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Merton Council

Standards and General Purposes Committee Agenda

Membership

Councillors:

Mike Brunt (Chair)
John Oliver (Vice-Chair)
Stephen Alambritis MBE
John Braithwaite
Caroline Cooper-Marbiah
Brenda Fraser
Billy Hayes
Edith Macauley MBE
Robert Page
Michael Paterson
Martin Whelton
Victoria Wilson

Substitute Members:

Sheri-Ann Bhim
Caroline Charles
Andrew Howard
Samantha MacArthur
Simon McGrath

Date: **Thursday 13 October 2022**

Time: **7.15 pm**

Venue: **Council Chamber, Merton Civic Centre**

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All Press contacts: communications@merton.gov.uk, 020 8545 3181

Standards and General Purposes Committee Agenda

13 October 2022

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Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

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Agenda Item 3

STANDARDS AND GENERAL PURPOSES COMMITTEE 21 JULY 2022

(7.15 pm - 9.22 pm)

PRESENT Councillors Councillor Michael Brunt (in the Chair),
Councillor John Oliver, Councillor Brenda Fraser,
Councillor Caroline Cooper-Marbiah, Councillor Edith Macauley,
Councillor Stephen Alambritis, Councillor Martin Whelton,
Councillor Billy Hayes, Councillor John Braithwaite,
Councillor Robert Page, Councillor Victoria Wilson and
Councillor Michael Paterson

ALSO PRESENT Caroline Holland (Director of Corporate Services), Louise Round
(Managing Director, South London Legal Partnership and
Monitoring Officer), Margaret Culleton (Head of Internal Audit),
Martin Hone (Interim Chief Accountant) Helen Martin (Deputy
Chief Accountant), Elizabeth Jackson (Ernst and Young,
External Auditor), Richard Seedhouse (Democratic Services
Officer)

ATTENDING REMOTELY Katy Willison (Independent Person), Clive Douglas (Independent
Person)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

There were no apologies for absence.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 10 March 2022 were agreed as a correct record.

The Director of Corporate Services gave the Committee an overview of the topics and themes likely to be brought to the Committee.

4 EXTERNAL AUDITORS ANNUAL REPORT FOR 2020-21 (Agenda Item 4)

The External Auditor presented the Annual Report for 2020-21, highlighting in particular that there had been no major issues in 2021. The audit year was not yet closed, that would come in the summer, and once completed they would be able to certify the year.

The final fees came to £110,000 for the audit of the Council and £16,000 for the Pension. PSAA additional audit fees came to £192,000 for the Council and £26,000 for the pension, this had now been invoiced.

In response to questions the External Auditor confirmed that the fees were the same as in the previous year.

Value for Money considerations cover the arrangements rather than the controls and whether or not systems are working as expected. Internal Audit test the controls, while EY look at high level matters.

EY do not rate the system to see if it's best in class or best practice, they assess the control environment and whether or not the systems are working.

The audit report had to be materially correct, errors below the threshold of 1.8% can be left uncorrected, as they are not considered a material error. If External Audit and the Council can't agree the outcome, or if the errors are large then External Audit may have to qualify the report. There is a risk in amending elements and making them worse.

Valuation is an estimate, there are always differences and External Audit and the Council often agree to disagree as long as the difference is within the material level, the External Auditor is satisfied.

RESOLVED: That the Committee noted the contents of the report.

5 EXTERNAL AUDIT PLANNING REPORT (Agenda Item 5)

The External Auditor presented the Planning Report. Particularly noting that they were still waiting on the criteria for Infrastructure Assets, guidance was being drafted but unlikely to be fixed before November.

There were three risk categories, fraud risks, significant risks and inherent risks.

Fraud risks apply to all sectors and could cover misstatements due to fraud and error, ability to override controls through seniority, recognising revenue in the wrong accounting year. These were not suspicions, but risks that needed managing

Inherent risks were at a lower level of concern, but worth noting, they included NNDR provision, going concern and the pension scheme.

RESOLVED: That the Committee noted the contents of the report.

6 ANNUAL GOVERNANCE STATEMENT (Agenda Item 6)

The Head of Internal Audit presented the report. The report covers the years 21/22, Any changes that have occurred since March will be in the next review.

3 Actions from last year have been carried forward to this year, 3 have been resolved and a further three have been identified.

The Chair brought to the attention of the Committee that he is about to become a Director of CHAS, a non-remunerated position. CHAS featured in the report.

In response to questions the Head of Internal Audit explained that the report explains the governance arrangements in place, but the statement won't go into the details of what was in those reports/inspections or actions taken.

Councillors requested for ease that the AGS follows the Internal Audit Report in future meetings.

RESOLVED: That the Committee endorsed the final 2021/22 AGS for inclusion within the Council's final Statement of Accounts.

7 INTERNAL AUDIT ANNUAL REPORT (Agenda Item 7)

The Head of Internal Audit presented the Annual Report, explaining that the Audit Plan is partly based on a rolling programme of audits across 3 years. Known issues are identified throughout the year, and changes to systems are considered for including in the plan.

The report looks at areas of high risk, or those which have not been looked at for some time.

