

**ROBERTO TAMBINI
CHIEF EXECUTIVE**

Please reply to:

Contact: Gillian Hobbs
Service: Corporate Governance
Direct line: 01784 444243
E-mail: g.hobbs@spelthorne.gov.uk
Our ref: GH/MCCC
Date: 19 February 2013

Notice of meeting:

Members' Code of Conduct Committee

Date: Wednesday 27 February 2013

Time: 7.30pm

Place: Goddard Room, Council Offices, Knowle Green, Staines

To: Members of the Members' Code of Conduct Committee

Councillors:

S.E.W. Budd

Mrs J.A. Dale

R.D. Dunn

A.E. Friday

Mrs M.J. Madams

A.J. Mitchell

Independent Members

Mr. M. Litvak (Chairman)

Miss S. Faulkner (Vice-Chairman)

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**Minutes of the Members' Code of Conduct Committee
26 September 2012**

Present:

Councillors:

Mrs C. Bannister

S.E.W. Budd

Mrs M. Bushnell

Mrs J.A. Dale

R.D. Dunn

A.E. Friday

A.J. Mitchell

Independent Members:

Mr Murray Litvak (Chairman)

Mrs Sue Faulkner (Vice Chairman)

In attendance: Independent Person – Tony Allenby

269/12 Minutes

The minutes of the meeting held on 26 July 2012 were approved as a correct record.

270/12 Disclosures of Interest

No disclosures were made.

271/12 Independent Persons

The Monitoring Officer introduced Tony Allenby one of the newly appointed Independent Persons to the Committee.

General discussion took place on the role of Independent Persons and the collaborative arrangements with Guildford Borough Council, Mole Valley District Council and Waverley Borough Council. The Committee discussed the need to have a protocol in place as to how the Independent Persons would be used between the four Councils and how they would be allocated to cases.

The Chairman, Mr Murray Litvak, reported that he had applied to be an Independent Person at Runnymede Borough Council.

RESOLVED to note the current position.

Members' Code of Conduct Committee, 26 September 2012 - Continued

272/12 Summary of Current Complaints Cases Committee

The minutes from the Assessment Hearing held on 13 September 2012 were circulated at the meeting. The Monitoring Officer reported that one other case was progressing with investigation.

The Committee discussed with the Monitoring Officer the current procedures for first stage hearings, which enable the Panel to decide whether or not the meeting should be in public or private. It was felt that the procedures should be revised to enable the Panel (if it agrees that the meeting should be open to the press and public) to have the discretion to move into private session when making the decision.

RESOLVED that:

1. The minutes of the Assessment Panel Hearing held on 13 September 2012 be received; and
2. The Monitoring Officer to revise procedures for first stage hearings as indicated at the meeting and to submit to the next meeting of the Committee.

273/12 Employees Code of Conduct

The Committee discussed with the Monitoring Officer and the Head of Human Resources the current Employees Code of Conduct and identified ways that it could be improved. The Committee particularly discussed the current code in relation to:

- Other policy and procedure related documents such as the Council's policy on disciplinary matters
- Style and content of the document
- Overlapping with the Member Code of Conduct
- Removal of out of date information and replaced with current legislation such as reference to the Bribery Act
- The Nolan Committee Seven principles of public life
- Registering of gifts and hospitality to be on the same lines as for councillors

The Committee felt that at the appropriate time the views of Management Team and staff representatives on any proposed changes to the code should be obtained prior to the review being completed.

The Committee indicated that the first stage of the review would be for the Employees Code of Conduct to be updated and simplified.

RESOLVED that to progress the review of the Employees Code of Conduct the Monitoring Officer and the Head of Human Resources amend the document as indicated at the meeting, following which the draft amended code be submitted back to the Committee for further consideration.

Members' Code of Conduct Committee, 26 September 2012 - Continued

274/12 Gifts and Hospitality Provisions

The Committee discussed the report of the Monitoring Officer on the additions that could be added to the new Members' Code of Conduct including:

- Gifts and hospitality
- Membership of outside bodies and organisations
- Dealing with conflicts of interests other than those which are prescribed as 'Disclosable Pecuniary Interests' in the regulations.

The Committee considered what expectations they have for councillors to stay in a meeting room and take part in a debate once a conflict of interest has been declared. The options considered were:

- (a) Declare the conflict and take part in the meeting and the voting
- (b) Declare the conflict and take part in the meeting but not the voting
- (c) Declare the conflict and then take no part in the meeting and the voting but remain in the room throughout the debate; or
- (d) Declare the conflict and then take no part in the meeting and the voting and leave the room for the duration of the debate.

The Committee indicated their support as follows:

- (a) Where a member has a pecuniary interest the member should declare the interest and take no part in the meeting and voting on the matter and leave the room for the duration of the debate; and
- (b) Where a member has a personal interest the councillor should declare the conflict but take part in the meeting and the voting.

The Monitoring Officer advised that in the event these changes are approved then Standing Orders for Council meetings may need to be changed to accommodate these arrangements.

RESOLVED that the proposed amendments to the Members Code of Conduct as indicated at the meeting be made and be referred back to the Committee for further consideration.

275/12 Urgent Business

There was no urgent business.

**Minutes of the Members' Code of Conduct – Final Hearing Panel
18 January 2013**

Present:

Mr Murray Litvak (Chairman)

Councillors:

Mrs C. Bannister

R.D. Dunn

A.E. Friday

1/13 Disclosure of Interest

Councillor Mrs Bannister disclosed that she sat on the same Parish Church Council as Councillor Davis however this did not preclude her from sitting on the Panel. Councillor Friday disclosed that he is the Chairman of the Spelthorne Conservative Group which Councillor Davis is a member. This did not preclude him from sitting on the Panel.

2/13 Determination of Complaint against Councillor Colin Davis

The Chairman opened the meeting by re-introducing the members of the Panel and officers present and explained the nature of the decision to be taken.

The Chairman reminded all concerned of the process undertaken so far in that on 18 December 2012 representations had been heard from all parties in relation to the alleged breaches of the Code of Conduct. There had also been a period of questioning and both parties were able to present a closing submission. The Panel had then adjourned to make their decision. At that time it became clear that the Panel needed more time to consider the complex issues raised and had agreed that the Hearing be adjourned to enable the Panel to give proper and due consideration to the matter.

The Chairman reported that the purpose of this reconvened hearing was to determine whether Councillor Davis' action at the Ashford Pride Meeting on 9 March 2012 amounted to a breach of the Members' Code of Conduct by

- a) Speaking in a disrespectful manner about Officer A, referring to him as an 'idiot boy';
- b) Bringing his office into disrepute due to the conduct referred to in a) above;
- c) Speaking in a disrespectful manner about the Council's Head of Corporate Governance, bring his office into disrepute and also compromising that officer's impartiality by referring to him as Councillor Frazer's 'pet solicitor'; and
- d) Bringing his office into disrepute by generally acting in such an unbecoming way for a councillor that it offended members of the public

Members' Code of Conduct – Final Hearing Panel, 18 January 2013 -
continued

who attended to such a degree that he was removed as chairman of the meeting while it was in progress.

RESOLVED that the Panel having considered the mitigation put forward concluded the following sanctions are appropriate:

- (1) For breaches a to d Councillor Davis is required to undertake training on the control of his type II diabetes on a course provided by an organisation such as diabetes UK and as approved by the Deputy Monitoring Officer. Councillor Davis is also required to attend training with the Deputy Monitoring Officer and the Head of Human Resources on the conduct in public meetings.
- (2) For breaches a to d the Deputy Monitoring Officer is requested to provide a factual press statement on the findings.
- (3) For breach c Councillor Colin Davis to submit a private letter of apology to the Head of Corporate Governance, within 7 days of this hearing. A copy of the apology to be given to the Panel Members.
- (4) For breach d the Panel censured Councillor Colin Davis.

Please refer to the Decision Notice for full details.

SPELTHORNE BOROUGH COUNCIL
final written decision of
Member's Code of Conduct Hearing Panel

Date of Hearing	18 December 2012 and 18 January 2013
Subject Member	Councillor Colin Davis
Complainant	Mr Michael Graham – Head of Corporate Governance
Chairman of the Members' Code of Conduct Hearing Panel	Mr Murray Litvak
Other members of the Members' Code of Conduct Hearing Panel	Councillor Christine Bannister Councillor Richard Dunn Councillor Alfred Friday

A panel was conducted in accordance with the Localism Act 2011 and the hearing procedures adopted by the Council.

The complaint was considered in relation to the Code of Conduct that was applicable at the time of the Ashford Pride meeting.

Summary of original complaint

The complaint concerns allegations that Councillor Colin Davis failed to comply with the Members' Code of Conduct in that at the Ashford Pride meeting on the 9 March 2012 he:

- a) Spoke in a disrespectful manner about Officer A, referring to him as an 'idiot boy';
- b) brought his office into disrepute due to the conduct referred to in a) above;
- c) Spoke in a disrespectful manner about the Council's Head of Corporate Governance, brought his office into disrepute and also compromised that officers impartiality by referring to him as Councillor Frazer's 'pet solicitor'; and
- d) brought his office into disrepute by generally acting in such an unbecoming way for a councillor that it offended members of the public who attended to such a

degree that he was removed as chairman of the meeting while it was in progress.

Relevant Section of the Code of Conduct

The Code of Conduct which was applicable at the time of the Ashford Pride meeting on the 9 March 2012, was that which was adopted by Spelthorne Borough Council from the 1 October 2007. The following paragraphs of the Code are relevant to these allegations:

- Paragraph 3 (1)** You must treat others with respect.
- Paragraph 3 (2)** you must not-
(d) do anything which compromise or is likely to compromise the impartiality of those who work for, or on behalf of your authority
- Paragraph 5 (a)** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Summary of the evidence considered and representations made

- The Panel read and considered the report of the investigator, Mr Richard Lingard.
- The Panel heard representations from Mr Lingard and from Mr Ben Douglas-Jones, the appointed representative of Councillor Davis.
- The Panel heard verbal evidence from Councillor Davis.
- The Panel read the witness statements of Mrs Ellen Luise Davis submitted on behalf of Councillor Davis.

Findings in respect of the Conduct of Councillor Colin Davis

The Panel made the following findings in relation to Councillor Davis conduct at the Ashford Pride meeting on the 9 March 2012:

1. That it did not amount to an act of automatism due to a state of hypoglycaemia.

Reason for finding

The Panel were persuaded that at the relevant time Councillor Davis may well have been suffering a hypoglycaemic episode, but that this did not amount to automatism. In order for automatism to apply there needs to be a complete lack of control; in effect an act by a person who is not conscious of what he is doing. The case law in this area was presented to the Panel by their legal advisor with particular reference to the cases *Bratty v. Attorney General for Northern Ireland* and *R. v. Hennessy*.

The Panel were persuaded that there was not a complete lack of control due to the accounts of the meeting by persons who were present. Councillor Mrs Pinkerton, states “He was totally in command but rapidly losing patience”. Also Councillor Davis could clearly recollect a statement made by Councillor Ayers “Look – what the hell’s up with you, I know you are not pissed. Now take yourself home and we’ll talk in due course.”

The Panel agreed with the position set out by Mr Lingard that Councillor Davis’ diabetes was a matter to be considered in mitigation when deciding upon sanctions.

2. That the Council was not obliged to make adaptations under the Equalities Act 2010 in relation to the hearing.

Reason for finding

The Panel concluded that diabetes is a disability within the definition of the Equalities Act 2010, but that all relevant adaptations have been made by the Council. There were relevantly trained first aiders always available in the building, food was accessible at all times that the building was open and adequate time was provided so that all present could obtain lunch.

The Panel also concluded that the hearing procedures had been agreed by a cross section of Councillors including those with disabilities and were therefore entirely appropriate. Full consideration to Councillor Davis’ condition was considered in mitigation.

3. That, contrary to the Members’ Code of Conduct, he failed to treat Officer A with respect by reference to him as ‘idiot boy’.

Reason for finding

The Panel considered the report of the Investigator and agreed that Councillor Davis used disrespectful language to describe Officer A.

The Panel heard from Councillor Davis that this phrase was used to explain that Officer A was suitable for undertaking the work as he was not qualified in video production, but he agreed that the term used was probably inappropriate. The Panel considered the explanation given by Councillor Davis in his interview of the 17 August 2012 that he should have used the term ‘Private Pike’ or ‘technological twit’ and considered that these were equally offensive.

Those interviewed referred to the remark as ‘very derogatory’, ‘not very professional’ and ‘inappropriate’. The Panel agree entirely that this is the case and that this amounts to treating a person without due respect.

The Panel concluded that this was not an acceptable way to speak about an officer of the Council regardless of the intention. Councillors should learn to adapt their communication style to suit the meeting.

4. That, contrary to the Members' Code of Conduct, in relation to referring to a council officer as 'idiot boy', he conducted himself in a manner which could reasonably be regarded as bringing his office into disrepute.

Reason for finding

The Panel found that although not everyone at the meeting may have been aware of whom Officer A was; it was clear that the derogatory comment referred to a member of the Council's staff.

The comment gives the impression to the public that there is a lack of respect for the Council officers. Members of the public were clearly affected by the remark. Dr Sabine Lohmann stressed 'to say "idiot boy" is kind of back firing and has a knock-on effect on the reputation of the Council because why on the one hand would they hire someone who they did not think highly of and on the other hand, using that kind of language puts the Council in a negative light because it is just not professional'. The Panel also took on board the comments of Councillor Pinkerton who told Councillor Davis that he 'should not have used that description particularly as the meeting was a public forum'. Also the words of Terry Collier 'that those attending the meeting were very surprised that a councillor would speak that way in a public meeting about a junior member of staff' and those of Keith McGroary that this remark 'caused a silence around the room'.

5. That, contrary to the Members' Code of Conduct, he failed to treat the Head of Corporate Governance with respect by reference to him as Councillor Frazer's 'pet solicitor'.

Reason for finding

The Panel were of the view that the term 'pet' was not a term of endearment, but was meant in a derogatory manner. The extracts of the interviews highlighted by the Investigator show that the tone of the meeting was such that this term could only be meant in such a way. Councillor Davis in his own interview stated that he was 'immensely irritated that Councillor Frazer was apparently arguing against Mr Graham's suggestion that Officer A should be asked to produce the video after he (Councillor Frazer) had earlier in the day opined that Mr Graham was 'a paragon of local government jurisprudence'.

Councillor Davis himself stated that it was an 'inappropriate colloquial reference'; the Panel consider that the comment goes beyond such and is disrespectful to Mr Graham.

In each of the matters concerning respect the Panel considered the advice of their legal advisor to consider the matters set out in the case LGS/2011/0540 from May 2011 (which although relating to previous legislation, presents a good description of the consideration of what must be taken into account). "Expressing oneself in a forthright manner especially in the cut and thrust of political debate, does not necessarily amount to disrespect and an officer may expect members to express opinions forcefully. Enquiring and a probing attitude or challenging a professionally held view may not amount to

disrespect. However, disrespect may comprise: behaviour that is deliberately rude or offensive; aggressive or intimidating; the use of intemperate or strong language; making unsubstantiated accusations; impugning professional integrity or questioning professional competence; unfair criticism; physically undermining the officer; physical assault; and/or making racist or sexist comments.”

6. That, contrary to the Members’ Code of Conduct, in relation to referring to the Head of Corporate Governance as Councillor Frazer’s ‘pet solicitor’, he conducted himself in a manner which could reasonably be regarded as bringing his office into disrepute.

Reason for Finding

Although it shows from the interviews of some of those present that those persons in attendance were not as shocked by this comment as to the reference to ‘idiot boy’, the Panel considered that hearing these words would have the effect of lowering the public’s opinion of the Councillor and the Council, which has the effect of bringing Councillor Davis’ office into disrepute.

