

**SECTION 9  
ETHICS AND CORPORATE GOVERNANCE**

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## **CHAPTER 9.1 - THE STANDARDS COMMITTEE**

### **9.1.1 Composition and Membership**

At the Annual Council meeting the Council will establish a Standards Committee which will be composed of:-

- a) six elected Members of Wokingham Borough Council. The composition of which will be subject to the rules of Political Balance. One of these Members will be elected as Chairman at Annual Council.
- b) three co-opted non voting Parish Members. Of the three Members, at least one Member should be a Member of a parish council and at least one should be a Member of a town council. The process for appointing town and parish council representatives shall be overseen by the Monitoring Officer and the Independent Person and any recommended appointment agreed by the Council.

### **9.1.2 Role of the Independent Person(s)**

The Independent Person(s) is entitled to attend any meeting of the Standards Committee but cannot vote on any item.

### **9.1.3 Parish/Town Council Members**

A Parish/Town Council Member should be present when matters relating to Parish/Town Councils or their Members are being considered.

### **9.1.4 Role and Function**

The Standards Committee will have the following roles 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.

### **9.1.5 Ordinary Meetings of the Standards Committee**

The Standards Committee shall meet four times per year on dates to be agreed by the Council. Additional meetings may be arranged by the Chairman in consultation with the Monitoring Officer.

### **9.1.6 Public and Member Questions**

Public and Member questions may be asked at ordinary Standards Committee meetings in accordance with the procedures set out in Chapter 4.2.

### **9.1.7 Parish / Town Council Questions**

Parish/Town Councillors may ask questions at ordinary Standards Committee meetings in accordance with the procedures set out in Chapter 4.2.

### **9.1.8 Quorum**

The quorum of a meeting of the Standards Committee shall be three Borough Members.

### **9.1.9 Disturbance by Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

### **9.1.10 Duration of Meeting**

As set out in Chapter 4.2 unless the majority of members of the Committee present vote for the meeting to continue, any meeting of the Standards Committee that has not concluded by 10.30pm will adjourn immediately. If, once a Motion to continue has been proposed and seconded, the majority of members of the Committee present vote to continue, the meeting will continue for a further period not exceeding 30 minutes.

Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date the remaining business will be considered at the next ordinary meeting.

### **9.1.11 Process for Dealing with Misconduct Complaints**

#### **9.1.11.1**

The Localism Act 2011 requires the Council to adopt arrangements for dealing with complaints of breaches of the Code of Conduct by either Borough Council Members, Town/Parish Council Members or co-opted members of any of these bodies and such complaints can only be dealt with in accordance with such arrangements.

#### **9.1.11.2**

The following is the process that will be followed for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of Conduct.

## **9.1.12 Process for Considering Code of Conduct Complaints**

### **9.1.12.1 Receipt and Acknowledgment of the Complaint**

Following receipt of a Councillor Code of Conduct complaint, the Monitoring Officer<sup>1</sup> will write, within 3 working days, to the complainant to acknowledge receipt of the complaint and provide them with a copy of this complaints process.

The complainant will be told that full details of their complaint, including the parts of the Code of Conduct which have allegedly been breached and their name, will be given to the Councillor they have complained about, (“the Subject Member”), subject to [Rule 9.1.13.5](#) (Anonymous complaints).

If the complaint relates to a Parish or Town Councillor, the Clerk to that Council will be informed and may be asked for relevant factual information. In the case of Subject Members who sit on more than one Council, the Monitoring Officer will seek clarification from the complainant if it is unclear which Council the Subject Member was acting for at the time of the alleged breach.

### **9.1.12.2 Response of the Subject Member**

The Subject Member will be informed of the complaint as soon as possible, and be asked for their initial comments on the complaint. The Subject Member will have 15 working days to provide their comments and if no comments are received within this timescale then the Monitoring Officer will proceed with his/her assessment on the basis of the original complaint.

