



*Please reply to:*

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Date: 17 February 2026

## Notice of meeting

### Standards Committee

**Date:** Wednesday, 25 February 2026

**Time:** 7.00 pm

**Place:** Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames  
TW181XB

#### To the members of the Standards Committee

Councillors:

M. Hull (Vice-Chair)  
M.M. Attewell  
C. Bateson  
J.R. Boughtflower

J. Button  
D.L. Geraci  
M. Gibson  
K.M. Grant

M.J. Lee  
S.C. Mooney

Substitute Members: Councillors S.A. Dunn, T. Burrell, A. Mathur and L. E. Nichols

*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. Apologies and Substitutes**

To receive any apologies for absence and notification of substitutions.

**2. Minutes**

**3 - 6**

To confirm as a correct record the minutes of the meeting held on 22 October 2025.

**3. Disclosures of Interest**

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

**4. Updated Contract Standing Orders**

**To Follow**

Report to follow.

**5. Amendments to the Constitution**

**7 - 62**

Committee is asked to:

1. Approve the proposed changes to the Constitution; and
2. Recommended to Council that the Constitution be amended.

**6. Revised arrangements for dealing with allegations of a breach of the Members Code of Conduct**

**63 - 122**

Committee is asked to consider the revised arrangements for dealing with standards allegations under the Localism Act 2011, including the procedure rules for the Hearing Sub-Committee.

**Minutes of the Standards Committee  
22 October 2025**

**Present:**

M. Hull (Vice-Chair)

**Councillors:**

M.M. Attewell

J. Button

M.J. Lee

C. Bateson

D.L. Geraci

S.C. Mooney

J.R. Boughtflower

K.M. Grant

**In Attendance:** Councillors A. Burrell and J. Sexton

**14/25 Minutes**

Committee **resolved** to agree the minutes of the meeting held 11 June 2025.

**15/25 Disclosures of Interest**

There were no disclosures of interest.

**16/25 Chair and Vice-Chair Positions on the Standards Committee**

The Council's Monitoring Officer advised the Committee that the previous Independent Chair had resigned and that the current Vice-Chair would be chairing the Committee. A recruitment exercise would be undertaken in the new year to appoint a new Independent Chair.

**17/25 Update to Climate Change Working Group Terms of Reference**

The Committee considered a report that had previously been brought before the Environment and Sustainability Committee on 18 September and they had resolved to make a recommendation to the Standards Committee.

The Committee **resolved** to make a recommendation to Council to:

1. Approve the change of name of the 'Climate Change Working Group' to the 'Climate and Nature Working Group',

2. Approve the Revised Terms of Reference as outlined in Appendix A of the report; and
3. To adopt the changes into the Council's Constitution.

### **18/25 Review of the Members Code of Conduct (provisional)**

The Committee received an update on the review of the Councillor Code of Conduct.

The Committee **resolved** to acknowledge the update on the review of the Councillor Code of Conduct.

### **19/25 Changes to Contract Standing Orders**

The Committee considered a report that sought a recommendation to be made to Council.

The Committee **resolved** to:

1. Consider the updated Contract Standing Orders; and
2. Recommend that the Council approve the updated Contract Standing Orders as set out in the report.

### **20/25 Update on Standards Investigation**

The Council's Monitoring Officer updated the Committee on the external review relating to the Standards Sub-Committee Hearing on 17 October 2024 that had been completed.

The Committee were asked to consider options in Section 3 of the report and to approve the recommendation in Sections 3.1 and 3.2 of the report.

The Committee considered whether the report should be discussed in an open or private session. A vote was taken as follows:

To go into a closed session – **4 votes**  
To remain in an open session – **4 votes**

The Committee were advised that there was a deadlock and that if the balance was equal or tipped toward disclosure the information must be made public therefore the meeting remained in an open session.

Councillor Geraci requested a named vote

The Committee voted on the recommendations in Section 3.1 and 3.2 separately as follows:

**Recommendation 3.1** – Determine that the decision made by the Hearing stands, is final, cannot be re-opened and no further action shall be taken –

<b>For</b>	Councillors Attewell, Boughtflower, Lee, Mooney – <b>4 votes</b>
<b>Against</b>	Councillors Bateson, Button, Geraci, Grant – <b>4 votes</b>

**Recommendation 3.2** – Accept the recommendations set out in paragraphs 124-127 (inclusive) of the report produced by The Investigating Officer –

<b>For</b>	Councillors Attewell, Boughtflower, Lee, Mooney – <b>4 votes</b>
<b>Against</b>	Councillors Bateson, Button, Geraci, Grant – <b>4 votes</b>

As both of the above votes resulted in a deadlock situation, the Committee were advised that the recommendations **FELL**.

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### Committee Report Checklist

Please submit the completed checklists with your report. If final draft report does not include all the information/sign offs required, your item will be delayed until the next meeting cycle.

#### Stage 1

##### Report checklist – responsibility of report owner

ITEM	Yes / No	Date
Councillor engagement / input from Chair prior to briefing	Y	26/01/26
Commissioner engagement (if report focused on issues of concern to Commissioners such as Finance, Assets etc)	N	
Relevant Group Head review	Y	13/02/26
MAT+ review (to have been circulated <b>at least 5 working days before Stage 2</b> )	N/A	
This item is on the Forward Plan for the relevant committee	N	
	<b>Reviewed by</b>	
Finance comments (circulate to Finance)	LH	13/02/26
Risk comments (circulate to Lee O'Neil)	LH	13/02/26
Legal comments (circulate to Legal team)	LH	13/02/26
HR comments (if applicable)		

For reports with material financial or legal implications the author should engage with the respective teams at the outset and receive input to their reports prior to asking for MO or s151 comments.

Do not forward to stage 2 unless all the above have been completed.

#### Stage 2

##### Report checklist – responsibility of report owner

ITEM	Completed by	Date
Monitoring Officer commentary – at least <b>5 working days before MAT</b>	L Heron	13/02/26
S151 Officer commentary – at least <b>5 working days before MAT</b>	T.Collier	17/2/26
Confirm final report cleared by MAT		



# Standards Committee

25 February 2026

<b>Title</b>	Amendments to the Constitution
<b>Purpose of the report</b>	To make a decision and a recommendation to Council
<b>Report Author</b>	Linda Heron, Group Head Corporate Governance and Monitoring Officer
<b>Ward(s) Affected</b>	All Wards
<b>Exempt</b>	No
<b>Exemption Reason</b>	N/A
<b>Corporate Priority</b>	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
<b>Recommendations</b>	<p><b>Committee is asked to:</b></p> <ol style="list-style-type: none"> <li>1. Approve the proposed changes to the Constitution; and</li> <li>2. Recommend to Council that the Constitution be amended.</li> </ol>
<b>Reason for Recommendation</b>	To ensure that the Constitution supports good governance.

**1. Executive summary of the report** (*expand detail in Key Issues section below*)

What is the situation	Why we want to do something
<ul style="list-style-type: none"> <li>• The Council’s internal auditor Southern Internal Audit Partnership (SIAP) identified areas of governance that require attention</li> <li>• Proposed updated risk management arrangements require changes to the Constitution</li> </ul>	<ul style="list-style-type: none"> <li>• To ensure that the Council’s constitution supports good governance</li> </ul>
This is what we want to do about it	These are the next steps

<ul style="list-style-type: none"> <li>Address matters raised by internal auditors and external consultant by amending the Council’s Constitution as necessary</li> </ul>	<ul style="list-style-type: none"> <li>Seek Council approval to amend the Constitution as set out in this report</li> </ul>
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**2. Key issues**

- 2.1 This report seeks a recommendation to Council to approve amendments to the Constitution.
- 2.2 The Committee System Working Group (CSWG) is responsible for considering whether any amendments are required to the Constitution and making recommendations on these to the Standards Committee.
- 2.3 The proposed changes to the Constitution were discussed with, and received the support of, the Committee System Working Group on 26 January 2026.
- 2.4 The proposed amendments relate to the following provisions:
- the terms of reference for Audit Committee in Part 3(b);
  - the terms of reference for Standards Committee in Part 3(b);
  - Delegations to officers in Part 3(d); and
  - Access to Information Rules in Part 4(g).
- 2.5 The proposed revised terms of reference for Audit Committee have been considered in detail by the Audit Committee on 27 November 2025 under [agenda item 8 – Review of Effectiveness of Audit Committee](#) and the supporting report sets out all pertinent detail. The Committee resolved to agree the revised terms of reference for consideration by the Committee System Working Group (minute 71/25). The proposed new terms of reference for Audit Committee are appended to this report as Appendix 1.
- 2.6 In November 2025 the Council’s internal auditor SIAP undertook an audit of the Council’s Decision Making and Accountability. This audit returned overall Reasonable Assurance, but made certain observations which necessitate changes to the Constitution in order to address the points made. These are as follows:
- Part 3 section b – Terms of Reference for Standards Committee: erroneous reference to “Hearing Panels” instead of "Sub-Committee" (please see Appendix 2 for ease of reference);
  - Part 3 section d – Delegations to officers, more specifically para 3.3 authority to sign and seal documents. In order to bring this provision in line with the current and the proposed new Contract Standing Orders, and generally offer a degree of future proof, it is proposed that the following wording is deleted "... including legal advice being obtained for contracts over £20,000". The revised delegation is set out in full in Appendix 3 and will read as follows:  

“3.3 Authority to sign all contracts and agreements (unless under seal) for expenditure within their service budget or for no value within their service area PROVIDED that Contract Standing Orders have been followed”;

- Part 4 section g – Access to Information Rules, more specifically para 11 The Forward Plan. In order to reflect standard operational practice and align ourselves with other authorities in Surrey, it is proposed to delete sub-paras (d)-(g) inclusive in para 11.2 as shown in Appendix 4.

### **3. Options appraisal and proposal**

- 3.1 Approve the proposed constitutional changes as set out in this report and recommend to Council for approval (recommended option).

This option ensures that the various matters raised by the internal auditor and the recommendations from external consultant within the context of changes to Audit Committee are fully addressed. This, in turn, ensures that the Council's Constitution is robust and fit for purpose and therefore this option delivers the best long term benefit.

- 3.2 Approve the proposed constitutional changes in part as may be agreed by this Committee.

- 3.3 This option enables targeted amendments to be considered and recommended to Council, providing the Committee with the flexibility to prioritise and address those issues it identifies as the most immediate or high-priority

The proposed changes in their entirety are required in order to address the issues identified in the current governance structure, therefore, this option is not recommended because it does not deliver improved governance.

- 3.4 Do not approve any changes and retain the existing Constitution.

This option is not recommended as it fails to address known issues and does not support continuous improvement in governance.

### **4. Risk implications**

- 4.1 The proposed Constitutional changes are intended to strengthen the Council's governance framework and ensure transparency and fitness for purpose.

These also reflect observations from the Council's internal auditor and recommendation from external consultant.

- 4.2 Failure to give these proposals due consideration and not recommending for approval may result in compliance risks (continuous ambiguity, reduced transparency in decision making and increased likelihood of challenge) and reputational risks (concerns about reduced accountability, fairness and transparency).

### **5. Financial implications**

- 5.1 None arising directly from this report.

## **6. Legal comments**

- 6.1 The Council has a statutory obligation to prepare a constitution and keep it up to date (Section 9P of the Local Government Act 2000).
- 6.2 The procedure for making changes to the Council's Constitution is set out in Article 13 of the Constitution.
- 6.3 The amendments set out in the body of this report is a matter for full Council.

## **Corporate implications**

### **7. S151 Officer comments**

- 7.1 The S151 Officer confirms that all financial implications have been taken into account, as stated above there are no direct financial implications arising from the recommendations set out in the report.

### **8. Monitoring Officer comments**

- 8.1 The Monitoring Officer confirms that the relevant legal implications have been taken into account.

### **9. Procurement comments**

- 9.1 There are no procurement implications arising directly from this report.

### **10. Equality and Diversity**

- 10.1 The proposed constitutional changes are in line with the Council's obligations under the Public Sector Equality Duty. It is not anticipated that the proposed changes will have a negative impact on groups with protected characteristics. The revised Constitution will continue to ensure that the decision making process remains transparent, inclusive and fully accessible.
- 10.2 The Council will monitor the impact and will address any issues identified through further amendments as appropriate.

### **11. Sustainability/Climate Change Implications**

- 11.1 None arising directly from this report.

### **12. Other considerations**

- 12.1 No other considerations have been identified.

### **13. Timetable for implementation**

- 13.1 A recommendation from Standards Committee will be considered by Council at its meeting on 26 February 2025.

## **14. Contact**

14.1 Linda Heron, Group Head Corporate Governance and Monitoring Officer  
[l.heron@spelthorne.gov.uk](mailto:l.heron@spelthorne.gov.uk)

***Please submit any material questions to the Committee Chair and Officer  
Contact by two days in advance of the meeting.***

### **Background papers:**

**Audit Committee meeting on 27 November 2025, agenda item 8 – Review of  
Effectiveness of Audit Committee**

### **Appendices:**

**Appendix 1 – revised Terms of Reference for Audit Committee**

**Appendix 2 – revised Terms of Reference for Standards Committee**

**Appendix 3 – revised Part 3(d) of the Constitution: Delegations to officers (in  
track change)**

**Appendix 4 – revised Part 4(g) of the Constitution: Access to information  
rules (in track change)**

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## Appendix 1

### Suggested revised terms of reference for the Audit Committee

7 councillors reflecting political balance and two independent non-voting members

The quorum for this Committee is 4 members and 1 independent member

Function	How Discharged	Lead Officer	Frequency	Audit Committee Action / Output
<b>A General Remit</b>				
1 To provide independent assurance of the adequacy of the risk management framework and the associated control environment.	Receive the Risk Management Strategy and Framework for periodic review.	Deputy CX	Annually	Review the Risk Management Strategy and Framework and consider the assurances it provides that appropriate and effective arrangements for the management of risk are in place.
	Receive an annual Risk Management report.	Deputy CX	Annually	Review the annual report and consider the assurances it provides regarding risk management activity during the year and that it aligns with the Annual Governance Statement.
	Receive update reports and presentations on the Council's strategic and other key risks.	Deputy CX / Relevant Senior Officers	At each meeting	Receive presentations from the relevant Senior Officers on their strategic risks and consider the assurances they provide that the strategic risks are being managed effectively.

<b>Function</b>	<b>How Discharged</b>	<b>Lead Officer</b>	<b>Frequency</b>	<b>Audit Committee Action / Output</b>
2 To provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment.	Receive regular reports demonstrating the Council's financial and performance arrangements.	Chief Finance Officer / Deputy CX / Relevant Senior Officers	Quarterly	Review the financial and performance monitoring reports (considered by CP&R) and consider the assurances they provide that the arrangements are fit for purpose and effective.
3 To oversee the financial reporting process.	To receive the draft and final statement of accounts in accordance with statutory requirements.	Chief Finance Officer	As per the statutory timescales	Review the draft and final accounts and consider the degree of assurance provided that they meet professional accounting standards and statutory timeframes, commenting as necessary and referring them for formal approval to full Council.
4 To promote the application of and compliance with effective governance arrangements across the Council.	To receive reports regarding the Council's governance arrangements (assurance reports) and particularly the preparation of the statutory Annual Governance Statement.	Chief Finance Officer / Monitoring Officer	As per the statutory timescales	Review the periodic governance assurance reports and reports regarding the preparation of the Annual Governance Statement and consider the assurances they provide that the Council's governance arrangements are in place and effective.
<b>B Internal Control incorporating Risk Management, Financial Probity and Stewardship</b>				
To consider the overall adequacy and effectiveness of the system of internal control and the arrangements for risk management, control and governance processes	Through a programme of reports and presentations covering the Authority's risk, control, and governance arrangements.	Deputy CX	At each meeting / Annually	Review the Committee's workplan and consider whether it covers the necessary areas to fulfil the Committee's terms of reference and therefore provide the necessary information and assurances.

<b>Function</b>	<b>How Discharged</b>	<b>Lead Officer</b>	<b>Frequency</b>	<b>Audit Committee Action / Output</b>
and securing economy, efficiency, and effectiveness (value for money).				
To ensure that the highest standards of financial probity and stewardship are maintained throughout the Authority, within policies set by the Council from time to time.	Receive for consideration and recommendation for approval the Council's Financial Regulations and supporting policies.  Receive and consider relevant Corporate Assurance reports	Chief Finance Officer  Deputy CX	As per review cycle or as required.  Quarterly, within Corporate Assurance update reports.	Review the Council's Financial Regulations (and related policies) and consider whether they are fit for purpose and therefore provide assurances to the Committee and to recommend to CP&R Committee / Council (as appropriate) for formal approval.  Consider the assurances provided within the quarterly Corporate Assurance reports such that the Committee is assured of appropriate management action being taken to address any control weaknesses identified.
To consider policies not reserved to other service committees for consideration and approval by the Council.	Receive relevant draft policies for consideration and recommendation for approval.	Relevant Senior Officer	As required	Review the draft policies and consider whether they are fit for purpose and will therefore provide the necessary control, risk, and governance framework.
To promote effective internal control by the systematic appraisal of the Council's internal control mechanisms and by the development of an anti-fraud culture.	Receive regular Corporate Assurance reports (incorporating anti-fraud reports) and other governance assurance reports.	Head of Internal Audit and Relevant Senior Officers	At each meeting	Review the various reports and consider the degree of assurance they provide regarding the effectiveness of internal control arrangements.
To promote effective risk management throughout the Council in accordance with	Receive the Risk Management Strategy and	Deputy CX	Every 2 years	Review the Risk Management Strategy and Framework and consider the assurances it provides that appropriate and effective

<b>Function</b>	<b>How Discharged</b>	<b>Lead Officer</b>	<b>Frequency</b>	<b>Audit Committee Action / Output</b>
the Council's Risk Management Policy Objectives Statement.	Framework for periodic review.			arrangements for the management of risk are in place.
To periodically review the Council's strategic risk register and to invite, when appropriate, a Member of the extended Management Team (MATplus) to meetings to discuss strategic risks within their specific service area.	Receive update reports and presentations on the Council's strategic and key other risks.	MAT+	At each meeting	Receive presentations from the relevant senior officers on their strategic risks and consider the assurances they provide that the strategic risks are being managed effectively.
To consider, challenge and comment on the Annual Governance Statement.	Receive the draft and proposed final Annual Governance Statement.	Chief Finance Officer / Chief Executive / Monitoring Officer	Annually as per statutory timescales	Review the draft and proposed final Annual Governance Statement and consider (and comment as required) that it has been prepared in accordance with recommended practice and adequately reflects the governance issues and areas for improvement determined through the annual governance review process.  Recommend the Final Annual Governance Statement to Full Council for formal approval and publication.
To receive reports on additional corporate functions contributing to overall assurance against the corporate priorities and specifically in relation to:	Receive governance assurance reports	Relevant Senior Officer	Each governance area at least annually.	Review the governance assurance report and consider the extent to which assurances are provided that the arrangements in place are effective and efficient.

Function	How Discharged	Lead Officer	Frequency	Audit Committee Action / Output
<ul style="list-style-type: none"> <li>• Human Resources</li> <li>• Health &amp; Safety</li> <li>• Business Continuity and Emergency Resilience</li> <li>• Information Governance</li> <li>• Strategic Procurement and contract management</li> <li>• Asset Management</li> <li>• Ethical Framework</li> <li>• Equality and Inclusion</li> <li>• Environmental Governance.</li> </ul>				
<p>To encourage wider dialogue with members of the extended Management Team (MATplus) by inviting them to meetings on a periodic basis to give assurance about issues identified within reports relating to various Council activities and in particular those which are subject to reported Corporate Assurance implications.</p>	<p>Invite relevant senior management to provide assurances regarding and control, risk or governance issues identified in Corporate Assurance (Internal Audit) or other audit or inspection reports.</p>	<p>Relevant Senior Officer</p>	<p>As and when required</p>	<p>To consider the explanations provided and the assurances they provide that suitable improvements have been made regarding any weaknesses or issues raised in Corporate Assurance reports.</p>
<b>C Internal Audit</b>				
<p>To oversee, in consultation with the Head of Internal Audit (“the HoIA”), the preparation</p>	<p>Receive the corporate IA plan preparation</p>	<p>HoIA</p>	<p>Annually (January)</p>	<p>Review the methodology for the preparation of the annual IA plan and consider the assurance it provides that an appropriate and risk-informed</p>

<b>Function</b>	<b>How Discharged</b>	<b>Lead Officer</b>	<b>Frequency</b>	<b>Audit Committee Action / Output</b>
and approval of an annual Internal Audit (IA) plan for the Council and to receive periodic reports from the HoIA on performance against the plan.	methodology.  Receive the proposed corporate assurance (internal audit) plan.	HofIA	Annually (March)	plan of work is prepared.  Review the proposed IA plan and consider the assurance it provides that an appropriate plan of work has been determined that will support the HoIAs annual opinion.
To monitor compliance with IA reports following their consideration by management.	Receive quarterly IA progress reports that include details of management's compliance.	HofIA	Quarterly	Review the quarterly IA progress reports and consider the assurances they provide regarding management's compliance.
To review the performance of the IA Team by way of quarterly performance management reports.	Receive quarterly IA progress reports that include details of the function's performance.	HofIA	Quarterly	Review the quarterly IA progress reports and consider the assurances they provide regarding the function's performance.
To consider the HofIA annual audit report and opinion, and a summary of activity (actual and planned) and the level of assurance it can give over the Council's corporate governance arrangements.	Receive the HofIA annual reports covering internal control, risk and governance assurance, and anti-fraud activity.	HofIA	Annually	Review the various Head of IA annual reports and consider the assurances they provide regarding the effectiveness and efficiency of the Council's internal control, risk and governance arrangements and arrangements for anti-fraud.
To enhance the profile, status and authority of the IA function and demonstrate its independence.	Have a private meeting with the HofIA as part of the Committee's workplan.  Ensure the HofIA has unfettered access to the	HofIA  Chief Finance	Throughout the year  Throughout the	Hold a private meeting with the HofIA at least annually to be assured of their independence and unfettered access to the Committee.  Review the HofIA annual report and the preparation and delivery of the IA plan and

Function	How Discharged	Lead Officer	Frequency	Audit Committee Action / Output
	Committee.  Support the work of the IA Team in being assured it has sufficient resources and skills to discharge its professional responsibilities.	Officer  HofIA	year  Throughout the year	consider the assurances they give that the function is adequately resourced.
To approve and periodically review the IA Charter.	Receive the IA Charter.	HofIA	Annually	Review the IA Charter and consider the assurances it provides that it has been prepared in accordance with professional standards and can be delivered.
<b>D External Audit and other Inspectorates or Regulatory Bodies</b>				
To oversee, in consultation with external auditors, the preparation of the annual audit plan for the Council and to receive periodic reports from the external auditor on performance against the plan.	Receive the External Audit proposed plan of work and periodic progress / update reports on the delivery of the plan.	External Audit Engagement Lead	Annually and at each meeting.	Review the plan proposals and consider the assurances it will provide.  Review the progress reports and consider the progress made against the plan.
To consider and report to Corporate Policy & Resources Committee and the Council the annual audit and inspection letter.	Receive the External Auditor's ISA260 Report and Annual report.	External Audit Engagement Lead	Annually	Review the External Auditor's annual reports and consider the assurances they provide regarding the Council's statutory accounts and consider External Audit's assessment of the Council's value for money arrangements.

