



# WOKINGHAM BOROUGH COUNCIL

A Meeting of the **STANDARDS COMMITTEE** will be held in David Hicks 1 - Civic Offices, Shute End, Wokingham RG40 1BN on **MONDAY 2 MARCH 2020 AT 7.00 PM**

A handwritten signature in black ink, appearing to read 'Susan Parsonage', written in a cursive style.

Susan Parsonage  
Chief Executive  
Published on 23 February 2020

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# **WOKINGHAM BOROUGH COUNCIL**

## **Our Vision**

A great place to live, an even better place to do business

## **Our Priorities**

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

## **The Underpinning Principles**

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

## MEMBERSHIP OF THE STANDARDS COMMITTEE

### Councillors

John Halsall (Chairman)                      John Kaiser (Vice-Chairman) Prue Bray  
Gary Cowan                                      Graham Howe                                      Imogen Shepherd-DuBey  
Wayne Smith

### Parish/Town Council Representatives

Sally Gurney                                      Co-Optee, Wokingham Town Council  
Roy Mantel                                        Co-Optee Twyford Parish Council

ITEM NO.	WARD	SUBJECT	PAGE NO.
11.		<b>APOLOGIES</b> To receive any apologies for absence.	
12.		<b>MINUTES OF PREVIOUS MEETING</b> To confirm the Minutes of the Meeting held on 8 July 2019.	5 - 8
13.		<b>DECLARATION OF INTEREST</b> To receive any declarations of interest.	
14.		<b>PUBLIC QUESTION TIME</b> To answer any public questions. A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice. The Council welcomes questions from members of the public about the work of this Committee.  Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to <a href="http://www.wokingham.gov.uk/publicquestions">www.wokingham.gov.uk/publicquestions</a>	
15.		<b>MEMBER QUESTION TIME</b> To answer any Member questions.	
16.		<b>PARISH / TOWN COUNCIL QUESTION TIME</b> To answer any questions from Parish / Town Councillors.	
17.	None Specific	<b>COMMITTEE ON STANDARDS IN PUBLIC LIFE - BEST PRACTICE</b> To consider the Council's policies and procedures in light of the best practice advice contained in the report of the Committee on Standards in Public Life.	9 - 24

- |            |               |  |                |
|------------|---------------|--|----------------|
| <b>18.</b> | None Specific | <b>UPDATE ON COMPLAINTS AND FEEDBACK</b><br>To consider the Monitoring Officer's update on active complaints under the Member Code of Conduct. | <b>25 - 28</b> |
| <b>19.</b> | None Specific | <b>STANDARDS COMMITTEE ANNUAL REPORT 2019-20</b><br>To consider the Annual Report of the Standards Committee.                                  | <b>29 - 36</b> |

**Any other items which the Chairman decides are urgent.**

A Supplementary Agenda will be issued by the Chief Executive if there are any other items to consider under this heading.

**CONTACT OFFICER**

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**MINUTES OF A MEETING OF THE  
STANDARDS COMMITTEE  
HELD ON 8 JULY 2019 FROM 7.00 PM TO 7.30 PM**

**Committee Members Present**

Councillors: John Halsall (Chairman), John Kaiser (Vice-Chairman), Prue Bray, Gary Cowan, Graham Howe and Imogen Shepherd-DuBey  
Parish/Town Council Representatives:- Sally Gurney (Co-Optee, Wokingham Town Council) and Roy Mantel (Co-Optee Twyford Parish Council)

**Officers Present**

Andrew Moulton, Assistant Director, Governance  
Neil Carr, Democartic and Elecoral Services Specialist

**4. APOLOGIES**

An apology for absence was submitted from Wayne Smith.

**5. MINUTES OF PREVIOUS MEETINGS**

The Minutes of the meetings of the Committee held on 4 March and 6 June 2019 were confirmed as a correct record and signed by the Chairman, subject to the addition of apologies for absence from Sally Gurney.

**6. DECLARATION OF INTEREST**

There were no declarations of interest.

**7. PUBLIC QUESTION TIME**

There were no public questions.

**8. MEMBER QUESTION TIME**

There were no Member questions.

**9. PARISH / TOWN COUNCIL QUESTION TIME**

There were no Town or Parish Council questions.

**10. UPDATE ON COMPLAINTS AND FEEDBACK**

The Committee considered a report, set out at Agenda pages 11 to 16, which gave details of progress relating to Code of Conduct complaints since the previous meeting.

The report stated that, since the meeting on 4 March 2019, six new complaints had been received.

Appended to the report was a summary of progress against each of the complaints. Four of the complaints had been resolved and two were still under consideration.

Members sought clarification on the situation where Members under investigation lost their seats which meant that the investigation was terminated. Would an investigation be reopened if a Member was then re-elected? It was confirmed that further action was possible, but it would depend on the seriousness of the earlier complaint.

**RESOLVED:** That the update report on Code of Conduct complaints be noted.

## **11. COMMITTEE ON STANDARDS IN PUBLIC LIFE - BEST PRACTICE**

The Committee considered a report, set out at Agenda pages 17 to 20, which gave details of the Best Practice arrangements highlighted in the Report of the Committee on Standards in Public Life (CSPL) on Standards in Local Government.