In 2021/22, Internal Audit provided 34 assurance opinions, 76% substantial assurance – the same level as last year.

The Head of Internal highlighted the following points:

Priority rating 1 would normally result in a limited assurance audit outcome, and indicate a non-compliance with legislation or council policy, or there are control weaknesses that put the council at risk of fraud, such as if one person controlled the whole purchase process.

Priority 2 would be a substantial assurance audit recommending actions to improve/enhance the controls already in place.

Priority 3 recommendation is more advisory.

There were 19 outstanding priority 1 actions across 6 audit areas - this is higher than we would like at year end, but work has been impacted by a high turnover of staff.

In response to questions, the Head of Internal Audit explained that payroll is covered every year, and pension administration is done annually through the shared service. Key financials are covered if we are made aware of changes, for instance with the new banking system and mandate changes in accounts payable. The team is not resourced to check everything every year.

Monthly duplicate payment checks are run to identify any errors. The listed duplicate payments have either been paid back or are in the process of being paid back.

Priority 1 actions are higher in number than partner councils, but they change quite frequently. Internal Audit approach owners of overdue actions when the due date arrives, and test them, in some cases the dates have been extended. Action owners could be called to this Committee to explain progress.

If follow up action was not satisfactory the Head of Internal Audit would qualify their opinion.

The National Fraud Initiative is a data matching exercise with other councils. Our data is submitted and compared with the data in other councils, and then matches are highlighted for further investigation. 327 cases are noted as fraud or error, and these will be followed up to establish why there is a match.

Approximately 6 school audits are conducted each year, rather than doing a full new audit where actions are identified, the team focus on the specific areas of concern. There is work to look at schools that have not been seen for a while. Academies are not included. All schools should be visited over a course of five years, but some have been longer than five years since the last visit.

The DBS actions are now all complete. The Service is provided by Kingston, so where there had been a delay, it is all now caught up.

RESOLVED: That the Committee reviewed and commented on the report.

8 AMENDMENTS TO THE CONSTITUTION (Agenda Item 8)

The Monitoring Officer introduced the report which asks for approval to changes to the Constitution to remove some anomalies.

In particular the Monitoring Officer mentioned an anomaly around access to information rules. Decision making normally requires a report to be on the forward plan for 28 days. Exemptions allow a report to be added with fewer than 28 days. If we are unable to give five clear working days, the chair of the Scrutiny and Oversight Commission must approve, but the current wording suggests such approval is required even when we can give more than 5 working days' notice.

The second relates to motions relating to Community Fora. Motions currently have to be with Democratic Services by 9am the day before the council meeting, which doesn't give much time to other councillors to draft and propose amendments. The recommended change is to set the deadline in line with other motions by the morning 2 clear days before the council meeting.

During hybrid meetings, online participation does not extend to proposing or seconding motions.

In the past it has been practice to allow all councillors to all papers through ModernGov, and it was recommended to restrict papers to only those who need access to them.

Recommendation E is a duplication of Recommendation A

Planning protocol requires further work to bring the changes back to a future meeting.

On Contract Standing Orders, the scheme of delegation states that the approval limit for Directors is set to £2 million, but the contract standing orders state that it is £500,000. The recommendation is that this £500,000 for Directors and any contract between £500,000 and £2million is for the CEO and as currently any contract over £2million require approval of Cabinet.

In response to questions the Monitoring Officer clarified that the Planning amendments would come back to this Committee if there was time, but could go direct to the Council. If this Committee wanted changes to come back here, they could do, but it would delay the overall process.

RESOLVED:

- The Committee authorised that Part 4B Para 18 as described in paragraph 2.5 below and detailed at Appendix A be put before full council
- The Committee authorised that Rule 2.3h (Community Fora Motions) as described at paragraph 2.8 below be out before full council
- The Committee authorised that Part 4A Para 21.5 (Remote Attendance) as described in paragraph 2.11 below and detailed at Appendix B be put before full council
- The Committee noted that the practice of automatically circulating reports which are legally exempt from publication to all councillors will cease; such circulation was to be restricted to councillors with a statutory right of access to such documents or who could otherwise demonstrate they have a need to know the information contained in such documents.
- The Committee considered and recommended to Council the financial limit at which directors may agree contract awards and the treatment of contract extension for decision making purposes, details of which are set out in 2.8 to 2.10 below
- The Committee noted that potential amendments to the Planning Protocol at Part 5 of the Constitution may be required as described at Paragraph 2.2 below be discussed at Planning Applications Committee before being forwarded for consideration at full Council.

9 POLITICAL GROUP USE OF COUNCIL RESOURCES (Agenda Item 9)

The Monitoring Officer presented the paper.

The issue has arisen out of Groups writing to their constituents, and this is an opportunity to consider how we might proceed with this practice in the future. The

Committee may consider a cross party working group to look at all the options, or could pick an option now.

In response to comments and questions, the Director Corporate Services confirmed that much of the welcome pack information to new residents is on the website, including who ward councillors are, but letters are not sent.

The Monitoring Officer confirmed that under Option 2, letters can be sent, but the council will not fund postage.