### **9.1.12.3 Response of the Town or Parish Clerk**

If the complaint is about a Town or Parish Councillor, the Monitoring Officer shall seek a response to the complaint from the Town/Parish Clerk. This response, which should relate to clarification of factual matters only, eg was the Councillor actually present at the meeting in question, will be recorded in the Monitoring Officer’s summary and taken into account when a decision is made, under [Rule 9.1.13.4](#). The Clerk’s opinion on the complaint is not being sought.

### **9.1.12.4 Initial Decision of the Monitoring Officer**

The purpose of the initial assessment by the Monitoring Officer, in consultation with an Independent Person, is to determine whether the complaint should be accepted for further consideration or rejected. In determining whether a complaint should proceed the Monitoring Officer may apply the following criteria:

**Sufficiency of information** – Is there sufficient information or evidence provided with the allegation? If it appears that substantiating evidence may be available, but has not been provided, the Monitoring Officer may ask for additional evidence, but the onus is on the complainant to ensure that all relevant information is provided.

**Seriousness of the complaint** – is the complaint trivial, vexatious, malicious, politically motivated, or ‘tit for tat’? Would the resources/cost involved in investigating and determining the complaint be disproportionate to the allegation if proven?

**Duplication** – Is the complaint substantially similar to a previous allegation or subject of an investigation by another relevant authority?

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<sup>11</sup> Reference to the Monitoring Officer in this document includes the Deputy Monitoring Officer



**Length of time** – Did the events or behaviour to which the complaint relates take place more than six months prior to receipt of the complaint. Does the time lapse mean that those involved are unlikely to remember matters clearly, or does the lapse of time mean that there would be little benefit in taking action.

**Public Interest** – Is the public interest served in referring the complaint further. Has the Subject Member offered an apology or other remedial action?

The Monitoring Officer shall write a summary of the complaint and then, subject to consultation with an Independent Person, have delegated authority to decide to:

- a) take no action if there is clear evidence that there has been no breach of the Code of Conduct.
- b) Resolve the matter informally by asking the Subject Member to
  - i) take part in mediation with the complainant in order to settle the complaint, provided both the Subject Member and the complainant are willing to do so, and/or
  - ii) make a written apology to the complainant which is acceptable to the Monitoring Officer and the Independent Person, and/or
  - iii) attend training and/or
  - iv) correct an entry in the Members' Register of Interests or correct a declaration made; OR
- c) Require a formal investigation and a written investigation report by an Investigating Officer. The investigation report shall conclude whether there has been a breach of the Code of Conduct. Copies of the investigation report will be provided in confidence to the Independent Person, and the Subject Member. OR
- d) Refer the complaint to the Standards Committee for a decision on whether options a), b) and c) above should be followed.

The decision by the Monitoring Officer will normally be taken within 20 working days of receipt of the complaint. Once a decision has been made by the Monitoring Officer the complainant, the Subject Member and the Town/Parish Clerk (if applicable) will be informed of the outcome as soon as possible.

If the Monitoring Officer decides to resolve the matter informally, as set out in b) above, but this is deemed to have failed the Monitoring Officer can further decide, in consultation with the Independent Person, to refer the complaint for a formal investigation, as set out in c) above.

#### **9.1.12.5 Anonymous Complaints**

Anonymous complaints will not usually be considered. However it is recognised that in some exceptional circumstances some individuals may feel unable to reveal their identity. In these situations, complainants wishing to remain anonymous should be aware that their concerns may carry less weight because the evidence may not be sufficient enough to allow a successful investigation and fair result. The Monitoring Officer is authorised, subject to consultation with the Independent Person, to accept or decline an anonymous complaint.

### **9.1.13 Finding on Investigation**

#### **9.1.13.1 No Breach of Code of Conduct**

Where a formal investigation concludes that the Subject Member has not failed to comply with the Code of Conduct, the Monitoring Officer shall have delegated authority to decide not to take any further action, in consultation with the Independent Person.