<b>Function</b>	<b>How Discharged</b>	<b>Lead Officer</b>	<b>Frequency</b>	<b>Audit Committee Action / Output</b>
To consider the appointment of the Council's external auditor.	Receive a report on the Council's arrangements to appoint the External Auditor.	Chief Finance Officer	As per the required timescales	Review the Director of Finance's recommendation regarding the method of appointing the Council's external auditor and consider whether the proposal will ensure an appropriate appointment.
To monitor compliance with external audit, external inspectorate and Ombudsman reports following their consideration and resolution by the Corporate Policy & Resources Committee and/or Council.	Receive relevant reports.	Deputy CX / Chief Finance Officer	As and when required	Review the reports and consider if any additional action or recommendations are required and monitor any subsequent progress.
<b>E Other</b>				
To consider general issues and statistics in relation to the Council's Confidential Reporting (Whistleblowing Policy) "Whistleblowing" Policy.	Receive an annual report.	Monitoring Officer	Annually	Review the report and consider the assurance it provides that the Council's Whistleblowing / Confidential Reporting arrangements are fit for purpose and that appropriate action has been taken in relation to any concerns raised.
To review the Authority's use of the Regulation of Investigatory Powers Act	To receive an annual report on RIPA (Regulation of Investigatory Powers Act) activity.	Monitoring Officer	Annually	Review the report and consider the assurance it provides that the Council has utilised the Regulation of Investigatory Powers Act appropriately and that appropriate action has been taken in relation to any concerns raised.
To review the Authority's arrangements for establishing	Receive draft framework documents.	Deputy CX	Annually	Review the draft framework documents and consider the assurances they provide that they

<b>Function</b>	<b>How Discharged</b>	<b>Lead Officer</b>	<b>Frequency</b>	<b>Audit Committee Action / Output</b>
an appropriate anti-fraud framework.				will ensure effective anti-fraud arrangements are in place.
To monitor compliance with and the effectiveness of anti-fraud and corruption policies and procedures.	Receive periodic reports and an annual report on anti-fraud activities.	Deputy CX	Annually and mid-year	Review the reports and consider the assurances they provide that the Council's anti-fraud arrangements are effective.
To consider and review compliance with the Authority's Treasury Management policy.	Receive relevant reports regarding the Council's treasury management responsibilities	Chief Accountant	Annually / periodically throughout the year	Review the reports and consider the assurances they provide that the Council is meeting its treasury management responsibilities.
<b>F Accounts</b>				
To review the financial statements, external auditor's opinion, and reports to Members, and monitor management action in response to the issues raised by External Audit	Receive the draft and final statutory financial statements and the External Auditor's opinion.	Chief Accountant / External Audit Engagement Lead	As per the statutory timescales	Review the draft and final financial statements and consider whether they have been prepared in accordance with professional accounting standards and be assured of management's response to any issues / recommendations raised by External Audit. Recommend the presentation of the financial statements to Full Council.
To contribute to the annual review, consideration, and challenge of the financial statements.	Receive the draft and final statutory financial statements and the External Auditor's opinion.  Receive any necessary briefings / training regarding	Chief Accountant / External Audit Engagement Lead  Chief Accountant	As per the statutory timescales  As required	Review the draft and final financial statements and consider whether they have been prepared in accordance with professional accounting standards.  Participate in the training provided.

<b>Function</b>	<b>How Discharged</b>	<b>Lead Officer</b>	<b>Frequency</b>	<b>Audit Committee Action / Output</b>
	the preparation of the financial statements.			

## Appendix 3

### STANDARDS COMMITTEE

#### Membership

9 councillors reflecting political balance + 2 Independent non-voting Members

#### Functions

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

In addition to the broad functions of the Committee set out in Article 8 it is also delegated to undertake the following work on behalf of the Council:

- to keep an overview on the arrangements for dealing with complaints under the code of conduct, making alterations and publishing them where it considers necessary;
- to devise such further protocols and procedures as are necessary for the efficient management of complaints which have to be considered by a hearings panel;
- to consult with the Independent Person on any matters which have broad implications for the promotion of high standards by the Council;
- to make recommendations to Council on standing orders for the registration and declaration of Disclosable Pecuniary Interests and other interests; and,
- to make recommendations to Council on any revisions to the Members' Code of Conduct and the registration of interests.
- to consider any issues referred by the Monitoring Officer under the Disclosure and Barring Service Checks for Members Protocol (Part 5m).
- to establish the Committee System Working Group with the Terms of Reference set out below.
- to monitor and review the operation of the Constitution in accordance with Article 13.
- to promote, manage and agree a programme of member development.

~~Hearings Panels Sub-Committee~~ (comprising three councillors drawn from the membership of the Standards Committee and chaired by an independent member) established under the Council's published arrangements for dealing with complaints may:

- require the Member to apologise either privately or in public;
- require the Member to attend training;
- censure the Member;
- send a report to Council to censure the Member;
- require the Monitoring Officer to publish a report in the newspaper or on the Council's website about the councillor's conduct;
- withdraw privileges provided by the Council such as computer equipment, internet or email access;
- recommend to the councillor's group leader that the councillor be removed from a Committee, or an outside body (as appropriate); or,
- a combination of any of the above.

#### Working Groups' Terms of Reference

## **Committee System Working Group**

### **Membership**

The membership to comprise one councillor from each political group and any non-aligned members.

### **Responsibilities**

#### **Monitoring of objectives**

To consider whether the system is meeting the Council's objectives. To recommend any amendments to the system to the Standards Committee where such is required to meet those objectives.

#### **Recommendation of amendments**

To consider whether any adjustments or amendments are required to ensure the smooth operation of the system and to make recommendations to the Standards Committee where required.

#### **Decision Making**

This working group has no formal decision-making powers. Any matters which require a Councillor decision will require a report to the Standards Committee for their decision.

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### Part 3 section (d)

<b>DELEGATIONS TO OFFICERS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
<b>1. GENERAL</b>	
<p>1.1 To carry out responsibilities for any function which the Council has not reserved to itself or delegated to a Committee or Sub Committee in this Constitution and which Council has not authorised another officer to carry out in this Scheme of Delegation.</p> <p>Decisions taken in accordance with this delegation will be reported to the next available ordinary Council meeting.</p>	Chief Executive or a Deputy Chief Executive or a Group Head in consultation with the relevant Chair and Vice-Chair.
<p>1.2 To enter land and premises for the purpose of inspections, surveys, testing and examinations as required pursuant to any powers or functions of the Council under any enactment</p>	Any Group Head, the Medical Advisor, the Property Inspector for Council Tax and Business Rates, the Senior Environmental Health Manager or such other officer who maybe authorised in writing by the above named
<p>1.3 To serve notices to obtain particulars of a person’s interest in land</p>	Group Head of Corporate Governance, Senior Environmental Health Manager or Planning Development Manager or other such officer who may be authorised in writing by the above named
<p>1.4 To serve notice under any enactment (not separately authorised under this scheme of delegations) and to take follow up action</p>	Group Head of Corporate Governance Strategic Planning Manager, Planning Development Manager or Senior Environmental Health Manager
<p>1.5 To authorise officers to conduct directed surveillance or the use of covert human intelligence sources in accordance with the Regulation of Investigation Powers Act 2000</p>	Strategic Planning Manager, Planning Development Manager and Senior Environmental Health Manager
<p>1.6 To administer simple cautions</p>	Strategic Planning Manager, Planning Development Manager or Senior Environmental Health

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	Manager
1.7 To respond to routine and technical consultations from the Local Government Association, the MHCLG, other Government bodies or departments and any other bodies	Chief Executive, Deputy Chief Executive. Strategic Planning Manager, Planning Development Manager or Senior Environmental Health Manager or such officer who may be authorised in writing by the above named
1.8 Under the provisions of the Children Act 1989 and the Council's Safeguarding Children and Vulnerable Adults Policy and Procedures, to undertake responsibility for making contact with Social Services and for making decisions and referrals, including making Disclosure and Barring Service (DBS) checks on officers or other persons seeking employment with children, young people or vulnerable adults	Deputy Chief Executive responsible for Safeguarding
1.9 To undertake the function of Company Secretary for Knowle Green Estates Limited and any subsidiary companies	Group Head of Corporate Governance
1.10 To invite members: a) of the Licensing Committee to participate in meetings of Licensing Sub-Committees convened to determine various applications within the responsibility of the Licensing Committee; and b) of the Standards Committee to participate in meetings of Assessment Panels.	Group Head of Corporate Governance
1.11 To amend the membership of a political group's seats on any particular committee, at the request of the Group Leader.	Chief Executive
1.12 To be designated the Council's 'Appointed person' in accordance with s10(8) of the Party Wall Act 1996.	Building Control Manager
1.13 To authorise grant funding for the	Group Head Place, Protection and

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Spelthorne Business Forum on an annual basis, to ensure value for money.	Prosperity
<b>2 LEGAL AND LEGAL PROCEEDINGS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
2.1 To instigate, conduct and settle proceedings, complaints, or disputes (administrative, criminal or civil) on the Council's behalf in any Court, Tribunal or other body or by way of local resolution, and/or in relation to any matters associated thereto, but in respect of settlements this is limited to £50,000 and anything above this level be referred to the Corporate Policy and Resources Committee.	Group Head of Corporate Governance
2.2 To instigate and conduct legal proceedings for any offence or any matter arising under: <ul style="list-style-type: none"> <li>a. legislation which gives the Council a right or duty to prosecute</li> <li>b. any order notice or licence issued in pursuance to any legislation under which the Council has powers or duties</li> <li>c. any other order or regulation under which the Council has powers or duties</li> </ul>	Group Head of Corporate Governance
2.3 To accept service of proceedings on behalf of the Council	Group Head of Corporate Governance (or Chief Finance Officer in respect of insurance claims)
2.4 To instruct Counsel, Solicitors or relevant agents to represent or advise the Council	Group Head of Corporate Governance (or any Chartered Town Planner in respect of planning matters)
2.5 To take necessary action, including legal proceedings, for the recovery of possession of the Council's land and premises or for protecting the interests of the Council in any land or common land	Group Head of Corporate Governance
2.6 Authority to make a formal complaint at the Magistrates Court and to appear in the Magistrates and County Courts on behalf of the Council for the recovery of Council Tax, non domestic rates, other revenues	Group Head Commissioning and Transformation, Senior Recovery Officer, Recovery Officer or Technical and System Support Officer

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and penalties, including formal proof of debt in bankruptcy cases, liquidations and debt proceedings	
2.7 To represent the Council at the Local Valuation Tribunal	Group Head Commissioning and Transformation or Technical and System Support Officer
2.8 To appear on behalf of the Council in all proceedings before any Court or Tribunal	All employees of the Council who are qualified Barristers, Solicitors or Legal Executives and any other member of staff authorised in writing by the Group Head of Corporate Governance
2.9 To appear on behalf of the Council in proceedings in the Magistrates Court in respect of offences in the Council's car parks	All employees of the Council who are qualified Barristers, Solicitors or Legal Executives and any other member of staff authorised in writing by the Group Head of Corporate Governance, the Group Head Neighbourhood Services and any member of the Car Parks staff authorised in writing by the Group Head Neighbourhood Services.
2.10 To instigate legal proceedings under Section 1 of the Crime and Disorder Act 1998 in respect of anti-social behaviour orders.	Group Head of Corporate Governance
<b>3 AUTHORITY TO SIGN AND SEAL DOCUMENTS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
3.1 Authority to sign all legal documents relating to recovery of monies due to the Council	Chief Executive, Chief Finance Officer, Group Head of Corporate Governance, Group Head Community Wellbeing or Group Head Commissioning and Transformation.
3.2 Authority to sign all legal documents for the acquisition or disposal of land (unless under seal)	Chief Executive, Chief Finance Officer or Group Head of Corporate Governance
3.3 Authority to sign all contracts and	Chief Officers, Group Head of

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### Part 3 section (d)

<p>agreements (unless under seal) for expenditure within their service budget or for no value within their service area PROVIDED that Contract Standing Orders have been followed <del>including legal advice being obtained for contracts over £20,000</del></p>	<p>Corporate Governance, other Group Heads, Planning Development Manager, Strategic Planning Manager or Senior Environmental Health Manager</p>
<p>3.4 To affix the Council's common seal</p>	<p>Chief Executive, Chief Finance Officer or Group Head of Corporate Governance</p>
<b>4 LAND ISSUES</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
<p>4.1 In respect of properties leased/licensed to or by the Council:</p> <ul style="list-style-type: none"> <li>a. to refuse or consent to assignments or sub-lettings, including changes to Trustees or Directors details, subject to satisfactory references;</li> <li>b. to negotiate, approve and document rent reviews;</li> <li>c. to agree low level less than best value rents/licence fees for community groups where proper justification has been acquired and documented;</li> <li>d. to agree to variations to any of the terms or covenants; subject to valuation advice where appropriate;</li> <li>e. to renew leases which have security of tenure under the Landlord and Tenant Act 1954;</li> <li>f. to serve notices for renewals or terminations of leases under the Landlord and Tenant Act 1954;</li> <li>g. to settle terms of management arrangements and any variations to them;</li> <li>h. to agree to the grant of Licences to Alter</li> <li>i. in consultation with the Chair of Commercial Assets Sub-Committee, to agree dilapidation settlements up to £100k.</li> </ul>	<p>Group Head for Assets</p>

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<p>4.2</p> <p>a. To approve new lettings where the rental income per annum (net of VAT) does not exceed £100k.</p> <p>b. To approve lease renewals where the rent in the first year is more than 50% of the passing rent of the previous lease, subject to the financial impact not exceeding £250k.</p> <p>c. To approve freehold or leasehold disposals or acquisitions of land or interests in land not exceeding an estimated value of £100k per transaction.</p> <p>d. To approve the exercise of a break option under the terms of lease of land or property where the financial impact does not exceed the value £100k.</p> <p>e. To accept or agree a surrender where the land or property is no longer required by the Council or the Landlord/Tenant as appropriate, where the financial impact does not exceed £100k.</p> <p>f. to make the application for planning permission in relation to Regulation 3 of the <u>Town and Country Planning General Regulations 1992</u>, on behalf of the Council as developer, where the financial impact does not exceed the value £100k for the whole project.</p> <p><i>Notes:</i></p> <p>a. to c. Financial impact to be based on contracted rental values.</p> <p>a. to d. VAT should be disregarded when determining if a transaction falls under the stated thresholds.</p>	<p>Group Head for Assets in consultation with the Chief Finance Officer.</p> <p><i>(Note: for lettings granted under the Community Lettings Policy, there must also be consultation with the Chairs and Vice Chairs of Corporate Policy and Resources and Community Wellbeing and Housing Committees.)</i></p>
<p>4.3 Urgent Action</p> <p>In relation to a new letting, to take a decision which is so urgent that it cannot wait until the next scheduled meeting of the Committee and where the decision is not in contravention of established policies. In following this procedure, the Group Head for Assets is required to seek the approval of the Chair and Vice-Chair of the</p>	<p>Group Head for Assets</p>

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Business, Infrastructure and Growth Committee if the matter would ordinarily fall within the remit of the Committee or in the case that any aspect of the letting could be considered sensitive. The use of such urgent action must be reported to the next relevant Committee meeting.	
4.4 To grant or take miscellaneous licences, wayleaves, easements and other agreements as required	Group Head for Assets
4.5 To enter into a Tenancy at Will	Group Head for Assets
4.6 To determine applications for rights of way or other easements over land	Chief Finance Officer after consultation with Group Head for Assets
4.7 To approve the release of covenants subject to obtaining appropriate legal and valuation advice	Group Head for Assets
4.8 To determine if an asset nominated for inclusion on the list of assets of community value: (i) is within the local authority's area (ii) has been properly nominated (iii) meets the statutory criteria set out in section 88 of the Localism Act 2011 and (iv) does not fall within an excluded category.	Group Head for Assets
4.9 To review decisions made regarding the inclusion of assets on the list of assets of community value in accordance with section 92 of the Localism Act 2011	Group Head Corporate Governance
4.10 To maintain the list of assets of community value in accordance with section 87 of the Localism Act 2011	Group Head for Assets
4.11 To assess and determine compensation applications to private property owners arising out of listings of assets of community value in accordance with section 99 of the Localism Act 2011 and Schedule 2 of The Assets for Community Value (England) Regulations 2012	Group Head for Assets
4.12 To review decisions made regarding	Group Head Corporate

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compensation award in accordance with Schedule 2 of The Assets for Community Value (England) Regulations 2012	Governance
<b>5 FINANCIAL MATTERS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
5.1 To make a formal demand for payment of monies expended in carrying out works in default under statutory powers, including interest payable thereon	Relevant Deputy Chief Executive
5.2 To raise in line with inflation any financial limits specified in these delegations to officers, contract standing orders or financial regulations	Chief Finance Officer
5.3 In connection with the provision of services under their control: <ul style="list-style-type: none"> <li>a. Expenditure of any type within approved budgets (subject to delegation 3.3 - as to signature of contracts);</li> <li>b. Day to day running and operation of services, including maintenance and repairs of all buildings, land and equipment within the responsibility of the service area, in accordance with the policies set down by the Council or relevant Committee; and</li> <li>c. Control, purchase and disposal of stores or surplus materials</li> <li>d. To enter into any arrangement with a creditor for payment to be made by way of instalment</li> </ul>	Relevant budget holders
5.4 To implement all the Council's borrowing and investment strategies, in accordance with the Treasury Policy Statement and Capital Strategy	Chief Finance Officer
5.5 To determine the tax base, in accordance with the Local Authorities (Calculation of Tax Base) (England) Regulations 2012, as amended	Chief Finance Officer
5.6 To deal with applications for local council	Chief Finance Officer or Group

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<p>tax discounts in very exceptional cases. Such cases to include flooding and where committal action through the courts is not deemed appropriate. The latter will need to be supported by third party reports generally from a social worker or doctor</p>	<p>Head Commissioning and Transformation</p>
<p>5.7 To take all necessary steps relating to the demand, collection and recovery of council tax non-domestic rates and Business Improvement District levy payments and to issue all necessary notices and statements and to sign all relevant documentation</p>	<p>Group Head Commissioning and Transformation</p>
<p>5.8 To sign certificates issued under Section 116 of the Social Security Administration Act 1992</p>	<p>Group Head Commissioning and Transformation</p>
<p>5.9 To exercise the Council's responsibilities under Regulation 6 of the Accounts and Audit (England) Regulations 2011, to maintain an adequate and effective system of internal audit of the accounting records and control systems</p>	<p>Chief Finance Officer</p>
<p>5.10 To take decisions in applications under section 44A of the Local Government Finance Act 1988 and subsequent regulations</p>	<p>Chief Finance Officer or Group Head Commissioning and Transformation</p>
<p>5.11 To grant applications for mandatory rate relief under in accordance with section 43 of the Local Government Finance Act 1988</p>	<p>Chief Finance Officer or Group Head Commissioning and Transformation</p>
<p>5.12 To grant application for discretionary rate relief for properties in accordance with Council policies provided that element of the relief recoverable from local taxpayers does not exceed £9000 in any one case.</p>	<p>Chief Finance Officer or Group Head Commissioning and Transformation</p>
<p>5.13 To grant disabled relief under the Local Government Finance Act 1992 and subsequent regulations</p>	<p>Chief Finance Officer or Group Head Commissioning and Transformation</p>
<p>5.14 To serve the Valuation Officer with notice of objection to any proposals for alteration of the valuation banding lists.</p>	<p>Chief Finance Officer or Group Head Commissioning and Transformation</p>
<p>5.15 To make proposals for the alteration of the</p>	<p>Chief Finance Officer or Group</p>