The report stated that the CSPL report (January 2019) had concluded that the vast majority of local government Members and Officers wished to maintain the highest standards of conduct. However, there were ongoing examples of bullying, harassment and disruptive behaviours.

The CSPL also identified risks around conflicts of interest, gifts and hospitality and expressed concern about the increasing complexity of decision making which put governance procedures under increasing strain.

The CSPL report included a list of Best Practice arrangements and suggested that each local authority compare existing arrangements against the list.

Andrew Moulton commented that the Council's procedures were generally in line with the Best Practice list. However, it may be appropriate for the Committee to give further consideration to the following issues:

- Best Practice 3 – annual review of the Code of Conduct;
- Best Practice 5 – update the Gifts and Hospitality Register each quarter;
- Best Practice 14 – greater transparency relating to Council-owned companies and arm's length bodies.

Andrew suggested that a report be submitted to the next meeting of the Committee with suggested updates to the Code of Conduct, followed by a public consultation process in line with the Best Practice guidance.

Members requested that a review of the implications of Best Practice 9 – publication of the outcome of complaint investigations – be included in the report to the next meeting.

Members also requested further analysis of the implications of Best Practice 11 – complaints about the conduct of a Parish Councillor towards a clerk.

Finally, Members endorsed Best Practice 15 – Officers to meet with Group Leaders or Whips to discuss standards issues.

### **RESOLVED** That:

- 1) progress against the CSPL Best Practice standards be noted;
- 2) at its next meeting the Committee consider a review of the current Code of Conduct including provisions relating to the publication of complaint decisions (Best Practice 9);
- 3) following agreement by the Committee, the updated Code of Conduct be the subject of consultation with residents, community organisations and neighbouring authorities;
- 4) the report to the next meeting also consider measures to comply with Best Practice 15 (transparency of Council-owned companies, etc.);

- 5) the Gifts and Hospitality Register be updated in line with Best Practice 5;
- 6) further clarification be provided on Best Practice 11 – complaints about the conduct of a Parish Councillor towards a Clerk;
- 7) Best Practice 15 be formalised through more regular meetings between senior Officers and Group Leaders/Whips.

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<b>TITLE</b>	<b>Committee on Standards in Public Life – Best Practice</b>
<b>FOR CONSIDERATION BY</b>	Standards Committee on 2 March 2020.
<b>WARD</b>	None Specific
<b>DIRECTOR</b>	Director of Corporate Services - Graham Ebers

## **OUTCOME / BENEFITS TO THE COMMUNITY**

High ethical standards in local government help to build trust and confidence amongst local residents and communities.

## **RECOMMENDATION**

That the Committee:

- 1) consider the attached commentary on the list of Best Practice arrangements published by the Committee on Standards in Public Life;
- 2) consider the proposed recommendations which strengthen the WBC Member Code of Conduct and procedures in line with Best Practice;
- 3) consider the proposed consequential changes to the WBC Constitution and Member Code of Conduct, as set out in the Annex to the report;
- 4) agree that the updated Member Code of Conduct be the subject of consultation with Members, Town and Parish Councils, residents, community organisations and neighbouring authorities;
- 5) consider any feedback arising from the consultation before submitting proposed amendments to the Council's Constitution Review Working Group prior to final agreement by the full Council.

## **SUMMARY OF REPORT**

At its meetings on 4 March and 8 July 2019, the Committee considered updates on the Committee on Standards in Public Life (CSPL) report on ethical standards in local government. The CSPL report was published in January 2019. The CSPL report concluded that the vast majority of local government Members and Officers wished to maintain the highest standards of conduct. However, there were ongoing examples of bullying, harassment or other disruptive behaviours. The CSPL also identified risks around conflicts of interest, gifts and hospitality and expressed concerns about the increasing complexity of decision making which put governance procedures under increasing strain. The CSPL report contained a list of Best Practice principles and also suggested that each local authority compare its current arrangements against the list. The Best Practice list is set out in the report together with an Officer assessment and comments/recommendations against each of the principles.

## **Background**

At its meetings on 4 March and 8 July 2019, Committee considered updates on the report of the Committee on Standards in Public Life (CSPL) on Standards in Local Government.

The CSPL report (January 2019) had concluded that the vast majority of local government Members and Officers wished to maintain the highest standards of conduct. However, there were ongoing examples of bullying, harassment and disruptive behaviours. The CSPL also identified risks around conflicts of interest, gifts and hospitality and expressed concern about the increasing complexity of decision making which put governance procedures under increasing strain.

The CSPL report included a list of Best Practice principles and suggested that each local authority compare existing arrangements against the list. The CSPL report stated: "Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020".

The Standards Committee considered the list of Best Practice principles at the meeting on 8 July 2019. It was felt that the Council complied with the majority of the principles but that further consideration be given to the following points:

- Best Practice 3 – annual review of the Code of Conduct;
- Best Practice 5 – update the Gifts and Hospitality Register each quarter;
- Best Practice 14 – greater transparency relating to Council-owned companies and arm's length bodies;
- Best Practice 9 – publication of the outcome of complaint investigations;
- Best Practice 11 – complaints about the conduct of a Parish Councillor towards a clerk.