RESOLVED:

That members agreed Option 2 for the use of Merton Letterhead paper for use by councillors.

10 FREEDOM OF THE BOROUGH (Agenda Item 10)

RESOLVED:

The Committee agreed the nomination of Ex-Councillor Mark Allison for Freeperson of the Borough Status.

The Committee noted that a special Council meeting will be held on 5 September to confer that status on Ex-Councillor Allison and Ex-Councillor Williams and to awarded honorary alderman status on the ex-councillors listed in paragraph 2.1.5 below

11 COMPLAINTS AGAINST MEMBERS (Agenda Item 11)

No complaints had been received.

12 WORK PROGRAMME (Agenda Item 12)

RESOLVED: that the Work Programme was noted and agreed.

Committee: Standards and General Purposes Committee

Date: 13 October 2022

Subject: Appointment of an Independent Person

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Mike Brunt, Chair, Standards and General Purposes Committee

Contact officer: Amy Dumitrescu, Democracy Services Manager, 0208 545 3357

Recommendations:

- A. That Standards and General Purposes Committee recommends to Council to appoint Katy Willison for a further three year period as an Independent Person for the purposes of Chapter 7 of the Localism Act. The Independent Person will be invited to attend meetings of the Standards and General Purposes Committee in that capacity.
- B. That the appointment is made for a period of three years from 6 February 2023.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report seeks the committee's approval of the appointment of one Independent Person which we are required to appoint under Chapter 7 of the 2011 Localism Act.

2 DETAILS

- 2.1. Independent Persons are appointed for a maximum of two terms of three years. Katy Willison was appointed as an Independent Person in February 2020, with her term due to end on 6 February 2023.
- 2.2. Following confirmation from Ms Willison in discussion with the Monitoring Officer that she wishes to serve for a further term, the recommendation is to approve this appointment for another three years and not go through any further external recruitment process.
- 2.3. The functions of the Independent Person, set out in the Council's constitution are:
- The Independent Person must be consulted and views taken into account before the authority takes a decision on any allegation it has decided to investigate;
 - The Independent Person may be consulted by the authority in circumstances where the authority is not taking a decision whether to investigate the allegation;
 - The Independent Person may be consulted by a member of the authority against whom an allegation has been made.
- 2.4. The Independent Person will also be invited to attend meetings of the Standards and General Purposes Committee in that capacity.

3 ALTERNATIVE OPTIONS

- 3.1. The Council must appoint at least one Independent Person.
- 3.2. The Committee could agree to go to an external recruitment process.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None.

5 TIMETABLE

- 5.1. The appointment, if agreed, would be made by Council in November 2022 and will take effect on 6 February 2023 when the current term ends for a period of three years.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. Independent Persons are paid £100 per meeting. The recommendations in this report will not lead to any increase in the overall budget for allowances.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. See body of the report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None specific to this report.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None specific to this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- 11.1. None.

12 BACKGROUND PAPERS

- 12.1. None.

Committee: Standards and General Purposes Committee

Date: 13 October 2022

Wards: All

Subject: Member Complaints

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Mike Brunt Chair of the Standards and General Purposes Committee

Contact officer: Louise Round, Monitoring Officer

Recommendations:

- A. To note the number and types of complaint received by the Monitoring Officer over the past two years.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. At its meeting on 7 July 2021, Council agreed a new code of conduct for members based closely on the model code produced by the Local Government Association, together with a revised process for dealing with complaints that members had breached the code of conduct. The new code and the complaints process are attached as appendix A and B of this report,
- 1.2. The Monitoring Officer has reported regularly on a verbal basis to the Committee on complaints made to her about Councillors but there has not been a written report in recent times setting out the number and type of complaints which have been received and the outcome of those complaints. This report summarises the complaints received by the current Monitoring Officer since being appointed in January 2020.

2 DETAILS

- 2.1.1 The complaints process requires that, following receipt of a complaint, the Monitoring Officer will carry out an initial review to decide whether or not the actions leading to the complaint were carried out by the councillor in their official capacity, as the Code only applies if that is the case. If she concludes that it does, then she will further consider whether that behaviour is capable of amounting to a breach of the Code. If so, a further decision is required as to whether the matter should be referred for an investigation.
- 2.1.2 In reaching that decision, the Monitoring Officer will consider the criteria set out in the complaints procedure which include factors such as the seriousness of the complaint, the age of the complaint and the extent to which the complaint may be considered to be "tit for tat" or motivated by political considerations. If on the balance of those factors and the public

interest, she forms the view that even though on the face of the complaint there may have been a breach of the Code, the public interest does not require an investigation, she will inform the complainant accordingly. The Monitoring Officer may consult one of the Council's two independent persons at any stage in this process, although this is not mandatory.

2.1.3 In all but the most exceptional cases, the councillor complained of will be told of the existence of the complaint and in order to inform the initial filter process it is common for the Monitoring Officer to have an exploratory discussion with both parties and to ask for further documentary evidence if it is available.