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valuation list for the inclusion of particular properties in the valuation list. To sign valuation agreements and to serve on the Valuation Officer proposals to alter the council tax banding list	Head Commissioning and Transformation
5.16 To pay sums due from the Council	Chief Finance Officer
5.17 To write off debts for non-domestic rates not exceeding £9000 and for Council tax not exceeding £5000.	Group Head Commissioning and Transformation
5.18 To write off debts for Housing Benefits not exceeding £5000	Group Head Community Wellbeing
5.19 To write off debts not exceeding £5000 and to write off all debts without limit where bankruptcy, liquidation proceedings, administration or receiverships proceedings have been instigated	Group Head Commissioning and Transformation
5.20 To fix interest rates for housing loans in accordance with legislation and Council policy	Chief Finance Officer
5.21 To determine the local average interest rates for local authority mortgages, in accordance with section 438 and schedule 16 of the Housing Act 1985 and Council policy	Chief Finance Officer
5.22 To provide all necessary insurance cover and to settle insurance claims	Chief Finance Officer
5.23 To make determinations under sections 42,50, 56,60 and 63(1) of the Local Government and Housing Act 1989	Chief Finance Officer
5.24 To serve completion notices for Council Tax and Business Rate proposals	Chief Finance Officer or Group Head Commissioning and Transformation
5.25 To set fees for Local Land Charges services	Chief Finance Officer
5.26 Approval of grants from any funds remaining from the Council's former local lottery	Chief Finance Officer

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5.27 To make appropriate staged payments for grants for development	Chief Finance Officer
<b>6 PERSONNEL MATTERS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
6.1 To give approval to services to advertise or to fill a staffing vacancy	Chief Executive, Deputy Chief Executive or Group Heads
6.2 Within staffing budgets and overall management structure to approve all matters relating to the organisation, appointment (other than appointments at, or above, grade Group Head) and management (including disciplinary action) of staff in accordance with the Council's staff policies and procedures	Chief Executive, Deputy Chief Executive or Group Heads
6.3 To implement national awards affecting wages, salaries and conditions of service	Chief Executive, Relevant Deputy Chief Executive or Group Head Neighbourhood Services for local rate overtime
6.4 To administer the Council's car loan scheme	Chief Finance Officer
6.5 To agree redundancy payments under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 in cases approved by Management Team	Chief Executive in consultation with the Leader of the Council
6.6 To approve and sign off special severance payments of £20,000 and above but not exceeding £100,000  (Payments of £100,000 and above are reserved to Council)	Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment.
6.7 To approve and sign off special severance payments below £20,000	Chief Finance Officer

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7. ENVIRONMENTAL HEALTH MATTERS	
Column 1 – Function	Column 2 – Authorised Officer
<p>7.1 To exercise the Council’s functions in respect of environmental health matters, including, but not limited to the following functions:</p> <ul style="list-style-type: none"> <li>a. Statutory and Public Nuisances;</li> <li>b. Control of Noise;</li> <li>c. Light nuisance;</li> <li>d. Control of Air Pollution;</li> <li>e. Contaminated Land;</li> <li>f. Control of rats and mice;</li> <li>g. Insects;</li> <li>h. Prevention of Damage by Pests;</li> <li>i. The provision, management and control of Cemeteries, Mortuaries and Crematoria and the discharge of the Council’s functions relating to burials and cremation generally;</li> <li>j. Safety of buildings;</li> <li>k. Food, Drinking Water, Food Hygiene and associated matters;</li> <li>l. Functions in connection with the Welfare and Control of Animals;</li> <li>m. Control of Diseases, infectious diseases and General Public Health matters;</li> <li>n. Filthy or verminous premises, articles or persons;</li> <li>o. Accumulations;</li> <li>p. Drains and private sewers and any other environmental health functions in relation to sewerage or, water (by arrangement with the service operators if</li> </ul>	<p>Senior Environmental Health Manager; or:</p> <p>In relation to 7.1(i) the Group Head of Neighbourhood Services</p> <p>In relation to 7.1(j) the Building Control Manager</p>

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<p>appropriate);</p> <ul style="list-style-type: none"> <li>q. Health and Safety at Work;</li> <li>r. Provisions relating to shops including Sunday trading;</li> <li>s. Hazardous Substances;</li> <li>t. Slaughterhouses, Knackers Yards and Cutting Premises;</li> <li>u. Tattooing, acupuncture, body piercing, semi-permanent skin colouring and electrolysis</li> </ul>	
<p>7.2 To issue any notices, penalties, permits or certificates in respect of environmental health matters, including, but not limited to:</p> <ul style="list-style-type: none"> <li>a. Local Government (Miscellaneous Provisions) Act 1976 Local Government (Miscellaneous Provisions) Act 1982;</li> <li>b. Public Health Act 1936 ss. 45, 48, 49, 83, 84, 275 and 287;</li> <li>c. Public Health Act 1961 ss. 17, 22 and 34;</li> <li>d. Building Act 1984 ss. 59, 64, 66, 67, 70, 72, 76, 84, 95 and 97;</li> <li>e. Environmental Protection Act 1990</li> <li>f. Food Safety Act 1990;</li> <li>g. Prevention of Damage by Pests Act 1949</li> <li>h. Health and Safety at Work etc. Act 1974;</li> <li>i. Noise Act 1996;</li> <li>j. Anti-Social Behaviour Act 2003;</li> <li>k. Clean Neighbourhoods and Environment Act 2005;</li> <li>l. Animal Welfare Act 2006;</li> <li>m. Health Act 2006;</li> <li>n. House to House Collections Act 1939;</li> <li>o. Pet Animals Act 1951;</li> </ul>	<p>Senior Environmental Health Manager; and</p> <p>in relation to 7.2 (d) and (II ) the Building Control Manager</p>

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<p>p. Riding Establishments Act 1964;</p> <p>q. Riding Establishments Act 1970;</p> <p>r. Animal Boarding Establishments Act 1963;</p> <p>s. Breeding of Dogs Act 1973;</p> <p>t. Breeding of Dogs Act 1991;</p> <p>u. Dangerous Wild Animals Act 1976;</p> <p>v. Hypnotism Act 1952;</p> <p>w. Smoke-free (Premises and Enforcement) Regulations 2006;</p> <p>x. Smoke-free (Signs) Regulations 2012</p> <p>y. Smoke-free (Exemptions and Vehicles) Regulations 2007</p> <p>z. Smoke-free (Penalties and Discounted Amounts) Regulations 2007;</p> <p>aa. Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007;</p> <p>bb. Pollution Prevention and Control Act 1999;</p> <p>cc. Control of Pollution Act 1974;</p> <p>dd. Public Health (Control of Disease) Act 1984;</p> <p>ee. Private Security Industry Act 2001;</p> <p>ff. Meat (Sterilisation and Staining) Regulations 1982;</p> <p>gg. Clean Air Act 1993;</p> <p>hh. Land Compensation Act 1973 s.37;</p> <p>ii. Sunday Trading Act 1994;</p> <p>jj. Criminal Justice and Public Order Act 1994 ss.77 and 78;</p> <p>kk. Working Time Regulations 1998;</p> <p>ll. Building Regulations 2010;</p> <p>mm. Building (Approved Inspectors etc.) Regulations 2010;</p> <p>nn. Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002;</p>	
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<ul style="list-style-type: none"><li>oo. Land Drainage Act 1991;</li><li>pp. Scrap Metal Dealers Act 2013;</li><li>qq. Sunbeds (Regulation) Act 2010;</li><li>rr. The Caravan Sites and Control of Development Act 1960;</li><li>ss. Mobile Homes Act 2013;</li><li>tt. Water Industry Act 1991;</li><li>uu. Environmental Protection (Control on Ozone-Depleting Substances) Regulations 2011;</li><li>vv. Waste (England and Wales) Regulations 2011</li><li>ww. Tattooing of Minors Act 1969</li><li>xx. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</li><li>yy. Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 and any subsequent related legislation.</li><li>zz. The Business and Planning Act 2020</li><li>aaa. Town Police Clauses Act 1847</li><li>bbb. Highways Act 1980</li><li>ccc. Policing and Crime Act 2017</li><li>ddd. Live Music Act 2012</li><li>eee. Deregulation Act 2015</li><li>fff. Police, Factories &amp; c. (Miscellaneous Provisions) Act 1916</li><li>ggg. Licensing Act 2003</li><li>hhh. Gambling Act 2005</li><li>iii. Zoo Licensing Act 1981</li><li>jjj. Environmental Damage Regulations (Prevention and Remediation) (England) Regulations 2015</li><li>kkk. Control of Pollution (Amendment) Act 1989</li><li>lll. Electrical Safety Standards in the Private Rented Sector (England) Regulations</li></ul>	
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<p>2020</p> <p>mmm. Environment Act 1995 (section 108[(1) and (4)a–m])</p> <p>nnn. Noise and Statutory Nuisance Act 1993 (Schedule 2)</p> <p>ooo. Public Health (Control of Disease) Act 1984</p> <p>ppp. Clean Air Act 1993 (section 56)</p>	
<p>7.3 To exercise the Council's functions under the Acts listed in 7.2 to this Scheme of Delegations and any other acts subsequently enacted.</p>	<p>Senior Environmental Health Manager</p>
<p>7.4 Subject to the Terms of Reference of the Licensing Committee to exercise all functions relating to the Licensing Act 2003.</p>	<p>Senior Environmental Health Manager</p>
<p>7.5 To determine statutory minor variations to Premises Licences, including where representations are received, under the Licensing Act 2003.</p>	<p>Licensing Manager</p>
<p>7.6 To adjourn a Licensing Sub-Committee, for administrative reasons.</p>	<p>Licensing Manager</p>
<p>7.7 Subject to the Terms of Reference of the Licensing Committee to exercise all functions relating to the Gambling Act 2005</p>	<p>Senior Environmental Health Manager</p>
<p>7.8 Under the Licensing Act 2003 and the Gambling Act 2005 to make a decision on whether a representation is irrelevant, frivolous or vexatious</p>	<p>Environmental Health Manager</p>
<p>7.9 To exercise all powers of the Council under sections 19-22 of the Criminal Justice and Police Act 2001 concerning closure of unlicensed premises</p>	<p>Senior Environmental Health Manager (in consultation with the Chair and Vice-Chair of Licensing Committee)</p>
<p>7.10 Authority under the Food Safety Acts, and any associated Regulations to make application for Emergency Prohibition</p>	<p>Senior Environmental Health Manager or authorised officers from the London Borough of</p>

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<p>Orders for appropriate premises and to issue certificates that the measures specified by the Prohibition Orders have been carried out.</p> <p>7.11 European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020 relating to retained EU regulations including numbers 178/2002, 852-854/2004, 2017/625 and 2073/2005, which relate to food and feed</p>	<p>Hillingdon, in relation to Emergency Control Regulations governing imported foods within the Borough's Remote Transit Sheds</p>
<p>7.12 To exercise the Council's powers under the Food Safety and Hygiene (England) Regulations 2013 and relevant EU Directives and any associated regulations to serve/apply for (as appropriate) hygiene improvement notices, hygiene prohibition orders, hygiene emergency prohibition notices and orders, remedial action notices and detention notices</p>	<p>All Environmental Health Staff identified for this purpose by the Senior Environmental Health Manager or authorised officers from the London Borough of Hillingdon, in relation to Emergency Control Regulations governing imported foods within the Borough's Remote Transit Sheds</p>
<p>7.13 To exercise the Councils powers under the Official Feed and Food Control (England) Regulations 2009, including (but not limited to) detention, destruction, special treatment and the re-dispatch of feed and food, the service of notices, the procurement of samples of food and to take other appropriate measures'</p>	<p>Senior Environmental Health Manager or authorised officers from the London Borough of Hillingdon, in relation to Emergency Control Regulations governing imported foods within the Borough's Remote Transit Sheds</p>
<p>7.14 Authority in relation to Waste Disposal to pass on to commercial customers the full increased costs of all future Landfill Taxes imposed by Central Government.</p>	<p>Senior Environmental Health Manager, Group Head Neighbourhood Services</p>
<p>7.15 To make minor changes to the Building Control Charges Scheme No. 1.</p>	<p>Building Control Manager</p>
<p>7.16 To issue fixed penalty notices under section 33(1)(a) of the Environmental Protection Act 1990, to persons whom the officer has reason to believe have committed a small-scale fly tipping offence.</p>	<p>Group Head of Neighbourhood Services and Senior Environmental Health Manager</p>
<p>7.17 To authorise appropriate officers to issue Fixed Penalty Notices under section</p>	<p>Group Head of Neighbourhood</p>

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34(2)(a) of the Environmental Protection Act 1990 to persons whom the officer has reason to believe has failed to comply with their duty of care in the disposal of controlled waste.	Services
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<b>8. MARKETS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
8.1 To operate a market in Staines under the terms of the Staines Town Hall and Market Act 1872	Group Head Neighbourhood Services
8.2 To set and enforce regulations for any markets within the Borough	Group Head Neighbourhood Services
8.3 To respond to requests for stands in Staines High Street on non-market days under the terms of s115E of the Highways Act	Group Head Neighbourhood Services

<b>9. FREEDOM OF INFORMATION, ENVIRONMENTAL INFORMATION REGULATIONS AND DATA PROTECTION</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
9.1 To add documents to the Council's publication scheme	Data Protection Officer/Information Governance Co-ordinator
9.2 To determine whether any requests under the above acts are repeated or vexatious	Data Protection Officer/Information Governance Co-ordinator
9.3 To determine whether any exemptions apply under the above Acts and Regulations	Data Protection Officer /Information Governance Co-ordinator
9.4 To review decisions made to place items in Part II of agendas and to authorise the disclosure of such items where the reasons for confidentiality no longer apply or where it would be in the public interest	Group Head of Corporate Governance in consultation with the Leader of the Council

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to disclose of such items.	
<b>10. HOUSING AND COMMUNITY CARE MATTERS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
10.1 To approve mandatory/discretionary grants under the Housing Grants, Construction and Regeneration Act 1996 in accordance with the policies approved from time to time by the Council.	Group Head Community Wellbeing
10.2 To exercise the powers and the functions of the Council under the Housing Grants and Regeneration Act 1996 and any regulations made thereunder.	Group Head Community Wellbeing
10.3 Authority to require repayment of mandatory/discretionary grants in accordance with Government guidelines and within the timescales laid down in the Council's approved policies.	Group Head Community Wellbeing
10.4 Under the Local Government and Housing Act 1989 repayment of grant provisions, authority to waive the requirement to repay grant in any case where the owner disposes of their property, in order to go to live in sheltered housing or a residential care home, as his/her only or main residence.	Group Head Community Wellbeing
10.5 Pursuant to the Housing Acts and all relevant Orders and Regulations thereunder:- a. to serve notices requiring the abatement of overcrowding; b. to serve notices requiring the demolition of houses, subject to Demolition Orders, carry out demolition in default and recover the cost; c. to make a declaration of an area as a slum clearance area subject to legislative requirements for Slum Clearance Declarations d. to revoke Closing or Demolition Orders on the satisfactory completion of works to render the house free from serious	Senior Environmental Health Manager

## Appendix 2

### Part 3 section (d)

<p>hazards;</p> <p>e. to serve statutory notices requiring the execution of repairs, carry out work in default and recover the costs;</p> <p>f. to serve notice requiring the production of documents and for entry into premises for inspection, survey and works.</p> <p>g. to exercise the Council's powers under the Housing Act 2004 for the issue of/application for (as appropriate) Improvement Notices, Prohibition Orders, Hazard Awareness Notices, Emergency Remedial Action Notice, Emergency Prohibition Orders and empty property management orders and</p> <p>in respect of houses in multiple occupation, to:</p> <p>i. make interim and final management orders;</p> <p>ii. serve notices requiring compliance with management regulations, the execution of works, including the provision of facilities and fire escapes;</p> <p>iii. make directions to prevent or reduce overcrowding;</p> <p>iv. carry out works in default of compliance with (e)(i), (ii) and (iii) above and to recover the costs.</p> <p>v. To determine and issue licences under the Housing Act 2004</p>	
<p>10.6 To discharge the duties or exercise the powers of the Council under the Housing Act 1996 Parts VI and VII with regard to the allocation of housing accommodation, operation of the housing register, provision of housing advice, and matters relating to homelessness and the arrangement of accommodation for households where necessary under the legislation.</p>	<p>Group Head Community Wellbeing</p>
<p>10.7 The placing of homeless persons in bed and breakfast or other temporary accommodation and the fixing, collection and recovering of contributions therefore</p>	<p>Group Head Community Wellbeing</p>

## Appendix 2

### Part 3 section (d)

10.8	To make nominations to housing association accommodation of applicants on the Housing Register, in accordance with the Council's bands scheme.	Group Head Community Wellbeing
10.9	To make nomination to housing association accommodation outside the bands scheme to applicants considered as special cases.	Group Head Community Wellbeing
10.10	To make nominations to housing association accommodation of persons nominated by other local authorities/housing associations under any mobility scheme in which the Council agrees to participate.	Group Head Community Wellbeing
10.11	To agree terms for the lease from private landlords of premises to be used for the provision of temporary accommodation for the homeless.	Group Head Community Wellbeing
10.12	Administration of the Spelthorne Personal Alarm Network Scheme ("SPAN") and the negotiation of service charges with other public bodies.	Group Head Community Wellbeing
10.13	To take any necessary action to deal with illegal encampments on Council owned land and on privately owned land, with the owner's permission.	Group Head of Corporate Governance
10.14	To exercise the Council's power and functions in relation to determination and payment of Housing Benefit, rent allowances and Council Tax benefit and recovery of housing benefit overpayments in accordance with the regulations.	Group Head Community Wellbeing
10.15	The carrying out of such duties necessary for the prosecution, administrative penalties and formal cautioning in cases where housing benefit fraud is detected.	Group Head Community Wellbeing
10.16	The initial decision to decide Discretionary Housing Payments	Appeals and Review Officer and Housing Benefit Manager

## Appendix 2

### Part 3 section (d)

10.17	Review of a Discretionary Housing Payments decision	Group Head Community Wellbeing
10.18	The requisition of the supply of water, gas, electricity, telephones and other services necessary for properties provided or to be provided for housing purposes.	Group Head Community Wellbeing
10.19	To exercise the Council's powers and functions in relation to Community Care and related issues.	Group Head Community Wellbeing
10.20	To undertake day to day management of Day/Community Centres and the Meals on Wheels Service.	Group Head Community Wellbeing
<b>11. LEISURE AND ASSOCIATED MATTERS</b>		
<b>Column 1 – Function</b>		<b>Column 2 – Authorised Officer</b>
11.1	<p>The management and letting of all sports, recreational and community facilities provided by the Council subject to the Community Lettings Policy, including:-</p> <p>a. the fixing of charges for special events not covered by the annual review of fees and charges;</p> <p>b. Negotiation of variations in charges for use of sports, recreational and community facilities within established policy;</p> <p>c. The power to waive fees and charges; and</p> <p>d. The setting of opening hours for facilities and the duration of sports seasons.</p>	Group Heads Neighbourhood Services and Community Wellbeing
11.2	The promotion of musical, artistic, cultural, sporting and community activities, including negotiation of sponsorship arrangements.	Group Head Community Wellbeing
11.3	The management of allotments, including entering into management	Group Head Neighbourhood Services

## Appendix 2

### Part 3 section (d)

<p>agreements for sites, lettings, mal-cultivation notices, notices to quit and decisions on applications for permission to erect structures by tenants or allotment associations.</p>	
<p>11.4 The management of cemeteries, including the allocation, re-allocation and grant of grave spaces, including the repurchase of grave spaces and other associated matters.</p>	<p>Group Head Neighbourhood Services</p>
<p>11.5 The administration of Leisure Development Grants to be made to Voluntary Organisations, in accordance with the policy guidelines approved from time to time by the Community Wellbeing and Housing Committee.</p>	<p>Group Head Community Wellbeing</p>
<p><b>12. ENVIRONMENT AND PUBLIC AMENITIES MATTERS</b></p>	
<p><b>Column 1 – Function</b></p>	<p><b>Column 2 – Authorised Officer</b></p>
<p>12.1 To determine applications made in respect of land under the control of the Council for the following:-</p> <ol style="list-style-type: none"> <li>a. Placing of structures.</li> <li>b. Erection of directional signs.</li> <li>c. Erection of banners.</li> <li>d. Street trading consent under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act, 1982.</li> <li>e. Fun runs, marathons, filming and other similar activities.</li> </ol>	<p>Senior Environmental Health Manager or Group Head Neighbourhood Services</p>
<p>12.2 In relation to the Council's Car Parks:-</p> <ol style="list-style-type: none"> <li>a. to authorise proceedings in respect of offences against any car park regulations; and</li> <li>b. to determine applications by outside bodies or persons for use of the car parks, subject to any consent not prejudicing the normal use of the car</li> </ol>	<p>Deputy Chief Executive</p>