Having considered the report, the Committee resolved as follows:

- 1) progress against the CSPL Best Practice standards be noted;
- 2) at its next meeting the Committee consider a review of the current Code of Conduct including provisions relating to the publication of complaint decisions (Best Practice 9);
- 3) following agreement by the Committee, the updated Code of Conduct be the subject of consultation with residents, community organisations and neighbouring authorities;
- 4) the report to the next meeting also consider measures to comply with Best Practice 15 (transparency of Council-owned companies, etc.);
- 5) the Gifts and Hospitality Register be updated in line with Best Practice 5;
- 6) further clarification be provided on Best Practice 11 – complaints about the conduct of a Parish Councillor towards a Clerk;
- 7) Best Practice 15 be formalised through more regular meetings between senior Officers and Group Leaders/Whips.

The Best Practice principles are set out below together with Officer comments on current arrangements and proposals for potential improvements.

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

**Comment/Recommendation** - Guidance on Bullying and Intimidation is set out in the WBC Member Code of Conduct. It is proposed that guidance on the use and potential misuse of Social Media also be included in the Code of Conduct.

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

**Comment/Recommendation** – Provisions are included within the WBC Constitution.

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

**Comment/Recommendation** – an annual review of the Code of Conduct to be undertaken by the Standards Committee, with public consultation on significant changes.

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

**Comment/Recommendation** – Officers to carry out a review of Code of Conduct information on the WBC website and the effectiveness of the online process for registering complaints.

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

**Comment/Recommendation** – The Register to be updated and published in line with Best Practice 5. It is proposed to amend the value of declarable gifts from £25 to £50 or £100 per annum.

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

**Comment/Recommendation** – Set out within the WBC Constitution. Each complaint received is considered by the Monitoring Officer, Independent Person and Chairman of the Standards Committee against a number of criteria including Public Interest – is the public interest served in referring the complaint further.

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

**Comment/Recommendation** – WBC currently retains three Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the Responsible Officer is minded to dismiss as being without merit, vexatious or trivial.

**Comment/Recommendation** – All Code of Conduct complaints are subject to consultation with an Independent Person.

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

**Comment/Recommendation** – The current WBC Code of Conduct states that breaches of the Code of Conduct which are resolved informally (e.g. through mediation or a written apology) are not reported publicly. The Committee is asked to consider a change to the Code of Conduct so that all decisions on breaches (resolved formally or informally) are published on the WBC website in line with Best Practice 9.

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

**Comment/Recommendation** – Guidance is provided on the WBC website. It is proposed that Officers review the guidance in line with Best Practice 10.

**Best practice 11:** Formal standards complaints about the conduct of a Parish Councillor towards a Clerk should be made by the Chair or by the Parish Council as a whole, rather than the Clerk in all but exceptional circumstances.

**Comment/Recommendation** Agree in principle, subject to further consultation with Town and Parish Councils.

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

**Comment/Recommendation** – This is part of the WBC Monitoring Officer's role. Training and support are provided.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should

include asking the Monitoring Officer from a different authority to undertake the investigation.

**Comment/Recommendation** – Procedures are currently in place in line with Best Practice.

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

**Comment/Recommendation** – Regular reports are currently submitted to the WBC Executive which provide updates on finance, operational matters and changes to company directors. It is proposed to review the accessibility of company agendas, minutes and reports in line with Best Practice 14.

**Best practice 15:** Senior Officers should meet regularly with political Group Leaders or Group Whips to discuss standards issues.

**Comment/Recommendation** - Best Practice 15 to be formalised through more regular meetings between senior Officers and Group Leaders/Whips, including an annual meeting.

### Next Steps

In line with Best Practice 3, it is proposed that the agreed changes to the WBC Constitution/Code of Conduct be the subject of consultation with Members, residents, Town and Parish Councils, and community groups. The consultation to be carried out in line with the Borough Council's consultation guidelines.

Any feedback from the consultation will be submitted to the Standards Committee for consideration. Final proposed changes will then be submitted to the Borough Council's Constitution Review Working Group before final consideration and agreement by the full Council.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	Revenue
Next Financial Year (Year 2)	£0	Yes	Revenue
Following Financial Year (Year 3)	£0	Yes	Revenue

<b>Other financial information relevant to the Recommendation/Decision</b>
None

<b>Cross-Council Implications</b>
The work and conduct of Members and Officers can impact all aspects of the work of Borough, Town and Parish Councils.

<b>Reasons for considering the report in Part 2</b>
Not applicable

<b>List of Background Papers</b>
Report of the Committee on Standards in Public Life – January 2019

<b>Contact</b> Neil Carr	<b>Service</b> Democratic Services
<b>Telephone No</b> 0118 974 6058	<b>Email</b> neil.carr@wokingham.gov.uk

## CHAPTER 9.2 - CODE OF CONDUCT FOR COUNCILLORS

### 9.2.1 Introduction

This Code of Conduct applies to Councillors and Co-opted Members whenever they are acting as a Member or as a representative of the Council or when they claim to act or give the impression of acting as a representative of the Council.

It does not apply to when the Councillor or Co-opted Member is acting in a private capacity. Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media.

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When carrying out their public role, Councillors and Co-opted Members should always have regard to the seven principles of public life. These are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Councillors and Co-opted Members should also read the Code of Conduct together with the Member/Officer Protocol and other sections of the Council's Constitution relating to ethical and financial probity.