The Panel considered that the comment implied that Michael Graham afforded greater professional courtesy to Councillor Frazer than other Councillors. Thus implying that officers do not play the impartial role that they must observe, this was of particular significance in that Michael Graham is in a senior position within the authority and at that time Councillor Davis was a member of the Cabinet.

7. That, contrary to the Members Code of Conduct, he compromised the impartiality of the Head of Corporate Governance, by reference to him being Councillor Frazer’s ‘pet solicitor’.

Reason for Finding

The Panel concluded that the statement of being someone’s ‘pet anything’ implied that there was some sort of close relationship, it implies favouritism. The Panel felt it implied that there was some form of collusion between Councillor Frazer and Michael Graham.

The Panel agreed with the sentiments of the Investigator that the effect was to suggest that there existed between Michael Graham and Councillor Frazer some degree of connection, loyalty or link not enjoyed by other Councillors and that Mr Graham’s impartiality could have been compromised.

8. That, contrary to the Members Code of Conduct, he generally behaved in such an unbecoming way for a Councillor that it offended members of the public who attended to such a degree that he was removed from the Chair of the meeting while it was in progress and that it brought his office into disrepute.

Reason for Finding

The Panel have found two individual incidents which have led to a finding of bringing his office into disrepute. It is clear from the interview accounts that persons present were alarmed by Councillor Davis' behaviour. Terry Collier advised the Investigator that Councillor Davis had 'offended and upset people present', Mr McGroary stated it was the worst chaired meeting he had ever seen. Fellow Councillors who were interviewed expressed their dissatisfaction with the conduct of the meeting.

The Panel concluded that the actions of Councillor Davis at the meeting would have an impact on the public's opinion of the Council, Councillors and how the whole operation is run.

Sanctions Imposed

In accordance with the Localism Act 2011 and the Spelthorne Borough Council adopted procedures the Panel imposed the following sanctions:

1. Councillor Davis is required to attend training on the control of his type II diabetes on a course provided by an organisation such as Diabetes UK and such course to be approved by the Council's Deputy Monitoring Officer.
2. Councillor Davis is required to attend training with the Deputy Monitoring Officer and the Head of Human Resources on conduct in public meetings.
3. The Deputy Monitoring Officer is requested to provide a factual press statement of the findings.
4. Councillor Davis should submit a private letter of apology to Mr Michael Graham within 7 days of the date of the hearing. A copy of the apology is to be given to the members of the panel.
9. The Panel **censure** Councillor Colin Davis for generally behaving in such an unbecoming way for a Councillor that it offended members of the public who attended to such a degree that he was removed from the Chair of the meeting while it was in progress and that it brought his office into disrepute.

When deciding which sanctions to impose the Panel paid particular attention to the mitigation put forward, that at the time of the meeting that Councillor Davis was in a state of hypoglycaemia. The sanctions are considered to be an appropriate balance to ensure that Councillor Davis continues his duties without further recourse to a panel hearing. It is hoped that this will give guidance to Councillor Davis to enable him to learn to control his diabetes. It is aimed to ensure that Councillor Davis is able to adapt his style of address at meetings. Even when Councillor Davis was interviewed by Mr Lingard and he was not in a hypo state, the alternative references to Officer A would not be acceptable.

The Panel agreed that this decision notice should be placed on the Council's website under the agenda and minutes of the meeting.

Murray Litvak
Chairman
19 February 2013

Members Code of Conduct Committee – 27 February 2013

Amendments to Hearing Procedures

1. At the meetings of the Members' Code of Conduct Committee held on 26 July 2012 and 26 September 2012, it was resolved to revise the procedures for hearings as follows:

Minute 228/12

Resolved that:

- 1) The procedures for the initial Assessment of complaints be adopted subject to a flow chart which was submitted to the last meeting of the Standards Committee being included and deleting paragraph 3.1(c);
- 2) The procedures for the Assessment Hearing be adopted as submitted; and
- 3) The procedures for the final hearing be adopted subject to the inclusion of 'there would be an expectation that the Hearing would sit from 10.00am to 4.00pm and if there was a need for the hearing to continue then the hearing would re convene the following day'.

Minute 272/12

The Committee discussed with the Monitoring Officer the current procedures for first stage hearings, which enable the Panel to decide whether or not the meeting should be in public or private. It was felt that the procedures should be revised to enable the Panel (if it agrees that the meeting should be open to the press and public) to have the discretion to move into private session when making the decision.

Resolved that:

1. The minutes of the Assessment Panel Hearing held on 13 September 2012 be received; and
 2. The Monitoring Officer to revise procedures for first stage hearings as indicated at the meeting and to submit to the next meeting of the Committee.
2. Whilst making these changes, other sundry matters and typographical errors came to light which required attention and the resulting revised documents are attached as appendices to this report, for consideration by the Committee.

For clarity, the changes made to each document are set out below:

Hearing procedures – Assessment Hearings (Appendix 1)

- Inclusion of the flowchart as resolved in Minute 228/12 (1) as an appendix to the procedure note and reference to it in the introduction.

- Inclusion of new paragraph 12. as resolved in Minute 272/12 2. giving the Panel discretion to move into private session for its deliberations where the hearing is in public.

Hearing procedures – Assessment Criteria (Appendix 2)

- Removal of paragraph 3.1 c) as resolved in Minute 228/12 (1), which read, ‘conduct which occurred before the Council adopted a Code of Conduct.’

Hearing procedures – Final Hearings (Appendix 3)

- Inclusion of a paragraph in the introduction as resolved in Minute 228/12 (3), relating to the times a hearing would expect to sit.
- Removal from the INTERPRETATION section under ‘Investigator’, of reference to ESO and his or her nominated representative as this refers to the old Standards regime.
- Addition of words to paragraph 1. as shown below, to mirror the wording of paragraph 47. in the ‘Arrangements for dealing with allegations of misconduct’ document (Appendix 4):
 1. ‘The Monitoring Officer or the Hearings Panel may conduct a pre-hearing process, ***requiring the subject Member to give his/her response to the Investigating Officer’s report***, in order to narrow the issues between the parties and make appropriate provision for the smooth running of the Hearing. Where this happens the Monitoring Officer will provide a letter to all parties outlining the issues to be determined for and the arrangements for making decisions about all such matters.’
- Inclusion at paragraph 6. of the same wording as included in the Assessment hearing procedure giving the Panel discretion to move into private session for its deliberations where the hearing is in public, for the sake of consistency.
- Removal of a sentence from paragraph 12. to make a separate procedure point at paragraph 11. as follows:

‘If the Investigator is not present the committee will consider whether or not it would be in the public interest to continue in the Investigator’s absence.’

Arrangements for dealing with allegations of misconduct under section 28 Localism Act 2011 (Appendix 4)

- Typographical errors only have been corrected within this document.
3. The Members’ Code of Conduct Committee is asked to consider and approve the revised documents for dealing with Hearings under the members’ Code of Conduct, as attached at Appendices 1-4 to this report.

Spelthorne Borough Council

Members' Code of Conduct Committee

Hearing Procedures - Assessment Hearings

To encourage the confidence of members and the public the following procedures have been adopted by the Members' Code of Conduct Committee to ensure a consistent approach is taken to assessing complaints against councillors locally.

The Panel will comprise of three voting members of the Members' Code of Conduct Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Members Code of Conduct Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Panel but legally cannot vote on the decision.

The Assessment Panel shall meet promptly, with the expectation that all assessments, investigations, resolutions and hearings will be completed within a maximum period of three months arising from the time of the complaint. All those involved in the complaint should do their utmost to ensure that this can happen.

A flowchart is shown at **Appendix A** which summarises the position under these arrangements.

INTERPRETATION

Member - means the councillor or co-opted member of the authority who is the subject of the allegation being considered by the Members' Code of Conduct Committee, unless otherwise stated.

Investigator - means the Monitoring Officer, an independent investigator appointed by the Monitoring Officer or a senior officer of Spelthorne Borough Council or another local authority who has agreed to assist the Committee. (ESO) and includes his or her nominated representative.

Committee - also refers to an Assessment Panel of the Members Code of Conduct Committee;

Legal Advisor - means the officer responsible for providing legal advice to the Members Code of Conduct Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Representation - the Member is not expected to be present, represented or accompanied during the initial assessment stages of a complaint. Any exception to this rule will only be made by the Chairman in exceptional circumstances following advice from the Monitoring Officer.

Legal Advice – the Committee may take legal advice, in private if necessary, from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with other persons present if the meeting is taking place in public.

Local Resolution – an informal means of resolving a complaint to the mutual satisfaction of the complainant and the Member concerned. Usually this involves an apology of some description.

Pre-hearing Process

1. The Monitoring Officer will receive a complaint regarding a member and ensure that the complaint is in writing. Where a complaint has been properly made, and appears to be related to the Code of Conduct then the Monitoring Officer will inform the Member and seek his or her initial views on the complaint. If there is any opportunity to divert the complaint with a local resolution at an early stage the Monitoring Officer will pursue this with the complainant and the Member.
2. The Monitoring Officer will consider the complaint and the Members response to it and then take into account the Assessment Criteria of the Members' Code of Conduct Committee.
3. The Monitoring Officer will select an Independent Person from the Panel and consult with the Independent Person.
4. After receiving the advice of the Independent Person the Monitoring Officer will inform the Member of the advice and advise the Member of his or her right to consult with the Independent Person.
5. Again, If there is any opportunity to divert the complaint with a local resolution at an early stage the Monitoring Officer will pursue this with the complainant and the Member.
6. The Monitoring Officer will take into account any advice offered by the Independent Person. If a local resolution can be achieved then the Monitoring Officer will facilitate this and report the outcome to the next available meeting of the Members' Code of Conduct Committee.
7. If a local resolution cannot be achieved (either because the Member concerned is not willing to co-operate with the suggested resolution, or the complainant is unwilling to accept it) then the Monitoring Officer will convene a Hearings Panel of the Members Code of Conduct Committee to consider the next steps.
8. The Monitoring Officer will advise all parties of the date and time for the Assessment Panel and provide an opportunity to provide any written representations in advance of the date of the hearing. No parties will be invited to the Assessment Panel at this stage. This is to ensure that the early assessment of complaints is undertaken swiftly in accordance with the criteria published by the Members Code of Conduct Committee. It is not expected that all the facts of the case need to be aired in full at this preliminary stage.
9. The Monitoring Officer will prepare a factual report including the following matters:
 - a. Details of the complaint;
 - b. Details of the Member's response to the complaint;
 - c. Any evidence which is available and to hand without the need for investigation;
 - d. Details of the advice offered by the Independent Person;
 - e. Details of any attempts to negotiate a local resolution; and
 - f. Written representations from any party in accordance with paragraph 8 above.

Hearings Procedure

10. At the start of the hearing the Chairman will:
 - Introduce members of the Committee and others in attendance
 - Explain the purpose of the meeting and how it will proceed
11. The Legal Advisor will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would

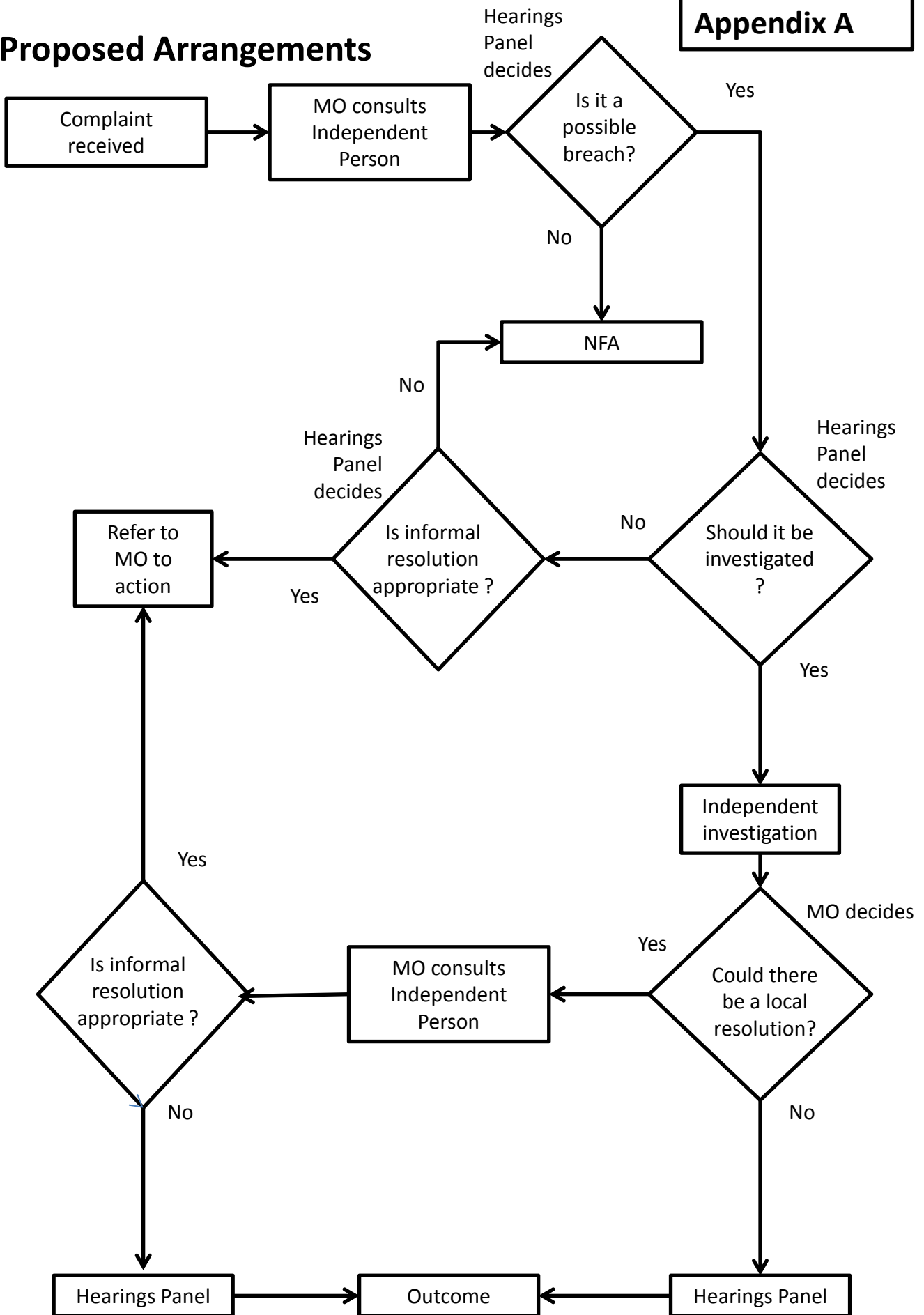
apply to any other meeting of the Council. In order to have an effective airing of matters which are still at a preliminary stage it is not expected that the Panel will take place in public unless there are exceptional circumstances which dictate otherwise.

12. Should the Panel decide to proceed with the hearing in public, it will have the discretion to move into private session in order to deliberate and make its decision.
13. The Committee will then consider the report of the Monitoring Officer and take into account the Assessment Criteria of the Members Code of Conduct Committee.
14. The Committee will then consider whether a complaint should be:
 - a. Rejected as not disclosing a possible breach of the Code of Conduct
 - b. Referred to the Monitoring Officer to try any further attempts at local resolution following advice from the Assessment Panel. The Hearings Panel may also indicate that should any party fail to comply with its advice on a local resolution then the complaint may be:
 - i. Terminated, or
 - ii. Referred for Investigation with a view to a full hearing.
 - c. Investigated with a view to a full hearing.
15. The Monitoring Officer will write to all parties within 7 days to advise them of the outcome of the Assessment Panel.

