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Our ref: LP/OSCTTEE
Date: 18 September 2012

Notice of meeting:

Members' Code of Conduct Committee

Date: Wednesday 26 September 2012

Time: 7.00pm

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

To: Members of the Members' Code of Conduct Committee

Councillors:

Mrs C.A. Bannister
S.E.W. Budd
Ms M. Bushnell
Mrs J.A. Dale
R.D. Dunn
A.E. Friday
Mrs M.J. Madams
A.J. Mitchell

Independent Members

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

AGENDA

1. Apologies

To receive apologies for non attendance.

2. Minutes

To confirm the minutes of the Committee meeting held on 26 July 2012. 1 - 3

3. Disclosure of Interests

To receive any disclosures of interest from members.

4. Independent Persons

The Monitoring Officer to introduce the Independent Persons recently appointed.

5. Summary of Current Complaint Cases

To receive the verbal report of the Monitoring Officer.

6. Employee Code of Conduct

To consider the report of the Monitoring Officer. 4 - 8

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7. Gifts and Hospitality Provisions

To consider the report of the Monitoring Officer. 35 - 38

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8. Urgent Business

To consider any business that the Chairman considers is urgent.

Minutes of the Members' Code of Conduct Committee
[26 July 2012](#)

Present:

Councillors:

S.E.W. Budd

Mrs M. Bushnell

A.E. Friday

Independent Members:

Mr Murray Litvak (Chairman)

Mrs Sue Faulkner (Vice Chairman)

Apologies: Councillors Mrs C.A. Bannister, R.D. Dunn, Mrs M.J. Madams and A.J. Mitchell

224/12 Minutes

The minutes of the Standards Committee meeting held on 10 May 2012 were approved as a correct record.

225/12 Disclosures of Interest

No disclosures were made.

226/12 Committee Arrangements

The committee discussed with the Monitoring Officer his report outlining the arrangements for the new standards framework, which had been agreed at the Council meeting on 27 June 2012.

The committee noted that the terms of reference and remit of this committee had been revised to reflect the new statutory framework. This included a streamlined process for dealing with alleged breaches of the Code of Conduct.

The committee discussed the number of key tasks that needed to be considered by this committee in the forthcoming months and discussed the way forward for prioritising the work with the Monitoring Officer.

The committee received an update from the Monitoring Officer on the Disclosable Pecuniary Interest forms that had been returned by the councillors.

It was noted that under the Localism Act 2011 councils could make their own rules about how interests need to be declared at meetings, to make standing orders about the declaration of Disclosable Pecuniary Interests and any other non statutory interests that it felt were required.

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

The committee discussed the possibility of re introducing a register of gifts and hospitality with an estimated value of £35 (as opposed to £25 under the previous code). It was also felt that the register of interest for members at planning committee meetings should be extended to include immediate family rather than just partners.

The Monitoring Officer reported that one of the new areas in the remit of this committee was the Employee Code of Conduct and that this could be an area that the committee would wish to review in the coming months.

RESOLVED that the Monitoring Officer submit reports to the next meeting of the committee on:

- 1) Registering gifts and hospitality with an estimated value of £35;
- 2) Members interests in planning applications be extended to include immediate family and not just partners; and
- 3) Reviewing the Employees Code of Conduct.

227/12 Independent Persons

The committee noted that at the Council meeting on 19 July 2012 Roger Pett, Tony Allenby and Vivienne Cameron had been appointed Independent Persons. The Monitoring Officer reported on the collaborative arrangements with Guildford Borough Council, Mole Valley District Council and Waverley Borough Council.

The Monitoring Officer reported on the need for a protocol as to how the Independent Persons would be used between the four councils and how they would be allocated to cases. It was noted that an induction session for the Independent Persons was being organised to take place on 6 August 2012.

RESOLVED that the report of the Monitoring Officer on the appointment and induction of the Independent Persons be noted.

228/12 Hearing Procedures

The committee discussed draft hearing procedures that could apply in dealing with allegations of failure by members to observe the Code of Conduct. The new arrangements included provisions for:

- An initial review by the Monitoring Officer in consultation with the Independent Persons
- Hearing Panel Procedures for Assessment Panels
- Hearing Panel Procedures for Final Hearing

It was noted that these procedures would be implemented immediately but could be reviewed again at the discretion of the committee.

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

RESOLVED that:

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

229/12 Training Regime

RESOLVED that arrangements be made after 26 September 2012 for Councillors to receive training on the new standards regime. Two sessions be arranged one to be held during the day and the other one in the evening.