Any person including a Councillor may make a complaint if a Councillor or Co-opted Member does not act in accordance with this Code. The Local Government and Social Care Ombudsmen may also regard a breach of the Code as incompatible with good administration, and may make a finding of maladministration by the Council in some circumstances. It is the Councillor and Co-opted Member's sole responsibility to comply with the Code.

A Members' Interest form is provided by the Monitoring Officer to register interests. It should be noted that the form will be published on the Council's website. When a Councillor or Co-opted Member declares an interest at a meeting of the Council, they should be aware that this will be noted in the Minutes of the Meeting, which is a public document, and also on the Member's page on the website.

If any Councillor or Co-opted Member is unsure about any part of the Code of Conduct, they are urged to seek advice from the Monitoring Officer or Deputy Monitoring Officer.

There are three areas to the Code of Conduct:

- a) Rules about registration of Disclosable Pecuniary Interests and Personal Interests with the Monitoring Officer, using the Members Interest Form [Rule 9.2.3](#)
- b) Rules about declaring interests in meetings where items on the agenda conflict with those interests ([Rules 9.2.4](#), [9.2.5](#) and [9.2.6](#))
- c) Rules about general behaviour ([Rule 9.2.8](#))

### 9.2.2 Interpretation

- a) "Co-opted Member" means a person who is a member of any committee or sub-committee of the Council or is a member of and represents the authority on any joint committee of the Council and who is entitled to vote on any question which falls to be decided at any committee or sub-committee.
- b) "Councillor" means a Member or Co-opted Member of this Council.

- c) "Meeting" means any meeting of:
  - i) the Council;
  - ii) the Executive of the Council, including when making an Individual Executive Decision;
  - iii) any of the Council's or the Executive's committees, sub-committees, joint-committees, joint sub-committees, or area committees;
- d) "Member" includes a co-opted Member and an appointed Member of this Council

### **9.2.3 Registration of Disclosable Pecuniary Interests and Personal Interests**

#### **9.2.3.1**

Within 28 days of this Code being adopted by the Council, OR the Councillor's election, OR the Co-opted Member's appointment (whichever is later) Councillors must register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.

#### **9.2.3.2**

Upon the re-election of the Councillor or the re-appointment of the Co-opted Member, Councillors must within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.

#### **9.2.3.3**

Councillors must register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of the change.

#### **9.2.3.4**

Councillors need not register any interest which the Monitoring Officer agrees is a 'sensitive interest' A sensitive interest is one which, if made public, could lead to the Councillor or a person connected to a Councillor being subject to violence or intimidation.

### **9.2.4 Declaration of Disclosable Pecuniary Interests at Meetings**

**9.2.4.1** Where a matter arises at a meeting which relates to an interest in Appendix A, Councillors must do the following:

**9.2.4.2** They should declare their interest at the beginning of the meeting when asked to do so by the Chairman or Mayor, or if not then, they must do so before the matter is discussed. They must do so regardless of whether or not the interest is registered in their Members Interest form.

**9.2.4.3** Where a matter arises at a meeting which is a sensitive interest as defined under [Rule 9.2.3.4](#) Councillors do not have to declare the exact nature of their interest but must follow the rules regarding non-participation, in Rules in [9.2.4.4](#) and [9.2.4.5](#)

**9.2.4.4** When the item is introduced at the meeting, Councillors may continue to attend the meeting but only for the purpose of making representations, answering questions or giving



evidence provided that the public are also allowed to attend the meeting for the same purpose.

**9.2.4.5** They must then leave the room before the matter is discussed and voted upon.

## **9.2.5 Declaration of Personal Interests at Meetings**

### **9.2.5.1**

Where a matter arises at a meeting which relates to or affects an interest in [Appendix B](#) or a financial interest of the Councillor, a friend, relative or close associate (and it is not a Disclosable Pecuniary Interest listed in [Appendix A](#)), Councillors must do the following:

### **9.2.5.2**

They should declare the interest at the beginning of the meeting when asked to do so by the Chairman or Mayor as a "Personal Interest" or if not then, they must do so before the matter is discussed or voted upon. They must do so regardless of whether or not the interest is registered in their Members Interest form.

### **9.2.5.3**

Where a matter arises at a meeting which is a sensitive interest as defined under [Rule 9.2.3.4](#) Councillors do not have to declare the exact nature of their interest

### **9.2.5.4**

They may however participate in the discussion and vote on the matter, subject to [Rule 9.2.6](#)

## **9.2.6 Declaration of Prejudicial Interests at Meetings**

### **9.2.6.1**

Where the matter affects the declared interest under [Rule 9.2.5.1](#) more than the majority of people in the area affected by the decision, and a reasonable member of the public would think the Councillor's view of the public interest would be adversely affected, the Councillor must do the following:

### **9.2.6.2**

They should declare this as a Prejudicial interest at the beginning of the meeting when asked to do so by the Chairman or Mayor, or if not then, they must do so before the matter is discussed.

### **9.2.6.3**

Where a matter arises at a meeting which is a sensitive interest as defined under [Rule 9.2.3.4](#) Councillors do not have to declare the exact nature of their interest but must follow the rules regarding non-participation, in [Rules 9.2.6.4](#) and [9.2.6.5](#)

### **9.2.6.4**

When the item is introduced at the meeting, Councillors may continue to attend the meeting but only for the purpose of making representations, answering questions or giving evidence provided that the public are also allowed to attend the meeting for the same purpose.