27 February 2013

Appendix A

Proposed Arrangements



Appendix 2**Spelthorne Borough Council****Members' Code of Conduct Committee****Initial Assessment of Complaints****Assessment Criteria****1 Introduction**

- 1.1** This paper sets out the criteria which the Assessment Panel will apply in conducting the initial assessment, of allegations of failure by members to observe the Code of Conduct.
- 1.2** The Council takes all allegations of member misconduct extremely seriously and seeks to secure the highest standards of conduct at all times. The initial assessment process determines; whether the complaint appears to show that there has been a breach of the Code of Conduct, and then whether the complaint should be subject to a formal investigation, whether the Council's Monitoring Officer should be directed to take appropriate actions, in respect of the complaint, or whether no action should be taken in respect of the complaint.

2 Local resolution of complaints

- 2.1** The Members' Code of Conduct Committee is aware that the formal investigation of complaints is both costly and time consuming. Whilst formal investigation may be necessary in some cases, many complaints can be dealt with more rapidly and effectively if an early, informal resolution of the matter can be achieved.
- 2.2** The Members' Code of Conduct Committee has instructed the Monitoring Officer, where a complaint has been received, to consider and, if appropriate, to explore the potential for local resolution to the satisfaction of the complainant, to avoid the need for a formal investigation. Any informal attempt at local resolution at this stage does not take away the complainant's right to have the complaint of member misconduct considered by the Assessment Panel.
- 2.3** In dealing with a complaint and whether it should be investigated or in considering a local resolution, the Monitoring Officer has to consult with the Independent Person. The Independent Person is not a member of the Members' Code of Conduct Committee and is not a councillor on Spelthorne Borough Council. The role is one required by the Localism Act 2011 which states that before a decision is taken on an investigation the Independent Person has to be consulted.
- 2.4** The Council has appointed a panel of three Independent Persons in conjunction with Guildford BC, Mole Valley DC and Waverley BC. One of

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these persons is allocated to a complaint and the member who is subject of a complaint can also consult the independent Person if they wish to do so.

3 Which complaints can be considered?

3.1 The Assessment Panel must consider every complaint that a member of the Council has failed to comply with the Code of Conduct which the Council has adopted. Accordingly, it has no jurisdiction in respect of any complaint which relates to:

- a) persons who are not members of the Council;
- b) conduct which occurred at a time when the person against whom a complaint was made was not a member of the Council ;
- c) conduct which occurred in the member's private life, as the current Code of Conduct applies only to a member's conduct in his or her office as a member of the Council;
- d) conduct which occurred when the member was acting as member of another authority. In such a case, the complaint should be addressed directly to that authority;
- e) complaints which do not clearly relate to the apparent misconduct of a relevant member but are, for example, about the policies and priorities of the authority, or request provision of a service by the Council, or are a complaint about an officer of the Council.

3.2 Such complaints will not be referred to the Hearings Panel but will instead be dealt with by the Monitoring Officer who will advise you as to the most appropriate avenue for proper consideration of your complaint or request. This may involve the Monitoring Officer deciding the complaint personally under the Council's corporate complaints procedure.

3.3 In considering a complaint against a member and referring it to the Independent Person the Monitoring Officer will take into account the factors above in paragraph 3.1

4 Does the complaint appear to show a breach of the code of conduct?

4.1 The first assessment which will be undertaken by the Assessment Panel will be to determine whether the complaint appears to show that a breach of the code of conduct appears to show that a breach of the Code of Conduct may have occurred.

4.2 For this purpose, the Assessment Panel will take into account the complaint letter and any other information which is readily available to them. Accordingly, it is the responsibility of a complainant to set out clearly:

- a) who the complaint is against;

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- b) what they understand that the relevant member did; and
- c) why they consider that the Member's conduct amounted to a breach of the Code of Conduct.

It is also helpful to provide copies of any documents which they want the Assessment Panel to consider.

- 4.3** Following receipt of a complaint, the Monitoring Officer will collect any other information which is readily available and which may assist the Assessment Panel in its consideration of the complaint. This will not include conducting interviews with witnesses, but may include providing the Assessment Panel with copies of the agenda, reports and minutes of a meeting of the Council at which the alleged misconduct occurred, or providing copies of the Member's entry in the Notification of Members' interests.
- 4.4** The Assessment Panel will then consider whether, on the basis of the complaint and that additional information, there appears to have been a breach of the Code of Conduct.
- 4.5** If the Assessment Panel concludes that the evidence does not disclose an apparent breach of the Code of Conduct, it has no further jurisdiction in respect of the matter.
- 4.6** The Monitoring Officer has power under the Council's Arrangements for Determining complaints to dismiss complaints which are vexatious, frivolous or politically motivated. In doing so the Monitoring Officer will consider the guidance in **Appendix A**.
- 4.7** The Arrangements also allow for the Monitoring Officer to be accountable for such decisions in 4.6 above and where such a decision is made (after consulting with the Independent Person and the complainant), the Monitoring Officer will report his decision to the next available meeting of the Members' Code of Conduct Committee. If the Committee is unhappy with the Monitoring Officer's decision they may ask him to re-open the case or take such other action which is necessary to ensure overall fairness.

5 Possible actions where an apparent breach of the code has occurred?

- 5.1** Where the Assessment Panel has concluded that there appears to have been a breach of the Code, it has four options open to it. These are as follows:-
 - a) to direct the Monitoring Officer to secure that the complaint is investigated.**

An investigation will normally be appropriate where the alleged conduct is sufficiently serious to merit the imposition of a sanction against the member.

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However, given that a formal investigation is an expensive and time-consuming process and can only address the immediate subject matter of the complaint, the Assessment Panel can direct the Monitoring Officer to take other appropriate action short of a formal investigation – see paragraph 5(b) below.

In addition, particularly where the conduct complained of is neither sufficiently serious to merit any action nor of recent occurrence, or where, for whatever reason, the public interest would not be best served by pursuing the matter further, the Assessment Panel may determine that no action should be taken in respect of it – see paragraph 5(c) below.

b) direct the Monitoring Officer to take other appropriate action short of a formal investigation.

The Assessment Panel cannot impose a sanction on the Member against whom the complaint has been made without a formal investigation and hearing. But it can direct the Monitoring Officer to take a range of other actions, including providing training for Members, securing conciliation or mediation between competing interests, or reviewing procedures to minimise conflict. This is not an exhaustive list.

In some instances, the conduct complained of may be a symptom of wider conflicts within the authority. A formal investigation and hearing would only deal with the particular complaint and may not resolve such underlying conflicts.

Such alternative action is therefore most suitable where –

- (i) the conduct complained of is a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct
- (ii) the conduct complained of is apparently common to a number of members of the Council, demonstrating a lack of awareness or recognition of the particular provisions of the Code of Conduct
- (iii) the conduct complained of is not so serious that it requires a substantive formal sanction
- (iv) the complaint reveals a lack of guidance, protocols and procedures within the authority, for example on the use of resources or the process of decision-making
- (v) the member complained of and the person making the complaint are amenable to engaging in such alternative action, as there is no power to require them to participate.

c) decide to take no action in respect of the complaint

The following factors may lead the Assessment Panel to decide to take no action in respect of the matter:

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- (i) the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat;
- (ii) the complaint is anonymous. The Assessment Panel can protect the confidentiality of the identity of the complainant where that is justified by a real fear of intimidation or victimisation. However, where this is not an obvious risk, the fact that the complainant has not disclosed his/her identity can indicate that the complaint is less serious, is malicious or is politically motivated.
- (iii) a significant period of time has elapsed since the events which are the subject of the complaint. Where a matter is serious, it would be reasonable to expect the complainant to make a complaint promptly. The passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence;
- (iv) the complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter.

6 Confidentiality

- 6.1** As a matter of fairness and natural justice, a Member will usually be told who has complained about them and what the complaint is about. There may be occasions where the complainant wishes his or her identity to be withheld or where there is cause not to disclose the existence of a complaint. Information will be withheld from the complainant only in circumstances that the Assessment Panel considers to provide exceptional justification.

7 Withdrawing complaints

- 7.1** Where the complainant seeks to withdraw the complaint before the Assessment Panel has had the opportunity to take a decision on it, the Assessment Panel will usually defer to such a request without any further investigation.
- 7.2** The Committee may however consider, without prejudice to the individual case, if there are wider issues which need to be considered by the Members Code of Conduct Committee on a general basis and whether to ask the Monitoring Officer to take any other actions to uphold high standards of behaviour across the Council as a result. If that is the case then the Hearings Panel can ask the Monitoring Officer to prepare a report for the Committee.

27 February 2013

Spelthorne Borough Council

Members' Code of Conduct Committee

Assessment Criteria

1 Unreasonable and unreasonably persistent complainants

1.1 A small number of people, known as unreasonable and unreasonably persistent complainants, might abuse the opportunity to complain against members by, for example:

- a) Making repeated complaints about broadly the same matter;
- b) Making frequent complaints which have very little substance;
- c) Refusing to let a matter rest when it has been substantially dealt with;
- d) Being aggressive, offensive or obsessive;
- e) Having a clear and inappropriate ulterior motive; or,
- f) Otherwise causing a response where the public cost and time involved is disproportionate to the matters raised.

1.2 The Monitoring Officer will assess whether a person should be declared unreasonable and unreasonably persistent and how that person should be dealt with in the future. This cannot effect the person's legal entitlements but might include, among any other appropriate response:

- a) Creating a single named point of contact for the person to communicate with the Council.
- b) Refusing to accept emails, telephone calls or any other form of contact, provided one means of contact is maintained.
- c) Notifying all relevant Members and officers that any attempted communication should be referred to the single point of contact.
- d) Giving a summary response to multiple complaints, rather than dealing with them point by point.
- e) Refusing to respond further to matters substantially dealt with unless there is significant new evidence.
- f) Rejecting complaints as vexatious, frivolous or politically motivated.

APPENDIX A

- 1.3 Responses will make appropriate allowance for any equality and diversity related issues such as cultural barriers, language barriers, disability barriers (including learning disabilities), etc.
- 1.4 Reasonable adjustments for equality and diversity issues will be fully taken into account and there will be no reason to believe that cultural, language, or disability (including learning disability) barriers still exist which excuse the behaviour of the complainant or still require allowance to be made for the complainant.
- 1.5 If the complainant has special needs (e.g. language needs, learning disability, etc.), an interpreter (including British Sign Language) and/or advocate might be helpful to both parties; and an offer to help the complainant find someone independent will be considered.
- 1.6 Unreasonable and unreasonably persistent complainants may make a complaint against a Member for alleged breach of the Code of Conduct, and where this happens:
 - a) The single point of contact will be the Monitoring Officer
 - b) Multiple or related complaints may be considered by an Assessment Panel at the same time through a single report and recommendation.
 - c) If the Member's Code of Conduct Committee has already dealt with the same complaint, with no significant new evidence, the complaint may not be further considered.
 - d) Vexatious, frivolous or politically motivated complaints, or those which otherwise abuse the procedure, may not be considered further unless they also raise a serious matter which ought to be considered in the public interest.
 - e) Individual complainants will be given a warning about their behaviour and an opportunity to modify this before any restrictions are applied.
 - f) Individual complainants will be informed of the decision to invoke the policy, the implications this will have for that individual, how long the restrictions will last for, when the matter will be reviewed by the Members' Code of Conduct Committee.
 - g) Any restrictions do not prevent the individual complainant from requesting/assessing day to day services or assessing their local councillor(s). Ensuring (where applicable) that designated contact arrangements are kept up to date.

26 July 2012

Appendix 3

Spelthorne Borough Council

Members' Code of Conduct Committee

Hearing Procedures - Final Hearings

To encourage the confidence of members and the public the following procedures have been adopted by the Members' Code of Conduct Committee to ensure a consistent approach is taken to determining matters locally.

The Panel will comprise of three voting members of the Members' Code of Conduct Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Members Code of Conduct Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Panel but legally cannot vote on the decision.

The investigation shall be carried out promptly, with the expectation that all investigations, resolutions and hearings will be completed within a maximum period of three months. All those involved in the complaint should do their utmost to ensure that this can happen.

There will be an expectation that the Hearing will sit from 10.00am to 4.00pm and if there is a need for the hearing to continue then the hearing will re-convene the following day.

INTERPRETATION

Member - means the councillor or co-opted member of the authority who is the subject of the allegation being considered by the Members' Code of Conduct Committee, unless otherwise stated.

Investigator - means the Monitoring Officer, an independent investigator appointed by the Monitoring Officer or a senior officer of Spelthorne Borough Council or another local authority who has agreed to assist the Committee.

Committee - also refers to a Hearings Panel of the Members Code of Conduct Committee;

Legal Advisor - means the officer responsible for providing legal advice to the Members Code of Conduct Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Representation - the member may be represented or accompanied during the meeting by a fellow councillor, a solicitor or counsel, or with the permission of the committee another person.

Legal Advice – the Committee may take legal advice, in private if necessary, from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the Member and the Investigator if they are present.

Pre-hearing Process

1. The Monitoring Officer or the Hearings Panel may conduct a pre-hearing process, requiring the subject Member to give his/her response to the Investigating Officer's report, in order to narrow the issues between the parties and make appropriate provision for the smooth running of the Hearing. Where this happens the Monitoring Officer will provide a letter to all parties outlining the issues to be determined for and the arrangements for making decisions about all such matters.

2. In complex cases it may be appropriate for the Hearings Panel to meet in advance to deal with all such procedural issues but the Monitoring Officer will provide an agenda for such a meeting outlining the matters to be resolved.
3. The Legal Advisor will advise the Chairman whether the pre-hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council. In order to air procedural matters properly in advance of a hearing it is normally expected that the Panel will take place in private unless there are exceptional circumstances which dictate otherwise.

Hearings Procedure

4. At the start of the hearing the Chairman will:
 - Introduce members of the committee and others in attendance
 - Explain the purpose of the meeting and how it will proceed
5. The Legal Advisor will advise the Chairman whether the final hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council. In order to give confidence to the public it is expected that the Panel will take place in public unless there are exceptional circumstances which dictate otherwise.
6. Should the Panel decide to proceed with the hearing in public, it will have the discretion to move into private session in order to deliberate and make its decision.
7. The Committee will then resolve any other issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.
8. If there are disagreements about the facts the Investigator, if present, will be invited to make representations to support the findings of their report and with the Committee's permission to call supporting witnesses. The Committee will give the Member an opportunity to challenge any evidence put forward by a witness but any direct questions are put through the Chairman.
9. The Member will then have the opportunity to make representations to support his or her version of the facts and with the Committee's permission to call supporting witnesses. The Committee will give the Investigator an opportunity to challenge any evidence put forward by a witness.
10. At any time the Committee may question the investigator, the Member or their witnesses.
11. If the Investigator is not present the Committee will consider whether or not it would be in the public interest to continue in the Investigator's absence.
12. The Committee will not allow the member to raise a disagreement with the facts, which was not raised prior to the hearing, unless the Member satisfies the Committee there were good reasons for not raising the disagreement before. After considering the position and the Member's explanation for not raising the disagreement at an earlier stage the committee may:
 - (a) Continue the hearing, relying on the information in the Investigator's report;
 - (b) Allow the Member to make representations about the issue and invite the Investigator to respond and call any witnesses necessary; or
 - (c) Postpone the hearing to arrange for the Investigator to be present if he or she is not already or for appropriate witnesses to be present.
13. The Investigator and Member will normally be given the opportunity to make short closing statements before the Committee retires to reach its decision. The Member will speak last to have the final say.

14. The Committee will then consider its decision based on the facts presented in private.
15. If any clarification or legal advice is needed this will be undertaken with all parties present.
16. On their return to the hearing, the Chairman will announce the Committee's findings of fact and whether the Member has failed to follow the Code of Conduct.
17. If the Committee decides that the Member has failed to follow the Code of Conduct, the Chairman will inform the Member of this finding.
18. The Investigator and the Member will be invited to make any final relevant points as regards the sanction which should be imposed.
19. The Committee will then consider the representations and make its decision in private and will consider any representations from the Investigator and the Member as to:
 - (a) Whether or not the committee should set a penalty; and
 - (b) What form any penalty should take.
20. The Committee will then consider in private whether or not to impose a penalty on the Member and, if so, what the penalty should be.
21. The Chairman will then announce the committee's decision.
22. The Committee will then consider whether it will make any recommendations to the Council on any future preventative measures or tightening up procedures, with a view to promoting high standards of conduct among members. In doing so they will consider any verbal or written representations from the Investigator.
23. The Committee will announce its decision on the day and provide a short written decision on that day. It will issue a full written decision as soon as practicable and send it to all concerned with the hearing.

