



Please reply to:

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Date: 21 November 2022

Notice of meeting

Standards Sub-Committee

Date: Tuesday, 29 November 2022

Time: 7.00 pm

Place: Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames TW18 1XB

To the members of the Standards Sub-Committee

Councillors:

I. Winter (Chairman)

S.C. Mooney
R.W. Sider BEM

T. Fidler

Substitute Members:

Councillors are reminded that the Gifts and Hospitality Declaration book will be available outside the meeting room for you to record any gifts or hospitality offered to you since the last Committee meeting.

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

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Agenda

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1. Disclosures of Interest

To receive any disclosures of interest from councillors in accordance with the Council's Code of Conduct for members.

2. Exclusion of Press and Public

The Panel is asked to consider excluding the press and public from the meeting during consideration of the following item on the grounds that it is likely to involve the disclosure of exempt information as defined in Paragraph 2 (Information likely to reveal the identity of an individual) of Part 1 of Schedule 12A of the Local Government Act 1972.

In making its decision, the Panel is asked to confirm that having regard to all circumstances, it is satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In this case the proper administration of the complaints procedure in the public interest is that consideration of complaints should not be made public at an early stage, when the complaints may or may not be proved and may or may not be investigated.

Procedural documents

The following procedural documents are attached for all the matters before this Assessment Panel:

- Members Code of Conduct
- Arrangements for dealing with complaints
- Member complaint procedure flowchart
- Member complaint procedure criteria stages

3. Exempt Complaint Assessment Report against Councillor E

35 - 46

The report of the Monitoring Officer sets out an allegation made by way of a complaint against a Borough Councillor concerning a potential breach of the Members' Code of Conduct.

The Assessment Panel is asked to make a determination in respect of whether or not any action should be taken.

4. Exempt Complaint Assessment Report against Councillor F

47 - 68

The report of the Monitoring Officer sets out an allegation made by way of a complaint against a Borough Councillor concerning a potential breach of the Members' Code of Conduct.

The Assessment Panel is asked to make a determination in respect of

whether or not any action should be taken.

5. Exempt Complaint Assessment Report against Councillor G

69 - 78

The report of the Monitoring Officer sets out an allegation made by way of a complaint against a Borough Councillor concerning a potential breach of the Members' Code of Conduct.

The Assessment Panel is asked to make a determination in respect of whether or not any action should be taken.

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Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when:

- you are acting in your capacity as a councillor and/or as a representative of your council
- you are claiming to act as a councillor and/or as a representative of your council
- you are giving the impression that you are acting as a councillor and/or as a representative of your council
- you refer publicly to your role as a councillor or use knowledge you could only obtain in your role as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. *Respect*

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. *Bullying, harassment and discrimination*

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. *Impartiality of officers of the council*

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. *Confidentiality and access to information*

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor

5.1 I do not bring my role or local authority into disrepute.

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. *Complying with the Code of Conduct*

As a councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. *Interests*

As a councillor:

9.1 I register and declare my interests.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or declare a disclosable pecuniary (i.e. financial) interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and declaring interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B

Registering interests

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Declaring interests

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.
7. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room

unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

8. Where a matter arises at a meeting which *affects* –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to declare under Disclosable Pecuniary Interests

you must disclose the interest.

9. Where the matter affects the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registerable Interests

Any Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;	
Any Body -	(a) exercising functions of a public nature;
	(b) directed to charitable purposes; or
	(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
of which you are a member or in a position of general control or management.	

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Spelthorne Borough Council

Standards Committee

Member Misconduct Complaints Procedure

Context

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

Principles of these arrangements

4. At its meeting on 16 March 2022, the Council agreed that these arrangements or any revisions to them, should abide by the following principles:
 - a. They should reassure the public that complaints will be dealt with swiftly, properly and transparently;
 - b. They should be simple, clear and follow the rules of natural justice;
 - c. They should not be bureaucratic i.e. they should follow the law and not build in unnecessary additional measures;
 - d. They should allow the Monitoring Officer to dismiss complaints which are vexatious, frivolous, politically motivated or otherwise should be dismissed in accordance with the Assessment Criteria in Appendix 2;
 - e. They should allow for the Monitoring Officer to be accountable for such decisions in (d);

- f. They should ensure there is an element of outside scrutiny and objectivity by recruiting Independent Members to the Standards Committee.