### **9.2.6.5**

They must then leave the room before the matter is discussed or voted upon.

## **9.2.7 Dispensations**

### **9.2.7.1**

On a written request, the Monitoring Officer or Deputy Monitoring Officer may grant a Councillor a dispensation to participate in a discussion and/or vote on a matter at a meeting where they would otherwise not be allowed to if the Monitoring Officer or Deputy Monitoring Officer believes that the number of Councillors otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the Councillor to take part or it is otherwise appropriate to grant a dispensation. The dispensation will last no longer than 4 years from the date of the dispensation.

## **9.2.8 Behaviour**

### **9.2.8.1**

Councillors must not behave such a way that a reasonable person would regard as disrespectful to others.

### **9.2.8.2**

Councillors must not act in a way which a reasonable person would regard as bullying, or in any way which is intimidating to others. Supporting Guidance on Bullying and Intimidation can be found at [Appendix C](#).

### **9.2.8.3**

Councillors must not seek to improperly confer an advantage or disadvantage on any person.

### **9.2.8.4**

Councillors must only use the resources of the Council when undertaking Council business.

### **9.2.8.5**

Councillors must not disclose information which is confidential or where disclosure is prohibited by law, unless he or she has the consent of the person authorised to give it, or he or she is required by law to do so.

### **9.2.8.6**

Councillors must respect the impartiality of officers and not put undue pressure on them.

### **9.2.8.7**

Councillors must not do anything which may cause their Council to breach any of the equality enactments (as defined in the Equality Act 2010).

### **9.2.8.8**

Councillors must notify the Monitoring Officer of any gifts or hospitality worth more than an estimated value of ~~£50~~ (or totalling £100 over a year from a single source) 25 which the Councillor has received by virtue of his or her office or any gifts or hospitality worth more than an estimated value of ~~£50~~ 25 which they have been offered but which they subsequently declined. The Monitoring Officer will ensure the registers of Gifts and Hospitality are published on the Council's Website.

APPENDIX A

DISCLOSABLE PECUNIARY INTERESTS

Interests defined by regulations made under s30(3) of the Localism Act 2011 and described in the table below.

(In the extracts from the Regulations below, 'M' means you and 'relevant person' means you and your partner). "Partner" means a spouse or civil partner of M, or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</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	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>a) the landlord is the relevant authority; and</p> <p>b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>b) either—</p> <p>i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

These descriptions on Disclosable Pecuniary Interests above are subject to the following definitions;

The Act	means the Localism Act 2011
Body in which the relevant person has a beneficial interest	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
Director	includes a member of the committee of management of an industrial and provident society;
Land	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
M	means a member of a relevant authority;
Member	includes a co-opted member;
Relevant authority	means the authority of which M is a member;
Relevant period	means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
Relevant person	means M or any other person referred to in section 30(3)(b) of the Act;
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.

**IMPORTANT NOTE:**

Under s34 of the Localism Act 2011 it is a criminal offence if a Member or co-opted Member:

- a) fails to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election;
- b) fails to disclose a Disclosable Pecuniary Interest at a meeting of the Council if that interest is not included on the register;
- c) participates in any discussion or vote on a matter in which they have a Disclosable Pecuniary Interest;
- d) fails to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not included on the register that they have disclosed to a meeting;
- e) as an Executive Member discharging a function acting alone i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, fails to notify the Monitoring Officer within 28 days of the interest;

- f) As an Executive Member discharging a function acting alone, i.e. an Individual Executive Member Decision, and having a Disclosable Pecuniary Interest in such a matter, participates in any steps, or further steps in relation to the matter.
- f) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such an interest to a meeting.

**REGISTERED PERSONAL INTERESTS**

Councillors must register:

- i) any body of which the Councillor is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- ii) any body
  - exercising functions of a public nature; or
  - directed to charitable purposes; or
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
  - of which the Councillor is a member or in a position of general control or management;

## APPENDIX C

### Guidance on Bullying and Intimidation ([Rule 9.2.8.2](#) Code of Conduct)

[Rule 9.2.8.2](#) of the Code of Conduct says: Councillors must not act in a way which a reasonable person would regard as bullying, or in any way which is intimidating to others. The following guidance is based on Standards for England Guidance, now archived after it was abolished by the Localism Act 2011, as well as guidance issued by ACAS<sup>1</sup>.

It is important to remember that such behaviour will only be caught by the Code of Conduct if a Member is acting, or giving the impression they are acting, as a Member of the Authority, and not in his or her private capacity.

#### **What is 'bullying' and 'intimidation'?**

Using ACAS guidance as a starting point, the Standards Committee has agreed a definition of bullying as 'offensive, intimidating or malicious behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'. A victim's obvious vulnerability will be taken into account when assessing whether bullying has occurred.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a Member will be found guilty of bullying when both parties have contributed to a breakdown in relations.

Bullying should be contrasted with the legitimate challenges which a Member can make in challenging policy or scrutinising performance. Contributing to debates in Council meetings about policy and asking officers to explain the rationale for their professional opinions are to be encouraged. All Members should feel free to challenge fellow Councillors and professional Officers as to why their views are held. However, Members need to be careful about criticism which becomes offensive in nature which will cross the line of what a reasonable person would find acceptable.