230/12 Next Meeting

RESOLVED that the next meeting of the Committee to take place on 26 September 2012 start at 7.00pm and provisional arrangements be made for an adjourned meeting to take place on 3 October starting at 7.00pm.

231/12 Urgent Business

There was no urgent business.

EMPLOYEE CODE OF CONDUCT

Members' Code of Conduct Committee: 26 September 2012

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 consider the current Employee Code of Conduct 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 current 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 earlier this year, 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 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 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. Most councils will have a similar document. It may also be the case that most councils are in a similar position to ours in not having reviewed the document for some time. The reason for this is that the Department for Communities and Local Government (and its predecessors responsible for local government over various administrations) had made it clear that the Employee Code was going to be subject to central government guidance or regulation. This was always stated to be “in the near future”. The last communication on this topic was late into the last government’s administration when it was proposed that a statutory code be enacted along similar lines to the (2007 version of the) statutory Member Code of Conduct. This was widely criticised as being overly bureaucratic and unnecessary and was quietly dropped.
- 1.5 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 the Employee Code of Conduct. Therefore, with no national model or recent guidance to consider 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. A copy of

the policy is enclosed as **Appendix 2**. 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. Some councils include such protocols in the Code of Conduct. Members will have to consider how far, if at all they wish to adopt such an approach.
- 2.3 Some councils have incorporated their policy on Whistleblowing into the Code of Conduct for Employees. At Spelthorne, the policy is a separate document and whilst it does encourage employees to speak out against illegal activity and malpractice it does not require them to do so. The thrust of the policy is to demonstrate how employees can speak out safely and to reassure them that they will be protected if speaking out in good faith. Some councils have taken such an approach but also placed an obligation on their employees in the Code of Conduct. The nature of that obligation is to speak out and report any instances of malpractice to either a line manager or a more senior officer identified in the policy.
- 2.4 **Issues arising under the present code.** Perhaps the first consideration for a review of the Code is whether or not there have been any issues arising from the present code in recent years in terms of disciplinary proceedings. The Monitoring Officer will report on this further at your meeting on 26 September.
- 2.5 **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 not been routinely promoted, or reminders issued that staff should remind themselves about the Code of Conduct.
- 2.6 In considering a review of the Code, it is perhaps this area which needs to be addressed. Members of staff who have been here some time may have forgotten the requirements of the Code and without proactive promulgation of the requirements under it, they may overlook any of the reporting requirements. Staff who have been here comparatively recently may be more aware of the Code and the information given at the induction training but this will be just one of many aspects of the Council's policies and practices covered at the induction.
- 2.7 **Style of the document.** The current Code runs to 13 sides of A4. The Member Code of Conduct (**Appendix 3**) 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).
- 2.8 Most councils have documents which are similar in length and go into a similar amount of detail. With the availability of the internet and the intranet to publish such documents it is however easier to hyperlink related documents so that the main document gives the basic "headlines" of the requirements and signposts the way to further detail if the reader requires it. This might have the advantage

of being able to re-launch and promote a “simpler” Code. The alternative is to have a fully comprehensive document in one place even if that by implication becomes a longer policy document.

- 2.9 **Overlap with the Member Code of Conduct.** Incorporation of the Nolan Committee’s “Seven Principles of Public Life” which are incorporated into Spelthorne’s Member Code of Conduct. Some councils incorporate the Seven Principles into the Employee Code. This would have the advantage of bringing the Member Code and the Officer Code onto the same fundamental footing even if the specific requirements would invariably be different because of the different issues affecting Members and Officers in their work.
- 2.10 **Contents of the Code.** Bearing in mind that there is no recommended model as such, Spelthorne’s Code has been compared to other councils to see if matters have been included or excluded from the Code and to see if we are “out of step” in any way. Apart from the issues raised under paras 2.1 – 2.3 above the Code covers many of the matters which are covered in other similar documents. There are no areas which are obviously missing from the Code. This is likely to be the case if the council’s code was derived from the guidance issued in the 1990s by the Local Government Management Board (as ours was).
- 2.11 Some codes from county councils have more provisions within them which reflect the extensive contact which staff in the County Council will have with vulnerable service users. For example, the requirements on gifts and hospitality also extend to bequests because of the opportunity for old people in a care setting to leave gifts under a will for those that have been caring for them.
- 2.12 One code examined had rules about relatives and close personal relationships within the workplace. One code had more rules about bullying and treatment of colleagues in respect of discrimination and harassment. Again such an approach in other councils might be covered by documents such as the Single Equality Policy.
- 2.13 **References to Compulsory Competitive Tendering** – this was a particular feature of local government in the 1990’s which has now disappeared. It would be prudent to make alterations in the Code, but to ensure the general principle of fair dealing in tendering remains in case there are cases of outsourcing in the future which would require a “client/contractor” approach. One possible scenario might be the “buyout” of public services by employee owned mutuals envisaged and encouraged by the Localism Act 2011.
- 2.14 **Politically restricted posts.** As the 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 should be reflected in the Code.

