the hearing of any allegation.

9.5.4 The views of an Independent Person may be sought by the Committee, a Sub-Committee or Monitoring Officer in relation to allegations not covered by 9.5.3.

9.5.5 The views of an Independent Person may be sought, in accordance with Section 28 (7)(b)(ii) or (iii) Localism Act, by a Member or co-opted member of the Council, or of a parish or town council, who is the subject of an allegation.

SECTION A

RESPONSIBILITIES OF COUNCIL, EXECUTIVE BOARD, REGULATORY AND OTHER COMMITTEES

Standards Sub Committee

11.3 The Standards Sub Committee is responsible for discharging the Council's functions under Chapter 7 of Part 1 of the Localism Act 2011 including:-

- a) considering and granting, or otherwise, dispensations in respect of Members' Interests under Section 33 of the Localism Act 2011;
- b) promoting high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Members of the Council (including Co-opted Members and other persons acting in a similar capacity) and for employees in accordance with best practice and Government guidance;
- c) advising the Council on the adoption or revision of the Codes of Conduct for Members and Officers;
- d) ensuring that Members receive advice and training as appropriate on the Members' Code of Conduct and the ethical framework and governance;
- e) issuing advice to Members on the treatment of disclosable pecuniary interests, other interests and on conduct matters generally;
- f) ensuring that the Council maintains appropriate links with the Commission for Local Administration in England (Ombudsman);
- g) referring issues, which impinge on staff, conduct, performance, terms of employment, training and development to the appropriate Manager;
- h) promoting high standards of responsiveness by the Council to its clients and contacts;
- i) advising other persons/bodies on probity and ethics as appropriate, particularly where that person or body is exercising functions on behalf of the Council;
- j) supporting the Council's statutory Officers as appropriate, or their authorised deputies, in the performance of their duties;
- k) dealing with any matters from any report from the Council's Monitoring Officer on any relevant matter;
- l) ensuring that the Council has in place an appropriate Whistle Blowing Policy and that it is operating effectively and to make recommendations where in the opinion of the Committee the policy is in need of review and/or amendment;

- m) providing recommendations to Council on the arrangements required under s28(6) of the Localism Act 2011 for investigations and decisions on allegations of a failure to comply with the relevant Member Codes of the Council or a parish or town council;
- n) exercising all powers, responsibilities and functions related to the consideration of complaints made to the Committee with regards to member conduct, except those reserved to the Monitoring Officer and a Hearings Sub-Committee under the arrangements made by Council under s28(6) of the Localism Act 2011;
- o) requesting the advice of an Independent Person, as necessary, in respect of the matters described at n) above.

Councillor Code of Conduct Complaints Procedure

Item 4

At the 10 September 2012 meeting of the Council it was agreed that the Council's Monitoring Officer be appointed as the Proper Officer for receiving complaints relating to failure to comply with the Code of Conduct. At the same meeting, the Council agreed the following procedure that should be carried out upon the receipt of a complaint relating to the failure to comply with the code of conduct (updates to the original procedure were agreed by full Council on?).

1. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. That he be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, that he may, where appropriate, decide that no further action is required regarding the complaint, and to report regularly to Standards Committee on the discharge of all functions delegated to him;
2. That during the Monitoring Officer's determination process he may, if appropriate, inform/consult with the respective party leader and/or party whip of the Councillor who is subject to the complaint;
3. Where an investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;
4. Where an investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a three voting member sub-committee of the Standards Committee for determination;
5. That Council delegate to a three member sub-committee such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
 - a. Reporting its findings to Council (*or to the Parish Council*) for information;
 - b. Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub Committees of the Council;
 - c. Recommending to the Leader of the Council that the member be

- removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - d. Instructing the Monitoring Officer to (or recommend that the Parish Council) arrange training for the member;
 - e. Removing (or recommend to the Parish Council that the member be removed) from all outside appointments to which he/she has been appointed for nominated by the authority (or by the Parish Council);
6. That the Monitoring Officer may, with the consent of the Standards Committee, issue; guidance, procedure notes and/or other documentation to assist and inform Councilors, officers and the public in relation to the Code of Conduct complaints process.

- a. Withdrawing (or recommend to the Parish Council that it withdraws) facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- b. Excluding (or recommend that the Parish Council exclude) the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