#### **Criticism of Officers**

The Council is under a legal obligation to ensure that officers work in a safe environment and the same rules about their interaction with the public apply equally to their work with Members. Anyone should feel free to express disagreement with officers, so long as it is done in an appropriate way. Officers should make decisions which are unbiased, and attempts to coerce them or persuade them to act in a particular way to a point where to do so would prejudice their professional integrity would not be acceptable.

#### **Examples of intimidation and bullying from the archived Standards for England website:**

Councillor W. was a Member of a town council in the East of England conducted a relentless campaign of destructive criticism against the clerk, councillors and the council. This campaign included making unsubstantiated and inappropriate complaints about the clerk in website postings, newsletters and numerous letters. The councillor's behaviour placed a significant drain on both council resources and members' time, caused staff great stress and ill health, and disrupted the normal running of the council.

Councillor S was a Member of a metropolitan authority in the North West of England. He verbally abused a woman who worked as a cleaner for the Council, after a minor traffic accident. Councillor S told her that he was going to report her to her employer and get her sacked. The tribunal decided that a reasonable person with knowledge of the circumstances would consider that the Councillor had bullied and threatened the cleaner.

Councillor P was a Member of a district council in the East Midlands. He was abusive and aggressive towards an officer, shouting at her and publicly threatened to sack another officer. He also improperly put pressure on staff involved in discussions with their trade union and in doing so compromised their impartiality. The tribunal found his behaviour had caused others unnecessary fear and ill health.

<sup>1</sup> Bullying and harassment at work: [A guide for managers, ACAS June 2014 and Archived content for Standards for England; guidance on 'Bullying and Intimidation' available upon request from the Borough Solicitor, or to download:](#)

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<sup>i</sup> Bullying and harassment at work: A guide for managers, ACAS June 2014 and Archived content for Standards for England; guidance on 'Bullying and Intimidation' available upon request from the Borough Solicitor, or to download: <http://webarchive.nationalarchives.gov.uk/20090505163356/http://www.standardsboard.gov.uk/TheCodeofConduct/Guidance/CodeofConduct/Factsheets/filedownload,16138.en.pdf>



# Agenda Item 18.

**TITLE** Update on Complaints and Feedback

**FOR CONSIDERATION BY** Standards Committee on 2 March 2020

**WARD** (All Wards);

**DIRECTOR** Director of Corporate Services - Graham Ebers

## **OUTCOME / BENEFITS TO THE COMMUNITY**

To inform and feedback results of the Member Complaints process.

## **RECOMMENDATION**

To note the report and consider any issues arising.

## **SUMMARY OF REPORT**

Since the last report on Complaints to the Committee on 8 July 2019 there have been four new complaints received.

Appendix A provides a summary of the complaints and the latest position on each.

A verbal update will be given at the meeting on any specific patterns/trends or other matters that the Committee may need to consider.

Also, the Committee is asked to consider any broader training issues that arise from these complaints.

## Background

Under Section 9.1.13.5 of the Council's Constitution, the Monitoring Officer provides a report to the Standards Committee, on a quarterly basis, which contains the following: the number and nature of complaints received; progress on any investigations and associated costs; and identify areas where training or other action might avoid further complaints. However, the name(s) of the Member(s) will not be disclosed.

Since the last report to the Committee on 8 July 2019, there have been four new Code of Conduct complaints received.

Under the Council's adopted policy for the consideration of Code of Conduct Complaints, the Monitoring has delegated authority to decide whether the complaint:

- can be resolved informally i.e. by mediation with the two parties before making a decision on whether the complaint merits formal investigation;
- requires investigation;
- should be referred to the Standards Committee;
- no further action should be taken.

## Analysis of Issues

The latest position on existing complaints is shown at Appendix A.

### FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

***The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.***

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	Revenue
Next Financial Year (Year 2)	£0	Yes	Revenue
Following Financial Year (Year 3)	£0	Yes	Revenue

### Other financial information relevant to the Recommendation/Decision

None

<b>Cross-Council Implications</b>
The work and conduct of Councillors can impact all aspects of the Council's services.

<b>Reasons for considering the report in Part 2</b>
Not applicable

<b>List of Background Papers</b>
None

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<b>Telephone No</b> Tel: 07747 777298	<b>Email</b> andrew.moulton@wokingham.gov.uk

## Appendix A - Code of Conduct Complaints

Date Received	Subject Member	Summary of Complaint	Progress/Conclusion	Date Concluded
25/2/19	WBC Member	Complaint received from another WBC Member about the conduct and behaviour of the subject member against the complainant.	Following formal investigation, it was concluded that there was a breach of the Code of Conduct. The Monitoring Officer in consultation with the new Chairman and Independent Person agreed to resolve the matter informally and the subject member has provided a written apology to the complainant.	18 July 2019
28/5/19	WBC Member	Complaint from member of the public about conduct relating to alleged disclosure of confidential information.	The Monitoring Officer consulted with the Chairman and Independent Person on 6 June and concluded that an investigation into this matter was required. It was found that the subject member (who was new to the Council) had inadvertently published misleading information on his personal website. He has subsequently apologised to the complainant.	25 Oct 2019
18/7/19	WWPC	Complaint received from a member of the public about social media usage of two councillors.	The Monitoring Officer confirmed that only one of the Councillors was from WWPC (the other was outside of Wokingham Borough) and the complaint had been previously received by WWPC and dealt with.	10 Oct 2019
18/7/19	WBC Member	Complaint received from another WBC Member about the conduct and behaviour of the subject member against the complainant.	The Monitoring Officer consulted with the Chairman and Independent Person and concluded that an investigation into this matter was required. The investigation has been completed and the complaint has been settled through the "informal route" of a confidential apology to the complainant.	20 Feb 2020
26/11/19	WBC Member	Complaint received from member of the public about the chairing of a WBC meeting.	The Monitoring Officer has made initial evaluation of the complaint prior to consulting with the Chairman and Independent Person – a verbal update will be provided to the Committee.	Ongoing
17/2/2020	WBC Member	Complaint received from member of the public about bullying and harassment.	The Monitoring Officer has made initial evaluation of the complaint prior to consulting with the Chairman and Independent Person – a verbal update will be provided to the Committee.	Ongoing