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 this topic to promote initial discussion about the way forward. The views on this document are not recommendations they are merely set out for the purpose of promoting a discussion at your meeting. It will not be possible to complete a review in one meeting. In any event given the overlap with other

policies, procedures and documents, it may well be that members wish to see further evidence and speak to other officers before they conclude the review.

- 3.2 As the Code effects a large number of staff it would also be prudent to take into account the views of staff representatives on any proposed changes before the review is completed.

4. PROPOSALS

- 4.1 To consider the report and identify any proposed changes to the Employee Code of Conduct.

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 There is currently no timetable. Members may wish to give an indication when they consider this matter.

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

Background Papers:

There are none

Appendices:

- 1 – Code of Conduct for Employees
- 2 – Disciplinary Policy
- 3 – Member Code of Conduct

INTRODUCTION TO THE CODE OF CONDUCT FOR EMPLOYEES

1. INTRODUCTION

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

2. PURPOSE OF CODE

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

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

3. EXTENT OF CODE

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

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

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

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

4. RESPONSIBILITY OF STAFF

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

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

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

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

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

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

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

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THE CODE OF CONDUCT FOR EMPLOYEES

1. INTRODUCTION AND BACKGROUND

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

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

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

2. OTHER RULES APPLICABLE TO EMPLOYEES

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

3. CODE OF CONDUCT - STANDARDS

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

4. DISCLOSURE OF INFORMATION

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

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

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

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

5. POLITICAL NEUTRALITY

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

6. RELATIONSHIPS

6.1 Councillors

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

6.2 **The Local Community and Service Users**

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

6.3 **Contractors**

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

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

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

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

7. **APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

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

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

8. **OUTSIDE COMMITMENTS**

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

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

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

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

9. PERSONAL INTERESTS

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

10. EQUALITY ISSUES

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

11. SEPARATION OF ROLES DURING TENDERING

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

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

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

12. GIFTS AND HOSPITALITY

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

Gifts

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

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

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

Hospitality

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

Register for Gifts and Hospitality

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

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

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

13. USE OF FINANCIAL RESOURCES

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

14. SPONSORSHIP - GIVING AND RECEIVING

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

15. COMPUTER SOFTWARE

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

REGISTER OF INTEREST(S)

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

Name: _____

Service: _____

DATE	SECTION OF CODE/DETAILS OF INTEREST

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

LOCAL GOVERNMENT AND HOUSING ACT - POLITICAL RESTRICTION OF CERTAIN STAFF

1. INTRODUCTION

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

2. WHO IS AFFECTED?

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

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

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

4. THE INDEPENDENT ADJUDICATOR

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

5. IMPLICATIONS FOR TERMS AND CONDITIONS OF SERVICE

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

6. ADMINISTRATION

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

Issued 1996

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DISCIPLINARY PROCEDURE

1. Introduction

It is essential that all employees achieve and maintain a satisfactory level of performance and conduct whilst at work. In doing so, individuals will be able to achieve a level of job satisfaction in their everyday work and the Council will be able to deliver a high quality service to the local community. Where performance or conduct falls below that expected, it is envisaged that most problems will be solved by informal discussions or counselling. However, where this fails to resolve a problem then a more formal approach will be required.

Proper disciplinary procedures are an aid to good management and therefore this procedure should be seen as a means of emphasising and encouraging improvement and not primarily as a means of imposing sanctions.

2. Purpose of Procedure

The Disciplinary Procedure has been designed to manage situations where an employee's performance falls below an acceptable standard either because of misconduct or capability.

The procedure does not apply to:

- a) the Chief Executive, Deputy Chief Executive, Assistant Chief Executives and Second Tier Officers within JNC conditions where procedures exist within the conditions of service
- b) cases of redundancy which are covered by separate procedures
- c) the termination of temporary or fixed term appointments where the only reason for termination is that the need for their service has ceased.
- d) cases of short or long term absence due to ill health which may be dealt with under the Council's Management of Absence Policy

Where an employee is a union representative i.e. a current member of a recognised union Executive Committee the procedure will not be invoked without first advising Human Resources and discussing the matter with the appropriate full time Trade Union Official.

The procedure should be read in conjunction with the Manager's Guidance Notes to the Disciplinary Procedure.