## Appendix 2

### Part 3 section (d)

	park.	
12.3	To authorise and determine payment of an appropriate commuted sum when taking over private lighting schemes under Section 161 of the Public Health Act 1875.	Relevant Deputy Chief Executive
12.4	The siting of bus shelters, bus stops, seats and other street furniture.	Relevant Deputy Chief Executive
12.5	The numbering and renumbering of premises in streets.	Deputy Chief Executive with responsibility for Environmental Health & Building Control
12.6	All necessary steps in connection with the removal and disposal of abandoned vehicles under the Refuse Disposal (Amenity) Act 1978.	Group Head Neighbourhood Services
12.7	To make representations to Surrey County Council regarding the provision of tendered bus services under the Transport Act, 1985.	Relevant Deputy Chief Executive
12.8	To exercise the Council's powers under the following provisions of the Local Government (Miscellaneous Provisions) Act, 1976:- <ul style="list-style-type: none"> <li>a. Section 23 (in relation to dangerous trees);</li> <li>b. Section 25 (in relation to dangerous excavations).</li> </ul>	Deputy Chief Executive with responsibility for Environmental Health & Building Control
12.9	To institute proceedings in the County Court or High Court to gain possession of highway land occupied by caravans, tents or other residential structures.	Group Head of Corporate Governance
12.10	To make objections on amenity grounds to applications submitted to the Traffic Commissioners for Goods Vehicle Operators Licences.	Relevant Deputy Chief Executive or Group Head Neighbourhood Services
12.11	To make minor amendments to the Pavement Policy	Group Head Place, Protection and Prosperity in consultation with the Chair of the Licensing Committee.
12.12	To make minor amendments to the Hackney Carriage and Private Hire	Senior Environmental Health Manager

## Appendix 2

### Part 3 section (d)

Licensing Policy.	
12.13 To issue Private Hire Vehicle and Hackney Carriage licences where applicants comply with the criteria agreed from time to time by the Council or relevant Committee.	Senior Environmental Health Manager
12.14 Immediate revocation of a Hackney Carriage driver and Private Hire driver licenses in accordance with the Council's adopted procedure. Power to revoke is under section 61 Local Government (Miscellaneous Provisions) Act 1976.	Senior Environmental Health Manager in consultation with the Chair and Vice-Chair of Licensing Committee
12.15 To suspend Hackney Carriage driver and Private Hire driver Licences in accordance with the Council's adopted procedure. Power to suspend is under section 61 Local Government (Miscellaneous Provisions) Act 1976	Senior Environmental Health Manager in consultation with the Chair and Vice-Chair of Licensing Committee
12.16 To suspend Hackney Carriage and private hire vehicle licenses in accordance with the Council's adopted procedure. Power to suspend a vehicle is section 60 of Local Government Miscellaneous Provisions) Act 1976)	Senior Environmental Health Manager
12.17 To administer the hackney carriage and private hire licensing Penalty Points Scheme and issue penalty points in accordance with the Scheme	Senior Environmental Health Manager
12.18 To determine appeals against penalty points under the Council's Penalty Points Scheme	Senior Environmental Health Manager in conjunction with the Deputy Chief Executive
12.19 To administer the applications for Pavement Licensing	Senior Environmental Health Manager
12.20 To administer the Licensing Act 2003	Senior Environmental Health Manager
12.21 To administer House to House Collections under the House to House Collections Act 1939	Senior Environmental Health Manager

## Appendix 2

### Part 3 section (d)

12.22 To administer Scrap Metal licensing under Scrap Metal Dealer's Act 2013	Senior Environmental Health Manager
12.23 To administer Gambling licensing under Gambling Act 2005	Senior Environmental Health Manager
12.24 To administer Sex Establishments under Local Government (Miscellaneous Provisions) Act 1982	Senior Environmental Health Manager
12.25 To administer Street Collections under Police, Factories & Miscellaneous Provisions) Act 1916	Senior Environmental Health Manager
12.26 To exercise the Council's powers under clause 21 of the Town Police Clauses Act 1847	Deputy Chief Executive
12.27 To arrange for the discharge of the Council's statutory functions relating to burials and cremations	Senior Environmental Health Manager or Group Head Neighbourhood Services
12.28 To exercise the Council's functions in respect of investigations and enforcement under the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005)	Joint Enforcement Team and Senior Environmental Health Manager
12.29 To exercise the Council's functions and to serve Notices under the Anti-Social Behaviour, Crime and Policing Act 2014.	Deputy Chief Executive
<b>13. BYELAWS</b>	
<b>Column 1 – Function</b>	<b>Column 2 – Authorised Officer</b>
13.1 To grant authority in writing to any named person (not being a council officer or police constable) to enforce the Byelaws made by the Council	Chief Executive
<b>14. PLANNING AND DEVELOPMENT MANAGEMENT</b>	
14.1 Subject to the Terms of Reference of the Planning Committee, to exercise all functions relating to town and country planning and development management	Planning Development Manager

## Appendix 2

### Part 3 section (d)

	and the following:	
14.2	Agreement for any variation and to determine any application under section 106A of the Town and Country Planning Act 1990 (the “1990 Act”) save for major variations relating to affordable housing development and / or financial contributions exceeding £0.5M.	Planning Development Manager
14.3	Power to serve an enforcement notice under section 172 of the 1990 Act.	Planning Development Manager
14.4	Power to withdraw or vary any enforcement notice issued under section 173 A of the 1990 Act.	Planning Development Manager
14.5	Power to serve a stop notice under s183(1) of the 1990 Act	Planning Development Manager
14.6	Power to withdraw a stop notice under s183(7) of the 1990 Act	Planning Development Manager
14.7	Power to serve a planning contravention notice under s171C of the 1990 Act	Planning Development Manager
14.8	Power to serve a temporary stop notice under s171E of the 1990 Act.	Planning Development Manager
14.9	Power to withdraw a temporary stop notice under s171E of the 1990 Act	Planning Development Manager
14.10	Power to serve a breach of condition notice under s187A of the 1990 Act	Planning Development Manager
14.11	Power to prosecute for demolition in a conservation area under s196D of the 1990 Act	Planning Development Manager
14.12	Power to seek an injunction under s187B of the 1990 Act unless breach of planning control relates to affordable housing development and / or financial contributions exceeding £0.5M.	Planning Development Manager
14.13	Power to issue a notice for untidy land under s215 of the 1990 Act.	Planning Development Manager
14.14	Power to issue a requisition for information under section s330 of the 1990 Act to require information as to interests in land.	Planning Development Manager
14.15	Power to take direct action under s178 of the 1990 Act	Planning Development Manager
14.16	Enforcement rights of entry without warrant under s196A of the 1990 Act.	Planning Development Manager

## Appendix 2

### Part 3 section (d)

14.17	Power to authorise the stopping-up or diversion of a footpath, bridleway or restricted byway under s 257 of the 1990 Act.	Planning Development Manager
14.18	Power to extinguish public rights of way over land held for planning purposes under s 258 of the 1990 Act.	Planning Development Manager
14.19	Powers relating to the preservation of trees under s 197 to s214D of the 1990 Act and the Town and Country Planning (Tree Preservation) (England) Regulations 2012.	Planning Development Manager
14.20	Power to confirm a Tree Preservation order where no objections have been raised.	Planning Development Manager
14.21	Power to issue screening and scoping opinions under the Environmental Impact Assessment Legislation.	Planning Development Manager
14.22	Power to issue a decision on the need for an Appropriate Assessment under the Habitats Directive.	Planning Development Manager
14.23	Powers relating to the protection of important hedgerows under the Hedgerows Regulations 1997 (S.I. 1997/1160).	Planning Development Manager
14.24	Powers relating to high hedges under Part 8 of the Anti-Social Behaviour Act 2003	Planning Development Manager
14.25	To grant relief and exemptions under the Community Infrastructure Levy Regulations 2010 (as amended).	Strategic Planning Manager or Planning Development Manager
14.26	To issue all notices, orders and apply surcharges and/or interest under the Community Infrastructure Levy Regulations 2010 (as amended).	Strategic Planning Manager Planning Development Manager or Group Head of Corporate Governance
14.27	To determine reviews of the calculation of a chargeable amount under the	Strategic Planning Manager or Planning Development

## Appendix 2

### Part 3 section (d)

Community Infrastructure Levy Regulations 2010 (as amended).	Manager
14.28 To require any owner or relevant person to provide the Council with such further information, documents or materials as considered relevant under regulation 108A of the Community Infrastructure Levy Regulations 2010 (as amended).	Strategic Planning Manager or Planning Development Manager
14.29 Agreement of any amendments to the Local List of Requirements for the validation of planning applications.	Planning Development Manager
14.30 Power to object or make representation against a goods vehicle (operator's) licensing application in accordance with the Goods Vehicles (Licensing of Operators Act 1995 and the Goods Vehicles (Licensing of Operators) Regulations 1995.	Planning Development Manager

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### ACCESS TO INFORMATION RULES

#### 1. SCOPE

These rules allow the public rights of access to meetings and information to reflect the Council's commitment to its residents to be open and accountable. They apply to all meetings of the Council, Committees and Sub-Committees (together called meetings) unless otherwise specified in this Constitution or by legislation.

Working Groups and Task and Finish Groups are not established as Sub-Committees under the Local Government Act 1972, and therefore are not subject to these rules. These meetings are not held in public.

The public now has the right to report on any meeting, which is not held in private, by means of any medium available to them, and to share the results of such reporting by any communication method at their disposal (The Openness of Local Government Bodies Regulations 2014).

#### 2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in the Council's Constitution or the law, nor do these Rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

#### 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

#### 4. NOTICES OF MEETING

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Council Offices, and on the Council's website, with the exception of any Licensing Sub-Committee meeting called in accordance with Statutory Instrument 2502 of the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007.

Where exceptionally this period of notice cannot be given, the Council will ensure that legal requirements on specifying the special urgent circumstances that apply in particular cases will be met.

#### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available on its website and at the Council Offices, five clear working days before the meeting except:

- a) those which contain exempt or confidential information, the meaning of which is explained later in these rules, or
- b) those in relation to Licensing Sub-committees where a meeting is called in accordance with: -
  - i) section 105(2)(a) (counter notice following police objection to temporary event notice) of the Licensing Act 2003; or

- ii) SI 2502 - Summary Review of Premises Licences.

If an item is added to the agenda later, the revised agenda will be open to inspection and on the website from the time the item was added to the agenda. Where reports are prepared after the summons to the meeting has been sent out, the Chief Executive will make a copy of the report available to the public as soon as it is completed and sent to councillors.

## **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on request, either electronically, or on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES AND OTHER INFORMATION AFTER THE MEETING**

7.1 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (unless the Proper Officer deems that the exemption no longer applies);
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agendas for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **List of background papers**

- 8.1 If there are any background papers relating to the subject matter of a report, these will be listed at the end of that report.
- 8.2 Background papers are those documents which, in the opinion of the Proper Officer:
  - 8.3 (a) disclose any facts or matters on which the report, or an important part of the report is based; and
  - 8.4 (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10 below).

### **Public inspection of background papers**

- 8.5 The Council will make available for public inspection at its offices and on its website for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

- 9.1 A written summary of the rights of the public to attend meetings and to inspect and copy documents must be kept at, and be available to the public, at the Council's main Offices.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **Confidential Information – requirement to exclude the public**

- 10.1 The public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

### **Meaning of Confidential Information**

- 10.2 Confidential information means information given to the Council by a Government department, service or agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

### **Exempt Information – discretion to exclude public**

- 10.3 The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.
- 10.4 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Act.

### **Confidential Information and Exempt Information**

- 10.5 Nothing in these Procedure Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.
- 10.6 Nothing in these Procedure Rules:
- (a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Group Head of Corporate Governance, that document or part of a document contains or may contain confidential information; or
  - (b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Proper Officer, that document or part of a document contains or is likely to contain exempt information.

## Meaning of Exempt Information

10.7 Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
1. Information relating to any individual	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt information if it is required to be registered under <ol style="list-style-type: none"> <li>1. Section 2 of the Companies Act 2006</li> <li>2. the Friendly Societies Act 1974</li> <li>3. the Friendly Societies Act 1992</li> <li>4. the Co-operative and Community Benefit Societies Act 2014</li> <li>5. the Building Societies Act 1986</li> <li>6. the Charities Act 2011</li> </ol>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that the authority proposes, <ol style="list-style-type: none"> <li>1. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>2. to make an order or direction of any enactment.</li> </ol>	Information is exempt only if, in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection	Information is exempt only if, in all the circumstances, the public interest in

with the prevention, investigation or prosecution of crime

maintaining the exemption outweighs the public interest in disclosing the information

- 10.8 As set out in Schedule 12A of the Local Government Act 1972 (as amended): "Information... is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information."
- 10.9 The relevant Committee will periodically review those exempt items it has considered at meetings, as to whether the public interest in maintaining the exemption remains or whether the report can now be made public.
- 10.10 Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992. exclusion of access by the public to reports
- 10.11 The Proper Officer of the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10 above, the meeting is likely not to be open to the public. Such reports will be marked '**Exempt**' on the agenda of that meeting, together with the category of information likely to be disclosed.

## 11. THE FORWARD PLAN

### Contents of Forward Plan

- 11.1 The Council's Forward Plan will be prepared and published monthly. Proposed key and non-key decisions by Committees and Sub-Committees with decision-making powers will be included, with at least 28 clear days' notice being given, where possible.
- 11.2 The Forward Plan will contain matters which the Head of Paid Service believes will be subject of a decision to be taken by the Council, a Committee/Sub-Committee, or under joint arrangements during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- (a) the matter in respect of which a decision is to be made;
  - (b) the decision maker;
  - (c) the date on which the decision is likely to be taken;
  - ~~(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;~~
  - ~~(e) a list of the documents submitted to the decision taker for consideration in relation to the matter;~~
  - ~~(f) If the decision to be taken is considered a Key Decision as defined in Article 11 of this Constitution;~~
  - ~~(g) if the consideration of any item will involve the disclosure of exempt or confidential information.~~

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## 12. RECORD OF DECISIONS

- 12.1 After any meeting of the Council, a Committee or Sub-Committee, whether held in public or private, the Proper Officer, will produce a record of every decision taken at that meeting as soon as practicable and make it available to all members.
- 12.2 The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. It will also include a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body, and where a conflict of interest was declared, a note of any dispensation granted in respect of it.

**13. ADDITIONAL RIGHTS OF ACCESS TO INFORMATION FOR COUNCILLORS**

- 13.1 All councillors will be entitled to inspect any document (except those available only in draft form) in pursuance of that councillor's official duties. These rights are additional to any other rights he/she may have.
- 13.2 In availing themselves of these rights councillors must abide by the standards set out in Paragraph 4 of the Code of Conduct in Part 5 of the Constitution.



**Committee Report Checklist**

Please submit the completed checklists with your report. If final draft report does not include all the information/sign offs required, your item will be delayed until the next meeting cycle.

**Stage 1**

**Report checklist – responsibility of report owner**

ITEM	Yes / No	Date
Councillor engagement / input from Chair prior to briefing	Y	26/01/26
Commissioner engagement (if report focused on issues of concern to Commissioners such as Finance, Assets etc)	N	
Relevant Group Head review	Y	10/02/26
MAT+ review (to have been circulated <b>at least 5 working days before Stage 2</b> )	N/A	
This item is on the Forward Plan for the relevant committee	N	
	<b>Reviewed by</b>	
Finance comments (circulate to Finance)	LH	10/02/26
Risk comments (circulate to Lee O’Neil)	LO	16/02/26
Legal comments (circulate to Legal team)	LH	10/02/26
HR comments (if applicable)	N/A	

For reports with material financial or legal implications the author should engage with the respective teams at the outset and receive input to their reports prior to asking for MO or s151 comments.

Do not forward to stage 2 unless all the above have been completed.

**Stage 2**

**Report checklist – responsibility of report owner**

ITEM	Completed by	Date
Monitoring Officer commentary – at least <b>5 working days before MAT</b>	L Heron	10/02/26
S151 Officer commentary – at least <b>5 working days before MAT</b>	T.Collier	15/02/26
Confirm final report cleared by MAT		



# Standards Committee

25 February 2026

<b>Title</b>	Revised arrangements for dealing with allegations of a breach of the Members Code of Conduct
<b>Purpose of the report</b>	To make a decision
<b>Report Author</b>	Linda Heron, Group Head Corporate Governance and Monitoring Officer
<b>Ward(s) Affected</b>	All Wards
<b>Exempt</b>	No
<b>Exemption Reason</b>	N/A
<b>Corporate Priority</b>	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
<b>Recommendations</b>	<b>Committee is asked to:</b>  Approve the revised arrangements for dealing with standards allegations under the Localism Act 2011, including the procedure rules for the Hearing Sub-Committee.
<b>Reason for Recommendation</b>	A review of the Council's arrangements has been undertaken and a revised process and procedures developed in light of external recommendations, to give clarity to all those involved as to what to expect when a complaint is made.

**1. Executive summary of the report** *(expand detail in Key Issues section below)*

What is the situation	Why we want to do something
<ul style="list-style-type: none"> <li>The Localism Act 2011 requires that Local Authorities must have arrangements in place for making and investigating complaints against councillors alleging breaches of the Code of Conduct.</li> <li>The contents of the arrangements are a matter for the local authority.</li> </ul>	<ul style="list-style-type: none"> <li>External review commissioned in relation to a Standards Hearing process contained several recommendations relating to the Council's current arrangements.</li> </ul>

<ul style="list-style-type: none"> <li>The Council’s current arrangements were adopted in March 2022.</li> </ul>	
<b>This is what we want to do about it</b>	<b>These are the next steps</b>
<ul style="list-style-type: none"> <li>Adopt revisions to our arrangements to improve and clarify the process for all parties involved.</li> </ul>	<ul style="list-style-type: none"> <li>Adopt the revised arrangements and associated appendices, as appended to this report.</li> </ul>

## 2. Key issues

- 2.1 This report seeks adoption of revised arrangements for dealing with standards allegations under the Localism Act 2011, including procedure rules for the Hearing Sub-Committee of the Standards Committee.
- 2.2 The proposed revised arrangements and Sub-Committee procedure rules are intended to assist all parties involved and reflect the recommendations which arose in the course of the external review of the Standards Hearing process.
- 2.3 The Localism Act 2011 requires that Local Authorities must have arrangements in place for making and investigating complaints against councillors alleging breaches of the Code of Conduct. Apart from a requirement that the arrangements include provision to seek the views of an Independent Person, the contents of the arrangements are a matter for the Local Authority.
- 2.4 It is important that the arrangements are clear, concise, and informative. [The arrangements are a public document](#) which advises those wishing to make a complaint, and those subject to a complaint, how to make a complaint and what to expect from the process.
- 2.5 The Standards Committee has been delegated by Council to:
- keep an overview on the arrangements for dealing with complaints under the Code of Conduct, making alterations and publishing them where it considers necessary; and
  - devise such further protocols and procedures as are necessary for the efficient management of complaints which have to be considered by a Hearings panel.
- 2.6 Initial review of the Council’s arrangements had been undertaken in late 2024 – early 2025. A fresh start approach had been used in revising the arrangements, in preference to piecemeal changes throughout the existing document, with the aim of providing a clearer and more informative document.
- 2.7 In undertaking that initial review, regard had been given to the Local Government Association’s Member Model Code of Conduct [Complaints Handling guidance](#) and procedures adopted by other local authorities. In addition, the draft had been consulted on with the Council’s Independent Persons and Paul Hoey of Hoey Ainscough Associates, who has provided support, advice and guidance on the Standards framework both to this Council and nationwide for many years.
- 2.8 Due to operational reasons, work on the revised arrangements had been postponed until the latter part of 2025. A report brought to this Committee on

22 October 2025 (agenda item 8) contained certain recommendations in relation to the Council's arrangements. The Committee vote did not reach a majority and therefore no decision had been made.

- 2.9 Article 10 of the Constitution sets out functions and areas of responsibility for Chief Officers; more specifically under para 10.3(d) the Monitoring Officer is required to "... contribute to the promotion and maintenance of high standards of conduct through provision of advice and support to the Standards Committee."
- 2.10 This reports and the proposal within it are brought to this Committee pursuant to the obligation in Article para 10.3(d) of the Constitution.
- 2.11 The revised arrangements have been presented to the Committee System Working Group on 26 January and have its full support.