# **WOKINGHAM BOROUGH COUNCIL**

## **Standards Committee**

### **Annual Report**

**2019/20**

Submitted to the Council – March 2020

## **Introduction by John Halsall, Chairman of the Standards Committee**

I am pleased to present the Annual Report of the Standards Committee for 2019/20.

The main aim of the Standards Committee is to promote and maintain the highest standards of conduct by elected Members representing the Borough, Town and Parish Councils. Local government impacts the lives of residents every day, providing essential services to those it serves. High standards are required in order to demonstrate that key decisions are taken in the public interest and to maintain public confidence.

Members' conduct should be underpinned by the seven principles of public life, also known as the Nolan Principles - selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The Standards Committee met twice during the year and focussed on ensuring that the Borough Council's policies, as set out in the Members' Code of Conduct, were up-to-date, understood and underpinned by best practice.

During the year the Committee considered trends arising out of complaints data and arrangements to ensure that Members were aware of their responsibilities under the Code of Conduct. The Committee is especially keen to ensure that newly elected Members are aware of their responsibilities and the standards of behaviour expected of them.

The Committee submitted evidence to the Committee on Standards in Public Life (CSPL) in 2018, in relation to its review of ethical standards in local government. Following the publication of the CSPL's report, in 2019, the Committee reviewed the Council's Code of Conduct against best practice principles. I am pleased to confirm that the Council's Code is largely consistent with best practice and that minor changes will be made to ensure greater alignment and transparency.

Bearing in mind the significant challenges facing the Borough, Town and Parish Councils over the year, I am pleased to report that the level of Code of Conduct complaint activity in 2019/20 remained at a low level compared to previous years.

Finally, I would like to record my thanks to the Borough, Town and Parish Members, Officers and Independent Persons who contributed to the work of the Committee during the year.

**John Halsall  
March 2020**

## 1.0 What does the Standards Committee Do?

The role of the Standards Committee is to promote, monitor and enforce probity and ethical standards amongst elected Members within the Wokingham Borough, including Town and Parish Councillors.

The Localism Act 2011 removed the requirement for a national code of conduct and statutory Standards Committees. The Act introduced a locally focussed “light touch” framework for the adoption of a Member Code of Conduct, and processes for the receipt and consideration of complaints. Although not obliged to do so under the terms of the Localism Act, Wokingham Borough Council decided to maintain a dedicated Standards Committee.

In addition to the receipt and consideration of Code of Conduct complaints against Wokingham Borough Council Members, the Committee is also responsible for the receipt and consideration of complaints against Town and Parish Councillors. If the complaints process determines that a Town/Parish Councillor is in breach of the Code of Conduct, recommendations will be submitted to the relevant Town/Parish Council as to the appropriate sanction. However it is for the Town/Parish Council to decide what action is to be taken.

The Terms of Reference for the Committee, recorded in Chapter 9 of the Borough Council’s Constitution, are set out below:

### **Role and Functions**

The Standards Committee has the following role and functions:

- a) promoting and maintaining high standards of conduct by Councillors, co-opted members, including church and parent governor representatives;
- b) assisting the Councillors, co-opted members, including church and parent governor representatives, to observe the Members’ Code of Conduct;
- c) advising the Council on the adoption or revision of its Members’ Code of Conduct;
- d) monitoring the operation of the Members’ Code of Conduct, the Officers’ Code of Conduct and the Council’s Whistleblowing policy and any other appropriate codes of conduct and procedures;
- e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct;
- f) the exercise of (a) to (e) above in relation to the Parish/Town Councils wholly or mainly in its area and the members of those Parish/Town Councils;
- g) the presentation of an annual report by the Chairman of the Standards Committee to Council.

## 2.0 The Nolan Principles of Public Life

As mentioned earlier, elected Members should seek to carry out their duties in line with a set of principles known as the Nolan Principles. In 1994, Prime Minister John Major established the Committee on Standards in Public Life, chaired by Lord Nolan. The Committee's first report established a set of seven guiding principles for conduct in public life.

The Principles of Public Life apply to anyone elected or appointed to public office, nationally and locally, and everyone appointed to work in local government, the Civil Service, police, courts and probation service, etc. All public office-holders are both servants of the public and stewards of public resources.

The seven Nolan 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.