3. Statement of Intent

The procedure will be implemented in accordance with the principles of natural justice, will be applied in a fair, consistent and non-discriminatory manner and dealt with as speedily as possible.

Employees with disabilities will be given the opportunity, time and support to request and receive any appropriate facilities they need in order to participate fully in the procedure (eg sign language interpreters, information on tape or Braille). Similarly, employees whose first language is not English will be given the opportunity of requesting interpreters, and appropriate arrangements will be made.

Employees will be informed of the allegations against them and will be given every opportunity to state their case before any decision is made.

At all formal stages an employee will have the right to be accompanied by a union representative or work colleague. The officer presenting the management case may also choose to be accompanied by a colleague.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty will be dismissal without notice.

An employee will have the right to appeal against any formal disciplinary penalty imposed.

The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

The authority's policy is to refer suspected criminal activities to the police.

4. Gross Misconduct

Gross Misconduct occurs when the contractual relationship between the employer and employee is fundamentally breached. The implied trust that is integral to such a relationship is destroyed to such an extent that the Council is no longer able to continue employing the person who committed or is suspected of committing such an offence. Examples of gross misconduct include:

- Breaches of the Council's financial regulations or Contract Standing Orders
- The deliberate or knowing abuse of the computer system, including the internet
- Being unfit for work through the use of alcohol or illegal drugs
- An assault on a Member or employee of the Council, an employee, or person in the Council's care, client or member of the public. This includes violent or dangerous behaviour and serious physical or verbal abuse.
- Any offence of dishonesty, theft or fraud involving property or money belonging to the Council, Members, employees, clients, contractors or members of the public
- Severe cases of sexual, racial or other forms of harassment at work
- Acts of fraud or deliberate falsification of documents with intent to defraud the Council
- Damage to property arising from wilful or negligent acts
- Wilful negligence or disregard of Health and Safety Policy
- Corruptly soliciting or receiving any benefit or advantage from any individual or body with whom the council has dealings.
- The disclosure or use of confidential Council information for any purpose other than the properly authorised business of the Council.
- Serious insubordination
- Actions by the employee inside or outside of the Council which, by their nature:
 - Prevent the employee from continuing to do the job for which they are employed
 - Seriously call into question the employee's fitness to continue the job for which they are employed to do
 - Have a damaging effect upon the reputation and integrity of the Council

This list is an example of actions or inactions but is neither exclusive or exhaustive.

An employee suspected or accused of committing an act of gross misconduct may be suspended from work (on pay), normally for no more than 10 working days, while the Council investigates the alleged offence. However, it is recognised that some

investigations, because of their complexity or the numbers of people involved in the investigation process, may take longer than the ten day period. In such cases the investigation and any subsequent disciplinary hearing will be undertaken without due delay. Such suspension will not imply guilt and is not intended as a form of disciplinary action. Suspension will be confirmed in writing. If on completion of the investigation and the full disciplinary procedure -

- the Council is satisfied that gross misconduct has occurred, this will result in summary dismissal without notice and without pay in lieu of notice.
- the Council is satisfied that a disciplinary offence has occurred but is not gross misconduct, then other disciplinary action will be taken in accordance with this procedure
- the Council is satisfied that no breach of discipline has occurred, then no further action will be taken

5. Informal Procedure

As part of the normal management process many matters of minor misconduct and poor performance can be dealt with by providing clear information about the improvements required and offering advice, training, coaching or counselling as appropriate. In some cases it may also be necessary to issue an informal oral warning. Oral warnings will be confirmed in writing and will outline the reason for the warning, the expiry date of the warning, what further action may be taken if there is no improvement or further offences occur. Although an informal warning is not part of the formal disciplinary procedure it will be one of the factors used, where performance or conduct does not improve, to decide whether formal action should be taken.

6. Formal Procedure

When a disciplinary matter arises the supervisor/manager should act promptly to ensure that information gathered and any action taken occurs as quickly as possible. It is important to follow the procedure carefully to ensure all possible known facts are collected before proceeding to a formal disciplinary hearing.

6.1 Investigation

The purpose of any investigation is to establish the facts surrounding the allegation/s. Normally this will be done by the immediate line manager but may vary according to the circumstances of the case. The nature and scale of the investigations will depend on the seriousness and complexity of the allegation/s. In cases of alleged serious misconduct it may be necessary to suspend the employee during the period of the investigation and pending any hearing.