27 February 2013

Appendix 4**Spelthorne Borough Council****Members' Code of Conduct Committee****Arrangements for dealing with allegations of misconduct under section 28 Localism Act 2011****Context**

1. These arrangements describe how the public can make a complaint that a Member of Spelthorne Borough Council “the Council” has failed to comply with the Council’s Member Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council’s Code of Conduct.
2. Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council’s Code of Conduct can be investigated and decisions made on such allegations.
3. The arrangements under the Localism Act must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

Principles of these arrangements

4. At its meeting on 27 June 2012, the Council agreed that these arrangements or any revisions to them, should abide by the following principles:
 - a. They should reassure the public that complaints will be dealt with swiftly, properly and transparently;
 - b. They should be simple, clear and follow the rules of natural justice;
 - c. They should not be bureaucratic i.e. they should follow the law and not build in unnecessary additional measures;
 - d. They should allow councillors to take decisions on whether a fellow councillor should be investigated, and following investigation, whether that councillor should be held in breach of the Code;
 - e. They should allow the Monitoring Officer to dismiss complaints which are vexatious, frivolous or politically motivated;
 - f. They should allow for the Monitoring Officer to be accountable for such decisions in (e);

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- g. They should ensure there is an element of outside scrutiny and objectivity by recruiting Independent Members to the Members' Code of Conduct Committee.

The Code of Conduct

- 5. The Council has adopted a Member Code of Conduct, which is available for inspection on the Council's website. The Council has tasked the Members' Code of Conduct Committee to keep the Code of Conduct and the operation of these arrangements under review.

Making a complaint

- 6. Any person may make a complaint, in writing, to-

Michael Graham
Monitoring Officer
Spelthorne Borough Council
Council Offices
Knowle Green
Staines-upon-Thames
Middlesex TW18 1XB

Email: m.graham@spelthorne.gov.uk

- 7. The Council will only process complaints which are in writing. The name and address of the complainant must be given and only in very exceptional circumstances will the Council investigate anonymous complaints.
- 8. The Council expects complaints about councillors to be made without delay so that matters can be investigated promptly. Unless there are exceptional circumstances, complaints should be made within 28 days of the incident giving rise to concern.
- 9. The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it, and will keep the complainant informed of the progress of the complaint at appropriate junctures.

Role of the Monitoring Officer

- 10. The Monitoring Officer's job is to oversee the complaints process and refer complaints to the Independent Person, the Hearings Panel and where appropriate to an Investigator.
- 11. The Monitoring Officer is accountable to the Members' Code of Conduct Committee for the operation of these functions.
- 12. In extraordinary circumstances, where the Monitoring Officer makes a complaint to the Members' Code of Conduct Committee, or in other circumstances where the Monitoring Officer may have a conflict of

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interests, then the Deputy Monitoring Officer will undertake functions of the Monitoring Officer as set out in these arrangements.

Independent Person

13. The Council has appointed three Independent Persons in conjunction with Guildford BC, Mole Valley DC and Waverley BC.
14. The Independent Persons are not (and have not within the last five years been) a Member or an Officer of the Council.
15. The role of the Independent Person is to advise the Monitoring Officer on action to take under these arrangements at the points stated.
16. A Member who is the subject of a complaint is also entitled to refer to the Independent Person for advice during the course of a complaint.
17. The Independent Person receives expenses for undertaking this role but no other remuneration.

The Hearings Panel - Assessments

18. The Assessment Panel drawn from the membership of the Members' Code of Conduct Committee.
19. The role of the Assessment Panel is to review complaints for investigation which are sufficiently serious to warrant such formal action.
20. The Assessment Panel will comprise of three voting members of the Members Code of Conduct Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Members Code of Conduct Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Assessment Panel but legally cannot vote on the decision.

Assessment of complaints

21. The Monitoring Officer will review every complaint received and, consult with the Independent Person.
22. The Monitoring Officer will inform the subject Member about the complaint and inform the Member that advice can be taken from the Independent Person. The Monitoring Officer will inform the subject Member of any advice offered by the Independent Person.
23. Following discussions with the subject Member and the Independent Person the Monitoring Officer will refer the matter to the Assessment Panel with a recommendation as to whether it merits formal investigation. This Assessment Panel will normally meet within 14 days of receipt of a complaint.

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24. The Monitoring Officer has power to reject complaints which are vexatious, frivolous or malicious or which are politically motivated or in some other way an abuse of process. Where the Monitoring Officer has taken a decision that a complaint falls into one of these categories, he will inform the complainant of his decision and the reasons for that decision. There is no appeal from this decision, but the Monitoring Officer will report all such decisions to the next meeting of the Members' Code of Conduct Committee who are entitled to refer the matter for investigation if they feel that the Monitoring Officer has acted incorrectly.
25. Where the Monitoring Officer requires additional information in order to come to a decision (about a vexatious etc complaint) or a recommendation (about any complaint) he may seek such information from the complainant and the subject Member, but he will not conduct an investigation prior to an Assessment Panel.
26. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer will consult with the Independent Person and the subject Member where this outcome seems appropriate. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. Where the Member makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether to recommend that the complaint merits formal investigation.
27. If the Monitoring Officer decides that the complaint concerns a service, policy or decision of the Council then he may refer it to the normal complaints procedure. This may entail the Monitoring Officer dealing with the matter personally under the Council's complaints procedure.
28. The Members' Code of Conduct Committee will adopt a policy for the assessment and investigation of misconduct complaints. The Assessment Panel will refer to these guidelines when making a decision to refer a matter to investigation. The Assessment Panel will take advice from the Monitoring Officer when reaching its decision.
29. If the Assessment Panel decides that a complaint merits formal investigation, the Monitoring Officer will, in consultation with the Chairman, appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator.
30. If the Assessment Panel decides not to investigate the complaint the Monitoring Officer will write to the complainant outlining the reasons of

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the Assessment Panel. The decision of the Assessment Panel is final and will be reported to the next Members' Code of Conduct Committee.

31. During the Assessment phase the Monitoring Officer will keep all parties informed of the progress of the case. It is expected that the complaint will be confidential during the Assessment phase.

The investigation

32. The Investigating Officer will complete the investigation in accordance with any policy or guidelines that the Members' Code of Conduct Committee shall specify.
33. The investigation shall be carried out promptly, with the expectation that all investigations, resolutions and hearings will be completed within a maximum period of three months. All those involved in the complaint should do their utmost to ensure that this can happen.
34. At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the subject Member, to give both an opportunity to identify any factual matter in that draft report which is disputed or requires further investigation.
35. Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.
36. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation.
37. If following consultation, the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.
38. The Monitoring Officer will review the Investigating Officer's report in light of the Independent Person's advice and, if he is satisfied that the Investigating Officer's report is sufficient and that no further investigations are required, the Monitoring Officer will write to the complainant and to the subject Member concerned with a copy of the final report.

Findings of "No-breach"

39. If the Investigating Officer finds that there has been no breach of the Code of Conduct then the Monitoring Officer will write to the complainant and the subject Member and dismiss the complaint. The Monitoring Officer will report the outcome of the case to the next Members' Code of Conduct Committee. The decision is final and there is no appeal.

Appendix 4**Findings of “Breach”**

40. If the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct then the Monitoring Officer will consult with the Independent Person, the subject Member and the complainant to see if any form of local resolution is possible.

Local Resolution

41. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he will consult with all the parties and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action.
42. If the subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Members’ Code of Conduct Committee for information, but will take no further action. Such report should be open to public scrutiny.
43. If following consultation with the parties it seems likely that any suggested resolution would not be possible or would not be suitable in all the circumstances, the Monitoring Officer will refer the matter to the Hearings Panel.

Final Hearing

44. If the Monitoring Officer considers that local resolution is not appropriate, or the Member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer’s report to the Hearings Panel which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
45. The Hearings Panel will comprise of three voting members of the Members’ Code of Conduct Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Members’ Code of Conduct Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Hearings Panel but legally cannot vote on the decision.
46. The Members’ Code of Conduct Committee may agree a procedure for Hearings Panels.
47. The Monitoring Officer may conduct a “pre-hearing process”, requiring the subject Member to give his/her response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what

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is likely to be in contention at the hearing, and the Chairman of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.

48. The Monitoring Officer will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council. In order to give confidence to the public it is expected that the Hearings Panel will take place in public unless there are exceptional circumstances which dictate otherwise.
49. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the subject Member has or has not failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Hearings Panel. The subject Member will then have an opportunity to give his/her evidence, to call witnesses, to cross-examine and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
50. The Independent Person may attend the hearing to advise the Panel but is not required to attend.
51. If the Hearings Panel concludes that the subject Member did not fail to comply with the Code of Conduct, then they will dismiss the complaint.
52. If the Hearings Panel concludes that the subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the Member's failure to comply with the Code of Conduct.

Powers of the Hearings Panel

53. In considering its response the Hearings Panel will give the Member an opportunity to make representations to the Panel, but will then decide what action, if any, to take in respect of the matter. The powers of the Hearings Panel are:
 - a. To require the Member to apologise either privately or in public.
 - b. To require the Member to attend training.
 - c. To censure the Member.
 - d. To send a report to Council to censure the Member.

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- e. To require the Monitoring Officer to publish a report in the newspaper or on the Council's website about the Member's conduct.
 - f. To withdraw privileges provided by the Council such as computer equipment, internet or email access.
 - g. To recommend to the Member's Council Leader/Group Leader that the Member be removed from a Committee, a Cabinet responsibility or an Outside Body (as appropriate).
 - h. Or a combination of any of the above.
54. As a matter of law, the Hearings Panel does not have the power to suspend or disqualify the Member or to withdraw allowances to which members are entitled.

Appeals

55. Where a Hearings Panel makes any recommendations to a Council Leader/Group Leader about a penalty then that member may make representations in advance of that decision being taken.
56. Where a Hearings Panel makes any recommendations to Council about a penalty then that member may make representations in advance of that decision being taken.

Post hearing

57. At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.
58. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Hearings Panel, and send a copy to all the parties, and if required by the Hearings Panel, make that decision notice available for public inspection. The decision will be reported to the next meeting of the Members' Code of Conduct Committee.

Revision of these arrangements

59. The Members' Code of Conduct Committee is delegated to amend these arrangements where necessary, and has delegated to the Chairman of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

27 February 2013

GIFTS AND HOSPITALITY

Members Code of Conduct Committee: 27 February 2013

Resolution Required

Report of the Monitoring Officer

REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

Not applicable

Purpose of Report:

To suggest provisions that might be added to the new Member Code of Conduct to cover the gaps identified by members at the July 2012 meeting:

- (1) Gifts and hospitality;
- (2) Membership of outside bodies and organisations; and,
- (3) Dealing with conflicts of interest other than those which are prescribed as “Disclosable Pecuniary Interests” in regulations.

Key Issues:

- (1) Gifts and hospitality;
- (2) Membership of outside bodies and organisations; and,
- (3) Dealing with conflicts of interest other than those which are prescribed as “Disclosable Pecuniary Interests” in regulations.

Financial Implications:

There are none.

Corporate Priority

This is not a corporate priority

Officer Recommendations:

To consider additions to the Member Code of Conduct to include provision for:

- (1) Gifts and hospitality;
- (2) Membership of outside bodies and organisations; and,
- (3) Dealing with conflicts of interest other than those which are prescribed as “Disclosable Pecuniary Interests” in regulations.

Report Author: Michael Graham, Head of Corporate Governance 01784 446227

MAIN REPORT

1. BACKGROUND

- 1.1 At your July 2012 meeting members identified various shortcomings with the new regulations on Disclosable Pecuniary Interests. Those regulations took a narrow view on what matters had to be disclosed as a minimum by all members in all councils. This approach was welcomed in that it reduced the perceived bureaucracy of the previous Standards regime. It also allowed councils to decide for themselves what, if any, other interests might require registration locally under each council's code of conduct.
- 1.2 The Council adopted the DCLG Model Code of Conduct which requires councillors to abide by the regulations on Disclosable Pecuniary Interests and also to notify the Monitoring Officer of any other non-pecuniary interests the Council thinks appropriate. At the time of making the Code the Council did not specify any such other non-pecuniary interests, the principal reason being that by the time regulations were published it was too late to revise the Code to include areas which we thought might have been included but weren't.
- 1.3 At your July 2012 meeting, members considered that there were several important aspects that ought to be subject to some guidance for councillors when dealing with :
- (a) Gifts and hospitality;
 - (b) Membership of outside bodies and organisations; and,
 - (c) Dealing with conflicts of interest other than those which are prescribed as "Disclosable Pecuniary Interests" in regulations.
- 1.4 This was mostly to reassure the public that high standards of corporate governance were in place within the Council, but also to protect councillors from any criticism that may be levelled in making decisions if these matters were not seen as being transparent and above board.
- 1.5 The matter was considered again at your September 2012 meeting when different ways of dealing with these matters were discussed. The Committee considered what expectations they have for councillors to stay in a meeting room and take part in a debate once a conflict of interest has been declared. The options considered were:
- (a) Declare the conflict and take part in the meeting and the voting
 - (b) Declare the conflict and take part in the meeting but not the voting
 - (c) Declare the conflict and then take no part in the meeting and the voting but remain in the room throughout the debate; or
 - (d) Declare the conflict and then take no part in the meeting and the voting and leave the room for the duration of the debate.
- 1.6 The Committee indicated its support as follows
- (a) Where a member has a pecuniary interest the member should declare the interest and take no part in the meeting and voting on the matter and leave the room for the duration of the debate; and

- (b) Where a member has a personal interest the councillor should declare the conflict but take part in the meeting and the voting.

1.7 It was agreed that further amendments to the Members Code of Conduct be considered and referred back to the Committee.

2. KEY ISSUES

2.1 **Gifts and hospitality.** Members have been used to recording gifts and hospitality for some years. The matter was in the statutory code since 2001. It was an uncontroversial proposition that if a member received a token gesture in the course of his or her official duties then it be recorded and that the record be open to public inspection. A similar provision exists for staff who note gifts and hospitality in a record retained in the Chief Executive's office.

2.2 In July 2012, Members considered that a slightly higher threshold of £35 should apply and this has been taken into account.

2.3 I have drafted a Policy on Gifts Hospitality and Sponsorship which will sit underneath both the Member Code of Conduct and the Staff Code of Conduct so that exactly the same provisions are applicable to each. This has the advantage of introducing the same reporting mechanism; namely offers of gifts and hospitality have to be recorded in the Register in the Chief Executive's Office. See **Appendix 1**.

2.4 **Membership of outside bodies and organisations.** Members also noted at the last meeting that it should be clear to the public if councillors have any interests outside the Council which could be relevant to their work as a councillor. Wording is suggested at **Appendix 2** to deal with the requirement.

2.5 **Dealing with possible conflicts of interest.** At the September 2012 meeting we discussed the possibility that whilst Disclosable Pecuniary Interests would cover the member and the member's spouse or partner, this narrow definition did not deal with all the possible conflicts of interest which might occur and for which a member could be criticised if they were not disclosed.

2.6 The last statutory code of conduct dealt with this issue in a comprehensive way with definitions of personal and prejudicial interests. Whilst the provisions were comprehensive they were also felt to be overly prescriptive and bureaucratic. In September 2012 your Committee agreed that there is no wish to reintroduce such provisions which have just been abolished. I have therefore suggested a much lighter requirement to declare conflicts and that Members be bound to follow policy advice which is published by your Committee. This would mean that members have to take into account such guidance as the Planning Code or any other guidance which your Committee considers necessary to provide more detail on dealing with situations where conflicts might exist.

