

**ROBERTO TAMBINI
CHIEF EXECUTIVE**

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Our ref: GH/MCCC
Date: 13 May 2013

Notice of meeting:

Members' Code of Conduct Committee

Date: Tuesday 21 May 2013

Time: 7.30pm

Place: Goddard Room, Council Offices, Knowle Green, Staines-upon-Thames

To: Members of the Members' Code of Conduct Committee

Councillors:

C.A. Bannister
J.A. Dale
R.D. Dunn
A.E. Friday
A.C. Harman
M.J. Madams
A.J. Mitchell
Vacancy

Independent Members

Mr. M. Litvak (Chairman)
Miss S. Faulkner (Vice-Chairman)

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4. Hearing Procedures	
At the meeting held on 27 February 2013, it was resolved at Minute 66/13 that the Monitoring Officer, in conjunction with the Chairman, would circulate proposed alternative wording for the clause at paragraph 53e of the Hearing Procedures - Arrangements for dealing with allegations of misconduct under section 28 Localism Act 2011. (copy attached)	4 - 11
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**Minutes of the Members' Code of Conduct Committee
27 February 2013**

Present:

Councillors:

J.A. Dale

R.D. Dunn

A.E. Friday

A.J. Mitchell

C.A. Bannister

Independent Members:

Mr Murray Litvak (Chairman)

Mrs Sue Faulkner (Vice Chairman)

In attendance: Independent Person – Roger Pett
Head of Human Resources – Jan Hunt

Apologies: Councillor S.E.W. Budd

62/13 Minutes

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

The Chairman also placed on record his thanks to the following for their contribution to the recent Code of Conduct Hearing: Panel members Councillors Bannister, Friday and Dunn; Richard Lingard, Independent Investigator and Victoria Statham, the Council's Principal Solicitor.

63/13 Disclosures of Interest

No disclosures were made.

64/13 Independent Person

The Monitoring Officer introduced Roger Pett, one of the newly-appointed Independent Persons, to the Committee. Mr. Pett gave a resume of his background and his experience to-date of being an Independent Person.

65/13 Decision of the Hearings Panel

The decision of the hearing panel held on 18 December 2012 and 18 January 2013 had been circulated to members of the Committee for information. The Committee reviewed the whole process.

RESOLVED to note that:

Members' Code of Conduct Committee, 27 February 2013 - continued

- (1) The Committee would have preferred to re-convene the day after the 18 December 2012 rather than incurring a delay until 18 January 2013.
- (2) The time from receipt of the complaint to the final decision being made was too long.
- (3) The Committee would have preferred the decision notice to have been sent to them sooner than it was.
- (4) Training had been put in hand for Councillor Davis who was keen to work through the sanctions imposed on him.

66/13 Hearing Procedures

The Committee discussed the report on amendments to hearing procedures and raised the following points:

1. Page 26, para. 50 – the Independent Person's attendance at a hearing. The Committee agreed to delete the words "...to advise the panel..."
2. Page 27, para. 53e. – the issue of what to publish and where. Whilst the Committee agreed that the word 'or' in line 2 should be replaced by 'and/or', they also agreed that clarification was needed.

RESOLVED that the Monitoring Officer, in conjunction with the Chairman, would circulate proposed alternative wording for the clause at paragraph 53e.

67/13 Gifts and Hospitality

The Committee discussed the report of the Monitoring Officer suggesting provisions to be added to the new Members' Code of Conduct covering: gifts and hospitality; membership of outside bodies and organisations; and dealing with the registration and declaration of pecuniary and non-pecuniary interests.

RESOLVED that:

- (1) The Monitoring Officer consult with Management Team and staff as part of the changes proposed under the Staff Code of Conduct;
- (2) The provisions covering membership of outside bodies to be reviewed in the light of discussion at the meeting and submitted to a future meeting for consideration; and
- (3) The Conflicts of Interest Policy to be reviewed in the light of discussion at the meeting and submitted to a future meeting for consideration.

68/13 Staff Code of Conduct

The Committee received the report of the Monitoring Officer on the review of the Staff Code of Conduct.

The Head of Human Resources stated that the Code had been simplified and trimmed down from its original length.

Members' Code of Conduct Committee, 27 February 2013 - continued

RESOLVED that:

- (1) Any staff declarations of interest (3.4 page 66) should be available for inspection but the list should be restricted to those with a need to see the declarations.
- (2) The Committee give its wholehearted support to the Head of Human Resources in consulting with UNISON on the revised Code.