If the Monitoring Officer makes a decision not to take any further action, he or she will advise the complainant, the Subject Member and the Town/Parish Clerk if applicable.

A summary of all investigations will be provided to the Standards Committee for information. However, where there is a determination that there has been no breach of the Code of Conduct, no names will be disclosed.

#### **9.1.13.2 Breach of Code of Conduct**

Where a formal investigation finds evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person, shall make a decision to:

- a) resolve the matter informally by asking the Subject Member to
  - i) take part in mediation with the complainant in order to settle the complaint, provided both the Subject Member and the complainant are willing to do so, and/or
  - ii) make a written apology to the complainant which is acceptable to the Monitoring Officer and Chairman of the Standards Committee, and/or
  - iii) attend training and/or
  - iv) correct an entry in a register or correct a declaration made;

Where there has been a determination by the Monitoring Officer to resolve the matter informally, the Subject Member's name will be disclosed in accordance with Rule 9.1.14.3 below.

OR

- b) refer the Investigating Officer's report to a Standards Committee Hearings Panel, constituted from members of the Standards Committee. The Hearings Panel will conduct a local hearing following the procedure in [Rule 9.1.15](#), and make a decision in accordance with [Rule 9.1.16.2](#).

The Hearings Panel will usually hear a complaint within two calendar months of the date that the Monitoring Officer received the final investigation report.

#### **9.1.13.3 Publication of a Decision on Finding a Breach of the Code of Conduct which has been Dealt with Informally**

Within 3 working days of the decision to resolve the matter informally the Monitoring Officer shall prepare a formal decision notice. The decision notice will include details of the steps the Subject Member has been asked to take by the Monitoring Officer to resolve the matter. A copy of the decision notice will be sent to the complainant, the Subject Member (and, if applicable, the relevant Town/Parish Council) and the Independent Person. The decision notice will be available for public inspection and will be published on

the Borough Council's website. If the complaint is directed at a Borough Councillor, the decision will be reported to the next convenient meeting of the Borough Council. At the Council meeting the report will be noted and there will be no discussion on the item. If the complaint is directed at a Town/Parish Councillor, the relevant Council will be requested to report the decision to its next Council meeting.

The Subject Member has no right of appeal against the decision of the Monitoring Officer.

#### **9.1.14 Procedure for Local Hearings**

##### **9.1.14.1 Appointment, Composition and Terms of Reference of the Hearings Panel**

The Monitoring Officer is required to convene a politically balanced Hearings Panel from the membership of the Standards Committee as necessary. The Hearings Panel will therefore not have a fixed membership.

The Hearings Panel shall comprise three to five voting members of the Standards Committee.

If the complaint relates to a Town or Parish Councillor then a co-opted Town or Parish Councillor of the Standards Committee will also be part of the Hearings Panel, but will not have voting rights.

An Independent Person will be asked to attend any Hearings Panel and give advice to it in respect of the complaint as required by S28(7) of the Localism Act 2011.

##### **9.1.14.2 Pre Hearing Process**

The date of the hearing will be arranged by the Monitoring Officer in consultation with the members of the Hearings Panel and the Subject Member.

Once the date for the Hearings Panel has been arranged the Subject Member will be notified and asked if they:

- a) wish to attend the hearing;
- b) wish to be represented at the hearing by a solicitor, barrister or any other person;
- c) wish to submit any written evidence or documentation to be considered by the Panel. This must be sent no later than 3 working days prior to the hearing and will be passed to the complainant and the Investigating Officer for any comment. Additional evidence or documentation not submitted by this deadline may not be accepted by the Panel;
- d) wish to call relevant witnesses to give evidence at the hearing. The Chairman of the Hearings Panel appointed at the meeting will have the final decision on how many witnesses may reasonably be needed.

The Hearings Panel will receive a report from the Monitoring Officer which will include a copy of the Investigating Officer's final report.