### **Main points in the proposed revised arrangements**

- 2.12 Clarity is provided at section 3. of the arrangements, on the initial assessment by the Monitoring Officer and the circumstances under which they may dismiss a complaint, after consultation with the Independent Person, fairly, objectively and without undue delay. The revised arrangements retain the right of the Monitoring Officer to refer a matter to a Standards Sub-Committee to make the initial assessment where the Monitoring Officer has a conflict of interest, or the matter is particularly high-profile.
- 2.13 Detailed guidance is included on Public Interest considerations (Appendix A to the arrangements) in relation to a decision whether to investigate a complaint.
- 2.14 A non-exhaustive list of circumstances under which no action will be taken as a result of the complaint are included as Appendix B to the arrangements.
- 2.15 The procedures following referral by the Monitoring Officer to the Assessment Sub-Committee (Appendix C to the arrangements) include clarity on:
  - (a) the ability of the Member complained about to submit their comments on the allegations to the Sub-Committee by 2 working days before it meets, if they wish, and
  - (b) that neither the Member nor the complainant will be invited to attend the Sub-Committee meeting but will be provided with a copy of the report to be considered by the Sub-Committee.
  - (c) That there is no right of appeal for the complainant or the member against the decision of the Assessment Sub-Committee.
- 2.16 The Investigation procedures at Appendix D confirm that the Investigating Officer's report remains confidential until, at least, a decision is made whether to convene a Standards Sub-Committee hearing.
- 2.17 The procedure rules to govern Hearing Sub-Committees (Appendix E of the arrangements) have been expanded to give more detail and clarity to those involved as to what to expect, before and at the Hearing. Hearings held by the Sub-Committee are a formal administrative process and the procedure rules have been developed to ensure principles of natural justice and fairness are upheld. Provided that the principles of natural justice are upheld, and the proceedings are fair and in the public interest, the Chair of the Sub-

Committee may exercise discretion in amending the order of business. The role of the Independent Person is also clarified for avoidance of doubt (para 2 of Appendix E of the arrangements).

- 2.18 The Hearing Sub-Committee procedure rules now include guidance to assist the Sub-Committee's deliberations at Annex A to Appendix E of the arrangements.

### **3. Options appraisal and proposal**

Option 1 – approve the revised arrangements as proposed. **Recommended**

- 3.1 It is considered that the revised arrangements appended to this report provide improved clarity to all parties about the process which will be followed when an allegation of a breach of the Code of Conduct is received by the Monitoring Officer. The revised arrangements seek to provide for a response to complaints in a timely manner, fairly, transparently and in the public interest. The risks of failing to uphold the principle of natural justice in the conduct of a Hearing, is mitigated by adopting detailed procedure rules for the Hearing Sub-Committee.

The revised arrangements incorporate recommendations resulting from an external review intended to bring the Council's arrangements in line with best practice.

Option 2 – Do nothing. **Not recommended**

- 3.2 The Council's current arrangements are satisfactory and align with Government guidance. However, experience has shown that in reality the procedures followed in the assessment stage are more detailed than set out in the arrangements and that the lack of detailed procedures for Hearings has led to misunderstandings about what happens at the Hearing and the responsibilities of each party to the Hearing.

### **4. Risk implications**

- 4.1 Regular review of arrangements for dealing with alleged breaches of the Members' Code of Conduct helps to satisfy the statutory duty to promote and maintain high standards of conduct by Members. Effective processes help to maintain and provide assurance of strong ethical governance and safeguard the Council from damage to reputation.

### **5. Financial implications**

- 5.1 Whilst there are no financial implications arising from this report, there are costs associated with the investigation of Code of Conduct complaints, which vary from case to case, as well as costs for holding Sub-Committee Hearings. These costs are met from existing budgets.

### **6. Legal comments**

- 6.1 The Localism Act 2011 (section 28(6)) requires local authorities to adopt arrangements for dealing with Member Code of Conduct complaints. Although the procedure for Hearings does not need to be published, by doing so,

ensures transparency and indicates the Council's commitment to good governance.

- 6.2 Section 28(7) of the same Act provides that the views of the Council's Independent Person must be sought and taken into account before the Council makes its decision on an allegation that it has investigated. The same section provides that any councillor who is being investigated may also seek the views of the Independent Person.
- 6.3 This report does not raise any additional legal issues.

## **Corporate implications**

### **7. S151 Officer comments**

- 7.1 The S151 Officer confirms that all financial implications have been taken into account and that the recommendations are fully funded from within the current and the 2026-27 budget. As stated above there are costs associated with the investigation of Code of Conduct complaints which are met from existing budgets.

### **8. Monitoring Officer comments**

- 8.1 The Monitoring Officer confirms that the relevant legal implications have been taken into account.

### **9. Procurement comments**

- 9.1 There are no procurement implications arising directly from this report.

### **10. Equality and Diversity**

- 10.1 The Council's Standards regime complies with equalities legislation and there is sufficient flexibility in the arrangements and procedure rules to enable the Hearing Sub-Committee to accommodate any disability or equality issues and make reasonable adjustments to ensure fairness and accessibility on a case-by-case basis.

### **11. Sustainability/Climate Change Implications**

- 11.1 None for the purposes of this report.

### **12. Other considerations**

- 12.1 No other considerations have been identified.

### **13. Timetable for implementation**

- 13.1 The revised arrangements will be effective immediately upon approval by the Standards Committee and the website will be updated accordingly.

## **14. Contact**

14.1 Linda Heron, Group Head Corporate Governance and Monitoring Officer  
[l.heron@spelthorne.gov.uk](mailto:l.heron@spelthorne.gov.uk)

***Please submit any material questions to the Committee Chair and Officer Contact by two days in advance of the meeting.***

**Background papers: There are none.**

**Appendices:**

**Annex 1 – Arrangements for dealing with allegations of misconduct – track change**

**Annex 2 – Arrangements for dealing with allegations of misconduct – clean copy**

## Annex 1

### SPELTHORNE BOROUGH COUNCIL

#### LOCALISM ACT 2011 SECTION 28 – CODE OF CONDUCT

#### ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT

Spelthorne Borough Council is committed to promoting and maintaining high standards of conduct amongst its 39 elected councillors, known as Members, and has adopted a Member Code of Conduct setting out the conduct it expects of its Members and co-opted Members as they carry out that role.

The purpose of these arrangements is to set out how allegations that the Code of Conduct has been breached by a councillor, will be investigated. Any decision to investigate an allegation will be a proportionate response to the issues raised when weighed against any likely sanction. It will take into account the wider public interest and the costs of undertaking an investigation. Allegations will only be investigated where the allegation is reasonably considered to be a serious matter and accords with the public interest test as set out in Appendix A.

Consideration of the public interest, however, is only one of a number of criteria which must be met in deciding whether to investigate a complaint: crucially the complaint must also be supported at the outset by detailed and verifiable evidence of a likely breach of the Code.

#### 1. The Code of Conduct

The Council has adopted a Member Code of Conduct, which is set out in the [Constitution](#). A copy may also be requested from Committee Services.

The Member Code of Conduct applies to councillors when they go about the work of the Council or in their role as a Member of the local authority. The Council will not investigate complaints relating to the actions of a councillor whilst going about their private life.

The Council has tasked the Standards Committee to keep the Code of Conduct and the operation of these arrangements under review.

#### 2. How to make a complaint

Any complaint that a serving councillor (the councillor) has failed to comply with the Code of Conduct should be made on the online councillor complaint form: [Making a complaint against a councillor - Spelthorne Borough Council](#)

Alternatively, you can write to:

The Monitoring Officer  
Spelthorne Borough Council  
Knowle Green

Staines-upon-Thames TW18 1XB

Or email: [monitoringofficer@spelthorne.gov.uk](mailto:monitoringofficer@spelthorne.gov.uk)

All complaints must be made in writing.

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 446248

### **Who is the Monitoring Officer?**

The Monitoring Officer is a senior member of the Council's staff who has statutory responsibility for maintaining the Register of Councillor's Interests and who is responsible for administering the system in respect of complaints of councillor misconduct.

### **Will the name of the complainant be disclosed to the councillor?**

The Monitoring Officer will disclose the name of the complainant to the councillor unless specifically asked to withhold it. Only in very exceptional cases will the Council be able to progress a complaint to an investigation without disclosing the identity of the complainant to the Member.

Anonymous complaints will not normally be investigated unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously may be taken forward.

### **Complaints that a councillor failed to declare a Disclosable Pecuniary Interest (DPI)**

~~Complaints about the failure of a councillor to declare a Disclosable Pecuniary Interest (DPI) will not be investigated.~~ The failure to declare a DPI could amount to a criminal offence. When such allegations are made the complainant should make the complaint direct to the Police. The Council would only consider investigating the matter where the Police decide not to take any action or at the request of the Police.

### **Other criminal offences**

Complaints which identify potential criminal conduct or a breach of other regulations by any person will be referred by the MO to the Police for consideration, or any other relevant regulatory agency. In such cases the MO may pause the consideration of the complaint pending action by the other body.

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### **Who is the Independent Person?**

The Council has appointed five Independent Persons under Section 28 of the Localism Act 2011, 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

The Independent Persons are not (and have not been within the last five years) a Member of the Council or its staff.

The role of the Independent Person is to advise the Monitoring Officer on action to take under these arrangements at the points stated.

A councillor who is the subject of a complaint is also entitled to refer to the Independent Person for advice during the course of a complaint.

### **Conflict of Interest of Monitoring Officer or Independent Person**

If at any time during consideration of a complaint the Monitoring Officer or the Independent Person become aware that they have an actual or potential conflict of interest, they will record and declare this to the complainant and councillor concerned. They will withdraw from consideration of the complaint and ensure the complaint is considered independently by an alternative Deputy Monitoring Officer, or an alternative Monitoring Officer appointed from another Local Authority as appropriate, and an alternative Independent Person.

### **3. Initial action by the Monitoring Officer**

#### **Dismissal without further action**

On receiving a complaint, the Monitoring Officer may dismiss it without further action where:

- A. The Monitoring Officer, in consultation with an Independent Person (IP), considers that:
  - i. The matter, even if proven, would not amount to a breach of the Code  
~~insufficient information has been submitted at the outset to demonstrate that there has been a prima facie breach of the Code;~~
  - or
  - ii. the complaint is based essentially on hearsay evidence and/or is not supported at the outset by detailed and verifiable supporting evidence;
  - or
  - iii. the complaint does not relate to behaviour in the councillor's capacity as a member of the local authority;
  - or
  - iv. the matter complained about is in the view of the MO so trivial that it would not be in the public interest to pursue it further (see **Appendix A**);
  - or
- B. The person complained about was not a councillor at the time of the alleged incident or is no longer a serving councillor of the local authority; or
- C. The matter being complained about happened more than 12 months before the complaint was received (unless there is a compelling reason why

complaint was delayed); or

D. The matter or issue being complained about came to the complainant's notice more than 3 months before the complaint was received (unless there is a compelling reason why complaint was delayed); or

E. The complaint is the same as one which has previously been considered and no new material evidence has been submitted; or

D.F. The complaint relates to dissatisfaction with a Council decision rather than the specific conduct of an individual.

The Monitoring Officer will inform the complainant and the councillor of their decision accordingly.

### **What happens if the Monitoring Officer does not dismiss my complaint?**

If the Monitoring Officer does not dismiss the complaint on any of the above grounds, the complaint will be acknowledged, and the complainant informed of the procedure to be followed. The Monitoring Officer may ask the complainant for further information or clarification.

The Monitoring Officer will (except in exceptional circumstances where the Monitoring Officer considers that it is in the public interest not to do so) send the councillor complained about, a copy of the complaint and invite the councillor to submit initial written comments within 10 working days.

The Monitoring Officer will also ask the councillor any specific questions they consider will assist the initial assessment of the complaint, whilst not seeking to investigate the complaint at this stage.

Where appropriate the Group Leader(s) will be kept informed of progress with the complaint.

## **4. Initial assessment of the Complaint**

Initial assessment will, if practicable, take place within 20 working days of receipt of the councillor's written comments under section 3 above.

The decision on the initial assessment will be made by the Monitoring Officer, following consultation with an IP.

Before the Monitoring Officer assesses the complaint, the Monitoring Officer will send the IP.

- a. A copy of the complaint.
- b. Any other information in the Monitoring Officer's possession that they consider relevant, including any comments submitted by the councillor complained of.

### **When will a decision be made?**

The Monitoring Officer's decision on the initial assessment, with reasons, and next

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steps where relevant, will be given in writing to the councillor and the complainant, within 20 working days where practicable; the parties will be notified if there is any delay.

### **Can I appeal a decision?**

There will be no right of appeal by either the complainant or the councillor being complained about.

The decision will be reported to the next scheduled meeting of the Standards Committee, or by way of an update report in the Councillor's monthly [Briefing Pack](#) published on the Council's website.

## **5. Decision Options at Initial Assessment**

The Monitoring Officer, in consultation with the IP, may decide from the following options:

- a) To take no action (**Appendix B**); or
- b) To attempt to resolve the matter informally between the complainant and councillor, either in writing, by face-to-face meeting, or by any other method the Monitoring Officer considers appropriate. The Monitoring Officer will notify the relevant Group Leader where an informal resolution is considered appropriate. In this case there will be no formal decision as to whether there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved, the alternative options as set out in Appendix B or C, remain open; or
- c) To arrange a formal investigation.

The Monitoring Officer reserves the right, in the following circumstances, to refer a complaint to the Standards Assessment Sub-Committee to determine if an investigation is the appropriate course of action.

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 them to assess/investigate due to a conflict of interest.

The procedures following referral to the Standards Assessment Sub-Committee are set out in **Appendix C**.

## **6. The Investigation**

The procedures that will be followed where the Monitoring Officer, or Assessment Sub-Committee as appropriate, decides that a complaint merits further investigation, are set out at **Appendix D**.

## **7. The Hearing**

Where the Investigating Officer has concluded that there is evidence of a potential failure to comply with the Code of Conduct, and following consultation with the Independent Person, the Monitoring Officer decides an informal resolution is not appropriate or has not succeeded, they will arrange for the Standards Sub-

Committee to hold a hearing.

A hearing takes place before a Sub-Committee of 3 members drawn from the Standards Committee and chaired by the Standards Committee independent chair. Political proportionality does not apply to this Sub-Committee. At the hearing at which the councillor (Subject Member) and Complainant can state their case and, if appropriate, call witnesses. Procedures for the Standards Hearing Sub-Committee are set out at **Appendix E**. The hearing will decide whether the councillor has failed to comply with the Code of Conduct, and if so, whether to recommend any action (sanctions) in respect of the councillor.

#### **8. Revision of these arrangements**

The Standards Committee is delegated to amend these arrangements where necessary and has delegated to the independent Chair of the Hearing Sub-Committee the right to depart from these arrangements during a hearing, including the Procedures at Appendix E, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

#### **9. Local Government and Social Care Ombudsman**

Where a complainant concludes that the authority has failed to deal properly with a complaint, they may make a complaint to the Local Government and Social Care Ombudsman – [www.lgo.org.uk](http://www.lgo.org.uk)

## PUBLIC INTEREST CONSIDERATIONS

The purpose of the Code of Conduct is to help councillors achieve the standard of conduct which meets public expectations. The aim is to support proper decision making and the proper use of public resources. Undertaking investigations that do not support these wider benefits is not in the public interest.

The resources should not be used to investigate matters which are trivial, or which have little or no impact on the public. Any decision to investigate an allegation will be a proportionate response to the issues raised when weighed against any likely sanction. It will take into account the wider public interest and the costs of undertaking an investigation.

Complaints will be investigated where the allegations have substance<sup>1</sup> and are reasonably considered to be serious matters such as corruption, bullying and misuse of power in public office for example<sup>2</sup>. Allegations are unlikely to be investigated where the matter complained about does not raise a significant matter of public interest.

There is no widely accepted definition of the public interest, but this has been described as “*something which is of serious concern and benefit to the public*”. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter that impacts on an individual (although an individual may be more directly impacted by the matter than the wider public). The public in this context does not necessarily mean the whole of Spelthorne Borough. It may refer to a distinct section of the public such as a small community or interest group.

### 1. Seriousness

The more serious the alleged breach, the more likely it is that it will be investigated.

When deciding the level of seriousness of the allegation, relevant considerations are: the extent to which the councillor may have been responsible for, or was to blame for, the alleged breach; the circumstances of the complainant; and whether the alleged conduct caused harm to any person, the Council or organisation.

#### a) To what extent was the councillor responsible for, or to blame for, the conduct complained of?

Questions of responsibility or blame are likely to be determined by the councillor's level of involvement; the extent to which the alleged breach was premeditated and/or planned<sup>3</sup>; whether they have previously been investigated for a similar matter, or have been sanctioned for a previous breach; whether the conduct complained of is ongoing, repeated or has escalated; the councillor's length of service; and level of experience/knowledge of the councillor in relation to the issue in question.

<sup>1</sup> The complaint must have something in it and be of meaningful quality

<sup>2</sup> The application of the investigations not limited to these matters

<sup>3</sup> There must also be some evidence of deliberate fault. If a councillor has made a genuine mistake despite taking reasonable care, then it is unlikely that it will be in the public interest to investigate a complaint simply because it so happened that a breach of the Code of Conduct may have occurred.

**b) What are the relevant circumstances of any person affected by the alleged breach and has the alleged breach caused harm to any person?**

In considering the seriousness of a breach, the circumstances of any person affected by the breach are relevant and must be taken into consideration<sup>4</sup>.

Particular regard will be taken of whether the alleged breach was motivated by any form of discrimination against a person's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the councillor showed hostility towards a person based on any of those characteristics. In deciding whether an investigation is required in the public interest, the views expressed by the complainant, about the impact the alleged breach has had on them will be considered.

**2. Proportionality**

Account must always be taken of the resource implications of any investigation and any adjudication, especially where it could be regarded as excessive when weighed against any likely sanction. No decision on the public interest will be taken based on resource alone, but it is a relevant consideration when making an overall assessment.

The above considerations will help in identifying the public interest, but they are not exhaustive and not all are relevant in each case. In any event, consideration of the public interest is only one criterion that must be met in deciding whether to investigate a complaint: crucially the complaint must also be supported by evidence of a breach of the Code, and that it has caused an personal injustice.

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<sup>4</sup> Allegations are unlikely to be investigated where the complainant has not suffered significant personal injustice as a direct result of the actions of the councillor complained about.

**NO ACTION** will be taken where any of the following apply:

- A. the Monitoring Officer, in consultation with the IP, considers that there is no prima facie evidence that the Code has been breached;
- B. the Monitoring Officer, in consultation with the IP considers that the allegation does not relate to a serious matter and raises no issue of wider public interest (see Appendix A for the Public Interest test).
- C. taking into account the nature of the allegation, the Monitoring Officer, in consultation with the IP, considers that any investigation of the allegation and its associated use of resources would be excessive when weighed against any likely sanction.
- D. the Monitoring Officer, in consultation with the IP, considers that the complaint appears to be vexatious, malicious, frivolous, trivial, politically motivated, or tit-for-tat or made by a persistent complainant. The complaint must have substance.
- E. the conduct complained about has already been the subject of investigation or inquiry by the Council or another public body.
- F. the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and the Monitoring Officer, in consultation with the IP, considers that there is nothing further to be gained.
- G. the Monitoring Officer, in consultation with the IP considers that there is not enough information to take the matter further.
- H. the complaint was made anonymously (unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously may be taken forward).
- I. the complainant has requested that their identity be withheld from the councillor, and the Monitoring Officer, in consultation with the IP considers that the matter cannot reasonably be taken further in these circumstances.
- J. the councillor has apologised for the action that was the subject of the complaint, and the Monitoring Officer, in consultation with the IP, considers that this is sufficient to dispose of the complaint.
- K. the Monitoring Officer, in consultation with the IP considers that the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual councillor(s).
- L. The Monitoring Officer, in consultation with the IP considers there is a reasonable alternative course of action that the complainant could take to achieve an appropriate outcome to the complaint.

### Referral to the Standards Assessment Sub-Committee

1. 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 section 5 of the arrangements (page 5) above.
2. 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, subject to avoiding potential conflicts of interest. An Independent Member is invited to Chair the Assessment Sub-Committee but legally cannot vote on the decision.
3. The Member may submit their comments on the allegations for consideration by the Sub-Committee no later than 2 working days before it meets, if they so wish.
4. The Assessment Sub-Committee will consider the complaint against the criteria set out in **Appendices A and B**.
5. It is expected that the complaint will be confidential during the Assessment stage. Neither the Member nor the complainant will be invited to attend the Sub-Committee meeting, however they will be provided with a copy of the report to be considered at the meeting.
6. The Assessment Sub-Committee may decide whether the complaint:
  - Merits no further investigation
  - Merits further investigation
  - Merits alternative action (e.g. informal resolution, mediation and similar)
7. There is no right of appeal for the complainant or the Member against a decision of the Assessment Sub-Committee. The decision will be communicated to the complainant and the Member within 2 working days of the meeting and will be reported to the next Standards Committee.

## THE INVESTIGATION

1. If the Monitoring Officer, or Assessment Sub-Committee as appropriate, decides that a complaint merits further investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator.
2. The Investigating Officer will complete the investigation in accordance with these procedures.
3. The investigation will be carried out promptly, with the expectation that all investigations, resolutions and Hearing will be completed within a maximum period of four months after the referral. All those involved in the complaint should do their utmost to ensure that this can happen. Where reasonably necessary, the deadline can be extended with the agreement of the IP and the independent chair of the Standards Committee. The revised deadline will be communicated to the parties.
4. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to the complainant to understand the nature of the complaint and provide them with an opportunity to explain their understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
5. The Investigating Officer or Monitoring Officer will normally write to the councillor complained about and provide them with a copy of the complaint. The councillor will be asked to provide their explanation of events, and to identify what documents the Investigator needs to see and anyone they need to interview. In exceptional cases, where the Monitoring Officer, after consulting the Independent Person, considers disclosing details of the complaint to the councillor might prejudice the investigation, these will be withheld from the councillor until the investigation has progressed sufficiently.
6. At the end of their investigation, the Investigating Officer will produce a draft report (the "Investigation Report") and will send copies of that draft report, in confidence, to the complainant and to the councillor concerned. Both parties will be given this opportunity to identify any factual matter in the report which is disputed and asked to provide their written comments on its findings within 10 working days.
7. Having received and taken account of any comments made on the draft Investigation Report, the Investigating Officer will send their final report to the Monitoring Officer.
8. The investigation and the Investigating Officer's report will be kept confidential at this stage.