The Code of Conduct

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

Making a complaint

6. If you wish to make a complaint, please complete the **Member Complaint form** and send it to-

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

or by email to: monitoringofficer@spelthorne.gov.uk

7. The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.
8. Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the Member Complaint Form. The Monitoring Officer will consider your request for confidentiality and, if granted, we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
9. The Council does not normally investigate anonymous complaints unless there is a clear public interest in doing so.
10. Complainants who have difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance. Please contact the Monitoring Officer on 01784 446241
11. The Council expects complaints about Members to be made without delay so that matters can be investigated promptly. Unless there are

exceptional circumstances, complaints should be made within 28 days of the incident giving rise to concern.

12. The Monitoring Officer will acknowledge receipt of a complaint within 3 working days of receiving it and will keep you informed of the progress of your complaint.
13. The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance.

Independent Person

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

Will your complaint be investigated?

19. The Monitoring Officer will review every complaint received and consider it against the Assessment Criteria set out in Appendix 2 (Annexes A and B).
20. The decision whether to investigate will be a proportionate response to the issues raised and expected outcomes will take into account the wider public interest and the costs of undertaking an investigation.
21. The Monitoring Officer will consult with the Independent Person before taking a decision as to whether it:
 - a. Merits no further investigation
 - b. Merits further investigation
 - c. Should be referred to the Standards Assessment Sub-Committee

22. This decision will normally be taken within 15 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, s/he will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, s/he may come back to you for such information and may request information from the member against whom your complaint is directed but s/he will not conduct an investigation.
23. The Monitoring Officer, in consultation with the Independent Person, may seek to resolve the complaint informally at any stage, in accordance with Annex C of Appendix 2. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.
24. If the Monitoring Officer decides that the complaint concerns a service, policy or decision of the Council then s/he may refer you to the Council's Corporate Complaints procedure.
25. If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.
26. There is no right of appeal for the complainant or the Member against a decision of the Monitoring Officer. All decisions will be reported to the next meeting of the Standards Committee.

Referral to the Standards Assessment Sub-Committee

27. The role of the Assessment Sub-Committee is to review those complaints which the Monitoring Officer has referred to it under the criteria set out in Appendix 2 (Annex B).
28. The Assessment Sub-Committee will comprise three voting members of the Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Standards Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Assessment Sub-Committee but legally cannot vote on the decision.
29. The Assessment Sub-Committee will consider the complaint against the Assessment Criteria set out in Appendix 2 (Annex A).
30. It is expected that the complaint will be confidential during the Assessment phase.

31. The Assessment Sub-Committee may decide whether your complaint:
 - a. Merits no further investigation
 - b. Merits further investigation
32. The decision of the Assessment Sub-Committee is final and will be reported to the next Standards Committee.
- 33. The investigation**
34. If the Monitoring Officer, or Assessment Sub-Committee, decides that a complaint merits further investigation, s/he may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator.
35. The Investigating Officer will complete the investigation in accordance with the procedure attached as Appendix 3 to these arrangements.
36. The investigation shall be carried out promptly, with the expectation that all investigations, resolutions and Hearing will be completed within a maximum period of four months. All those involved in the complaint should do their utmost to ensure that this can happen.
37. The Investigating Officer or Monitoring Officer will decide whether s/he needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
38. The Investigating Officer or Monitoring Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who s/he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.
39. At the end of the investigation, the Investigating Officer will produce a draft report (the "Investigation Report") and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any factual matter in that draft report which is disputed or which you consider requires further investigation.

40. Having received and taken account of any comments which you may make on the draft Investigation Report, a final Investigation Report will be prepared by the Investigating Officer..
41. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation.

What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

42. Following consultation with the Independent Person, if the Monitoring Officer:
 - a. is not satisfied that the investigation has been conducted properly, s/he may ask the Investigating Officer to reconsider his/her report
 - b. is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned notifying you that s/he is satisfied that no further action is required and give you both a copy of the Investigation Final Report.
43. The Monitoring Officer will report the outcome of the case to the next Standards Committee. The decision is final and there is no appeal.

What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

44. Following consultation with the Independent Person the Monitoring Officer will either send the matter for a hearing before the Standards Hearing Sub-Committee or seek an informal resolution.

Informal Resolution

45. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, s/he will consult with all the parties and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action..
46. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

47. Where the member or the authority makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint should progress to a Hearing Sub-Committee.