The investigation will involve:

- Enquiring into the circumstances surrounding the suspected or alleged misconduct, giving the individual/s involved an opportunity to offer an explanation
- Taking an objective view of the information resulting from the enquiries
- Deciding whether there are sufficient grounds to pursue through to a formal disciplinary hearing or whether to deal with the matter informally through management discussion and supervision.

6.2 Disciplinary Hearing

Where it has been decided to proceed to a formal disciplinary hearing the employee should be advised in writing and given at least 5 working days notice. The letter should include:

- The date, time and venue of the hearing
- Reference that the hearing is being held as part of the Council's formal Disciplinary Procedure
- The specific allegation/s to be considered
- The names of the managers who will be conducting the hearing
- The names of the manager/s who will be presenting the case
- The names of any management witnesses who will be giving evidence
- Copies of relevant paperwork which will be referred to as part of the management case
- The right of the employee to be accompanied by either a work colleague or trade union representative
- The right of the employee to call witnesses to speak on their behalf (the employee is responsible for making such arrangements for their attendance)
- A copy of the Disciplinary Procedure
- A request that any paperwork or written submissions to be referred to as part of the employee's case is supplied at least two working days before the hearing. (Any paperwork submitted after this time may be considered by the Panel at their discretion)
- A request that the employee confirms their attendance at least two working days before the hearing
- A statement that where an employee fails to attend the hearing without good reason, the panel will decide whether, according to the circumstances, the hearing should be postponed to a new date or heard in the employee's absence

The date, time and place of the hearing can be deferred with the mutual consent of both parties.

6.3 The Panel

The disciplinary panel will include an independent manager (Chair of Panel) nominated by the Chief Executive, Deputy Chief Executive, Assistant Chief Executives or Head of Streetscene and a representative from Human Resources. Where serious financial or legal implications are involved, there may, in addition, be representatives from Internal Audit or Corporate Governance who will act as advisors to the panel. In such circumstances, the advisors will be able question all parties and to answer any particular issues raised by all parties involved in the hearing. However, they will take no part in the decision making process.

6.4 Witnesses

It will be for the employee and the manager presenting the case to arrange for any witnesses they may wish to call to support their respective cases. Where witnesses are unable or unwilling to attend written signed and dated witness statements will be accepted provided these are presented to the panel at least two days before the hearing.

7. Conduct of the Formal Disciplinary Hearing

The panel should not discuss the issues of the case with either the manager presenting the case or the employee or their representatives prior to the date of the hearing. It will be for the Chair of the Panel to decide whether a note taker is appointed or whether Panel members make their own notes throughout the proceedings. Whilst this procedure will normally be followed for all disciplinary hearings, the Chair of the Panel has discretion to vary from this if there is a more appropriate mechanism of arriving at a fair and sound conclusion.

7.1 Introduction

The Chair of the Panel will invite the manager presenting the case and the employee concerned into the room together

Following introductions of those present at the hearing, the Chair will formally open the hearing outlining:

- The roles of those present
- The procedure that will be followed
- The allegations to be considered
- Any special arrangements for the hearing (e.g. finishing times, interpreters)
- The importance of maintaining confidentiality about the matters to be considered

NB Where the employee is unaccompanied the Chair will confirm the employee's decision not to be accompanied.

7.2 The Management Case

The manager will present the case against the employee including the calling of any witnesses (witnesses will be called separately and will remain at the hearing only whilst giving their evidence or being questioned).

The employee and their representative will be invited to ask questions of the manager and witnesses.

The Panel will ask questions of the manager and witnesses

At the end of the questioning the manager may wish to re-examine a witness to clarify any points raised.

7.3 The Employee's Case

The employee and their representative will present their case including the calling of any witnesses (witnesses will be called separately and will remain at the hearing only whilst giving their evidence or being questioned).

The manager presenting the case will be invited to ask questions of the employee and witnesses

The Panel will ask questions of the employee and witnesses

At the end of the questioning the employee and their representative may wish to re-examine their witness to clarify any points raised.

7.4 Summary

The employee and their representative will be given the opportunity to summarise their case. The manager will then be given a similar opportunity. At this stage no new evidence should be introduced.

7.5 Conclusion

At the end of the hearing both parties will be asked to leave the room whilst the panel considers the evidence. (Any advisors or note taker may remain in the room but will take no part in the decision making process).

The panel reserves the right to reconvene the hearing should it wish to re-examine any of the evidence. Where the panel considers that further information is required or new matters have come to light which require further investigation the hearing will be adjourned with a view to reconvening once the necessary information has been obtained.