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

9. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation and seek their views on whether to convene a Standards Sub-Committee hearing.
10. Following consultation with the Independent Person, if the Monitoring Officer:
  - a. is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report
  - b. is satisfied with the Investigating Officer's report and considers a hearing is inappropriate, they will write to the complainant and the councillor concerned notifying them that they are satisfied that no further action is required. The Monitoring Officer will send both parties a copy of the Investigating Officer's Final Report, which will remain confidential.
11. The Monitoring Officer will report the outcome of the complaint to the next Standards Committee. The decision is final and there is no right of appeal.

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

12. Following consultation with the Independent Person, the Monitoring Officer will either:
  - arrange for the Standards Sub-Committee to hold a hearing in accordance with the procedures in **Appendix E**, within six weeks of the final report being issued, so that it can take a decision on the complaint; or
  - seek an informal resolution; or
  - take no further action where the breach is considered technical or has already been resolved.

**Informal Resolution**

13. Where the Monitoring Officer considers that the matter can be resolved informally, i.e. without the need for a hearing, they will consult with all parties in seeking to agree a fair resolution, which also helps to ensure higher standards of conduct for the future.

14. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action agreed with all parties, such as:
  - a. Referring the matter to the relevant Group Leader(s) to address.
  - b. The Subject Member being required to attend training.
  - c. The Subject Member being required to meet with the Monitoring Officer and/or other relevant officers.
  - d. Such other action as is considered appropriate by the Monitoring Officer and Independent Person
  
15. If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action or the action is not taken within a reasonable time or to the MO's satisfaction, then the Monitoring Officer will arrange for the Standards Sub-Committee to hold a hearing in accordance with the procedures in **Appendix E**, so that it can take a decision on the complaint.

PROCEDURE RULES FOR STANDARDS SUB-COMMITTEE HEARINGS

1. Definitions

<b>Complainant(s)</b>	The person/people making the complaint.
<b>Subject Member</b>	The councillor or co-optee against whom an allegation has been made.
<b>Appointed Representative</b>	The Subject Member may be represented or accompanied during the meeting by any third party where one has been engaged to represent them.
<b>Hearing</b>	A Sub-Committee held in accordance with the provisions of the Local Government Act 1972. The Hearing Sub-Committee considers whether the Subject Member has breached the Member Code of Conduct. The Sub-Committee comprises three voting members of the Standards Committee (councillors). An Independent Member (the Chair or Vice-Chair of the Standards Committee) is invited to Chair the Hearing Sub-Committee but legally cannot vote on the decision.
<b>Independent Person</b>	An Independent Person may be invited by the Monitoring Officer to attend a Hearing. Their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of a failure to comply with the Code of Conduct, in accordance with the provisions of the Localism Act 2011. The Independent Person cannot vote.
<b>Investigating Officer</b>	The person appointed by the Monitoring Officer to undertake a formal investigation on behalf of the Monitoring Officer. This person may be the Monitoring Officer, one of their Deputies, an officer of another authority or an external investigator.
<b>Investigating Officer's Report</b>	The report of the Investigating Officer to the Monitoring Officer, setting out their findings and recommendations in respect of the allegation.
<b>Legal Advisor</b>	A person responsible for providing legal advice to the Sub-Committee, where the Monitoring Officer considers their presence to be appropriate or necessary. This may be an external third-party legal advisor appointed for the purpose.
<b>Chair</b>	The Chair of the Sub-Committee, will be an Independent Member i.e. either the Chair or Vice-Chair of the Standards Committee.
<b>Code</b>	The Members Code of Conduct for Spelthorne Borough Council, formally adopted by it at the relevant time.
<b>Monitoring Officer</b>	The Officer designated as such Spelthorne Borough Council in accordance with section 5 of the Local Government and Housing Act 1989.
<b>Exempt Information</b>	As defined in section 100A and Schedule 12A to the Local Government Act 1972.

2. Introduction

These Procedure Rules are intended to provide the Hearing Sub-Committee of the Standards Committee with an efficient and effective hearing process for the determination of any matter referred to it. This will help the Sub-

Committee to uphold the principle of natural justice in dealing with all the issues that need to be resolved, and in a way that is fair to the Subject Member(s) and to any other person involved.

The Monitoring Officer will seek to convene the Sub-Committee within six weeks\* of receiving the Investigating Officer's Report or as soon as practicably possible thereafter.

*\*there may be some occasions where due to the particular circumstances, it may not be possible to hear the complaint within this timescale. The Monitoring Officer will consult with the Independent Person and the Chair of the Standards Committee in this instance.*

The Sub-Committee will comprise of three elected Members of the Standards Committee, selected by the Monitoring Officer in consultation with the Chair of the Standards Committee. ~~Whilst there is no legal requirement for the~~ The composition of the Sub-Committee ~~to be politically balanced, its composition~~ will, where possible, consider political, demographic and equality issues, subject to avoiding potential conflicts of interest and where Members' availability permits. A Member who sat on the Assessment Sub-Committee for the same matter will not usually be called to sit on the Hearing Sub-Committee.

An Independent Person (IP) appointed under Section 28 of the Localism Act 2011 may also be invited to attend the Hearing. Whilst it is not a legal requirement for the IP to attend a hearing it is considered best practice. If the IP does not attend the hearing the Monitoring Officer must ensure that the views of the IP are provided to the Sub-Committee, as in accordance with the LGA Guidance on complaints handling, the IP must provide their views to the Hearing Sub-Committee which the Hearing Sub-Committee must have regard to in reaching its decision. ~~The IP's views may be requested and considered by the Sub-Committee, but the IP cannot vote.~~

The Monitoring Officer or Deputy Monitoring Officer will be present as advisor to the Sub-Committee. There will normally be no requirement to have a separate legal representative present to advise the Sub-Committee unless the matter is peculiarly complex. It will be for the Monitoring Officer to determine if a Legal Advisor is either appropriate or necessary.

### **3. Before the hearing**

The pre-hearing process – Led by the Monitoring Officer

- (a) The Subject Member and Complainant will be asked to provide their written responses to the Investigating Officer's Report (within 10 working days) in order to clarify any areas of agreement and/or contention.
- (b) The Subject Member and Complainant will be asked to confirm their intention for attendance or non-attendance at the Hearing. They may present their own case, or they may be represented. If they wish to be represented, they must provide details of any third party who they have engaged to represent or accompany them to the Monitoring Officer, with no less than 3 working days' notice in advance of the Hearing.
- (c) Both parties may bring witnesses (of a number the Sub-Committee considers is reasonable), in which case written statements ~~from the~~ January 2026

witnesses must be lodged with the Monitoring Officer at least 10 working days before the Hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted. The cost of any attendance/representation must be borne by the parties concerned.

- (d) The Subject Member will be asked to identify and produce any further documentary evidence which they would need to rely upon at the Hearing, at least 6 working days before the Hearing.
- (e) All written evidence referred to at section 3(a), (c) and (d) will be circulated to the Sub-Committee, the Independent Person, the Subject Member and the Complainant at least 5 working days before the Hearing.
- (f) If the Monitoring Officer considers that any of the Hearing should be held in private, or whether any of the documentation supplied to the Sub-Committee should be withheld from public scrutiny, they will seek comments on this from the Subject Member and Investigating Officer.
- (g) The Hearing Sub-Committee, taking account of the advice of the Monitoring Officer, may issue directions about the way in which the Hearing will be conducted. For example, agreeing the number and identity of witnesses, who, as a general guide, will be called in those circumstances when matters cannot be proved by documentary evidence. Directions may be given either before or at the Hearing and may be decided at a pre-meeting or by correspondence involving all Members of the Hearing Sub-Committee.
- (h) Any pre-meeting or correspondence (dealing with pre-hearing process issues) will be held privately and in the absence of either the Complainant or Subject Member.
- (i) The Independent Person will be invited to attend – however, if unable to, they may submit comments in writing either for circulation with the Agenda papers or at the Hearing.

#### **4. Documentation**

Hearing Sub-Committee meetings of the Standards Committee are subject to the normal rules for publication of Committee Agendas and Access to Information.

The Agenda papers for the Hearing Sub-Committee will include:

- Monitoring Officer report
- Investigating Officer's Report
- The complaint
- Witness statements
- Subject Member's response to the Investigating Officer's Report
- Any other documents submitted by the Subject Member in advance of the Hearing
- For ease of reference – the Members Code of Conduct and these Hearing Arrangements.

## **5. Sub-Committee**

### **General Procedure**

#### **5.1 Scheduling a hearing**

The Hearing will be scheduled to take place in the daytime and aim to be completed in one sitting. This is to avoid late nights and/or lengthy

meetings which can give rise to ineffective decision-making.

The Monitoring Officer will consult with the Subject Member and the Complainant on their availability, giving 30 days' notice of the proposed Hearing. Their requests will be accommodated where practicable, with a final decision on the Hearing date being made by the Monitoring Officer.

#### **5.2 Officer Assistance to the Hearing Sub-Committee**

The Hearing Sub-Committee will be assisted on matters of law and procedure by the Monitoring Officer or Deputy Monitoring Officer.

There will normally be no requirement to have a separate legal representative present unless the matter is peculiarly complex. It will be for the Monitoring Officer to determine if a legal representative is either appropriate or necessary.

The Hearing Sub-Committee may take legal advice from the Monitoring Officer/Legal Advisor, in private if necessary, at any time during the process. The substance of any legal advice given should be shared with the Subject Member, the Complainant and the Investigating Officer.

#### **5.3 Public or Private Hearing**

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. Having regard to any advice from the Monitoring Officer/Legal Advisor as to public interest, the Hearing Sub-Committee will consider whether to hear the matter in private. This will need a resolution to be passed to exclude the press and public from the meeting. Any such resolution may only be passed on the grounds set out in Section 100A and Schedule 12A to the Local Government Act 1972.

If the hearing is held in public, the Council's Constitution allows for the webcasting of meetings.

### **Conduct of the Hearing**

#### **5.4 Procedure**

The Chair will follow these Procedure Rules for the Hearing unless the Monitoring Officer considers it is expedient to vary them (see Section 8.)

The Hearing is intended to be an informal process and allows for all parties to respond to any questions that the Hearing Sub-Committee might have, and to let everyone make their case known.

The Chair will ensure that while Hearing Sub-Committee questioning may be thorough, all questioning must be fitting for the relative informality of the Hearing and no cross-examination of either party will be allowed. No questioning shall be leading, argumentative (e.g. badgering), or aggressive. A party may decline to answer a question if

they consider the question to be inappropriate.

The Hearing Sub-Committee may adjourn the Hearing at any time.

## **5.5 The Order of Business**

Provided that the principles of natural justice are upheld and that

proceedings are fair and in the public interest, the Chair may exercise discretion in amending the order of business.

The order of business will ordinarily be as follows (Points 1-14):

1. Apologies for absence.
2. Declarations of interest.
3. The Chair shall confirm that the Hearing Sub-Committee comprises three elected Members from the Standards Committee and is quorate.
4. The Chair will introduce the Members of the Hearing Sub-Committee, the Independent Person, the Monitoring Officer and/or Legal Advisor to the Hearing Sub-Committee, Investigating Officer, Complainant(s) and the Subject Member, and their representative (if appointed) and any other persons present.
5. If the Subject Member (or their appointed representative) is not present, the Hearing Sub-Committee will consider whether to proceed and make a decision, or whether to adjourn the Hearing. Where the Hearing Sub-Committee is not satisfied with their explanation for their absence from the Hearing, it may in the first instance have regard to any written representations submitted by the Subject Member and may resolve to proceed with the Hearing in the Subject Member's absence and make a determination. If the Hearing Sub-Committee is satisfied with the Subject Member's reasons for not attending the Hearing, it may adjourn the Hearing to another date. The Hearing Sub-Committee may resolve in exceptional circumstances, that it will proceed with the Hearing on the basis that it is in the public interest to hear the allegations expeditiously.
6. To determine whether the public/press are to be excluded from any part of the Hearing and/or whether any documents (or parts of them) should be withheld from the public/press.
7. If the Hearing is to be heard in private, the Hearing Sub-Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public and press from the Hearing.
8. The Monitoring Officer will give a brief outline of the allegation before the Hearing Sub-Committee, namely that the Subject Member has failed to comply with the Code of Conduct and outline the procedure to be followed and confirm that those present understand it.

## **9. Presentation of the complaint and questions to the Investigating Officer**

- i. The Investigating Officer will present their report into the allegation against the Subject Member, including any findings of fact, call any complainant witnesses they consider necessary and present evidence to demonstrate failure of compliance with the Code.
- ii. Written statements will not usually be read out at the Hearing as it will be assumed all those present are already familiar with their contents.
- iii. Where the Subject Member admits failure in complying with the Code of Conduct as presented in the Investigating Officer's Report, the Hearing Sub-Committee may accept the findings and proceed directly to agreed action (see Paragraph 6.4 below).
- iv. At the conclusion of the Investigating Officer's Report and/or evidence of the Complainant witnesses, the Hearing Sub-Committee and / or the IP may question the Investigating Officer upon the content of their report, and any Complainant witnesses called by the Investigating Officer.
- v. The Subject Member will be invited to put any questions to the Investigating Officer and/or Complainant's witnesses.

## **10. Presentation of the Subject Member's case and questions to the Subject Member**

- i. The Subject Member (or their representative) will present their case, may call witnesses, and has the opportunity to make representations to the Hearing Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.
- ii. No cross-examination shall be permitted, however, at the conclusion of the Subject Member's evidence, and/or evidence of the witnesses, the Chair shall ask the Investigating Officer if they have any questions of the Subject Member or their witness(es).
- iii. The Hearing Sub-Committee may question the Subject Member upon the contents of their case and any witnesses called by the Subject Member.

## **11. Views/Submissions of the Independent Person**

Based on the facts presented to the Hearing Sub-Committee, the Chair will invite the Independent Person to give their views on whether or not there has been a breach of the Code of Conduct.

If the Independent Person is unable to attend the Hearing their views can be presented for consideration in writing.

## 12. Deliberations of the Hearing Sub-Committee

The Hearing Sub-Committee will withdraw from the Hearing to discuss and decide in private, on the balance of probability based on the evidence before it, whether the Subject Member has failed to comply with the Code

of Conduct. The Hearing Sub-Committee will be assisted on matters of law and process by the Monitoring Officer/ Legal Advisor. Any advice provided by the Monitoring Officer/ Legal Advisor will be made clear when the Hearing Sub-Committee reconvenes in public.

If the IP retires with the Hearing Sub-Committee, they should not take part in any decision making and any views they give to the Hearing Sub-Committee must also be made publicly to the meeting

Further guidance on deliberations for the Hearing Sub-Committee is set out in **Annex A**.

The Hearing Sub-Committee may, at any time, come out of private session and reconvene the Hearing, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Hearing Sub-Committee cannot be presented, then the Hearing Sub-Committee may adjourn the Hearing and issue directions as to the additional evidence required and by whom.

Where the complaint has a number of aspects, the Hearing Sub-Committee may reach a finding, apply a sanction, and /or make a recommendation on each aspect separately.

## 13. Hearing Sub-Committee findings, representations on sanctions

- i. Once the Hearing Sub-Committee has decided whether there has been a breach of the Code of Conduct, it will reconvene the Hearing and announce its findings.
- ii. The Chair will set out the principal reasons for any decision made.
- iii. The Chair will then invite the Investigating Officer and the Subject Member to make their representations regarding the nature of any sanction(s) or recommendations that might be applied. No new representations, or comments on the complaint will be permitted.
- iv. In addition to any possible sanctions that might be applied, the Hearing Sub-Committee may make recommendations to the Council to ensure the promotion and maintenance of high standards of conduct among Members.
- v. Where the Independent Person is in attendance, they will be invited to express their view on any sanction(s) or recommendation(s) and will be afforded time to consider what they have heard before providing their view.
- vi. After representations and views have been heard, the Hearing Sub-Committee will deliberate in private on the application of any ~~sanction~~ **sanctions**

having regard to matters set out in **Annex A**.

#### **14. Delivering the Decision**

- i. After full consideration of all factors involved in the case, the Hearing Sub-Committee will announce its decision in the presence of all parties and this will normally be after passing a resolution that, if necessary, the public should no longer be excluded from the meeting.
  
- ii. The Hearing Sub-Committee will give the rationale for its decision and will explain any reasons why advice from the Independent Person was, or was not, followed in forming the decision.
  
- iii. In delivering the Hearing Sub-Committee's decision, the Chair will announce:
  - Whether any sanctions are to be applied and the nature of those.
  - Whether any recommendations will be made to the Council or the Monitoring Officer, and the nature of those.
  - That the Monitoring Officer will prepare a formal decision notice in consultation with the Chair, no later than 10 working days of the Hearing and send a copy to the Subject Member and the Complainant.
  - That the formal decision notice, and the Investigating Officer's Report after appropriate redaction as required, will be published on the Council's website.
  - That the Monitoring Officer will report the decision to the next convenient meeting of the Standards Committee.
  - That there is no internal right of appeal against the Hearing Sub-Committee decision and/or recommendation(s).
  
- iv. The Chair will close the Hearing.

#### **6. Making the findings public**

A summary of the decision and reasons for that decision will be published on the Council's website. The Monitoring Officer and the Chair shall agree the wording and arrange for the publication as soon as reasonable following the determination of the matter and no later than 10 working days.

#### **7. Appeals**

A Member is expected to comply with the decisions taken through this process and has no right of appeal against a finding of a breach of the Members Code of Conduct.

#### **8. Variations to these Procedure Rules**

The Monitoring Officer, or the Hearing Sub-Committee on the advice of the Monitoring Officer, in consultation with the Chair of the Standards Committee, may vary this procedure in any particular instance where they are of the opinion that such a variation is expedient in order to secure the effective and fair consideration of any matter, is lawful, and is consistent with the principles of procedural fairness.

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## Annex A

### ***Matters for Hearing Sub-Committee to Consider when Applying a Sanction for a finding of failure to comply with the Code of Conduct***

1. The Standards Committee delegates power to the Hearing Sub-Committee to enable it to act in respect of individual Members to ensure the maintenance of high standards of conduct.
2. In deciding what action to take, the Hearing Sub-Committee should bear in mind an aim of upholding and improving the standard of conduct expected of Members to which the Code of Conduct applies, as part of the process of fostering public confidence in local democracy. Thus, the action taken by the Hearing Sub-Committee should be designed both to discourage/prevent the Subject Member from any future non-compliance and also to discourage similar action by others.
3. The Hearing Sub-Committee should take account of the actual consequences which have followed because of the Member's actions, while at the same time bearing in mind what the possible consequences may have been even if they did not occur.
4. Any imposed sanction must be reasonable and proportionate to the breach found and not unduly restrict the Subject Member's ability to perform the functions of a councillor. The Monitoring Officer/Legal Advisor may advise the Hearing Sub-Committee in this regard. The Hearing Sub-Committee has no power to suspend or disqualify the Subject Member, withdraw or suspend allowances, impose financial penalties, award compensation or make an award of costs.
5. The Hearing Sub-Committee may decide to apply one or more of the following sanctions:
  - a. Instruct the Monitoring Officer to send a report to Council to censure the councillor;
  - b. Instruct the Monitoring Officer to publish a full report on the Council's website and/or social media channels about the councillor's conduct;
  - c. Instruct the Monitoring Officer to arrange appropriate training for the councillor which they are required to attend;
  - d. Require the councillor to submit an apology in such form as may be specified and detailed, e.g. the wording of the apology to be agreed by the Monitoring Officer or the Hearing Sub-Committee, the apology to be given in private or public;
  - e. Recommend to the councillor's Group Leader (or in the case of un-grouped members, recommend to Council or to any relevant Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
  - f. Recommend to the councillor's Group Leader (or in the case of un-grouped members, recommend to Council or to any relevant Committees) that they be removed from all outside appointments to which they have been appointed or nominated by the Council or the relevant Committee as the case may be;
  - g. Recommend to Council, or Committee as relevant, that the councillor be removed from any positions of 'special responsibility' e.g. i.e. Chair or Vice-Chair of a Committee or Sub-Committee;
  - h. Require the Monitoring Officer to arrange the withdrawal of facilities provided to the councillor by the Council, such as IT equipment and/or email and Internet access;  
or

- i. Recommend to Council that it exclude the councillor from the Council's Offices or other premises and restrict contact with officers, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
  - j. Require that the councillor takes part in conciliation or mediation as specified and detailed.
  - k. Any other lawful sanction, which in consultation with the Independent Person is considered appropriate.
6. The Hearing Sub-Committee may set the time frame for the actions that are required to be taken.
  7. The Hearing Sub-Committee may make any recommendations it considers appropriate on any procedural amendments that might assist Members generally to follow the Code of Conduct and promote standards.
  8. The Sub-Committee will consider the following questions along with any other relevant circumstances raised at the Hearing:
    - What was the Subject Member's intention, and did they know that they were failing to follow the Members Code of Conduct?
    - Did the Subject Member receive relevant advice from officers before the incident and was that advice acted on in good faith?
    - Has there been a relevant breach of trust?
    - Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
    - What was the result/impact of failing to follow the Members Code of Conduct?
    - How serious was the incident?
    - Does the Subject Member accept that they were at fault?
    - Did the Subject Member apologise to the relevant persons?
    - Has the Subject Member previously been warned or reprimanded for similar misconduct?
    - Has there been a relevant previous breach by the Subject Member of the Code of Conduct, what training have they received and how long have they been a councillor?
    - Is there likely to be a repetition of the incident?
    - Are there any extenuating circumstances?
  9. The Hearing Sub-Committee should disregard any evidence or discussion at the Hearing which is irrelevant to the matters under consideration.