2.1.4 If the matter is referred for investigation and the conclusion of the investigating officer is that there has been a breach then, on receipt of a report concluding that there has been a breach, the matter will proceed straight to a hearing by a sub-committee of the Standards and General Purposes Committee. Before reaching a decision, the Sub Committee is obliged at that point to consult the Independent Person.

Complaints Received.

2.1.5 Since January 2020, the following complaints have been received:

20/21	Nature of Complaint	Complainant	Outcome
Complaint A	Member instigating neighbour dispute	Member of Public	Withdrawn
Complaint B	Rude comment addressed to complainant on Facebook	Member of the public	Not covered by the Code as in private capacity but apology given anyway.
Complaint C	Complaint against 4 councillors about the content of their representations to the Boundary Commission	Constituent	Unlikely to be a breach and not in public interest to investigate. NFA
Complaint D	Distribution of a leaflet	Member of the	No breach of Nolan

	encouraging residents to support a planning application. Allegation that this breached the Nolan Principles of Standards in Public Life.	public	principles and not in the public interest to investigate.
Complaint E	Complaint that a councillor had blocked the complainant on a local community WhatsApp group	Member of the public	Code not engaged as councillor not acting in their capacity as an elected member.
Complaint F	Complaint about contents of a twitter post breaching GDPR as identified an individual's place of residence	Member of public	No breach as councillor agreed to remove post.
2021/22			
Complaint F	Complaint that Councillor had abused their position by seeking to influence officers to introduce parking controls and CCTV in the area of their business	Local Business Owner	Actions carried out by councillor in capacity as a neighbouring business, not as an elected member and therefore code not engaged.
Complaint G	Complaint about comments made in an election leaflet.	Member of the public.	Actions carried out as part of election campaign, code not

			engaged.
Complaint F	Misuse of Council resources	Member of the public	On balance probably not a breach and not in public interest to investigate. Led to a wider review of the approach to council headed paper.
Complaint G	Councillor used position to influence service of stop notice	Recipient of Notice	Informal resolution achieved by head of service, no need for further action
Complaint H	Allegation of unlawful surveillance and breach of GDPR	Member of public (not Merton resident)	Complainant requested to supply evidence in support of wide ranging allegations (also made against councillors in neighbouring borough). Not forthcoming, Complaint closed by MO.
Complaint I	Complaint that a councillor had been condescending, spoke over the complainant and accused the complainant of swearing when they said they had not.	Merton resident	Actions carried out by councillor in capacity as a resident, not as an elected member and therefore code not engaged

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2.1.6 It will be noted that none of the complaints received have been referred for formal investigation although in some case other action was taken. There is a no formal right of appeal against the Monitoring Officer's decision not to refer a complaint for investigation but complainants are informed that if they are dissatisfied with the outcome of their complaint, they may refer the matter to the Local Government and Social Care Ombudsman. No such referrals have been made.

2.1.7 In addition to the formal complaints listed above, the Monitoring Officer from time to time receives informal approaches from the members about the behaviour of other members, most usually relating to comments made on social media. The Monitoring Officer's approach is to seek to resolve these through dialogue, either directly with the members concerned or through the Group Leaders. This has been a successful approach and in this context it is worth noting that one of the factors to consider in deciding whether to refer complaints for investigation is whether the complaint is of a kind which could be more appropriately addressed through political group processes, political party complaints procedures or informal mediation.

2.1.8 The Monitoring Officer considers that the absence of any significant complaints requiring investigation reflects well on the ethical health of the organisation. The code of conduct is published on the Council's website as is the procedure for making a complainant. Training on the new code was offered last year and was taken up by the majority of members at that time, There was also good attendance at the session on the code which was run as part of the member induction process following the May 2022 elections.

3 ALTERNATIVE OPTIONS

3.1. Not applicable.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. Not applicable

5 TIMETABLE

5.1. Not applicable

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. There are no financial implications arising from this report.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The statutory framework governing member conduct is set out in the Localism Act 2011.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None

9 CRIME AND DISORDER IMPLICATIONS

9.1. None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

None

11. APPENDICES

Appendix A – Code of Conduct for Members

Appendix B - Complaints process

5A – Code of Conduct for Members

MERTON COUNCIL CODE OF CONDUCT FOR MEMBERS

Introduction

The Council agreed to adopt this Code, which is largely based on the model code produced by the Local Government Association, at its meeting on 7 July 2021. It came into force on 30 September 2021.

Definitions

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

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

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

Purpose of the Code of Conduct

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

General principles of councillor conduct

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

Building on these principles, the following general principles have been developed specifically for the role of councillor. In accordance with the public trust placed in councillors they should, on all occasions:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and

- lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking their role councillors should:

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

Application of the Code of Conduct

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

This Code of Conduct applies to you when:

- you are acting in your capacity as a councillor and/or as a representative of your council;
- you are claiming to act as a councillor and/or as a representative of your council; or
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

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

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

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

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken. Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect for the role they play.**

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

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

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

2. Bullying, harassment and discrimination

As a councillor:

- 2.1 I do not bully any person.**
- 2.2 I do not harass any person.**
- 2.3 I promote equalities and do not discriminate unlawfully against any person.**

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

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

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

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

3. Impartiality of officers of the council

As a councillor:

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

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

The Council has agreed a Member/Officer protocol which supplements this Code of Conduct and should be read in conjunction with it.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it; or**
 - ii. I am required by law to do so; or**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**

iv. the disclosure is:

- 1. reasonable and in the public interest; and**
- 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
- 3. I have consulted the Monitoring Officer prior to its release.**

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

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

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

5. Disrepute

As a councillor:

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

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

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

6. Use of position as a councillor:

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

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

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

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

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

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

Examples include:

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

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

8. Complying with the Code of Conduct

As a councillor:

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

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

- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

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

Protecting your reputation and the reputation of the local authority

9. *Interests*

As a councillor:

- 9.1 I register and declare my interests in accordance with the law and the rules set out in Appendix A of this Code.**

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

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

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

The Council has adopted a Planning Protocol for Members which supplements this Code in relation to planning matters and should be read in conjunction with it.

10. *Gifts and hospitality As a councillor:*

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have declined to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered where its estimated value exceeds (£25). In the interests of transparency and to protect yourself against allegations, you should also register those cases where you have been offered but declined such gifts or hospitality. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A

Registering interests

1. Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests and those of your partner which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests).
2. You should also register details of your other interests which fall within the categories set out in Table 2 (Other Registerable Interests).
3. "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.
4. You must ensure that your register of interests is kept up-to-date and notify the Monitoring Officer of any new interest, or of any change to a registered interest, within 28 days of becoming aware of it.
5. A 'sensitive interest' is as an interest which, if disclosed, could lead to you, or a person connected with you, being subject to violence or intimidation.
6. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold details of the interest from the public register.

Declaring interests

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

10. Where a matter arises at a meeting which:
- a. either affects your own financial interest or well-being; or
 - b. directly relates to or affects a financial interest or well-being of a friend, relative, close associate

to a greater extent than it affects the financial interests or well-being of the majority of inhabitants of the borough or, where relevant, the ward affected by the decision, you must declare the interest. Having done so, you will still be able to participate in the consideration of matter unless paragraph 11 below applies.

11. Where you have declared an interest in accordance with paragraph 10 above in circumstances in which a reasonable member of the public knowing all the facts would believe that interest would affect your view of the wider public interest, you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

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

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

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

	<p>shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registerable Interests

You also have a registrable interest in any business of your authority where it relates to or is likely to affect:

- a) any body to which you are nominated or appointed by your authority; or
- b) any body of which you are in a position of general control or management and which:
 - (i) exercises functions of a public nature
 - (ii) is directed to charitable purposes or
 - (iii) has as one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

Appendix B – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

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Part 5A Addendum

PROCEDURE FOR DEALING WITH COMPLAINTS MADE AGAINST ELECTED OF CO- OPTED MEMBERS FOR BREACH OF THE MEMBERS CODE OF CONDUCT

1. Background

This procedure sets out the arrangements adopted by the Council pursuant to s,28(6) Localism Act 2011 as to how a complaint that an elected or co-opted member of this authority has failed to comply with the authority's Code of Conduct can be made and how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

Under the Localism Act 2011 the authority must appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated and whose views can be sought by the authority at any other stage or by a member against whom an allegation has been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for members.

3. Making a Complaint

- 3.1 A complaint must be made in writing, preferably using the Complaint Form on the authority's website and emailed or sent to:

The Monitoring Officer
London Borough of Merton
London Road
Morden
Surrey
SM4 5DX

Or emailed to: louise.round@merton.gov.uk

- 3.2 The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for administering the system in respect of complaints of member misconduct. In the Monitoring Officer's absence, the Deputy Monitoring Officer will undertake this role.

- 3.3 The authority will not normally investigate anonymous complaints unless there is a clear public interest in doing so.
- 3.4 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and will keep the complainant informed about the progress of the complaint.
- 3.5 The Monitoring Officer will inform the member against whom a complaint has been made that a complaint has been made and will give details of the complaint to them. The Monitoring Officer has the discretion, which will only be exercised in exceptional circumstances, not to inform the member of the complaint at this stage if the Monitoring Officer is of the view that there is a risk that an investigation could be frustrated or a case prejudiced by the member knowing the details.

4. Will the complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received.
- 4.2 The complaint must be:
- against a person who was a member of the authority at the time of the conduct complained of; and
 - in respect of conduct of that member while acting, claiming to act or giving the impression to a reasonable member of the public that they are acting in their official capacity as a member; and
 - in relation to an alleged breach of the Code of Conduct in force at the relevant time.
- 4.3. If in the view of the Monitoring Officer the complaint does not fall within 4.2 above the matter will not be considered and the complainant will be informed that there will be no further action.
- 4.4 Where the complaint meets the above criteria, and in order to establish a preliminary view of the circumstances of the complaint and to decide whether it should be investigated and/ or whether there may be a course of action which could be taken to resolve the issues promptly without the need for formal action, the Monitoring Officer may consult or meet with any other relevant persons, which may include the Leader of the Council or Group Leaders, the Chief Executive or any other officers, the complainant and the member against whom the complaint has been made.