### 3.0 **Who Sits on the Standards Committee?**

The Committee is made up of seven Wokingham Borough Council Members. These Members are voting members of the Committee and are appointed on the basis of political proportionality. An elected Member from Wokingham Borough Council chairs the Committee. The current Chairman is Councillor John Halsall.

The Committee also includes three, non-voting, Town and Parish Council representatives.

The 2019/20 membership of the Committee was:

- John Halsall (Chairman)
- Prue Bray
- Gary Cowan
- Graham Howe
- John Kaiser
- Imogen Shepherd-Dubey
- Wayne Smith
  
- Sally Gurney (Wokingham Town Council)
- Roy Mantel (Twyford Parish Council)
- Vacancy

### 4.0 **Independent Persons**

Under the terms of the Localism Act 2011, Wokingham Borough Council is required to appoint an Independent Person (a member of the public, not a Council Officer or elected Member) whose views must be sought before the Standards Committee takes a decision on an allegation it has decided to investigate. The Independent Person's views may also be sought on an allegation prior to that stage. In addition, a Member who is subject of an allegation may seek the views of an Independent Person. Three people are currently acting in the Independent Person role:

- David Comben
- Paddy Haycocks
- Nick Oxborough

An Independent Person cannot sit as a member of the Standards Committee, but may attend meetings with the same rights as a member of the public.

### 5.0 **Who Supports the Standards Committee?**

The Committee is supported by:

- Andrew Moulton, Assistant Director, Governance and Monitoring Officer;
- Jennifer Lee, Senior Solicitor and Deputy Monitoring Officer;
- Neil Carr, Democratic and Electoral Services Specialist.

## 6.0 **Standards Committee Activity in 2019/20**

During the 2019/20 Municipal Year five Code of Conduct complaints were received. The Standards Committee considered an update report on the complaints and investigations at each of its meetings. The complaints related to:

- the alleged disclosure of confidential information;
- the use of social media by two elected Members;
- the conduct and behaviour of a Member at a Council meeting;
- an allegation of disrespect and bullying of a member of the public;
- the conduct of a Member at a meeting of the Planning Committee.

Action was taken in relation to three of these complaints as it was concluded, in each case, that there had been a breach of the Code of Conduct. These conclusions were supported by the Chairman of the Standards Committee, the Independent Person and the Monitoring Officer. At the time of writing, two complaints were still under consideration.

In order to improve transparency, the Committee agreed previously that, in cases where no further action was taken, the complainant and other interested parties receive a more detailed explanation of the reasoning behind the decision.

It is worth reiterating that the number of complaints received should be seen in the context of there being 54 Borough Council Members and over 200 Members of Town and Parish Councils across the Borough.

Whilst recognising that the level of complaint activity in 2019/20 was low, the Committee continues to recognise the importance of dealing with every complaint seriously and expeditiously.

## 7.0 Committee on Standards in Public Life

As mentioned earlier, during 2018/19 the Committee on Standards in Public Life (CSPL) carried out a review of ethical standards in local government. The Committee's final report was published in January 2019.

The CSPL concluded that the vast majority of Councillors and Officers wanted to maintain the highest standards of conduct in their own authority. However, nationally there were some examples of poor behaviour often relating to bullying or harassment and disruptive behaviour. The CSPL also identified a number of risks around conflicts of interest, gifts and hospitality and the increasing complexity of local government decision making.

The CSPL felt that local control of the standards system should be retained, via a Standards Committee, but with more robust safeguards and guidance on developing an organisational culture which supported the implementation of high ethical standards. Key recommendations in the CSPL report included:

- A new power for local authorities to suspend Members without allowances for up to six months;
- Revised rules on the declaration of interests, gifts and hospitality;
- Local authorities to manage their own Codes of Conduct;
- A right of appeal for suspended Members to the Local Government Ombudsman;
- A strengthened role for the Independent Person;
- Greater transparency about the number and nature of Code of Conduct complaints.

The CSPL also felt that the current criminal offences relating to Disclosable Pecuniary Interests were disproportionate in principle and ineffective in practice and, therefore, should be abolished.

In relation to organisational culture, the CSPL noted that an ethical culture required leadership from the Standards Committee, the political group leaders, the Mayor and the Chief Executive. It was recognised that there would always be robust disagreement in a political arena. However, the tone of engagement should be civil and constructive. Political Groups should set clear expectations of behaviour and senior Officers should work informally with the Groups to resolve standards issues where appropriate.

Implementation of the CSPL's recommendations would require changes to primary and secondary legislation and the Local Government Transparency Code. In the meantime, the Standards Committee reviewed the existing Code of Conduct against the best practice principles set out in the CSPL report at its meeting in March 2020.

## 8.0 **Standards Committee – Future Actions**

The Standards Committee will continue to seek improvements to the Code of Conduct and supporting processes to ensure continuous improvement in line with best practice. In so doing it will seek to maintain the credibility and good governance of the Borough, Town and Parish Councils.

The Committee will commission further training and support, as necessary, to underpin high standards of ethical behaviour by elected Members and Officers across the Borough. The Committee is keenly aware that high standards of behaviour help to build trust in elected representatives which is crucial to the democratic process.

An assessment of the best practice recommendations in the CSPL report indicates that the Council is already broadly in line. The Standards Committee will carry out public consultation in relation to any proposed changes to the Code of Conduct. It will also monitor progress relating to the Government's response the CSPL report and consider any implications for the Borough.