***Examples, but not an exhaustive list, of mitigating factors are:***

- ❖ An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- ❖ Substantiated evidence that the Member's actions have been affected by ill-health.
- ❖ Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the Member.
- ❖ Compliance with the Code since the events giving rise to the determination.
- ❖ Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

***Examples, but not an exhaustive list, of aggravating factors are:***

- ❖ Dishonesty or breaches of trust.
- ❖ Trying to gain an advantage or disadvantage for themselves or others.
- ❖ Bullying.
- ❖ Continuing to deny the facts despite clear contrary evidence.
- ❖ Seeking unfairly to blame other people
- ❖ Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- ❖ Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

## DECISION OPTIONS OPEN TO A HEARING SUB-COMMITTEE

To conclude:

1. The councillor did not breach the Code of Conduct;  
or
2. The councillor did breach the Code of Conduct, and that:
  - I. No action need be taken – reasons to be given;  
or
  - II. The councillor should be censured; and one or more of the following:
    - a. The Monitoring Officer to send a report to Council to censure the councillor;
    - b. The Monitoring Officer to publish a full report on the Council's website and/or social media channels about the councillor's conduct;
    - c. The Monitoring Officer to arrange training for the councillor which they are required to attend;
    - d. That the councillor be required to apologise either privately or in public;
    - e. Recommendation be made to the Group Leader that the councillor be removed from any or all Committees or Sub-Committees or outside appointments to which they have been appointed or nominated by the authority;
    - f. Recommendation be made to Council, or Committee as relevant, that the councillor be removed from any positions of 'special responsibility' i.e. Chair or Vice-Chair of a Committee or Sub-Committee;
    - g. The Monitoring Officer to arrange for the withdrawal of facilities provided to the councillor by the Council, such as computer equipment, email or Internet access; or
    - h. Recommendation be made to Council that it exclude the councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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

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

The Sub-Committee may make any recommendations it considers appropriate on any procedural amendments that might assist councillors generally to follow the Code of Conduct and promote standards.

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## Annex 2

### SPELTHORNE BOROUGH COUNCIL

#### LOCALISM ACT 2011 SECTION 28 – CODE OF CONDUCT

#### ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT

Spelthorne Borough Council is committed to promoting and maintaining high standards of conduct amongst its 39 elected councillors, known as Members, and has adopted a Member Code of Conduct setting out the conduct it expects of its Members and co-opted Members as they carry out that role.

The purpose of these arrangements is to set out how allegations that the Code of Conduct has been breached by a councillor, will be investigated. Any decision to investigate an allegation will be a proportionate response to the issues raised when weighed against any likely sanction. It will take into account the wider public interest and the costs of undertaking an investigation. Allegations will only be investigated where the allegation is reasonably considered to be a serious matter and accords with the public interest test as set out in Appendix A.

Consideration of the public interest, however, is only one of a number of criteria which must be met in deciding whether to investigate a complaint: crucially the complaint must also be supported at the outset by detailed and verifiable evidence of a likely breach of the Code.

#### 1. The Code of Conduct

The Council has adopted a Member Code of Conduct, which is set out in the [Constitution](#). A copy may also be requested from Committee Services.

The Member Code of Conduct applies to councillors when they go about the work of the Council or in their role as a Member of the local authority. The Council will not investigate complaints relating to the actions of a councillor whilst going about their private life.

The Council has tasked the Standards Committee to keep the Code of Conduct and the operation of these arrangements under review.

#### 2. How to make a complaint

Any complaint that a serving councillor (the councillor) has failed to comply with the Code of Conduct should be made on the online councillor complaint form: [Making a complaint against a councillor - Spelthorne Borough Council](#)

Alternatively, you can write to:

The Monitoring Officer  
Spelthorne Borough Council  
Knowle Green

Staines-upon-Thames TW18 1XB

Or email: [monitoringofficer@spelthorne.gov.uk](mailto:monitoringofficer@spelthorne.gov.uk)

All complaints must be made in writing.

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 446248

### **Who is the Monitoring Officer?**

The Monitoring Officer is a senior member of the Council's staff who has statutory responsibility for maintaining the Register of Councillor's Interests and who is responsible for administering the system in respect of complaints of councillor misconduct.

### **Will the name of the complainant be disclosed to the councillor?**

The Monitoring Officer will disclose the name of the complainant to the councillor unless specifically asked to withhold it. Only in very exceptional cases will the Council be able to progress a complaint to an investigation without disclosing the identity of the complainant to the Member. Anonymous complaints will not normally be investigated unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously may be taken forward.

### **Complaints that a councillor failed to declare a Disclosable Pecuniary Interest (DPI)**

. The failure to declare a DPI could amount to a criminal offence. When such allegations are made the complainant should make the complaint direct to the Police. The Council would only consider investigating the matter where the Police decide not to take any action or at the request of the Police.

### **Other criminal offences**

Complaints which identify potential criminal conduct or a breach of other regulations by any person will be referred by the MO to the Police for consideration, or any other relevant regulatory agency. In such cases the MO may pause the consideration of the complaint pending action by the other body.

### **Who is the Independent Person?**

The Council has appointed five Independent Persons under Section 28 of the Localism Act 2011, 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

The Independent Persons are not (and have not been within the last five years) a Member of the Council or its staff.

The role of the Independent Person is to advise the Monitoring Officer on action to take under these arrangements at the points stated.

A councillor who is the subject of a complaint is also entitled to refer to the Independent Person for advice during the course of a complaint.

### **Conflict of Interest of Monitoring Officer or Independent Person**

If at any time during consideration of a complaint the Monitoring Officer or the Independent Person become aware that they have an actual or potential conflict of interest, they will record and declare this to the complainant and councillor concerned. They will withdraw from consideration of the complaint and ensure the complaint is considered independently by an alternative Deputy Monitoring Officer, or an alternative Monitoring Officer appointed from another Local Authority as appropriate, and an alternative Independent Person.

### **3. Initial action by the Monitoring Officer**

#### **Dismissal without further action**

On receiving a complaint, the Monitoring Officer may dismiss it without further action where:

- A. The Monitoring Officer, in consultation with an Independent Person (IP), considers that:
  - i. The matter, even if proven, would not amount to a breach of the Code ;  
or
  - ii. the complaint is based essentially on hearsay evidence and/or is not supported at the outset by detailed and verifiable supporting evidence;  
or
  - iii. the complaint does not relate to behaviour in the councillor's capacity as a member of the local authority;  
or
  - iv. the matter complained about is in the view of the MO so trivial that it would not be in the public interest to pursue it further (see **Appendix A**);  
or
- B. The person complained about was not a councillor at the time of the alleged incident or is no longer a serving councillor of the local authority; or
- C. The matter being complained about happened more than 12 months before the complaint was received (unless there is a compelling reason why complaint was delayed); or
- D. The matter or issue being complained about came to the complainant's notice more than 3 months before the complaint was received (unless there is a compelling reason why complaint was delayed); or

- E. The complaint is the same as one which has previously been considered and no new material evidence has been submitted; or
- F. The complaint relates to dissatisfaction with a Council decision rather than the specific conduct of an individual.

The Monitoring Officer will inform the complainant and the councillor of their decision accordingly.

### **What happens if the Monitoring Officer does not dismiss my complaint?**

If the Monitoring Officer does not dismiss the complaint on any of the above grounds, the complaint will be acknowledged, and the complainant informed of the procedure to be followed. The Monitoring Officer may ask the complainant for further information or clarification.

The Monitoring Officer will (except in exceptional circumstances where the Monitoring Officer considers that it is in the public interest not to do so) send the councillor complained about, a copy of the complaint and invite the councillor to submit initial written comments within 10 working days.

The Monitoring Officer will also ask the councillor any specific questions they consider will assist the initial assessment of the complaint, whilst not seeking to investigate the complaint at this stage.

Where appropriate the Group Leader(s) will be kept informed of progress with the complaint.

## **4. Initial assessment of the Complaint**

Initial assessment will, if practicable, take place within 20 working days of receipt of the councillor's written comments under section 3 above.

The decision on the initial assessment will be made by the Monitoring Officer, following consultation with an IP.

Before the Monitoring Officer assesses the complaint, the Monitoring Officer will send the IP.

- a. A copy of the complaint.
- b. Any other information in the Monitoring Officer's possession that they consider relevant, including any comments submitted by the councillor complained of.

### **When will a decision be made?**

The Monitoring Officer's decision on the initial assessment, with reasons, and next steps where relevant, will be given in writing to the councillor and the complainant, within 20 working days where practicable; the parties will be notified if there is any delay.

### **Can I appeal a decision?**

There will be no right of appeal by either the complainant or the councillor being

complained about.

The decision will be reported to the next scheduled meeting of the Standards Committee, or by way of an update report in the Councillor's monthly [Briefing Pack](#) published on the Council's website.

## **5. Decision Options at Initial Assessment**

The Monitoring Officer, in consultation with the IP, may decide from the following options:

- a) To take no action (**Appendix B**); or
- b) To attempt to resolve the matter informally between the complainant and councillor, either in writing, by face-to-face meeting, or by any other method the Monitoring Officer considers appropriate. The Monitoring Officer will notify the relevant Group Leader where an informal resolution is considered appropriate. In this case there will be no formal decision as to whether there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved, the alternative options as set out in Appendix B or C, remain open; or
- c) To arrange a formal investigation.

The Monitoring Officer reserves the right, in the following circumstances, to refer a complaint to the Standards Assessment Sub-Committee to determine if an investigation is the appropriate course of action.

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 them to assess due to a conflict of interest.

The procedures following referral to the Standards Assessment Sub-Committee are set out in **Appendix C**.

## **6. The Investigation**

The procedures that will be followed where the Monitoring Officer, or Assessment Sub-Committee as appropriate, decides that a complaint merits further investigation, are set out at **Appendix D**.

## **7. The Hearing**

Where the Investigating Officer has concluded that there is evidence of a potential failure to comply with the Code of Conduct, and following consultation with the Independent Person, the Monitoring Officer decides an informal resolution is not appropriate or has not succeeded, they will arrange for the Standards Sub-Committee to hold a hearing.

A hearing takes place before a Sub-Committee of 3 members drawn from the Standards Committee and chaired by the Standards Committee independent chair. Political proportionality does not apply to this Sub-Committee. At the hearing the councillor (Subject Member) and Complainant can state their case and, if

appropriate, call witnesses. Procedures for the Standards Hearing Sub-Committee are set out at **Appendix E**. The hearing will decide whether the councillor has failed to comply with the Code of Conduct, and if so, whether to recommend any action (sanctions) in respect of the councillor.

#### **8. Revision of these arrangements**

The Standards Committee is delegated to amend these arrangements where necessary and has delegated to the independent Chair of the Hearing Sub-Committee the right to depart from these arrangements during a hearing, including the Procedures at Appendix E, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

#### **9. Local Government and Social Care Ombudsman**

Where a complainant concludes that the authority has failed to deal properly with a complaint, they may make a complaint to the Local Government and Social Care Ombudsman – [www.lgo.org.uk](http://www.lgo.org.uk)

## PUBLIC INTEREST CONSIDERATIONS

The purpose of the Code of Conduct is to help councillors achieve the standard of conduct which meets public expectations. The aim is to support proper decision making and the proper use of public resources. Undertaking investigations that do not support these wider benefits is not in the public interest.

The resources should not be used to investigate matters which are trivial, or which have little or no impact on the public. Any decision to investigate an allegation will be a proportionate response to the issues raised when weighed against any likely sanction. It will take into account the wider public interest and the costs of undertaking an investigation.

Complaints will be investigated where the allegations have substance<sup>1</sup> and are reasonably considered to be serious matters such as corruption, bullying and misuse of power in public office for example<sup>2</sup>. Allegations are unlikely to be investigated where the matter complained about does not raise a significant matter of public interest.

There is no widely accepted definition of the public interest, but this has been described as “*something which is of serious concern and benefit to the public*”. The public interest therefore relates to something which has an impact on the public and it is not merely a matter that the public find to be of interest or a matter that impacts on an individual (although an individual may be more directly impacted by the matter than the wider public). The public in this context does not necessarily mean the whole of Spelthorne Borough. It may refer to a distinct section of the public such as a small community or interest group.

### 1. Seriousness

The more serious the alleged breach, the more likely it is that it will be investigated.

When deciding the level of seriousness of the allegation, relevant considerations are: the extent to which the councillor may have been responsible for, or was to blame for, the alleged breach; the circumstances of the complainant; and whether the alleged conduct caused harm to any person, the Council or organisation.

#### a) To what extent was the councillor responsible for, or to blame for, the conduct complained of?

Questions of responsibility or blame are likely to be determined by the councillor's level of involvement; the extent to which the alleged breach was premeditated and/or planned<sup>3</sup>; whether they have previously been investigated for a similar matter, or have been sanctioned for a previous breach; whether the conduct complained of is ongoing, repeated or has escalated; the councillor's length of service; and level of experience/knowledge of the councillor in relation to the issue in question.

<sup>1</sup> The complaint must have something in it and be of meaningful quality

<sup>2</sup> The application of the investigations not limited to these matters

<sup>3</sup> There must also be some evidence of deliberate fault. If a councillor has made a genuine mistake despite taking reasonable care, then it is unlikely that it will be in the public interest to investigate a complaint simply because it so happened that a breach of the Code of Conduct may have occurred.

**b) What are the relevant circumstances of any person affected by the alleged breach and has the alleged breach caused harm to any person?**

In considering the seriousness of a breach, the circumstances of any person affected by the breach are relevant and must be taken into consideration<sup>4</sup>.

Particular regard will be taken of whether the alleged breach was motivated by any form of discrimination against a person's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the councillor showed hostility towards a person based on any of those characteristics. In deciding whether an investigation is required in the public interest, the views expressed by the complainant, about the impact the alleged breach has had on them will be considered.

**2. Proportionality**

Account must always be taken of the resource implications of any investigation and any adjudication, especially where it could be regarded as excessive when weighed against any likely sanction. No decision on the public interest will be taken based on resource alone, but it is a relevant consideration when making an overall assessment.

The above considerations will help in identifying the public interest, but they are not exhaustive and not all are relevant in each case. In any event, consideration of the public interest is only one criterion that must be met in deciding whether to investigate a complaint: crucially the complaint must also be supported by evidence of a breach of the Code, and that it has caused an injustice.

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<sup>4</sup> Allegations are unlikely to be investigated where the complainant has not suffered significant personal injustice as a direct result of the actions of the councillor complained about.

**NO ACTION** will be taken where any of the following apply:

- A. the Monitoring Officer, in consultation with the IP, considers that there is no prima facie evidence that the Code has been breached;
- B. the Monitoring Officer, in consultation with the IP considers that the allegation does not relate to a serious matter and raises no issue of wider public interest (see Appendix A for the Public Interest test).
- C. taking into account the nature of the allegation, the Monitoring Officer, in consultation with the IP, considers that any investigation of the allegation and its associated use of resources would be excessive when weighed against any likely sanction.
- D. the Monitoring Officer, in consultation with the IP, considers that the complaint appears to be vexatious, malicious, frivolous, trivial, politically motivated, or tit-for-tat or made by a persistent complainant. The complaint must have substance.
- E. the conduct complained about has already been the subject of investigation or inquiry by the Council or another public body.
- F. the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and the Monitoring Officer, in consultation with the IP, considers that there is nothing further to be gained.
- G. the Monitoring Officer, in consultation with the IP considers that there is not enough information to take the matter further.
- H. the complaint was made anonymously (unless the MO concludes that there is a compelling public interest why a serious allegation made anonymously may be taken forward).
- I. the complainant has requested that their identity be withheld from the councillor, and the Monitoring Officer, in consultation with the IP considers that the matter cannot reasonably be taken further in these circumstances.
- J. the councillor has apologised for the action that was the subject of the complaint, and the Monitoring Officer, in consultation with the IP, considers that this is sufficient to dispose of the complaint.
- K. the Monitoring Officer, in consultation with the IP considers that the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual councillor(s).
- L. The Monitoring Officer, in consultation with the IP considers there is a reasonable alternative course of action that the complainant could take to achieve an appropriate outcome to the complaint.

### Referral to the Standards Assessment Sub-Committee

1. 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 section 5 of the arrangements (page 5) above.
2. 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, subject to avoiding potential conflicts of interest. An Independent Member is invited to Chair the Assessment Sub-Committee but legally cannot vote on the decision.
3. The Member may submit their comments on the allegations for consideration by the Sub-Committee no later than 2 working days before it meets, if they so wish.
4. The Assessment Sub-Committee will consider the complaint against the criteria set out in **Appendices A and B**.
5. It is expected that the complaint will be confidential during the Assessment stage. Neither the Member nor the complainant will be invited to attend the Sub-Committee meeting, however they will be provided with a copy of the report to be considered at the meeting.
6. The Assessment Sub-Committee may decide whether the complaint:
  - Merits no further investigation
  - Merits further investigation
  - Merits alternative action (e.g. informal resolution, mediation and similar)
7. There is no right of appeal for the complainant or the Member against a decision of the Assessment Sub-Committee. The decision will be communicated to the complainant and the Member within 2 working days of the meeting and will be reported to the next Standards Committee.

**THE INVESTIGATION**

1. If the Monitoring Officer, or Assessment Sub-Committee as appropriate, decides that a complaint merits further investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator.
2. The Investigating Officer will complete the investigation in accordance with these procedures.
3. The investigation will be carried out promptly, with the expectation that all investigations, resolutions and Hearing will be completed within a maximum period of four months after the referral. All those involved in the complaint should do their utmost to ensure that this can happen. Where reasonably necessary, the deadline can be extended with the agreement of the IP and the independent chair of the Standards Committee. The revised deadline will be communicated to the parties.
4. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to the complainant to understand the nature of the complaint and provide them with an opportunity to explain their understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
5. The Investigating Officer or Monitoring Officer will normally write to the councillor complained about and provide them with a copy of the complaint. The councillor will be asked to provide their explanation of events, and to identify what documents the Investigator needs to see and anyone they need to interview. In exceptional cases, where the Monitoring Officer, after consulting the Independent Person, considers disclosing details of the complaint to the councillor might prejudice the investigation, these will be withheld from the councillor until the investigation has progressed sufficiently.
6. At the end of their investigation, the Investigating Officer will produce a draft report (the "Investigation Report") and will send copies of that draft report, in confidence, to the complainant and to the councillor concerned. Both parties will be given this opportunity to identify any factual matter in the report which is disputed and asked to provide their written comments on its findings within 10 working days.
7. Having received and taken account of any comments made on the draft Investigation Report, the Investigating Officer will send their final report to the Monitoring Officer.
8. The investigation and the Investigating Officer's report will be kept confidential at this stage.

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

9. The Monitoring Officer will consult with the Independent Person on the outcomes or recommendations of the investigation and seek their views on whether to convene a Standards Sub-Committee hearing.
10. Following consultation with the Independent Person, if the Monitoring Officer:
  - a. is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report
  - b. is satisfied with the Investigating Officer's report and considers a hearing is inappropriate, they will write to the complainant and the councillor concerned notifying them that they are satisfied that no further action is required. The Monitoring Officer will send both parties a copy of the Investigating Officer's Final Report, which will remain confidential.
11. The Monitoring Officer will report the outcome of the complaint to the next Standards Committee. The decision is final and there is no right of appeal.

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

12. Following consultation with the Independent Person, the Monitoring Officer will either:
  - arrange for the Standards Sub-Committee to hold a hearing in accordance with the procedures in **Appendix E**, within six weeks of the final report being issued, so that it can take a decision on the complaint; or
  - seek an informal resolution; or
  - take no further action where the breach is considered technical or has already been resolved.

**Informal Resolution**

13. Where the Monitoring Officer considers that the matter can be resolved informally, i.e. without the need for a hearing, they will consult with all parties in seeking to agree a fair resolution, which also helps to ensure higher standards of conduct for the future.

14. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action agreed with all parties, such as:
  - a. Referring the matter to the relevant Group Leader(s) to address.
  - b. The Subject Member being required to attend training.
  - c. The Subject Member being required to meet with the Monitoring Officer and/or other relevant officers.
  - d. Such other action as is considered appropriate by the Monitoring Officer and Independent Person
  
15. If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action or the action is not taken within a reasonable time or to the MO's satisfaction, then the Monitoring Officer will arrange for the Standards Sub-Committee to hold a hearing in accordance with the procedures in **Appendix E**, so that it can take a decision on the complaint.