7.6 Decision

The Panel will need to consider all the evidence very carefully before reaching a decision and will endeavour to recall both parties to advise them personally of the outcome. However, in some cases this will not be possible and both parties will be advised that the outcome of the hearing will be notified to them in writing. In either event the employee should be advised in writing of the outcome of the disciplinary normally within three working days of the end of the hearing. The panel will consider the evidence presented at the hearing and any mitigating circumstances before reaching a decision.

The letter advising of the outcome of the hearing should include:

- A brief summary of evidence considered for each allegation
- The decision reached on the 'basis of probability'
- Any arrangements/requirements/time limits for improvement (eg. targets to be met, standards to be reached, procedures to be followed)
- Any arrangements for monitoring or supporting such requirements (eg any specific training, mentoring or other support)
- Any mitigating circumstances taken into account
- Any penalty imposed and how long it will remain 'live' on file
- The likely consequences of further misconduct or poor performance
- The time scale and arrangements for the appeal process
- The right of appeal to an Employment Tribunal where dismissal is the outcome.

8. Penalties

a) Written warning

If there is no improvement in standards following an informal warning, or a further offence occurs, or the offence is serious, a written warning will be given. This will

state the reason for the warning, the improvement required and a time scale. It will also state that failure to improve will result in a final written warning and will advise of the right of appeal. A copy of this written warning will be kept by the supervisor/manager and a copy will be held on the employee's personal file in the Human Resources Office. The warning will lapse after 12 months.

b) Final Written Warning

Where there is continuing failure to improve and conduct or performance continues to be unsatisfactory, a Final Written Warning will normally be given to the employee. In certain circumstances, where misconduct is judged to be sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, a First and Final Written warning will normally be given to the employee. A Final Written Warning will give details of the complaint, will warn that dismissal will result if there is not satisfactory improvement or if there is any further serious misconduct within a given time period. The letter will also advise of the right of appeal. A copy of this final written warning will be kept by the supervisor/manager and a copy will be held on their personal file in the Human Resources Office with a time period for lapse decided by the Disciplinary Panel, to a maximum of 18 months.

c) Dismissal

If conduct or performance continues to be unsatisfactory and the employee still fails to reach the prescribed standards, dismissal will result. (If dismissal is on the grounds of Gross Misconduct the employee will be dismissed summarily without notice or any payment in lieu of notice).

The decision to dismiss may only be made by the Chief Executive, Deputy Chief Executive, Assistant Chief Executives or Head of Streetscene. Where an officer below this level is the Chair of a disciplinary panel they will need to seek appropriate approval. The employee will be provided, as soon as possible but normally within three working days of the hearing, of the reasons for dismissal, the date on which employment will terminate and the right of appeal.

9. The Right of Appeal

An employee can appeal against any level of action taken at a formal disciplinary hearing. Where the appeal is against a dismissal it will be heard by a Member panel. All other appeals will be heard by an Officer panel.

In either case an employee must write to the Chief Executive, Deputy Chief Executive, Assistant Chief Executives or Head of Streetscene (as appropriate) within 5 working days of the receipt of the letter confirming the disciplinary action taken, stating the grounds of their appeal. The intention of the appeals process is not to rehear the disciplinary case but to consider any grounds for the appeal such as new evidence, procedural irregularities, undue severity or inconsistency of the penalty.

The appeal will be heard by an independent manager at the same level or senior in authority to the person who took the disciplinary decision and, if possible, who was not involved in the original hearing or decision. Normally, the Chair of the original disciplinary panel will present the management case at any appeal hearing.

9.1 Appeal Hearing

An employee appealing against the decision of a formal disciplinary hearing should be advised, in writing, and given at least 5 working days notice of the date of the Appeal hearing. The letter should include:

- The date, time and venue of the hearing
- Reference that the hearing is being held as part of the Council's formal Disciplinary Procedure
- The specific ground of the appeal to be considered
- The names of the officers or Members who will be conducting the hearing
- The names of the manager/s who will be responding to the grounds of the appeal.
- The names of any management witnesses who will be giving evidence
- Copies of relevant paperwork which will be referred to as part of the management case
- The right of the employee to be accompanied by either a work colleague or trade union representative
- The right of the employee to call witnesses to speak on their behalf (the employee is responsible for making such arrangements for their attendance)
- A copy of the Disciplinary Procedure
- A request that any paperwork or written submissions to be referred to as part of the employees' appeal is supplied at least two working days before the hearing. (Any paperwork submitted after this time may be considered by the Panel at their discretion)
- A request that the employee confirms their attendance at least two working days before the hearing
- A statement that where an employee fails to attend the hearing without good reason, the panel will decide whether, according to the circumstances, the hearing should be postponed to a new date or heard in the employee's absence

The date, time and place of the hearing can be deferred with the mutual consent of both parties.