2.7 In order to assist the debate I have also drafted a possible Conflicts of Interest Policy. See **Appendix 3**.

2.8 Revised Standing Orders for Council have been suggested so that the approach mentioned in paragraph 1.6 can be given effect. A highlighted extract is shown in **Appendix 4**.

3. OPTIONS ANALYSIS

3.1 This paper raises opportunities to amend the Code of Conduct. The matter is with members for further discussion at the meeting on 27 February 2013.

4. PROPOSALS

- 4.1 To consider the matters raised and make recommendations to Council if changes to the Code, Standing Orders or adoption of new policy are considered appropriate.

5. BENEFITS AND SUSTAINABILITY

- 5.1 Improved corporate governance is the main improvement envisaged by this report in that the Council's decision making processes become more transparent and accountable to residents once all possible vested interests are declared and in the open.

6. FINANCIAL IMPLICATIONS

- 6.1 There are none.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

- 7.1 Covered in the report.

8. RISKS AND HOW THEY WILL BE MITIGATED

- 8.1 There are none.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 To be considered.

Report Author: Michael Graham, Head of Corporate Governance 01784 446227

Background Papers:

There are none

Appendices:

- Appendix 1 – Policy on Gifts, Hospitality and Sponsorship
- Appendix 2 – Code of Conduct for councillors and co-opted members
- Appendix 3 – Conflicts of Interest Policy
- Appendix 4 – extract from Council Standing Orders

Policy on Gifts, Hospitality and Sponsorship

1. Introduction

- 1.1 The Council has adopted a Code of Conduct for Members and a Staff Code of Conduct. Each code is based on the Nolan Committee's Seven Principles of Public Life. All councillors, co-opted members and staff are expected to abide by the code which is relevant for them. In addition all councillors, co-opted members and staff are also bound by this Policy on Gifts, Hospitality and Sponsorship which contains provisions which are applicable to all those working for the Council in their respective capacity.

2. General provisions

- 2.1 It is a criminal offence for you corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity. It is for you to demonstrate that any such rewards have not been corruptly obtained.
- 2.2 The Council has adopted the following guidelines to help but they may be used in a disciplinary setting to determine if you are in breach of the relevant Code of Conduct.
- 2.3 One of the most difficult questions on which advice is sought, is the giving and receiving of hospitality and gifts. Staff and councillors need to appreciate that gifts, hospitality and sponsorship wrongly accepted can amount to or be construed as bribery within the meaning of the Bribery Act 2010.
- 2.4 It is impossible to prepare guidance to cover all situations, and you should always take advice whenever complex or potentially contentious situations occur. Staff can talk to their Chief Officer, to the Head of Human Resources or the Head of Corporate Governance. Councillors can talk to the Chief Executive or the Head of Corporate Governance.
- 2.5 One test to apply in this situation is "What would the man or woman in the street think"? Ask yourself whether if they knew the circumstances, they would think that you might be influenced in your future conduct by the gift or hospitality offered. Would they think that your past conduct might have been influenced by the hope of, or designed to encourage, such a gift or hospitality? If the answer to either of these questions is "yes", you should refuse the offer.
- 2.6 Bear in mind that it is not enough to avoid actual impropriety. It is important for your reputation and that of the Council to avoid any occasions for suspicion and any appearance of improper behaviour.

3. Gifts

- 3.1 A gift offered to you may be accepted if:-
- (a) it is of nominal value (below £35.00) e.g. calendars, diaries, pens, a bottle of wine, flowers etc., and
 - (b) no ulterior motive is apparent nor is there any danger of misinterpretation by the public (be careful where the offer comes from a person or company seeking work from the Council).
- 3.2 Gifts outside the scope of the above guidelines, should normally be refused, unless refusal would give offence. In such a case, the gift could be accepted

and donated to the Mayor's Charity Appeal, with a suitable explanation to the person or company concerned. Receipt of gifts in these circumstances should be reported in accordance with paragraphs relating to Register for Gifts and Hospitality below. They should always be refused if an ulterior motive is apparent.

- 3.3 Gifts offered by grateful members of the public can similarly be accepted where the value is nominal (below £35.00) and a refusal might otherwise give offence. Some members of staff and councillors however, regularly come into contact with the public and a frequent recurrence of small gifts might give the impression that they are expected or a reward for favourable treatment. In these circumstances, gifts should normally be refused. Alternatively, if refusal would give serious offence, they could be accepted and the rules mentioned above applied.
- 3.4 In any event, you should refuse an offer or try to avoid situations where you are likely to be offered a gift from a person or company engaged in negotiating a contract or other matter with the Council, or who has negotiated such a matter and where you are directly responsible for formulating recommendations to the Council, for making a decision on a contract or for monitoring the service received from the person or Company concerned. If the contract or other matter has been completed, and there is no obvious likelihood of a renewal, then the previous paragraphs apply.

4. Hospitality

- 4.1 You should only accept offers of hospitality if there is a genuine need to impart information, represent or promote the interests of the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. Any hospitality accepted, should be properly authorised and recorded. (See paragraphs relating to Register for Gift and Hospitality below).
- 4.2 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 4.3 When receiving authorised hospitality you should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 4.4 Acceptance of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Chief Executive is consulted in advance and where the Council is satisfied that any purchasing decisions are not compromised.

5. Register for Gifts and Hospitality

- 5.1 You must record all gifts and hospitality received, and any offered but rejected, in the Register maintained by the Chief Executive. This must include all offers of gifts and hospitality. Each entry in the Register must be authorised by the Chief Executive and in the case of hospitality accepted, it must be authorised in advance of attendance of the particular event.

5.2 In all cases, it is better to err on the side of caution. If you have doubts, seek advice. What matters above all else, are the reputations of yourself, the Council and local government generally.

6. Sponsorship - giving and receiving

6.1 Where an outside organisation wishes to sponsor or is asked to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. How would this look to the ordinary man or woman in the street? Particular care must be taken when dealing with contractors or potential contractors (i.e. contractors who could bid for Council work).

6.2 Where the Council wishes to sponsor an event or service neither you nor any person connected with you must benefit personally from such sponsorship in any way. In all cases there ought to be full disclosure of the arrangements and consultation with the Chief Executive at an early stage.

6.3 Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved with your work as a councillor or member of staff and any outside interests.

6.4 In each arrangement for sponsorship, care shall be given to recording the arrangement and the decision making process so that there is a clear audit trail for the purposes of transparency and accountability.

Spelthorne Borough Council

Code of conduct for councillors and co-opted members

General Obligations

You are a councillor or co-opted member of Spelthorne Borough Council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a councillor or co-opted member -

1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
5. You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
7. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
8. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
9. You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating.
10. You must discharge your duties and conduct yourself in such a way that assists the Council to comply with its duties under the Equality Act 2010.

11. You must respect the distinct but complementary roles that councillors and officers have in their work for the Council and abide by the advice in the Member Officer Protocol.
12. You must recognise that the staff working for, or on behalf of, the Council are required to be impartial and you must not do anything which compromises that impartiality.
13. If a complaint is made under this Code of Conduct then you must not interfere with the administration or investigation of the complaint and you must not intimidate any complainant, witness or likely witness or engage with them in any way which undermines the investigation.

Registering and declaring pecuniary and non-pecuniary interests

14. You must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any "Disclosable Pecuniary Interest" as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
15. In addition, you must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any Disclosable Pecuniary Interest or other non-pecuniary interest which the Council has decided should be included in the register.
16. The Council has decided that it is appropriate for you to register and disclose non-pecuniary interests that arise from your membership of, or your occupation of a position of general control or management in, the following bodies:
 - a. bodies to which you have been appointed or nominated by the Council;
 - b. bodies exercising functions of a public nature;
 - c. bodies directed to charitable purposes;
 - d. bodies one of whose principal purposes includes the influence of public opinion or policy.
17. If an interest has not been entered onto the Council's register, then the councillor or co-opted member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹
18. Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 where the councillor or person connected with the councillor could be subject to violence or intimidation.

Conflicts of Interest Policy

1. Who is this guide for?

- 1.1 This guide is for councillors and staff who will wish to ascertain whether they have an interest which should be declared under the Member Code of Conduct or the Staff Code of Conduct.
- 1.2 This guidance is supplemental to both documents. Both councillors and staff are obliged to follow the Nolan Committee's Seven Principles of Public Life:
 - (a) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
 - (b) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
 - (c) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
 - (d) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
 - (e) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
 - (f) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
 - (g) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- 1.3 Under the Member Code of Conduct councillors are obliged to declare pecuniary interests and membership of outside bodies. However these formal definitions do not cover every possible conflict which could be encountered by councillors and this document provides additional guidance so that Members can meet their obligations under the Nolan Committee's Seven Principles.
- 1.4 Similarly, whilst the Staff Code of Conduct specifies numerous matters which must be reported to their Chief Officer, not every eventuality can be covered and there is a catch all category of "any other connection to the Council's work which may be relevant".
- 1.5 This document provides extra explanation of what conflicts ought to be recorded by you in your work for the Council. The intention of this guide is not to look in depth at any particular situations, but to provide an overview of conflicts of interest, and how to deal with them, and to signpost sources of further information.

2. What is a conflict of interest and what issues does it raise?

- 2.1 A conflict of interest is any situation in which your personal interests, or interests that you owe to another body or person, may (or may appear to) influence or affect your decision making.
- 2.2 It is inevitable that conflicts of interest occur. The issue is not your integrity, but the management of any situation where there is potential for criticism that your position or your decision has been influenced by conflicting loyalties. Even the appearance of a conflict of interest can damage your reputation and the Council's reputation, so conflicts need to be managed carefully.
- 2.3 It is the potential, rather than the actual benefit from which the conflict of interest arises and which requires attention. In order to ensure selflessness and transparency, a declaration is required where there is a possibility of people outside the Council assuming that you (or a friend or relative) may have some benefit from the Council's business or decision making. This will avoid accusations of impropriety, which could in turn have a damaging effect on the Council's reputation.
- 2.4 Some advantages of working for the Council are enjoyed by more than one person. Where this arises then it is not usually the case that a declaration has to be made. An example of this would be the allowances and expenses which councillors are entitled to claim. These decisions are always made in the open at public meetings and although it is correct that councillors will receive a personal benefit there is no real risk to accountability or transparent decision making if an interest is not declared in that situation. This is because the subject matter of the decision makes it clear that councillors will benefit. Similarly pay rises for staff will be recommended by staff and decisions made by councillors – it is clear what is going on and no declarations are required.
- 2.5 You should be more careful where decisions arise and it is not clear what is going on. For example, a planning application is made by someone you know. If you are a planning officer then you should declare to your manager that this is the case. Then the manager can make an informed decision if you should continue to work on the case. If you are a councillor on the planning committee and the application is referred to the committee then the public will know that the relationship exists only if you declare it. In these cases, a timely declaration of an interest will assure members of the public that there is nothing untoward to be worried about and that you are acting beyond reproach.
- 2.6 Similarly if you take advantage of benefits that are available to all, or that are of inconsequential or little measurable value, they will not normally need to be declared. E.g. you hire a village hall. This would not need to be declared, as the facilities are available to all members of the local community, which includes councillors and staff alike.
- 2.7 Issues may also arise where you have a conflict of interest or loyalties on a particular issue, but there is no potential for profit or advantage by any person. This may still be useful to declare so that it is clear that a decision has been made correctly. For instance you are a member of an outside body and the affairs of that body are raised at a meeting. It is helpful for all concerned to

know about the link to that other body even if nothing in the debate or the decision particularly turns on the declaration.

3. How do I identify a conflict of interest?

3.1 Conflicts of interest may come in a number of different forms:

- direct financial gain or benefit
- the award of a contract to another organisation in which you (or a friend or relative) has an interest and from which you (or they) will receive a financial benefit
- indirect financial gain, such as employment by the Council of your spouse or partner
- non-financial gain, such as when the Council's decisions or policies affect another organisation of which you are a member.

3.2 The Council expects you to be able to identify possible conflicts of interest when they arise and to ensure, that you take advice and to make the appropriate declarations. If you are a member of staff then you can speak to your line manager, Human Resources or the Head of Corporate Governance. If you are a councillor you can speak to the Head of Corporate Governance, the Chief Executive or a member of his Management Team.

4. How can conflicts of interest be managed effectively?

4.1 You need to be alert to possible conflicts of interest which you might have and how you can minimise their effects. A key aspect of minimising the effects of conflicts of interest is to be open and transparent about such situations when they arise. The Council therefore recommends that you declare any actual or potential conflicts of interest of which you are aware, as soon as they arise.

4.2 Where an interest is declared by staff members they can discuss actions to be taken as a consequence with their line manager. It is advisable that a note is made of these arrangements in case of any future queries.

4.3 Where an interest is declared by a councillor then that interest will be noted by the Committee Manager attending the meeting. At present Standing Orders of the Council only require the councillor to absent himself or herself when a "Disclosable Pecuniary Interest" arises. Where any other conflict of interest arises it is for the councillor to declare that interest. It will usually be the case that the councillor will stay in the room, speak and vote on such matters. However if the councillor feels that this would lead to criticism in the circumstances then they are entitled to say that they wish to absent themselves from the room whilst the debate and vote proceeds without them.

4.4 The Council has established a register of interests – one for staff and one for councillors. In recording interests openly, any actual or potential conflicts of interest can be identified more easily. The relevant register of interests should be regularly updated.

4.5 It is good practice at the beginning of a meeting to declare any private interest which you have in an item to be discussed, and certainly before any discussion of the item itself. Sometimes this is not possible because an issue

arises in the meeting so that the interest can only be declared later. In such a case, the Council expects the interest to be raised as early as possible.

5. What happens if there is a breach of the Policy?

- 5.1 There are formal sanctions available to the Council for those who are in breach. It all depends on the circumstances of the case. Staff can be subject to the disciplinary procedure, and councillors can be referred to the Members' Code of Conduct Committee.
- 5.2 The members Code of Conduct Committee is responsible under the Constitution for the operation of the Staff Code of Conduct and the Member Code of Conduct and will keep the operation of this policy under review.

Appendix 4**COUNCIL STANDING ORDERS**

These Standing Orders are the rules which apply to meetings of the Council and should be read in conjunction with the Access to Information Procedure Rules and the Budget and Policy Framework Procedure Rules

1. TIME AND PLACE OF MEETINGS

- 1.1 Meetings of the Council will normally take place at 7.30pm in the Council Chamber at the Council Offices, Knowle Green, Staines unless otherwise notified by the proper officer in the summons to the meeting.

2. NOTICE OF MEETINGS

- 2.1 The Chief Executive will notify the public of the time and place of any meeting in accordance with the Access to Information Rules. Five clear days before a meeting, (unless the law requires the business to be transacted by a particular date) the Chief Executive will send a summons to every Member of the Council giving the date, time and place of the meeting and specifying the business to be transacted, and include any reports which are available.
- 2.2 The Chief Executive may cancel a meeting of the Council, its Committees, or the Cabinet where the agenda has already been issued if it is considered expedient to do so. The Chief Executive shall not exercise such power without prior consultation with the Mayor, the Leader or the Committee Chairman (as appropriate). Any outstanding business will be held over to the next scheduled meeting on a date to be arranged.

3. CHAIRING OF MEETINGS

- 3.1 The Mayor, if present, will chair the meeting. If the Mayor is absent the Deputy Mayor will take the chair. If both the Mayor and Deputy Mayor are absent, the Members present will elect any past Mayor present to take the Chair for the meeting.