- 4.5 This decision will normally be taken within 14 days of receipt of the complaint. The complainant and the member against whom the complaint is made will be informed of the Monitoring Officer's decision and the reasons for that decision.
- 4.6 The Monitoring Officer may consult the Council's Independent Person at any point during her consideration of a complaint and must so consult where she considers a matter should be referred for formal investigation
- 4.7 In assessing whether a complaint should be investigated the following factors will be taken into consideration:
- *Public interest* – the decision whether to investigate will be a proportionate response to the issues raised and expected outcomes will take into account the wider public interest and the costs of undertaking an investigation. Complaints will only be investigated where the allegations are reasonably considered to be serious matters which justify the time and resources of an investigation;
 - *Alternative course of action* – a complaint will only be investigated where there is no other action which could be taken which would achieve an appropriate outcome in the circumstances of the case (see paragraph 4.8 below);
 - *Member's democratic role* – where a complaint relates to a matter more appropriately judged by the electorate at the local elections, the Monitoring Officer will not normally refer these matters for investigation;
 - *Previous action* - if the complaint or a substantially similar complaint has already been subject to a previous investigation or some other action relating to the code of conduct or other related process, the matter will ordinarily not be referred for further action. Complaints which are already the subject of other internal or external processes will not be investigated;
 - *Vexatious/repeated complaints* – the Monitoring Officer will not refer for investigation a complaint that is the same or substantially the same as one previously made by the complainant or which is considered to be vexatious or frivolous or designed to harass or insult individuals;
 - *Timing of the alleged conduct* – if there are significant delays between the incident complained of and the complaint the matter will not ordinarily be considered further unless there are very good reasons for

the delay. Complaints should normally be made within three months of the date upon which the alleged misconduct occurred;

- *Ulterior motive* – no further action is likely to be taken if the complaint is considered to be motivated by malice, political motivation or retaliation, or can be characterised as being ‘tit- for tat’;
- *Subject-matter* – complaints which are really about Council services, its policies or performance will be referred to the relevant service area in accordance with the Council’s complaints procedure;
- *Member complaints* – Complaints by Members against another Member will not usually be investigated if the Monitoring Officer considers that the complaint is of a kind which could be more appropriately addressed through political group processes, political party complaints procedures or informal mediation.

4.8 Where the Monitoring Officer considers that a complaint can be resolved without the need for a formal investigation she may take one of more of the following actions:

- asking the member to acknowledge that his/her conduct was unacceptable and to offer an apology or other remedial action by the authority.
- referring the matter to group leaders or officers
- asking the member to being attend training

4.9 Matters which might appropriately be dealt with as described in 4.8 above may include:

- Misunderstanding of procedures or protocols
- Misleading, unclear or misunderstood advice from officers
- Lack of experience or training
- A general deterioration of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect.
- Allegations and retaliatory allegations from the same individuals

- 4.10 If such action does not resolve the complaint, the Monitoring Officer will reconsider whether the complaint merits formal investigation.
- 4.11 The Monitoring Officer may in exceptional circumstances, refer a complaint to the Standards and General Purposes Committee to determine if an investigation is the appropriate course of action.
- 4.12 If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to refer the matter to the police and other regulatory agencies.

5. How is the investigation conducted?

- 5.1 If the Monitoring Officer in consultation with the Independent Person decides that a complaint merits formal investigation, she will appoint an investigating officer and agree a timescale in which to undertake the investigation. This will normally take no more than 12 weeks from the appointment.
- 5.2 The investigating officer will contact the complainant and the member against whom a complaint has been made and undertake such investigation as is appropriate in all the circumstances.
- 5.3 At the end of the investigation, the investigating officer will produce a draft report and will seek comments and views on the draft report from the complainant and the member against whom the complaint has been made.
- 5.4 Having received and taken account of any comments which have been made, the Investigating Officer will send a copy of the final report to the Monitoring Officer.
- 5.5 If at any time the investigation is frustrated, for example, if significant witnesses are not available for interview, the Monitoring Officer shall decide what action to take, including, in consultation with the Independent Person, terminating the investigation. Such a decision will be reported to the Standards and General Purposes Committee.

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

- 6.1 The Monitoring Officer will review the Investigating Officer's report and if she is satisfied in consultation with the Independent Person that the report is sufficient, the Monitoring Officer will inform the complainant and the

member concerned that she is satisfied that no further action is required. A copy of the investigating officer's final report will be given to the complainant and the member concerned. The report will be referred to the Standards and General Purposes Committee without question or debate, unless the member concerned requests that it not be reported.

- 6.2 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the investigating officer to reconsider his/her report.

7. What happens if the investigating officer concludes that there is evidence of a failure to comply with the Code of Conduct?

- 7.1 The Monitoring Officer will review the investigating officer's report and in consultation with the Independent Person, will either (a) refer the matter to the Hearings Subcommittee which is a sub-committee of the Standards and General Purposes Committee or (b) seek local resolution.