Hearing by a Sub-Committee of the Standards Committee

48. If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will refer the Investigation Report to the Hearing Sub-Committee which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.
49. The Hearing Sub-Committee will comprise three voting members of the Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Standards Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Hearing Sub-Committee but legally cannot vote on the decision.
50. The Standards Committee may agree a procedure for Hearing Sub-Committees.
51. The Monitoring Officer may conduct a “pre-hearing process”, requiring the member to give his/her response to the Investigation Report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Hearing Sub-Committee may issue directions as to the manner in which the hearing will be conducted.
52. To give confidence to the public it is expected that the Hearing Sub-Committee will take place in public unless there are exceptional circumstances which dictate otherwise. The Monitoring Officer will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council.
53. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has or has not failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you, as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses, to cross-examine and to make representations to the Sub-Committee as to why

s/he considers that s/he did not fail to comply with the Code of Conduct.

54. The Independent Person may attend the hearing but is not required to attend.
55. The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and dismiss the complaint.
56. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct.
57. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Sub-Committee, but will then decide what action, if any, to take in respect of the matter.

What action can the Hearing Sub-Committee take where a member has failed to comply with the Code of Conduct?

58. The powers of the Hearing Sub-Committee to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct are:
 - a. To require the member to apologise either privately or in public.
 - b. To require the member to attend training.
 - c. To censure the member.
 - d. To send a report to Council to censure the member.
 - e. To require the Monitoring Officer to publish a full report in the newspaper and/or on the Council's website about the member's conduct.
 - f. To withdraw privileges provided to the member by the Council such as computer equipment, internet or email access.
 - g. To recommend to the member's Group Leader that the member be removed from any or all Committees or sub-committees or Outside Body appointments (as appropriate).
 - h. Or a combination of any of the above.

and the Sub-Committee may set the time frame for the actions that are required to be taken.

59. As a matter of law, the Hearing Sub-Committee does not have the power to suspend or disqualify the member or to withdraw allowances to which members are entitled.

Appeals

60. Where a Hearing Sub-Committee makes any recommendations to a Group Leader about a penalty then that member may make representations in advance of that decision being taken.
61. Where a Hearing Sub-Committee makes any recommendations to Council about a penalty then that member may make representations in advance of that decision being taken.

What happens at the end of the hearing?

62. At the end of the hearing, the Chair will state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
63. As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Hearing Sub-Committee, and send a copy to all the parties, and if required by the Hearing Sub-Committee, make that decision notice available for public inspection. The decision will be reported to the next convenient meeting of the Standards Committee.

Revision of these arrangements

64. The Standards Committee is delegated to amend these arrangements where necessary and has delegated to the Chair of the Hearing Sub-Committee the right to depart from these arrangements where s/he considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

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Member Complaint Procedure Flowchart



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MEMBER COMPLAINT ASSESSMENT CRITERIA AT DIFFERENT STAGES

Annex A

Criteria for initial 2-stage filter

Stage 1 – Complaints the Council cannot deal with (Jurisdictional test)

1. It is about someone who is no longer a Spelthorne Borough councillor or was not in office at the time of the alleged conduct; or
2. It appears there can be no breach of the Code of Conduct, for example,
 - it relates to the Councillor's private life; or
 - it is about dissatisfaction with a Council decision

Stage 2 – Complaints the Council would not normally refer for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. There is insufficient information available for a referral or to demonstrate a potential breach of the Code; or
3. There are alternative, more appropriate, remedies that should be explored first; or
4. Where the complaint is by one councillor against another, the complaint has arisen from comments made during a robust political debate (but not personal abuse), bearing in mind the right to freedom of expression; or
5. The complaint appears to be simply motivated by malice or is "tit-for-tat"; or
6. The complaint appears to be politically motivated, vexatious or trivial; or
7. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction; or
8. The same, or similar, complaint has already been investigated and no new material evidence has been submitted; or
9. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
10. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
11. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

Annex B

Criteria for referral to Standards Assessment Sub-Committee

1. Where a complaint has been made by the Monitoring Officer or Chief Executive; or
2. Where a matter is high profile i.e. a complaint about the Leader or Mayor; or
3. Such other complaints as the Monitoring Officer considers it is not appropriate for him/her to investigate.

Annex C

Criteria for informal resolution at any stage in the process

Informal resolution may be considered appropriate where the matter relates to:

1. The same particular breach of the Code by many members; or
2. A general breakdown of relationships, including those between members and officers; or
3. Misunderstanding of procedures or protocols; or
4. Misleading, unclear or misunderstood advice from officers; or
5. Lack of experience or training; or
6. Interpersonal conflict; or
7. Allegations and retaliatory allegations from the same members; or
8. Allegations about how formal meetings are conducted; or
9. Allegations that may be symptomatic of governance problems within the Council; or
10. Matters which are more significant than the allegations in themselves.

This is not an exclusive list.

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