4. QUORUM

- (a) The quorum of the Council is one quarter of the total number of Members and no business shall be considered unless a quorum is present;
- (b) If there is no quorum present at the time set for the start of a meeting, the start will be delayed for 30 minutes and if a quorum is still not present the meeting will stand adjourned to another day;
- (c) If, during the meeting, the Mayor declares that there is no quorum, the meeting will adjourn immediately;
- (d) Any business remaining shall be dealt with on a date and time fixed by the Mayor or if a date and time is not found, at the next ordinary meeting of the Council.

5. DURATION OF MEETING

- 5.1 The Chief Executive or his representative at any Council meeting will indicate to the Members present when any meeting has lasted for 3 hours. Unless the majority of Members present then agree that the meeting should continue, it will automatically be adjourned. Any business not considered will be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date the remaining business will be considered at the next ordinary meeting.

6. ORDINARY MEETINGS

- 6.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting or as otherwise agreed from time to time by the Council.
- 6.2 The agenda at an ordinary Council meeting will normally be to:-
- (a) Elect a person to preside if neither the Mayor or Deputy Mayor are present; (see Standing Order 3.1)
 - (b) Receive any apologies for absence;
 - (c) Approve the minutes of the last meeting;
 - (d) Receive any declarations of interest from Members;
 - (e) Receive any announcements from the Mayor, Leader, or the Chief Executive;
 - (f) Receive questions from members of the public and hear the Leader or other appropriate Member provide answers;
 - (g) Receive petitions; (See Standing Order 15)
 - (h) Deal with any business from the last Council meeting;
 - (i) Deal with recommendations from the Cabinet and the Council's committees and in doing so consider any representations by members of the public under the Access to Information Procedure Rules.
 - (j) Receive reports from the Leader and the Chairmen of the Council's Committees and their answers to any questions raised by Members on any of those reports;
 - (k) Receive reports about and hear questions and answers on the business of joint arrangements and external organisations;
 - (l) Consider motions;
 - (m) Hear the Leader or his nominee answer any questions asked by Members on issues in their Ward;
 - (n) Hear the Leader or his nominee or appropriate committee Chairman answer any questions from Members on matters generally affecting the Borough or for which their committee has responsibility; and
 - (o) Consider any other business specified in the summons to the meeting.

7. EXTRAORDINARY MEETINGS

7.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings of the Council:

- (a) The Council by resolution;
- (b) The Mayor;
- (c) The Monitoring Officer; and
- (d) Any five Members of the Council if they have signed a requisition presented to the Mayor and the Mayor has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

7.2 Business

The business at an extraordinary meeting will normally be confined to consideration of the specific issue for which it was called.

8. ANNUAL MEETING

8.1 Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Members. At such a meeting the Council will elect a Leader of the Council for a term of office expiring on the day of the post election annual meeting which follows his or her election. If there should be a vacancy in the position of Leader of the Council, the Council shall at its next ordinary meeting appoint another Leader of the Council.

In any other year, the annual meeting will take place in May.

The Annual meeting will:

- (a) Elect a person to preside if the Mayor is not present;
- (b) Elect a Member of the Council to be the Mayor of the Council;
- (c) Elect a Member of the Council to be Deputy Mayor of the Council;
- (d) Approve the minutes of the last ordinary meeting;
- (e) Receive any declarations of interest;
- (f) Receive announcements from the Mayor;
- (g) Receive announcements from the Leader about the appointment of a Deputy Mayor;
- (h) Receive announcements from the Leader about the number of seats on Cabinet and the portfolios for each Cabinet Member;
- (i) Receive announcements from the Leader about appointments to Cabinet;
- (j) Appoint at least one Overview and Scrutiny committee, a Standards Committee and such other committees as the Council

considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions;

- (k) Approve a programme of ordinary meetings of the Council for the year if one has not previously been agreed; and
- (l) Consider any business set out in the notice convening the meeting.

8.2 **Selection of Councillors on Committees and Outside Bodies**

At the Annual meeting, the Council meeting will:

- (a) Decide which committees to establish for the municipal year;
- (b) Decide the size and terms of reference for those committees;
- (c) Decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) Receive nominations of councillors to serve on each committee and outside body;
- (e) Appoint to those committees subject to the provisos that:
 - (i) not more than two members appointed to the Cabinet shall be appointed as members of the Licensing Committee or Planning Committee, respectively;
 - (ii) not more than one member appointed to the Cabinet and three members appointed to the Overview and Scrutiny Committees shall be appointed members of the Audit Committee;
 - (iii) the Chairman of the Audit Committee should not be a member of the Cabinet;
 - (iv) the Mayor shall not be appointed a member of any committee and the deputy Mayor may not be a member of the Cabinet; and
 - (v) one member of the Cabinet shall be appointed a member of the Standards Committee.
- (f) Appoint to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Leader.

9. **MINUTES**

9.1 **Signing The Minutes**

The Mayor will sign the minutes of a meeting at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be confirmed and signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

9.2 **No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

9.3 **Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

10. DECLARATIONS OF INTEREST

10.1 Where in relation to an item on the agenda, a Member has a **Disclosable Pecuniary Interest**, that interest should be declared at the start of the meeting by giving full details of the interest and the item to which it relates. The Member must thereafter leave the room when that matter falls to be discussed and take no part in the debate or the vote for that business.

10.2 Where in relation to an item on the agenda, a member has

(a) a **non-pecuniary interest** arising under paragraph 16 of the Code of Conduct for Councillors and Co-opted Members (the "Member Code of Conduct") (membership of outside bodies etc), or,

(b) any other **conflict of interest**;

then such interest should be declared at the start of the meeting by giving full details of the interest and the item to which it relates. A Member is not required to leave the room when the item is debated but may do so if, in the opinion of the Member concerned, it is advisable in all the circumstances of the case. A Member with such an interest and who has remained for the debate is entitled to speak and vote on the matter to which it relates.

11. RECOMMENDATIONS FROM THE LEADER, CABINET AND COMMITTEES

11.1 The adoption of recommendations of the Cabinet or a Committee to the Council shall be moved by the Leader or appropriate Committee Chairman (or in their absence, by any other Member called upon by the Mayor so to move) and seconded.

11.2 When moving a recommendation the Leader or the Chairman or other mover may briefly address the Council. (See Standing Order 18.4 for content and length of speeches)

11.3 Each recommendation shall be considered individually and the normal rules of debate shall apply.

STAFF CODE OF CONDUCT

Members' Code of Conduct Committee: 27 February 2013

Resolution Required

Report of the Monitoring Officer

REPORT SUMMARY

How does the content of this report improve the quality of life of Borough Residents

Not applicable

Purpose of Report:

To further consider the current Employee Code of Conduct following the initial discussion in September 2012 and discuss ways in which it could be (i) improved and (ii) promoted to assist the Council promote high standards of conduct and ethical behaviour.

Key Issues:

The current code of conduct has not been reviewed for some time whilst the Member Code of Conduct was reviewed in October 2007 and again in July 2012 as a result of legislative requirements.

Financial Implications:

There are none. Officer time involved in this review has not in any way been disproportionate.

Corporate Priority

This is not a corporate priority

Officer Recommendations:

To review the draft Code of Conduct attached and consider recommendations for its improvement.

Report Author: Michael Graham, Head of Corporate Governance 01784 446227

MAIN REPORT

1. BACKGROUND

- 1.1 The present Code of Conduct was introduced from November 1994. It has been issued to all new starters since that time. It has been updated in terms of names and job titles but has not had substantial change since that time.
- 1.2 As was reported at your July 2012 meeting, when the Cabinet and Council considered the changes to the Member Code of Conduct in 2012, a view was taken that the Employee Code of Conduct should be reviewed as it was some time since that document was updated. That matter is now within the remit of this Committee. The present Code is attached at **Appendix 1** for background information.
- 1.3 At your July 2012 meeting, your Committee agreed that further detailed consideration should be given to the Employee Code of Conduct and that time be made available at the September 2012 meeting to go through the document in more detail.
- 1.4 At your September 2012 meeting Members considered the present Code in discussion with the Monitoring Officer and the Head of Human Resources and identified ways that it could be improved. The Committee particularly discussed the current code in relation to:
- Other policy and procedure related documents such as the Council's policy on disciplinary matters
 - Style and content of the document
 - Overlapping with the Member Code of Conduct
 - Removal of out of date information and replaced with current legislation such as reference to the Bribery Act
 - The Nolan Committee Seven principles of public life
 - Registering of gifts and hospitality to be on the same lines as for councillors
- 1.5 The Committee indicated that the first stage of the review would be for the Employees Code of Conduct to be updated and simplified. Such a revised document is now enclosed herewith for further consideration. See **Appendix 2**.
- 1.6 In considering this revised draft, Members should note that the Employee Code is a purely voluntary document in the sense that it whilst it is recognised to be good practice to have such guidance for employees, there is no statutory requirement to have one.
- 1.7 The present coalition government has, under the Localism Act 2011, relaxed the requirements for the Member Code of Conduct; this resulted in our constitutional changes in July 2012 and the formation of this Committee. There is no suggestion that any regulation or guidance is forthcoming for an Employee Code of Conduct. Therefore, with no national model or recent guidance to consider and your Committee is free to consider what is required for Spelthorne and what will work best given the local issues that we have to address.

2. KEY ISSUES

- 2.1 **Relationship to other documents.** The Code of Conduct covers a number of subjects and most councils have such documents which deal with a range of

issues. Invariably there is overlap with other policies of the Council, so that one document cannot provide the answers to every problem that might be expected in the workplace. The Council's policy on disciplinary matters is perhaps the most obvious other document to consider. This is not a document shown in the constitution but it is Management Team policy which guides the Chief Executive and other senior managers in the discipline of staff for conduct and capability issues. Copies are made available to staff on the Spel-net intranet. Members will recall that this document was considered in September 2012. The document is not reproduced here but Members are reminded that breaches of the Code of Conduct can be seen as disciplinary matters and would be dealt with accordingly.

- 2.2 The Council has also developed other policies in recent years which are relevant to employee conduct. For instance, access to the internet and use of email are covered by separate documents. The Council also has a social media policy which has developed in recent years. At your meeting in September 2012 Members indicated a preference for a simple document which would incorporate other guidance documents or protocols for standards of behaviour without an overlong Code of Conduct document. This approach has been incorporated into the revised document.
- 2.3 **Notification to staff.** All staff are issued with the Code upon taking up employment. The Code is discussed at the initial induction session which all staff must attend after joining the organisation. Thereafter any notifications due under the Code are left to staff to make. It has been promoted from time to time and advice issued that staff should remind themselves about the Code of Conduct.
- 2.4 It is now proposed that a notification under the Code will be required each year from each member of staff. The most appropriate time would be at the annual appraisal. Whilst this can look like a somewhat bureaucratic approach it is most likely to be the most simple way to remind staff and managers of the need to keep such matters up to date for the benefit of the whole organisation. The revised code makes provision for this.
- 2.5 **Style of the document.** The present Code runs to 13 sides of A4. The Member Code of Conduct has been streamlined to 2 sides of A4 mainly by incorporating the Seven Principles of Public Life and making broader less specific requirements on members. The current style of the (Employee) Code is to incorporate expectations of probity, honesty, propriety and good ethical behaviour alongside a list of specific requirements by which employees must do positive acts (like register gifts etc) or refrain from certain things (like outside employment).
- 2.6 The document has been shortened. In particular reference, is now made to a separate Policy on Gifts and Hospitality which is to be applicable to all staff and councillors. The process for both is to be the same. I have discussed this policy further in the separate report on your Committee's agenda today.
- 2.7 **Overlap with the Member Code of Conduct.** The Nolan Committee's "Seven Principles of Public Life" are incorporated into Spelthorne's Member Code of Conduct. In order to achieve consistency these have now been incorporated into the Employee Code. This has the advantage of bringing the Member Code and the Employee Code onto the same fundamental footing even if some specific

requirements are invariably different in each Code because of the different issues affecting Members and Officers in their work.

2.8 **Politically restricted posts.** As the present document states some staff are restricted in regard to what political activities they may undertake once they reach a certain grade or seniority. These rules are still in place. Staff are notified individually if they are affected by this proviso. The appeal mechanism has changed under recent legislation and this is now reflected in the Code.

2.9 I also suggest that the provisions relating to Politically Restricted Posts can be deleted from the Code, as they are more informative than guidance. This information can be provided on Spel-net or brought to the attention of the relevant members of staff directly. See **Appendix 3**

3. OPTIONS ANALYSIS

3.1 The Council has expressed a desire to review the Employee Code of Conduct. There is no compulsion to do so (for example from central government) and there is also no set timescale for the review. The purpose of this paper is to introduce the a new draft Code to see if it meets the expectations of Members. The views in this document and the draft Code are not recommendations they are set out for the purpose of promoting a further discussion at your meeting.

3.2 As the Code affects a large number of staff, and also overlaps with a number of other policies and procedures in the Council, it would be prudent to take into account the views of staff representatives and Management Team before the review is completed.

4. PROPOSALS

4.1 To consider the report and to identify any changes which should be made at this stage.

4.2 To authorise the Monitoring Officer and Head of Human Resources to consult on the revised approach and to consider any outcomes from the consultation and a further revision to the document at your 24 April 2013 meeting.

5. BENEFITS AND SUSTAINABILITY

5.1 The Council will benefit from improved overall corporate governance.

6. FINANCIAL IMPLICATIONS

6.1 There are none.

7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

7.1 None identified.

8. RISKS AND HOW THEY WILL BE MITIGATED

8.1 None identified.

9. TIMETABLE FOR IMPLEMENTATION

9.1 As discussed under section 4 above. I suggest that consultation with staff and UNISON can take place during March 2013 for a revised report in April 2013.

Report Author: Michael Graham, Head of Corporate Governance 01784 446227

Background Papers:

There are none

Appendices:

- 1 – Present Code of Conduct for Employees
- 2 – Draft Staff Code of Conduct
- 3 – Guidance on politically restricted staff
- 4 – Pro-forma for declaration of interests

INTRODUCTION TO THE CODE OF CONDUCT FOR EMPLOYEES

1. INTRODUCTION

- 1.1 The Council has approved the introduction of a Code of Conduct for Employees to apply to all members of Staff with effect from 1st November 1994. The Code of Conduct is intended primarily as help to give staff more detailed advice and guidance in what can sometimes be a difficult area for those of us working in the public service. The Code of Conduct is issued to all new starters.

2. PURPOSE OF CODE

THE CODE OF CONDUCT COVERS ALL STAFF ALTHOUGH MANY ASPECTS WILL APPLY ONLY TO STAFF AT A SENIOR LEVEL.

- 2.1 The Code has been designed to protect and safeguard the position of individual members of staff as much as those of the Council, and to avoid situations where members of staff might be accused of having some potentially conflicting interest in anything they might be involved in through their work with the Council. Its aim is to encourage staff to inform Chief Officers confidentially on certain personal matters that could affect duties at the Council. Failure to follow the Code could lead to embarrassing and/or difficult situations and ultimately to an investigation under the Council's disciplinary procedure.

3. EXTENT OF CODE

- 3.1 The Code gives detailed advice and guidance in the following specific areas:

SECTION	SUBJECT
1.	Introduction and Background
2.	Other Rules Applicable to Employees
3.	Standards
4.	Disclosure of Information
5.	Political Neutrality
6.	Relationships *
7.	Appointments and other Employment Matters *
8.	Outside Commitments *
9.	Personal Interests *
10.	Equality Issues
11.	Separation of Roles during Tendering *
12.	Gifts and Hospitality *

13.	Use of Financial Resources
14.	Sponsorship - Giving and Receiving

3.2 Those marked with an asterisk (*) will require some form of declaration from Chief Officers, if applicable and may also involve staff completing a form recording declaration.

3.3 This Code consolidates into one document information and registers maintained on subjects such as outside commitments and gifts and hospitalities.