9.2 The Panel

The officer disciplinary panel will include a manager (Chair of Panel) nominated by the Chief Executive, Deputy Chief Executive, Assistant Chief Executives or Head of Streetscene and a representative from Human Resources. The Members panel will be set up under the Staff Appeals Procedure and will normally comprise five Members together with a representative from Human Resources. Where serious financial or legal implications are involved, there may, in addition, be representatives from Internal Audit or Corporate Governance who will act as advisors to the panel. In such circumstances, the advisors will be able to question all parties and to answer any particular issues raised by all parties involved in the hearing. However, they will take no part in the decision making process.

9.3 Witnesses

It will be for the employee and the manager responding to the appeal to arrange for any witnesses they may wish to call to support their respective cases. Where witnesses are unable or unwilling to attend written, signed and

dated witness statements will be accepted provided that these are presented to the panel at least two days before the hearing.

10. Conduct of the Appeal Hearing

The panel should not discuss the issues of the case with either the employee bringing the appeal or their representatives or the manager responding to the appeal prior to the date of the hearing. It will be for the Chair of the Panel to decide whether a note taker is appointed or whether Panel members make their own notes throughout the proceedings. Whilst this procedure will normally be followed for all appeal hearings, the Chair of the Panel has discretion to vary from this if there is a more appropriate mechanism of arriving at a fair and sound conclusion.

10.1 Introduction

The Chair of the Panel will invite the manager responding to the appeal and the employee and their representative concerned into the room together

Following introductions of those present at the hearing, the Chair will formally open the hearing outlining:

- The roles of those present
- The procedure that will be followed
- The grounds of the appeal to be considered
- Any special arrangements for the hearing (e.g. finishing times, interpreters)
- The importance of maintaining confidentiality about the matters to be considered

NB Where the employee is unaccompanied the Chair will confirm the employee's decision not to be accompanied.

10.2 The Employee's Grounds for Appeal

The employee and their representative will present their grounds for appeal including the calling of any witnesses (witnesses will be called separately and will remain at the hearing only whilst giving their evidence or being questioned).

The manager responding to the appeal will be invited to ask questions of the employee and witnesses

The Panel will ask questions of the employee and witnesses

At the end of the questioning the employee and their representative may wish to re-examine their witness to clarify any points raised.

10.3 The Management Case

The manager will respond to the appeal including the calling of any witnesses (witnesses will be called separately and will remain at the hearing only whilst giving their evidence or being questioned).

The employee and their representative will be invited to ask questions of the manager and witnesses.

The Panel will ask questions of the manager and witnesses

At the end of the questioning the manager may wish to re-examine a witness to clarify any points raised.

10.4 Summary

The manager responding to the appeal will be given the opportunity to summarise their case. The employee and their representative will then be given a similar opportunity. At this stage no new evidence should be introduced.

10.5 Conclusion

At the end of the hearing both parties will be asked to leave the room whilst the panel considers the evidence. (Any advisors or note taker may remain in the room but will take no part in the decision making process).

The panel reserves the right to reconvene the hearing should it wish to re-examine any of the evidence. Where the panel considers that further information is required or new matters have come to light which require further investigation the hearing will be adjourned with a view to reconvening once the necessary information has been obtained. Wherever possible the parties will be advised of the likely timescale.

10.6 Decision

The Panel will need to consider all the evidence very carefully before reaching a decision and will endeavour to recall both parties to advise them personally of the outcome . However, in some cases this will not be possible and both parties will be advised that the outcome of the hearing will be notified to them in writing. In either event the employee should be advised in writing of the outcome of the disciplinary within three working days of the end of the hearing. The panel will consider the evidence presented at the hearing and any mitigating circumstances before reaching a decision.

The letter advising of the outcome of the hearing should include:

- A brief summary of evidence considered for each allegation
- The decision reached, on the 'basis of probability', of whether the appeal is upheld or not upheld
- Any mitigating circumstances taken into account

and, where appropriate

- Any arrangements/requirements/time limits for improvement (eg. targets to be met, standards to be reached, procedures to be followed)
- Any arrangements for monitoring or supporting such requirements (eg any specific training, mentoring or other support)
- Any penalty imposed and how long it will remain 'live' on file

- The likely consequences of further misconduct or poor performance
- Confirmation that there is no further appeal stage
- The right of appeal to an Employment Tribunal where dismissal is the outcome.

11. Monitoring

Monitoring information regarding race, age, gender and disability of employees subject to the formal arrangements of this procedure will be collated by Human Resources and reported to MAT on an annual basis.