69/13 Work Programme

The Committee received a copy of its work programme for the period 2013 – 2014.

The Committee discussed the need for councillors' training on the Code of Conduct and its component parts.

RESOLVED that

- (1) the work programme as submitted be noted and
- (2) that the Committee receive training on the hearings process.

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);

- 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

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.

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

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.

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

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.
 - e. To require the Monitoring Officer to publish a press release about the complaint and its outcome.

e-f. To require the Monitoring Officer to publish a comprehensive report in the newspaper and/or on the Council's website about the Member's conduct (this is over and above the decision notice – see paragraph 58 below).

f-g. To withdraw privileges provided by the Council such as computer equipment, internet or email access.

g-h. _____ 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-i. 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 21 May 2013

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.

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:**

GIFTS AND HOSPITALITY

Members Code of Conduct Committee: 21 May 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 Member Code of Conduct to cover the gaps identified by members at previous meetings:

- (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 and February 2013 meetings 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 non-pecuniary interest or some other conflict of interest the councillor should declare the matter but be entitled to 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, these are referred to as Non-Pecuniary Interests.
- 2.5 **Dealing with possible conflicts of interest.** At previous meetings 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. Following debate in February 2013, 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 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 21 May 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.

Appendix 2

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.

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Appendix 2

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 Interests~~ 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 a~~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.~~

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~~15-17.~~ If an interest (~~under paragraphs 14-16 above~~) 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 an ~~disclosable~~ interest in any matter being considered and where the matter is not a ‘sensitive interest’.¹

~~16-18.~~ 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 ~~Disclosable 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.

Appendix 2

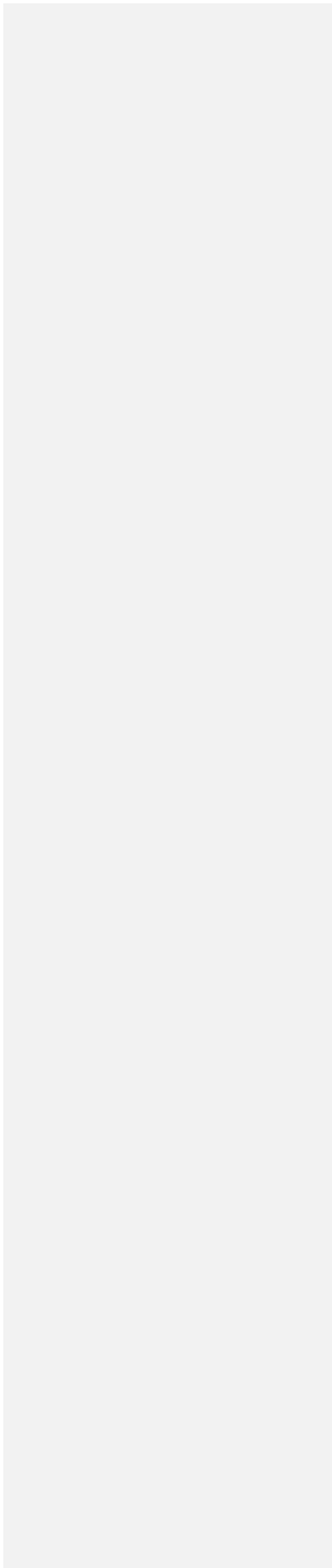
Other guidance

20. The Members Code of Conduct publishes other guidance to assist councillors and co-opted members to meet the aspirations of this Code. You should make yourself familiar with this guidance and act accordingly:

- a. The Planning Code
- b. Policy on Gifts, Hospitality and Sponsorship
- c. Conflicts of Interest Policy

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Appendix 2



Draft May 2013

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 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 paragraphs 15 and 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, 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.

Members' Code of Conduct Committee - 21 May 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 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:

21 May 2013		
Issue	Officer responsible	Objective
Feedback on consultations: <ul style="list-style-type: none"> • Staff Code of Conduct • Gifts and Hospitality 	Michael Graham	To note the revised documents
Committee's work programme	Michael Graham	Report
2 July 2013		
Review of new arrangements after one year.	Michael Graham	Report
Independent Person protocol	Michael Graham	Report for approval
Committee's work programme	Michael Graham	Report
Training on hearings process	Victoria Statham	Presentation
Date in September tbc		
Training on the interests regime	Michael Graham	Seminar for all councillors on the new interests regime

- 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.

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