4. RESPONSIBILITY OF STAFF

4.1. Staff are now required to report to Chief Officers and record on the appropriate form, full details of:

- (a) personal relationships with Councillors, Contractors or potential Contractors (i.e. Contractors who could bid for Council work) [Section 6 of the Code];
- (b) personal friendships with potential recruits *staff could become involved within the recruiting process or with existing employees if involved in appointments, disciplinary or grading matters relating to them [Section 7 of the Code];
- (c) personal and/or financial interests which could be perceived as being in conflict with the Council's interests, and membership of any external organisation requiring formal membership and commitment of allegiance and with secrecy about its rules or conduct [Section 9 of the Code].

4.2. In this particular instance, staff need to notify Chief Officers rather than record the friendship.

4.3. A simple pro forma for recording details of any of these relationships is **attached** to the Code and should be completed by all members of staff affected and forwarded to the appropriate Chief Officer, in confidence, as soon as possible. Previous declarations need to be resubmitted on the new form. It is important that information is updated as and when circumstances change. If there are any problems (e.g. about the extent of details required) staff should consult their Chief Officer.

4.4. As part of the Code of Conduct, each Chief Officer would maintain a Register of Employees Interests in relation to their Department. Any information given about interests etc. will be maintained in strict confidence in that Register. It will be available for inspection only by the Council's Monitoring Officer (Michael Graham), Assistant Chief Executive (Brian Harris), the Chief Executive and the Chief Finance Officer, or his representative, in the case of suspected financial irregularity.

4.5. Advice or clarification on any matters covered by the Code of Conduct is available from Human Resources, Assistant Chief Executive (Brian Harris) or Chief Officers.

N.B For the purposes of this Code, Chief Officer means the Head of Department i.e. Chief Executive, Chief Finance Officer, Deputy Chief Executive, Head of Direct Services.

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THE CODE OF CONDUCT FOR EMPLOYEES

1. INTRODUCTION AND BACKGROUND

- 1.2 Following discussions with Staff Side representatives, the Council has adopted a Code of Conduct for Employees with effect from 1st November 1994. It is based on a code proposed by the Local Government Management Board. The purpose of the code is to assist the Council and its employees in their day-to-day work, in the light of the challenges they face in the new and more commercially oriented environment. These include the introduction and extension of compulsory competitive tendering (CCT), market testing, changes in the management of the housing service, care in the community, management buyouts etc. The code sets out the minimum standards that should apply. The aim of the code is to lay down guidelines for you, which will help maintain and improve standards and protect you from misunderstanding or criticism.

Who The Code Is Aimed At? - The Code Applies To All Council Employees.

- 1.3 Inevitably some of the issues covered by the code will affect senior, managerial and professional employees more than others, but the code covers all employees under a contract of employment with the Borough of Spelthorne. Activities carried out by employees acting as members of Companies or voluntary organisations in their official capacity as employees of the Council, are also subject to the code.

2. OTHER RULES APPLICABLE TO EMPLOYEES

- 2.1 The main rules relating to the Council are included within the Council's Constitution including those relating to contracts. These are supplemented by Financial Regulations and various staffing policies and procedures. These are available to your Manager and you must ensure you are aware of the rules applicable to you and your job.
- 2.2 The specific requirements of the Council's Code of Conduct for Employees are set out in the following pages.

3. CODE OF CONDUCT - STANDARDS

- 3.1 Local Government employees are expected to give the highest possible standards of service to the public, and where it is part of their duties, to provide appropriate advice to other employees and Councillors with impartiality. You may, without fear of recrimination, bring to the attention of your Chief Officer, any major deficiency in the provision of service or any impropriety or serious breach of procedure. In exceptional cases, you may approach the Chief Executive or the Council's Monitoring Officer (Michael Graham) if you so wish.

4. DISCLOSURE OF INFORMATION

- 4.1 It is generally accepted that open Government is best. The law requires that certain types of information must be available to Councillors, auditors,

government departments, service users and the public. The Authority itself may decide to make public other types of information. You must be aware of the types of information, which in Spelthorne Borough Council are open and those which are not, and act accordingly. The Council's policy is to make as much information available to the public as possible. In preparing committee reports, for example, items should not be made 'exempt', even though this might be technically possible, unless disclosure would prejudice the position of the Council or the individual or Company concerned. Whenever possible, reports should be written so that they can be made public. Generally, therefore, you may release factual information unless:

- (a) it is (or is likely to be) the subject of an exempt report;
- (b) it relates to the personal circumstances of an employee, a Councillor or Charge payer or user of Council services; or
- (c) it is covered by restrictions under the Data Protection Act.

- 4.2 Guidance can be obtained from Committee Services or the Head of Corporate Governance in respect of reports to committee.
- 4.3 You should not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way. Any particular information received by you from a Councillor or a fellow employee which is personal to that person and does not belong to the Council, should not be divulged by you without the prior approval of that person.
- 4.4 There are particular rules governing the disclosure of information to Councillors. Where you are unsure of the Council's rules and conventions, please consult your Manager.

5. POLITICAL NEUTRALITY

- 5.1 You service the Council as a whole. It follows you must serve all Councillors and not just members of any controlling group of Councillors, and must ensure that the individual rights of all Councillors are respected.
- 5.2 You may also be required to advise political groups. You must do so in a way that does not compromise your political neutrality.
- 5.3 Whether or not your post is politically restricted, you must follow every lawful expressed policy of the Council and must not allow your personal or political opinions to interfere with your work. Information on politically restricted posts can be obtained from Michael Graham, Head of Corporate Governance or Jan Hunt in Human Resources.

6. RELATIONSHIPS

6.1 Councillors

You are responsible to the Council through its Senior Managers. For some, your job is to give advice to Councillors and the Council. Mutual respect between employees and Councillors is essential to good Local Government. Close personal familiarity with individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided. Any close personal friendships with Councillors should be declared to your Chief Officer and recorded on the appropriate form.

6.2 **The Local Community and Service Users**

You should always remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council, including Customer Care.

6.3 **Contractors**

All personal relationships with contractors or potential contractors (i.e. contractors who could bid for Council work) should be declared to your Chief Officer and recorded on the appropriate form. In certain cases not to divulge such information, could contravene the law.

Orders and contracts must be awarded on merit, by fair competition against other tenders, and no favouritism should be shown to businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

Your Chief Officer may require you to review your position and update information recorded at regular intervals depending on the circumstances.

If you engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship (i.e. working or friendship) in a private or domestic capacity with a contractor or potential contractor, you should declare that relationship to your Chief Officer and record it on the appropriate form.

7. **APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

7.1 If you are involved in appointments you should ensure that these are made on the basis of merit. It would be unlawful to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a personal relationship (including friendship) outside work with him or her. You should declare any such relationship to your Chief Officer in advance.

7.2 Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend. You should declare it to your Chief Officer and record it on the appropriate form.

8. **OUTSIDE COMMITMENTS**

8.1 You are required to obtain written consent from your Chief Officer to take any other paid employment or occupation in addition to the post held with the Council. This includes directorships, consultancies and sponsorships by any company, organisation or individual. You should be clear about your contractual obligations to the Council and should not take outside employment which conflicts or might conflict in the future with the Council's interests.

8.2 You may not carry out work arising from additional employment in office time nor use Council resources or facilities (including typing) for those purposes.

8.3 Private use of Council facilities other than set out in 8.2 (above), e.g. making telephone calls, using fax or photocopiers, should be dealt with through the Council's Honesty Box scheme.

- 8.4 You should follow the Council's policies on the ownership of intellectual property or copyright created during your employment i.e:-
- (a) all creative designs, writings and drawings produced by you in the course of your duties, belong to the Council;
 - (b) all inventions made by you are the property of the Council if made during the course of your normal duties (which include those described in your notice of terms of employment, and any other duties arising from your Manager or other authorised Officer of the Council).
- 8.5 You must declare to your Chief Officer and record on the appropriate form, any membership of a Local Authority.

9. PERSONAL INTERESTS

- 9.1 You must declare to your Chief Officer and record it on the appropriate form; non-financial interests which you consider could bring about conflict with the Council's interests or activities. Examples might be membership of the committee of an organisation seeking or receiving grant aid from the Council, membership of a National Health Service Trust Board operating in Spelthorne or involvement with an organisation or pressure group which may seek to influence the Council's policies. Ordinary membership of organisations whether local or national will not usually be relevant.
- 9.2 You must declare to your Chief Officer and record it on the appropriate form, any financial interests which could conflict with the Council's interests e.g. any pecuniary interest in a business or company within Spelthorne or with which the Council might do business.
- 9.3 You must declare to your Chief Officer and record it on the appropriate form, membership of any organisation not open to the public without formal membership and commitment of allegiance, and which has secrecy about its rules or conduct, for example a Masonic lodge.
- 9.4 You must declare to your Chief Officer and record it on the appropriate form, any interest you have as freeholder, lessee, licensee or tenant in any land or property in Spelthorne except your main residence as recorded in your personnel records.
- 9.5 You must never become involved in dealing with or determining any application or request you or a member of your family or personal friend make to the Council, for example an application for planning permission or for council tax or housing benefit.

10. EQUALITY ISSUES

- 10.1 You have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with, as well, of course, as the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

11. SEPARATION OF ROLES DURING TENDERING

- 11.1 You must be clear on the separation of client and contractor roles within the Council. If you are a senior employee with both a client and contractor responsibility, you must be aware of the need for accountability and openness. Regulations for compulsory competitive tendering have particular

requirements for ensuring that contractor units are not involved in tender evaluation. If in doubt, please consult Legal Services.

- 11.2 If you are in a contractor or client unit you must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.
- 11.3 If you are privy to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised party or organisation.
- 11.4 If you are contemplating a management buyout, you should inform your Chief Officer as soon as you have formed a definite intent and withdraw from the contract awarding process.
- 11.5 You should ensure that no special favour is shown to work colleagues or former employees of the Council or their partners, close relatives or associates, in awarding contracts.

12. GIFTS AND HOSPITALITY

- 12.1 It is a criminal offence for you corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity. It is for you to demonstrate that any such rewards have not been corruptly obtained.
- 12.2 The Council has adopted the following guidelines;
 - (a) One of the most difficult questions on which advice is sought, is the giving and receiving of hospitality and gifts;
 - (b) This note is intended to act as guidance only. It is impossible to prepare guidance to cover all situations, and you should always consult your Chief Officer whenever complex or potentially contentious situations occur;
 - (c) One test to apply in this situation is "What would the man or woman in the street think"? Ask yourself whether if they knew the circumstances, they would think that you might be influenced in your future conduct by the gift or hospitality offered. Would they think that your past conduct might have been influenced by the hope of, or designed to encourage, such a gift of hospitality? If the answer to either of these questions is "yes", you should refuse the offer;
 - (d) Bear in mind that it is not enough to avoid actual impropriety. It is important for your reputation and that of the Council to avoid any occasions for suspicion and any appearance of improper behaviour.

Gifts

- 12.3 A gift offered to you may be accepted if:-
 - (a) it is of nominal value e.g. calendars, diaries, pens etc., and
 - (b) no ulterior motive is apparent nor is there any danger of misinterpretation by the public (for example, because the offer comes from a person or Company tendering for work).
- 12.4 Gifts outside the scope of the above guidelines, should normally be refused, unless refusal would give offence. In such a case, the gift could be accepted

and donated to charity e.g. the Mayor's Charity Appeal, with a suitable explanation to the person or Company concerned. Receipt of gifts in these circumstances should be reported to your Chief Officer in accordance with paragraphs relating to Register for Gifts and Hospitality below. They should always be refused if an ulterior motive is apparent.

- 12.5 Gifts offered by grateful members of the public can similarly be accepted where the value is nominal and a refusal might otherwise give offence. Some members of staff, however, regularly come into contact with the public and a frequent recurrence of small gifts might give the impression that they are expected or a reward for favourable treatment. In these circumstances, gifts should normally be refused. Alternatively, if refusal would give serious offence, they could be accepted and the rules mentioned above applied.
- 12.6 In any event, you should refuse an offer or try to avoid situations where you are likely to be offered a gift from a person or Company engaged in negotiating a contract or other matter with the Council, or who has negotiated such a matter and where you are directly responsible for formulating recommendations to the Council or for monitoring the service received from the person or Company concerned. If the contract or other matter has been completed, and there is no obvious likelihood of a renewal, then the previous paragraphs apply.

Hospitality

- 12.7 You should only accept offers of hospitality if there is a genuine need to impart information, represent or promote the interests of the Council in the Community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. Any hospitality accepted, should be properly authorised and recorded. (see paragraphs relating to Register for Gift and Hospitality below)
- 12.8 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 12.9 You should not accept gifts from contractors and outside suppliers other than as set out in 12.3 above.
- 12.10 When receiving authorised hospitality you should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 12.11 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where your Chief Officer gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised.

Register for Gifts and Hospitality

- 12.12 You must record all gifts and hospitality received, and any offered but rejected, in the Register maintained in your Department. This must include all gifts and hospitality other than those described in 12.3 above. Each entry in the Register must be authorised by your Chief Officer and in the case of

hospitality accepted, it must be authorised in advance of attendance of the particular event.

- 12.13 In all cases, it is better to err on the side of caution. If you have doubts, seek advice. What matters above all else, are the reputations of yourself, the Council and Local Government generally.

13. USE OF FINANCIAL RESOURCES

- 13.1 You must ensure that you use public funds entrusted to you in a responsible manner, ensuring value for money to the local community and avoiding legal challenge to the Authority. If you are in doubt about your obligations, you must seek advice.

14. SPONSORSHIP - GIVING AND RECEIVING

- 14.1 Where an outside organisation wishes to sponsor or is asked to sponsor a Local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors (i.e. contractors who could bid for Council work).
- 14.2 Where the Council wishes to sponsor an event or service neither you nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to your Chief Officer of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and that there is no conflict of interest involved.

15. COMPUTER SOFTWARE

- 15.1 If your job involves use of computers, you must make sure that you use only properly licensed computer software in accordance with the Council's I.T. policy.

REGISTER OF INTEREST(S)

Please use this form to register with your CHIEF OFFICER* details of any interest(s) you may have under Sections 6, 7, 8 and 9 of the Code of Conduct for Employees. If you are in any doubt, advice may be sought from your Chief Officer.

Name: _____

Service: _____

DATE	SECTION OF CODE/DETAILS OF INTEREST

Your Chief Officer is the head of your Department/Directorate i.e. Chief Executive, Chief Finance Officer, Deputy Chief Executive, or Head of Direct Services.

LOCAL GOVERNMENT AND HOUSING ACT - POLITICAL RESTRICTION OF CERTAIN STAFF

1. INTRODUCTION

- 1.1 The Local Government and Housing Act 1989 contains a number of provisions to ensure the political impartiality of local government employees, and introduces the general principle of the 'politically restricted' post and of restricting political activity.
- 1.2 The purpose of this guidance is to highlight the implications of the Act including the implications for terms and conditions of service with the Council.

2. WHO IS AFFECTED?

- 2.1 The Act's operation and many of its provisions flow from the definition of a 'politically restricted' post. A post is designated as such if it is either:
- (a) a 'specified' post (broadly, the Authority's top management) together with any officer to whom the Council or a committee has delegated any of its power to make decisions, and officers who report directly to a 'specified' post;
 - (b) a post whose remuneration level is, or exceeds, spinal column point 44 excluding any regional allowance (or an equivalent rate for part-time staff), and the post holder does not seek, or is not successful in seeking exemption from the Independent Adjudicator (see paragraph below);
 - (c) a 'sensitive' post, i.e. a post whose duties include giving advice on a regular basis to the Council or committee (including sub-committee or joint committee) or speaking on behalf of the Authority on a regular basis to journalists or broadcasters.