Agreed by Management Team and Unison to be effective from 1st May 2004.

Spelthorne Borough Council

Code of conduct for councillors and co-opted members

General Obligations

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

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

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

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

Registering and declaring pecuniary and non-pecuniary interests

14. You must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any "Disclosable Pecuniary Interest" as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
15. In addition, you must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any Disclosable Pecuniary Interest or other non-pecuniary interest which the Council has decided should be included in the register.
16. If an interest has not been entered onto the Council's register, then the councillor or co-opted member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹
17. 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.
18. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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

GIFTS AND HOSPITALITY

Members Code of Conduct Committee: 26 September 2012

Resolution Required

Report of the Monitoring Officer

REPORT SUMMARY

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

Not applicable

Purpose of Report:

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

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

Key Issues:

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

Financial Implications:

There are none.

Corporate Priority

This is not a corporate priority

Officer Recommendations:

To recommend to Council that the Code of Conduct be amended 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.

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, Members considered that a slightly higher threshold of £35 should apply and this has been taken into account in the attached suggested revision of the Code at **Appendix 1**.
- 2.3 **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. Again, wording is suggested at **Appendix 1** to deal with the requirement.
- 2.4 **Dealing with possible conflicts of interest.** At the July meeting we discussed the possibility that whilst Disclosable Pecuniary Interests would cover the member and the member's spouse or partner, this narrow definition did not deal

with all the possible conflicts of interest which might occur and for which a member could be criticised if they were not disclosed.

- 2.5 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. I have assumed for the purposes of this paper that there is no wish to reintroduce such provisions which have just been abolished. I have therefore suggested a much lighter requirement to consider possible conflicts and take advice from the Monitoring Officer. I have also suggested that Members be bound to follow 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 subsequent guidance which your Committee considers necessary to provide more detail on dealing with situations where conflicts might exist.
- 2.6 Members need to consider what expectations they have for councillors to stay in a meeting room and take part in a debate once a conflict has been declared. Do they :
- (a) Declare the conflict but take part in the meeting and the voting nevertheless?
 - (b) Declare the conflict but take part in the meeting but take no part in the voting?
 - (c) Declare the conflict and then take no part in the meeting and the voting, staying in the room throughout the debate?
 - (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?
- 2.7 Standing Orders for Council may have to be altered to make allowance for whatever position members consider appropriate.

3. OPTIONS ANALYSIS

- 3.1 This paper raises opportunities to amend the Code of Conduct. The matter is with members for discussion at the meeting on 26 September.

4. PROPOSALS

- 4.1 To consider the matters raised and make recommendations to Council if changes to the Code 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 Report to Council for 25 October 2012.

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

Background Papers:
There are none

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.

Updated 01/07/2012

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

Registering and declaring pecuniary and non-pecuniary interests

14. You must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any “Disclosable Pecuniary Interest” as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse’s or civil partner’s, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

15. In addition, you must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any Disclosable Pecuniary Interest or other non-pecuniary interest which the Council has decided should be included in the register.

16. The Council has decided that it is appropriate for you to register and disclose non-pecuniary interests that arise from your membership of, or your occupation of a position of general control or management in, the following bodies:

- a. bodies to which you have been appointed or nominated by the Council;
- b. bodies exercising functions of a public nature;
- c. bodies directed to charitable purposes;
- d. bodies one of whose principal purposes includes the influence of public opinion or policy.

15. _____

16-17. If an interest has not been entered onto the Council’s register, then the councillor or co-opted member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a ‘sensitive interest’.¹

17-18. Following any disclosure of an interest not on the authority’s register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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Gifts and Hospitality

20. You must exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.

21. You must not accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage. You must abide by any guidance issued by the Members Code of Conduct Committee with regards to gifts and hospitality.

22. You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £35 within 28 days of its receipt. This register will be maintained online with the Notifications of Disclosable Pecuniary Interests.

Decision-making, Conflicts and Predetermination

23. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you are not prohibited from participating in a decision in your political role as a Member. You must however abide by any guidance issued by the Members' Code of Conduct Committee with regards to decision making in any part of the Council's business e.g. the Planning Code..

24. Do not place yourself under any financial, personal or other obligation to friends, family, outside individuals or organizations, that might seek to influence you in the performance of your official duties. If you have feel you may have any conflicts of interest then you should contact the Monitoring Officer for further advice.

25. When making a decision, do consider the matter with an open mind and on the facts before the meeting at which the decision is to be made, listening to the advice of relevant parties, including advice from officers, and taking all relevant information into consideration, remaining objective and making decisions on merit.

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