PROCEDURE RULES FOR STANDARDS SUB-COMMITTEE HEARINGS

1. Definitions

<b>Complainant(s)</b>	The person/people making the complaint.
<b>Subject Member</b>	The councillor or co-optee against whom an allegation has been made.
<b>Appointed Representative</b>	The Subject Member may be represented or accompanied during the meeting by any third party where one has been engaged to represent them.
<b>Hearing</b>	A Sub-Committee held in accordance with the provisions of the Local Government Act 1972. The Hearing Sub-Committee considers whether the Subject Member has breached the Member Code of Conduct. The Sub-Committee comprises three voting members of the Standards Committee (councillors). An Independent Member (the Chair or Vice-Chair of the Standards Committee) is invited to Chair the Hearing Sub-Committee but legally cannot vote on the decision.
<b>Independent Person</b>	An Independent Person may be invited by the Monitoring Officer to attend a Hearing. Their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of a failure to comply with the Code of Conduct, in accordance with the provisions of the Localism Act 2011. The Independent Person cannot vote.
<b>Investigating Officer</b>	The person appointed by the Monitoring Officer to undertake a formal investigation on behalf of the Monitoring Officer. This person may be the Monitoring Officer, one of their Deputies, an officer of another authority or an external investigator.
<b>Investigating Officer's Report</b>	The report of the Investigating Officer to the Monitoring Officer, setting out their findings and recommendations in respect of the allegation.
<b>Legal Advisor</b>	A person responsible for providing legal advice to the Sub-Committee, where the Monitoring Officer considers their presence to be appropriate or necessary. This may be an external third-party legal advisor appointed for the purpose.
<b>Chair</b>	The Chair of the Sub-Committee, will be an Independent Member i.e. either the Chair or Vice-Chair of the Standards Committee.
<b>Code</b>	The Members Code of Conduct for Spelthorne Borough Council, formally adopted by it at the relevant time.
<b>Monitoring Officer</b>	The Officer designated as such Spelthorne Borough Council in accordance with section 5 of the Local Government and Housing Act 1989.
<b>Exempt Information</b>	As defined in section 100A and Schedule 12A to the Local Government Act 1972.

2. Introduction

These Procedure Rules are intended to provide the Hearing Sub-Committee of the Standards Committee with an efficient and effective hearing process for the determination of any matter referred to it. This will help the Sub-

Committee to uphold the principle of natural justice in dealing with all the issues that need to be resolved, and in a way that is fair to the Subject Member(s) and to any other person involved.

The Monitoring Officer will seek to convene the Sub-Committee within six weeks\* of receiving the Investigating Officer's Report or as soon as practicably possible thereafter.

*\*there may be some occasions where due to the particular circumstances, it may not be possible to hear the complaint within this timescale. The Monitoring Officer will consult with the Independent Person and the Chair of the Standards Committee in this instance.*

The Sub-Committee will comprise of three elected Members of the Standards Committee, selected by the Monitoring Officer in consultation with the Chair of the Standards Committee. The composition of the Sub-Committee will, where possible, consider political, demographic and equality issues, subject to avoiding potential conflicts of interest and where Members' availability permits. A Member who sat on the Assessment Sub-Committee for the same matter will not usually be called to sit on the Hearing Sub-Committee.

An Independent Person (IP) appointed under Section 28 of the Localism Act 2011 may also be invited to attend the Hearing. Whilst it is not a legal requirement for the IP to attend a hearing it is considered best practice. If the IP does not attend the hearing the Monitoring Officer must ensure that the views of the IP are provided to the Sub-Committee, as in accordance with the LGA Guidance on complaints handling, the IP must provide their views to the Hearing Sub-Committee which the Hearing Sub-Committee must have regard to in reaching its decision.

The Monitoring Officer or Deputy Monitoring Officer will be present as advisor to the Sub-Committee. There will normally be no requirement to have a separate legal representative present to advise the Sub-Committee unless the matter is peculiarly complex. It will be for the Monitoring Officer to determine if a Legal Advisor is either appropriate or necessary.

### **3. Before the hearing**

The pre-hearing process – Led by the Monitoring Officer

- (a) The Subject Member and Complainant will be asked to provide their written responses to the Investigating Officer's Report (within 10 working days) in order to clarify any areas of agreement and/or contention.
- (b) The Subject Member and Complainant will be asked to confirm their intention for attendance or non-attendance at the Hearing. They may present their own case, or they may be represented. If they wish to be represented, they must provide details of any third party who they have engaged to represent or accompany them to the Monitoring Officer, with no less than 3 working days' notice in advance of the Hearing.
- (c) Both parties may bring witnesses (of a number the Sub-Committee considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least 10 working days before the Hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted. The cost

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of any attendance/representation must be borne by the parties concerned.

- (d) The Subject Member will be asked to identify and produce any further documentary evidence which they would need to rely upon at the Hearing, at least 6 working days before the Hearing.
- (e) All written evidence referred to at section 3(a), (c) and (d) will be circulated to the Sub-Committee, the Independent Person, the Subject Member and the Complainant at least 5 working days before the Hearing.
- (f) If the Monitoring Officer considers that any of the Hearing should be held in private, or whether any of the documentation supplied to the Sub-Committee should be withheld from public scrutiny, they will seek comments on this from the Subject Member and Investigating Officer.
- (g) The Hearing Sub-Committee, taking account of the advice of the Monitoring Officer, may issue directions about the way in which the Hearing will be conducted. For example, agreeing the number and identity of witnesses, who, as a general guide, will be called in those circumstances when matters cannot be proved by documentary evidence. Directions may be given either before or at the Hearing and may be decided at a pre-meeting or by correspondence involving all Members of the Hearing Sub-Committee.
- (h) Any pre-meeting or correspondence (dealing with pre-hearing process issues) will be held privately and in the absence of either the Complainant or Subject Member.
- (i) The Independent Person will be invited to attend – however, if unable to, they may submit comments in writing either for circulation with the Agenda papers or at the Hearing.

#### **4. Documentation**

Hearing Sub-Committee meetings of the Standards Committee are subject to the normal rules for publication of Committee Agendas and Access to Information.

The Agenda papers for the Hearing Sub-Committee will include:

- Monitoring Officer report
- Investigating Officer's Report
- The complaint
- Witness statements
- Subject Member's response to the Investigating Officer's Report
- Any other documents submitted by the Subject Member in advance of the Hearing
- For ease of reference – the Members Code of Conduct and these Hearing Arrangements.

#### **5. Sub-Committee**

### **5.1 Scheduling a hearing**

The Hearing will be scheduled to take place in the daytime and aim to be completed in one sitting. This is to avoid late nights and/or lengthy

meetings which can give rise to ineffective decision-making.

The Monitoring Officer will consult with the Subject Member and the Complainant on their availability, giving 30 days' notice of the proposed Hearing. Their requests will be accommodated where practicable, with a final decision on the Hearing date being made by the Monitoring Officer.

### **5.2 Officer Assistance to the Hearing Sub-Committee**

The Hearing Sub-Committee will be assisted on matters of law and procedure by the Monitoring Officer or Deputy Monitoring Officer.

There will normally be no requirement to have a separate legal representative present unless the matter is peculiarly complex. It will be for the Monitoring Officer to determine if a legal representative is either appropriate or necessary.

The Hearing Sub-Committee may take legal advice from the Monitoring Officer/Legal Advisor, in private if necessary, at any time during the process. The substance of any legal advice given should be shared with the Subject Member, the Complainant and the Investigating Officer.

### **5.3 Public or Private Hearing**

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. Having regard to any advice from the Monitoring Officer/Legal Advisor as to public interest, the Hearing Sub-Committee will consider whether to hear the matter in private. This will need a resolution to be passed to exclude the press and public from the meeting. Any such resolution may only be passed on the grounds set out in Section 100A and Schedule 12A to the Local Government Act 1972.

If the hearing is held in public, the Council's Constitution allows for the webcasting of meetings.

## **Conduct of the Hearing**

### **5.4 Procedure**

The Chair will follow these Procedure Rules for the Hearing unless the Monitoring Officer considers it is expedient to vary them (see Section 8.)

The Hearing is intended to be an informal process and allows for all parties to respond to any questions that the Hearing Sub-Committee might have, and to let everyone make their case known.

The Chair will ensure that while Hearing Sub-Committee questioning may be thorough, all questioning must be fitting for the relative informality of the Hearing and no cross-examination of either party will be allowed. No questioning shall be leading, argumentative (e.g. badgering), or aggressive. A party may decline to answer a question if they consider the question to be inappropriate.

The Hearing Sub-Committee may adjourn the Hearing at any time.

## **5.5 The Order of Business**

Provided that the principles of natural justice are upheld and that

proceedings are fair and in the public interest, the Chair may exercise discretion in amending the order of business.

The order of business will ordinarily be as follows (Points 1-14):

1. Apologies for absence.
2. Declarations of interest.
3. The Chair shall confirm that the Hearing Sub-Committee comprises three elected Members from the Standards Committee and is quorate.
4. The Chair will introduce the Members of the Hearing Sub-Committee, the Independent Person, the Monitoring Officer and/or Legal Advisor to the Hearing Sub-Committee, Investigating Officer, Complainant(s) and the Subject Member, and their representative (if appointed) and any other persons present.
5. If the Subject Member (or their appointed representative) is not present, the Hearing Sub-Committee will consider whether to proceed and make a decision, or whether to adjourn the Hearing. Where the Hearing Sub-Committee is not satisfied with their explanation for their absence from the Hearing, it may in the first instance have regard to any written representations submitted by the Subject Member and may resolve to proceed with the Hearing in the Subject Member's absence and make a determination. If the Hearing Sub-Committee is satisfied with the Subject Member's reasons for not attending the Hearing, it may adjourn the Hearing to another date. The Hearing Sub-Committee may resolve in exceptional circumstances, that it will proceed with the Hearing on the basis that it is in the public interest to hear the allegations expeditiously.
6. To determine whether the public/press are to be excluded from any part of the Hearing and/or whether any documents (or parts of them) should be withheld from the public/press.
7. If the Hearing is to be heard in private, the Hearing Sub-Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public and press from the Hearing.
8. The Monitoring Officer will give a brief outline of the allegation before the Hearing Sub-Committee, namely that the Subject Member has failed to comply with the Code of Conduct and outline the procedure to be followed and confirm that those present understand it.
- 9. Presentation of the complaint and questions to the Investigating Officer**

- i. The Investigating Officer will present their report into the allegation against the Subject Member, including any findings of fact, call any complainant witnesses they consider necessary and present evidence to demonstrate failure of compliance with the Code.
- ii. Written statements will not usually be read out at the Hearing as it will be assumed all those present are already familiar with their contents.
- iii. Where the Subject Member admits failure in complying with the Code of Conduct as presented in the Investigating Officer's Report, the Hearing Sub-Committee may accept the findings and proceed directly to agreed action (see Paragraph 6.4 below).
- iv. At the conclusion of the Investigating Officer's Report and/or evidence of the Complainant witnesses, the Hearing Sub-Committee and / or the IP may question the Investigating Officer upon the content of their report, and any Complainant witnesses called by the Investigating Officer.
- v. The Subject Member will be invited to put any questions to the Investigating Officer and/or Complainant's witnesses.

#### **10. Presentation of the Subject Member's case and questions to the Subject Member**

- i. The Subject Member (or their representative) will present their case, may call witnesses, and has the opportunity to make representations to the Hearing Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.
- ii. No cross-examination shall be permitted, however, at the conclusion of the Subject Member's evidence, and/or evidence of the witnesses, the Chair shall ask the Investigating Officer if they have any questions of the Subject Member or their witness(es).
- iii. The Hearing Sub-Committee may question the Subject Member upon the contents of their case and any witnesses called by the Subject Member.

#### **11. Views/Submissions of the Independent Person**

Based on the facts presented to the Hearing Sub-Committee, the Chair will invite the Independent Person to give their views on whether or not there has been a breach of the Code of Conduct.

If the Independent Person is unable to attend the Hearing their views can be presented for consideration in writing.

#### **12. Deliberations of the Hearing Sub-Committee**

The Hearing Sub-Committee will withdraw from the Hearing to discuss and

decide in private, on the balance of probability based on the evidence before it, whether the Subject Member has failed to comply with the Code

of Conduct. The Hearing Sub-Committee will be assisted on matters of law and process by the Monitoring Officer/ Legal Advisor. Any advice provided by the Monitoring Officer/ Legal Advisor will be made clear when the Hearing Sub-Committee reconvenes in public.

If the IP retires with the Hearing Sub-Committee, they should not take part in any decision making and any views they give to the Hearing Sub-Committee must also be made publicly to the meeting

Further guidance on deliberations for the Hearing Sub-Committee is set out in **Annex A**.

The Hearing Sub-Committee may, at any time, come out of private session and reconvene the Hearing, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Hearing Sub-Committee cannot be presented, then the Hearing Sub-Committee may adjourn the Hearing and issue directions as to the additional evidence required and by whom.

Where the complaint has a number of aspects, the Hearing Sub-Committee may reach a finding, apply a sanction, and /or make a recommendation on each aspect separately.

### **13. Hearing Sub-Committee findings, representations on sanctions**

- i. Once the Hearing Sub-Committee has decided whether there has been a breach of the Code of Conduct, it will reconvene the Hearing and announce its findings.
- ii. The Chair will set out the principal reasons for any decision made.
- iii. The Chair will then invite the Investigating Officer and the Subject Member to make their representations regarding the nature of any sanction(s) or recommendations that might be applied. No new representations, or comments on the complaint will be permitted.
- iv. In addition to any possible sanctions that might be applied, the Hearing Sub-Committee may make recommendations to the Council to ensure the promotion and maintenance of high standards of conduct among Members.
- v. Where the Independent Person is in attendance, they will be invited to express their view on any sanction(s) or recommendation(s) and will be afforded time to consider what they have heard before providing their view.
- vi. After representations and views have been heard, the Hearing Sub-Committee will deliberate in private on the application of any sanctions, having regard to matters set out in **Annex A**.

### **14. Delivering the Decision**

- i. After full consideration of all factors involved in the case, the Hearing Sub-Committee will announce its decision in the presence of all parties and this will normally be after passing a resolution that, if necessary, the public should no longer be excluded from the meeting.
- ii. The Hearing Sub-Committee will give the rationale for its decision and will explain any reasons why advice from the Independent Person was, or was not, followed in forming the decision.
- iii. In delivering the Hearing Sub-Committee's decision, the Chair will announce:
  - Whether any sanctions are to be applied and the nature of those.
  - Whether any recommendations will be made to the Council or the Monitoring Officer, and the nature of those.
  - That the Monitoring Officer will prepare a formal decision notice in consultation with the Chair, no later than 10 working days of the Hearing and send a copy to the Subject Member and the Complainant.
  - That the formal decision notice, and the Investigating Officer's Report after appropriate redaction as required, will be published on the Council's website.
  - That the Monitoring Officer will report the decision to the next convenient meeting of the Standards Committee.
  - That there is no internal right of appeal against the Hearing Sub-Committee decision and/or recommendation(s).
- iv. The Chair will close the Hearing.

**6. Making the findings public**

A summary of the decision and reasons for that decision will be published on the Council's website. The Monitoring Officer and the Chair shall agree the wording and arrange for the publication as soon as reasonable following the determination of the matter and no later than 10 working days.

**7. Appeals**

A Member is expected to comply with the decisions taken through this process and has no right of appeal against a finding of a breach of the Members Code of Conduct.

**8. Variations to these Procedure Rules**

The Monitoring Officer, or the Hearing Sub-Committee on the advice of the Monitoring Officer, in consultation with the Chair of the Standards Committee, may vary this procedure in any particular instance where they are of the opinion that such a variation is expedient in order to secure the effective and fair consideration of any matter, is lawful, and is consistent with the principles of procedural fairness.

## Annex A

### ***Matters for Hearing Sub-Committee to Consider when Applying a Sanction for a finding of failure to comply with the Code of Conduct***

1. The Standards Committee delegates power to the Hearing Sub-Committee to enable it to act in respect of individual Members to ensure the maintenance of high standards of conduct.
2. In deciding what action to take, the Hearing Sub-Committee should bear in mind an aim of upholding and improving the standard of conduct expected of Members to which the Code of Conduct applies, as part of the process of fostering public confidence in local democracy. Thus, the action taken by the Hearing Sub-Committee should be designed both to discourage/prevent the Subject Member from any future non-compliance and also to discourage similar action by others.
3. The Hearing Sub-Committee should take account of the actual consequences which have followed because of the Member's actions, while at the same time bearing in mind what the possible consequences may have been even if they did not occur.
4. Any imposed sanction must be reasonable and proportionate to the breach found and not unduly restrict the Subject Member's ability to perform the functions of a councillor. The Monitoring Officer/Legal Advisor may advise the Hearing Sub-Committee in this regard. The Hearing Sub-Committee has no power to suspend or disqualify the Subject Member, withdraw or suspend allowances, impose financial penalties, award compensation or make an award of costs.
5. The Hearing Sub-Committee may decide to apply one or more of the following sanctions:
  - a. Instruct the Monitoring Officer to send a report to Council to censure the councillor;
  - b. Instruct the Monitoring Officer to publish a full report on the Council's website and/or social media channels about the councillor's conduct;
  - c. Instruct the Monitoring Officer to arrange appropriate training for the councillor which they are required to attend;
  - d. Require the councillor to submit an apology in such form as may be specified and detailed, e.g. the wording of the apology to be agreed by the Monitoring Officer or the Hearing Sub-Committee, the apology to be given in private or public;
  - e. Recommend to the councillor's Group Leader (or in the case of un-grouped members, recommend to Council or to any relevant Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
  - f. Recommend to the councillor's Group Leader (or in the case of un-grouped members, recommend to Council or to any relevant Committees) that they be removed from all outside appointments to which they have been appointed or nominated by the Council or the relevant Committee as the case may be;
  - g. Recommend to Council, or Committee as relevant, that the councillor be removed from any positions of 'special responsibility' e.g. Chair or Vice-Chair of a Committee or Sub-Committee;
  - h. Require the Monitoring Officer to arrange the withdrawal of facilities provided to the councillor by the Council, such as IT equipment and/or email and Internet access;or

- i. Recommend to Council that it exclude the councillor from the Council's Offices or other premises and restrict contact with officers, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
  - j. Require that the councillor takes part in conciliation or mediation as specified and detailed.
  - k. Any other lawful sanction, which in consultation with the Independent Person is considered appropriate.
6. The Hearing Sub-Committee may set the time frame for the actions that are required to be taken.
  7. The Hearing Sub-Committee may make any recommendations it considers appropriate on any procedural amendments that might assist Members generally to follow the Code of Conduct and promote standards.
  8. The Sub-Committee will consider the following questions along with any other relevant circumstances raised at the Hearing:
    - What was the Subject Member's intention, and did they know that they were failing to follow the Members Code of Conduct?
    - Did the Subject Member receive relevant advice from officers before the incident and was that advice acted on in good faith?
    - Has there been a relevant breach of trust?
    - Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
    - What was the result/impact of failing to follow the Members Code of Conduct?
    - How serious was the incident?
    - Does the Subject Member accept that they were at fault?
    - Did the Subject Member apologise to the relevant persons?
    - Has the Subject Member previously been warned or reprimanded for similar misconduct?
    - Has there been a relevant previous breach by the Subject Member of the Code of Conduct, what training have they received and how long have they been a councillor?
    - Is there likely to be a repetition of the incident?
    - Are there any extenuating circumstances?
  9. The Hearing Sub-Committee should disregard any evidence or discussion at the Hearing which is irrelevant to the matters under consideration.

***Examples, but not an exhaustive list, of mitigating factors are:***

- ❖ An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- ❖ Substantiated evidence that the Member's actions have been affected by ill-health.
- ❖ Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the Member.
- ❖ Compliance with the Code since the events giving rise to the determination.
- ❖ Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

***Examples, but not an exhaustive list, of aggravating factors are:***

- ❖ Dishonesty or breaches of trust.
- ❖ Trying to gain an advantage or disadvantage for themselves or others.
- ❖ Bullying.
- ❖ Continuing to deny the facts despite clear contrary evidence.
- ❖ Seeking unfairly to blame other people
- ❖ Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- ❖ Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

**DECISION OPTIONS OPEN TO A HEARING SUB-COMMITTEE**

To conclude:

1. The councillor did not breach the Code of Conduct;  
or
2. The councillor did breach the Code of Conduct, and that:
  - I. No action need be taken – reasons to be given;  
or
  - II. The councillor should be censured; and one or more of the following:
    - a. The Monitoring Officer to send a report to Council to censure the councillor;
    - b. The Monitoring Officer to publish a full report on the Council’s website and/or social media channels about the councillor’s conduct;
    - c. The Monitoring Officer to arrange training for the councillor which they are required to attend;
    - d. That the councillor be required to apologise either privately or in public;
    - e. Recommendation be made to the Group Leader that the councillor be removed from any or all Committees or Sub-Committees or outside appointments to which they have been appointed or nominated by the authority;
    - f. Recommendation be made to Council, or Committee as relevant, that the councillor be removed from any positions of ‘special responsibility’ i.e. Chair or Vice-Chair of a Committee or Sub-Committee;
    - g. The Monitoring Officer to arrange for the withdrawal of facilities provided to the councillor by the Council, such as computer equipment, email or Internet access; or
    - h. Recommendation be made to Council that it exclude the councillor from the Council’s offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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

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

The Sub-Committee may make any recommendations it considers appropriate on any procedural amendments that might assist councillors generally to follow the Code of Conduct and promote standards.

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