3. WHAT RESTRICTIONS ARE IMPOSED ON 'POLITICALLY RESTRICTED' POSTS

- 3.1 "Politically restricted" employees are:
- (a) Automatically disqualified from holding elected office and are, therefore, precluded from becoming a member of a local authority (other than a Parish or a Community Council), member of Parliament or a member of the European Parliament;
 - (b) Prohibited from canvassing at elections for a candidate for election to the bodies mentioned at (a);
 - (c) Prohibited from acting as an election agent or sub agent for a candidate for election to the bodies mentioned at (a);
 - (d) Prohibited from holding office in a political party;
 - (e) Prohibited from speaking or writing publicly (other than in an official capacity) on party political matters.
- 3.2 The Act also prevents any local government employee from being appointed to the employers' side of any body responsible for negotiating terms and conditions of local government staff. Limits are also introduced on the amount of time-off which may be granted to employees fulfilling their duties as a member of a local authority.

4. THE INDEPENDENT ADJUDICATOR

- 4.1 Under the Act, an Independent Adjudicator has been created to consider amongst other matters:
- (a) applications from employees designated 'politically restricted' solely on remuneration grounds, (i.e. Spinal Column Point 44 and above) for exemption from such restriction.
 - (b) appeals from staff, that a local authority has not properly applied the 'sensitive post' criteria.

5. IMPLICATIONS FOR TERMS AND CONDITIONS OF SERVICE

- 5.1 The Act provides that the restrictions on political activity will be incorporated as a term of the Contract of Employment of those designated as holders of politically restricted posts.

6. ADMINISTRATION

- 6.1 The Council has a statutory duty to maintain a list of postholders who are politically restricted solely because their posts are considered politically sensitive. This list is maintained and will change from time to time.
- 6.2 Employees affected by this legislation are notified on appointment or on reaching the relevant point on the salary scale. They are also advised how to apply for exemption from the restriction.
- 6.3 Advice on the application of can be obtained from Human Resources or the Monitoring Officer

Issued 1996

Staff Code of Conduct

1. Introduction

- 1.1 The Code of Conduct is a guide to help give staff advice on some of the problem areas and pitfalls of working in public service. The Code of Conduct is issued to all new staff. The Code of Conduct covers all staff although some aspects may apply only to staff at a senior level.

2. Purpose of code

- 2.1 The Code has been designed to protect and safeguard the position of individual members of staff as much as those of the Council, and to avoid situations where members of staff might be accused of having some potentially conflicting interest in anything they might be involved in through their work with the Council. Its aim is to encourage staff to inform their managers confidentially on certain personal matters that could affect their duties at the Council. Failure to follow the Code could lead to embarrassing and/or difficult situations and ultimately to an investigation under the Council's disciplinary procedure.

3. Responsibility of staff

- 3.1 Staff are required to report to Chief Officers and record on the appropriate form, full details of:
- (a) Any financial interests outside the Council;
 - (b) Any interest in property in Spelthorne other than your main residence;
 - (c) Any relevant relationship with councillors, other members of staff, contractors, potential contractors or people in partner organisations;
 - (d) Any outside employment or business interests;
 - (e) Any outside commitments or memberships of outside organisations or other public appointments; and,
 - (f) Any other connection to the Council's work which may be relevant (e.g. an interest in a property which may be subject to a planning application, or a family member who may be seeking financial support).
- 3.2 A simple pro forma for recording details of any of these matters is available on Spel-net and should be completed by all members of staff affected and forwarded to the appropriate Chief Officer, in confidence, as soon as possible. In any event, staff are required to report:
- (a) On entering the organisation during the induction process;
 - (b) Annually at appraisal time; or,
 - (c) Whenever a significant new matter arises under this Code.
- 3.3 Previous declarations need to be resubmitted on a new form so that the current form is comprehensive. It is important that information is updated as and when circumstances change. If there are any problems (e.g. about the extent of details required) staff should consult their Chief Officer.

- 3.4 Any information given about interests etc. will be maintained in confidence in the Council's Register. It will be available for inspection by the following people:
- (a) Your Head of Service
 - (b) Head of Human Resources
 - (c) Head of Audit Services
 - (d) Head of Corporate Governance
 - (e) Management Team
- 3.5 Advice or clarification on any matters covered by the Code of Conduct is available from Human Resources, the Head of Corporate Governance or your Chief Officer.
- 4. Other rules applicable to employees**
- 4.1 The main rules relating to the work of the Council are included within the Council's Constitution. Some of the other documents from the Constitution with which you should be familiar are:
- (a) Contract Standing Orders
 - (b) Financial Regulations
 - (c) Policy on Gifts and Hospitality
 - (d) Policy on Anti-Fraud and Corruption
 - (e) Confidential Reporting Code (Whistleblowing policy)
- 4.2 In addition, the Council has numerous other policies for guiding the work of staff and these are available on Spel-net. You should be familiar with these policies because they affect your work, they are relevant to this Code and if you do not abide by them, then they could be disciplinary matters under the Disciplinary Policy, such policies are:
- (a) The Disciplinary Policy
 - (b) Acceptable use policy (for the internet)
 - (c) ICT security policy
 - (d) Data protection policy
 - (e) Any specific departmental policy about access to restricted data or computer systems
- 5. Code of conduct - standards**
- 5.1 The Council has adopted the Nolan Committee's Seven Principles of Public Life as part of its Member Code of Conduct and this Staff Code of Conduct, hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Accordingly, when employed by the Council -
- (a) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

- (b) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (c) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- (d) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- (e) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- (f) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
- (g) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

6. Disclosure of information and confidentiality

- 6.1 The law requires that certain types of information must be available to councillors, auditors, government departments, service users and the public. Other information is subject to confidentiality. You must be aware of the types of information, which in Spelthorne Borough Council are open and those which are not, and act accordingly.
- 6.2 You should not use any information obtained in the course of your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way. Any particular information received by you from a councillor or a fellow employee which is personal to that person and does not belong to the Council, should not be divulged by you without the prior approval of that person.
- 6.3 If you have any doubts about your ability to share or restrict access to information then you should contact the Council's Data Protection Officer, Victoria Statham on ext 6241.

7. Political neutrality

- 7.1 You serve the Council as a whole. It follows you must serve all councillors and not just members of any controlling group of councillors, and must ensure that the individual rights of all councillors are respected.
- 7.2 Whether or not your post is politically restricted, you must follow every lawful expressed policy of the Council and must not allow your personal or political opinions to interfere with your work. Information on politically restricted posts can be obtained from the Head of Human Resources or the Head of Corporate Governance. Guidance is also available on Spel-net.

8. Relationships

- 8.1 You must never become involved in dealing with or determining any application or request you or a member of your family or personal friend make to the Council, for example an application for planning permission or for council tax or housing benefit.

Councillors

- 8.2 You are responsible to the Council through its senior managers. For some, your job is to give advice to councillors and the Council. Mutual respect between staff and councillors is essential to good local government. Close personal familiarity with individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided. Any close personal friendships with councillors should be declared to your Chief Officer.

The Local Community and Service Users

- 8.3 You should always remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

Contractors

- 8.4 All personal relationships with contractors or potential contractors (i.e. contractors who could bid for Council work) should be declared to your Chief Officer.
- 8.5 Orders and contracts must be awarded on merit, by fair competition against other tenders, and no favouritism should be shown to businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.
- 8.6 If you engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship (i.e. working or friendship) in a private or domestic capacity with a contractor or potential contractor, you should declare that relationship to your Chief Officer.

9. Appointment and other employment matters

- 9.1 If you are involved in appointments you should ensure that these are made on the basis of merit. It would be unlawful to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a personal relationship (including friendship) outside work with him or her. You should declare any such relationship to your Chief Officer in advance.
- 9.2 Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

10. Outside commitments

- 10.1 You are required to obtain written consent from your Chief Officer to take any other paid employment or occupation in addition to the post held with the Council. This includes directorships, consultancies and sponsorships by any

company, organisation or individual. It also includes any other business interests you pursue on your own account. You should be clear about your contractual obligations to the Council and should not take outside employment which conflicts or might conflict in the future with the Council's interests.

- 10.2 You may not carry out work arising from additional employment in office time nor use Council resources or facilities for those purposes.
- 10.3 Private use of Council facilities, e.g. making telephone calls, using fax or photocopiers, should be dealt with through the Council's Honesty Box scheme.
- 10.4 You should follow the Council's policies on the ownership of intellectual property or copyright created during your employment i.e:-
 - (a) all creative designs, writings and drawings produced by you in the course of your duties, belong to the Council;
 - (b) all inventions made by you are the property of the Council if made during the course of your duties.

11. Other personal interests

- 11.1 You must declare to your Chief Officer any financial interests which could conflict with the Council's interests e.g. any pecuniary interest in a business or company within Spelthorne or with which the Council might do business.
- 11.2 You must declare to your Chief Officer, any interest you have as freeholder, lessee, licensee or tenant in any land or property in Spelthorne except your main residence as recorded in your personnel records.
- 11.3 You must declare to your Chief Officer all non-financial interests which you consider could bring about conflict with the Council's interests or activities. Examples might be membership of the committee of an organisation seeking or receiving grant aid from the Council, membership of a National Health Service Trust Board operating in Spelthorne or involvement with an organisation or pressure group which may seek to influence the Council's policies. Ordinary membership of organisations whether local or national (e.g. National Trust, RSPB etc) will not usually be relevant.
- 11.4 You must declare to your Chief Officer membership of any organisation not open to the public without formal membership and commitment of allegiance, and which has secrecy about its rules or conduct, for example a Masonic lodge.

12. Equality issues

- 12.1 You have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with, as well, of course, as the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

13. Separation of roles during tendering

- 13.1 You must be clear on the separation of client and contractor roles within the Council. If you are a senior employee with both a client and contractor responsibility, you must be aware of the need for accountability and

openness. Regulations for compulsory competitive tendering have particular requirements for ensuring that contractor units are not involved in tender evaluation. If in doubt, please consult Legal Services.

- 13.2 If you are in a contractor or client unit you must exercise fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.
- 13.3 If you are privy to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised party or organisation.
- 13.4 If you are contemplating a management buyout, you should inform your Chief Officer as soon as you have formed a definite intent and withdraw from the contract awarding process.
- 13.5 You should ensure that no special favour is shown to work colleagues or former employees of the Council or their partners, close relatives or associates, in awarding contracts.

14. Use of financial resources

- 14.1 You must ensure that you use public funds entrusted to you in a responsible manner, ensuring value for money to the local community and avoiding legal challenge to the Authority. If you are in doubt about your obligations, you must seek advice.

Guidance on Politically Restricted Staff

1. Introduction

- 1.1 The Local Government and Housing Act 1989 contains a number of provisions to ensure the political impartiality of local government employees, and introduces the general principle of the 'politically restricted' post and of restricting political activity.
- 1.2 The purpose of this guidance is to highlight the implications of the Act including the implications for terms and conditions of service with the Council.

2. Who is affected?

- 2.1 The Act's operation and many of its provisions flow from the definition of a 'politically restricted' post. A post is designated as such if it is either:
- (a) a 'specified' post (broadly, the Authority's top management) together with any officer to whom the Council or a committee has delegated any of its power to make decisions, and officers who report directly to a 'specified' post;
 - (b) a 'sensitive' post, i.e. a post whose duties include giving advice on a regular basis to the Council or committee (including sub-committee or joint committee) or speaking on behalf of the Authority on a regular basis to journalists or broadcasters.

3. What restrictions are imposed on 'politically restricted' posts

- 3.1 "Politically restricted" employees are:
- (a) Automatically disqualified from holding elected office and are, therefore, precluded from becoming a member of a local authority (other than a Parish or a Community Council), member of Parliament or a member of the European Parliament;
 - (b) Prohibited from canvassing at elections for a candidate for election to the bodies mentioned at (a);
 - (c) Prohibited from acting as an election agent or sub agent for a candidate for election to the bodies mentioned at (a);
 - (d) Prohibited from holding office in a political party;
 - (e) Prohibited from speaking or writing publicly (other than in an official capacity) on party political matters.
- 3.2 The Act also prevents any local government employee from being appointed to the employers' side of any body responsible for negotiating terms and conditions of local government staff. Limits are also introduced on the amount of time-off which may be granted to employees fulfilling their duties as a member of a local authority.
- ### **4. The Head of Paid Service**
- 4.1 Following changes made by the Localism Act 2011, the Head of Paid Service (the Chief Executive) has a role to consider amongst other matters:
- (a) applications from employees designated 'politically restricted' solely on remuneration grounds, (i.e. Spinal Column Point 44 and above) for exemption from such restriction.

- (b) appeals from staff, that a local authority has not properly applied the 'sensitive post' criteria.

5. Implications for terms and conditions of service

- 5.1 The Act provides that the restrictions on political activity will be incorporated as a term of the Contract of Employment of those designated as holders of politically restricted posts.

6. Administration

- 6.1 The Council has a statutory duty to maintain a list of postholders who are politically restricted solely because their posts are considered politically sensitive. This list is maintained and will change from time to time.
- 6.2 Employees affected by this legislation are notified on appointment or on reaching the relevant point on the salary scale. They are also advised how to apply for exemption from the restriction.
- 6.3 Advice on the application of can be obtained from Human Resources or the Monitoring Officer

Revised February 2013

Appendix 4



Staff Code of Conduct

Declaration of Interests 2013

Name:

Position:

Dept:

Interest	Details – state “None” if you have nothing to declare
Any interest in property in Spelthorne other than your main residence	
Any outside employment or business interests outside the Council	
Any other financial interests outside the Council	
Any commitments or memberships of outside organisations or other public appointments	
Any relevant relationships with councillors, other members of staff, contractors, potential contractors or people in partner organisations	
Any other connection to the Council’s work which may be relevant	

Signed: **Date:**

Members' Code of Conduct Committee - 27 February 2013

Work Programme 2013-2014

Resolution Required

1. Work Programme

1.1 This report covers the Work Programme for 2013 - 2014.

1.2 The Committee's terms of reference are set out in Part 3(b) of the Council's Constitution and are as follows:

'Promoting the maintenance of high standards of conduct by councillors and any co-opted members of the Council.

In addition to the broad functions of the Committee set out in Article 10 it is also delegated to undertake the following work on behalf of the Council:

- to keep an overview on the arrangements for dealing with complaints under the code of conduct, making alterations and publishing them where it considers necessary;
- to devise such further protocols and procedures as are necessary for the efficient management of complaints which have to be considered by a hearings panel;
- to consult with the Independent Person on any matters which have broad implications for the promotion of high standards by the Council;
- to make recommendations to Council on standing orders for the registration and declaration of Disclosable Pecuniary Interests and other interests; and,
- to make recommendations to Council on any revisions to the Members' Code of Conduct and the registration of interests.'

2. Current Work Programme

2.1 There is one meeting of this Committee remaining in the 2012-13 municipal year which is scheduled to be held on:

- 24 April 2013

Four meetings have been scheduled in the Council's Diary for the 2013-14 municipal year and the dates for these are:

- 2 July 2013
- 8 October 2013
- 4 February 2014
- 8 April 2014

- 2.2 Details of items currently identified for inclusion in the Work Programme are as follows:

24 April 2013		
Issue	Officer responsible	Objective
Feedback on consultations: <ul style="list-style-type: none"> • Employee Code of Conduct • Gifts and Hospitality • Conflicts Policy 	Michael Graham	To note the revised documents
Independent Person protocol	Michael Graham	Report for approval
Training seminar on interests	Michael Graham	Seminar for all councillors on the new interests regime
Committee's work programme	Michael Graham	Report
2 July 2013		
Review of new arrangements after one year.	Michael Graham	Report
Committee's work programme	Michael Graham	Report

- 2.3 Any topics identified during consideration of the business at this meeting, will need to be included in the Work Programme.
- 2.4 Other issues Members wish to raise for consideration at the next or any future meeting and agreed by the Committee may be included in the Work Programme.

3. Resolution

The Members' Code of Conduct Committee is asked to consider and approve the Work Programme as submitted and/or amended at the meeting.

Contact: Michael Graham, Head of Corporate Governance (01784) 446227

Report Author: Gillian Hobbs, Committee Manager (01784) 444243