7.2 *Local resolution*

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

7.3 *Monitoring Officer consideration of whether a matter proceeds to Local hearing*

If the Monitoring Officer considers, in consultation with the Independent Person, that the matter should be referred directly to a hearing or if, in accordance with paragraph 7.2 above, the member has failed to comply with the suggested informal resolution, she shall refer the matter to the Hearings Subcommittee which shall proceed to conduct a hearing in accordance with paragraphs 8-11 of this procedure and the hearings procedure attached as the schedule to this procedure.

- 7.4 Where the Monitoring Officer considers it appropriate, she may refer a complaint falling within paragraph 7.3 above to the full Standards and General Purposes Committee for hearing instead of to the Hearings

Subcommittee and in such cases the provisions of paragraphs 8-11 below and the schedule shall apply.

8. Pre Hearing Process

8.1 Prior to a hearing, an officer from the Council's Democracy Services team will write to the member subject to the complaint ("the member") proposing a date for the hearing before the Hearings Subcommittee.

8.2 Democracy Services will outline the hearing procedure to the member and request a written response within a set time in relation to whether the member:

- Wants to attend the hearing
- Wants to be represented at the hearing by a solicitor, barrister or any other person
- Disagrees with any of the findings of fact in the investigation report in which case the member should be asked to set out those facts which are in dispute
- Wants to give evidence to the Hearings Subcommittee either verbally or in writing
- Wants to call relevant witnesses to give evidence to the hearing and to provide details of the witnesses
- Wants any part of the hearing to be held in private and reasons for the request
- Wants any part of the investigation report or other relevant documents to be withheld from the public and reasons for the request

8.3 Democracy Services will refer the member's response to the Monitoring Officer to comment in order to ensure that all parties are clear about the remaining factual disputes and can deal with these issues at the hearing. The Monitoring Officer will also ascertain from the investigating officer whether the complainant will be giving evidence at the hearing and whether the investigating officer will be calling any witnesses to give evidence.

8.4 The Monitoring Officer will prepare a report for the hearing which will:

- Summarise the allegation
- Outline the main facts of the case which are agreed
- Outline the main facts which are not agreed
- Indicate whether the member and the investigating officer will be present at the hearing
- Indicate the witnesses, if any, who will be asked to give evidence
- Outline the proposed procedure for the hearing
- Include the Investigating Officer's report
- Include the views of the Independent Person

9 The Hearing

9.1 The hearing is before the Hearings Subcommittee and the Independent Person will be in attendance to provide his/her views before a decision is made.

9.2 The procedure for local hearings is set out in the schedule. The Chair of the Hearings Subcommittee shall have discretion to vary that procedure if s/he considers it is reasonably necessary to do so in order to ensure a fair and efficient hearing.

9.3 The meeting of the Hearings Subcommittee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 and the Subcommittee resolves to go into

private session having considered whether it is appropriate to do so, taking into account the public interest in the meeting being

- 9.4 The Hearings Subcommittee can determine the number of witnesses and the way in which witnesses can be questioned.
- 9.5 If the member fails to attend the hearing, the Hearings Sub Committee can decide whether to proceed in the member's absence and make a determination or whether to adjourn the hearing to a later date.
- 9.6 The Hearings Subcommittee will decide on the balance of probabilities whether it is more likely than not that the member is in breach of the Code of Conduct. The Hearings Subcommittee must seek the views of the independent person before making a decision on the allegation.
- 9.7 If the Hearings Subcommittee concludes that the member did not fail to comply with the Code of Conduct, it will dismiss the complaint.
- 9.8 If the Hearings Subcommittee concludes that the member did fail to comply with the Code of Conduct, the Subcommittee will then consider what action, if any, it should take. In doing this, the Hearings Subcommittee will give the member the opportunity to make representations to the Committee and will consult the Independent Person.

10. What action can the Hearings Subcommittee take where a member has failed to comply with the Code of Conduct?

- 10.1 The Hearings Subcommittee may:
 - Issue a public censure or reprimand the member
 - Ask the member to apologise
 - Publish its findings in respect of the member's conduct
 - Report its findings to Council for information including a recommendation that the member be removed from any committee of the Council
 - Recommend to the member's Group Leader (or in the case of ungrouped members recommend to Council or to committees) that the member be removed from any or all committees of the council

- Recommend to the Leader of the Council that the member be removed from the Cabinet or removed from particular portfolio responsibilities
- Recommend to Council that the member be replaced in any Council appointed roles
- Instruct the Monitoring Officer to arrange training for the member
- Recommend to Council removal from all outside appointments to which the member has been appointed or nominated by the authority
- Withdraw facilities provided to the member by the Council, such as computer, website and/or internet access
- Exclude the member from the Council's offices or other premises with the exception of meeting rooms as necessary for attending council and committee meetings
- The Hearings Subcommittee has no power to suspend or disqualify the member or to withdraw members' allowances.

11 What happens at the end of the hearing?

- 11.1 At the end of the hearing the Chair of the Hearings Subcommittee will state the decision of the committee
- 11.2 As soon as practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair and send a copy to the complainant, the member, and make the decision notice available for public inspection unless, in a case where the Subcommittee's conclusion is that the member is not in breach of the code of conduct, the member requests that the notice of decision is not published

12 Revision of these arrangements

With the exception of paragraph 10 above, the Council has delegated the authority to amend these arrangements to the Standards and General Purposes Committee

13 Appeals

There is no right of appeal for the complainant or the member against a decision of the Monitoring Officer or the Hearings Subcommittee.

If the complainant believes that the authority has failed to deal with the complaint properly, they may wish to make a complaint to the Local Government Ombudsman.

Schedule to Part 5 A

PROCEDURE FOR HEARINGS BEFORE THE HEARINGS SUBCOMMITTEE

1. Introductions
2. The Committee will consider whether to resolve to exclude the press and public from the hearing if one of the grounds set out in schedule 12A to the Local Government Act 1972 applies, taking into account the public interest in the hearing being open to the public.
3. The Chair of the Subcommittee will outline the hearing procedure. The Chair can depart from the procedure outlined below where he/she considers it expedient to do so in order to secure the fair consideration of the matter. This may include combining the stages of making findings of fact and considering whether such facts amount to a breach of the Code of Conduct.

Findings of Fact

4. The Subcommittee should consider whether there are any significant disagreements about the facts contained in the investigating officer's report. If there is no disagreement about the facts the committee can move on to the next stage of the hearing (go to paragraph 11)
5. Where there is a disagreement the investigating officer will be invited to make representations to support the findings of fact and with the Committee's permission, call witnesses to give evidence.
6. The member against whom the complaint has been made will be given the opportunity to challenge the evidence put forward by any witness called by the investigating officer by asking the witness questions.
7. The member will then be given the opportunity to make representations and with the Committee's permission, call any witnesses to give evidence.
8. The investigating officer will be given the opportunity to challenge the evidence put forward by any witness called by the member by asking the witness questions.
9. At any time, the Committee and independent person may question any of the people involved or any witnesses.

10. The Committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee in private will be shared with the meeting as a whole.
11. The committee may retire to consider its decision on a finding of facts in private.
12. Once the Committee has made its decision, the Chair will announce the Committee's finding of fact to the meeting.

Did the member fail to comply with the Code of Conduct?

13. The committee should then consider whether, based on the facts it has found, the member has failed to comply with the Code.
14. The member will be invited to make representations on the matter.
15. The investigating officer will be invited to make representations.
16. The independent person will be invited to express his or her views
17. The committee may, at any time, question the member, investigating officer or independent person on any point raised in the representations.
18. The member will be invited to make any final relevant points.
19. The committee may retire to consider its decision in private
20. Once the committee has made its decision, the Chair will announce the committee's decision to the meeting as to whether the member has failed to comply with the Code.

If there is a finding that the member has not failed to comply with the Code of Conduct

21. Where the committee decides that the member has not failed to comply with the Code, the committee can consider whether it wishes to make any recommendations to the authority.

If there is a finding that the member has failed to comply with the Code of Conduct

22. If the committee decide that the member has failed to comply with the Code, it will consider representations from the member, investigating officer and independent person as to:
 - Whether the committee should apply a sanction
 - What form any sanction should take.
23. The committee may question the investigating officer, member and independent person and take legal advice, to make sure they have the information they need in order to make an informed decision.
24. The committee may consider in private whether to impose a sanction and if, so what sanction it should be.
25. The Chair will announce the decision to the meeting.
26. The committee will also consider whether it should make any recommendations to the authority with a view to promoting high standards of conduct.

The written decision

27. As soon as practicable the Monitoring Officer will prepare a formal decision notice in consultation with the Chair and send a copy to the complainant, the member and make the decision available for public inspection unless, in a case where the Subcommittee's conclusion is that the member is not in breach of the code of conduct, the member requests that the notice of decision is not published.

Standards and General Purposes Committee Forward work plan

November

- External Audit Annual Letter
- Internal Audit progress report on annual audit plan
- Internal Audit progress report on annual audit plan
- Final Accounts
- Annual Gifts and Hospitality report (members)
- Annual Gifts and Hospitality report (officers)
- Risk management
- Update on RIPA authorisations
- Temporary and Contract Staff update
- Work programme

March

- External Audit Certification of Claims report
- External Audit progress report
- External Audit Plans for Council and Pension Fund accounts
- Internal Audit Plan
- Internal Audit progress report
- Update on RIPA authorisations (March and September)
- Complaints against Members
- Work programme

June

- Annual Governance Statement
- Internal Audit Annual Report
- External Audit – Fee Letters for the Council and Pension Fund Accounts
- External Audit of the Council and Pension Fund Accounts
- Temporary and Contract Staff update
- Complaints against Members
- Work Programme

September

- Internal Audit progress report on annual audit plan
- Final Accounts
- Update on RIPA authorisations (March and September)
- Annual Complaints report
- Complaints against Members
- Temporary and Contract Staff update
- Work programme

Add as required:

- Polling Places
- Constitutional amendments
- Review of members' interests
- Independent / co-opted members (September '24)
- Reports on dispensations issued by Monitoring Officer
- Report on payment exceeding £1000 as a result of maladministration as directed by the LGO.
- Revisions to Contract Standing Orders (July '23)
- Freedom of the Borough (recommendations from working group)