The legal requirements for publishing agendas, minutes and calling meetings will apply to the Hearings Panel. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member and no later than 2 months, except in exceptional circumstances. The hearing will normally be held in public but Schedule 12A of the Local Government Act 1972 (as amended) may be applied to exclude the public and press from meetings of the Hearings Panel where it is likely that confidential or exempt information will be disclosed.

#### **9.1.14.3 Procedure for the Hearings Panel**

The procedure for the Hearings Panel will be as follows:

- a) Elect a Chairman for the Hearing.
- b) The Chairman will ask the Hearings Panel if they have any interests to declare.
- c) Agree whether the matter should be heard in public or private, subject to the normal rules on exempt and confidential information and bearing in mind the public interest. The Hearings Panel will always, however, retire in private to consider its findings and possible action.
- d) The Chairman to confirm the names and status of those attending. If the Subject Member is not present at the start of the hearing, and they had indicated their intention to attend, the Chairman shall ask the Monitoring Officer whether the Subject Member has provided any reasons why he or she would not be present. From the response the Hearings Panel will decide whether to make a determination in the absence of the Subject Member or adjourn the hearing to another date.

The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

The Hearings Panel may adjourn at any time.

#### **9.1.14.4 Presentation of the Complaint and Subject Member's Case**

- a) The Monitoring Officer, or in his/her absence the Deputy Monitoring Officer, or Chairman may each make an introductory statement outlining the nature of the complaint and the purpose of the hearing, and the procedure to be followed.
- b) The Investigating Officer, or in his/her absence the Monitoring Officer, shall present the Investigating Officer's report having particular regard to any points of difference identified by the Subject Member and why the Investigating Officer had concluded, on the basis of their findings of fact, that the Subject Member had failed to comply with the Code of Conduct. The Investigating Officer or Monitoring Officer may call witnesses as necessary in order to substantiate his/her findings.

- c) The Subject Member will then be given the opportunity to ask the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- d) Members of the Hearings Panel, the Independent Person and the Monitoring Officer will then have the opportunity of asking the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- e) The Subject Member will then be invited to respond to the Investigating Officer's report and provide evidence, either by calling witnesses or by making representations to the Hearings Panel as to why they consider that they did not fail to comply with the Code of Conduct.
- f) The Investigating Officer will then be given the opportunity to ask the Subject Member and any witnesses, questions relating to the representations made to the Hearings Panel.
- g) Members of the Hearings Panel, the Independent Person and the Monitoring Officer will then have the opportunity to ask the Subject Member, and any witnesses, questions relating to the representations made to the Hearings Panel.
- h) The Investigating Officer will then be given the opportunity to sum up.
- i) The Subject Member will then be given the opportunity to sum up
- j) The Independent Person will then be invited to comment and express their view on whether or not they consider that on the facts presented to the Panel, there has been a breach of the Code of Conduct.
- k) The Chairman of the Hearings Panel will check with the other members of the Panel whether they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter. If it is decided that additional evidence is required before a determination can be made then the hearing will be adjourned and the Investigating Officer be asked either to seek and provide such additional evidence and/or undertake further investigation on any point specified by the Hearings Panel.
- l) If the Panel is satisfied that that they do have sufficient evidence to make a decision this will conclude the evidence gathering part of the hearing. The Investigating Officer, the Subject Member, the Independent Person and any witnesses that might be present will be asked to leave at this point, but the Democratic Services Clerk and Monitoring Officer will remain.

#### **9.1.14.5 Deliberations of the Hearings Panel**

- a) The Hearings Panel will adjourn the hearing and deliberate in private to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct. The Investigating Officer, the Subject Member, the Independent Person and any witnesses that might be present will be asked to leave at this point, but the Democratic Services Clerk and Monitoring Officer will remain.

- b) The Hearings Panel will then determine the complaint on the balance of probabilities. If the Panel determine that there has been a failure to follow the Code the Panel shall seek advice from the Monitoring Officer as to what action they believe should be taken against the Subject Member.
- c) The Hearings Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and from whom.

#### **9.1.14.6 Announcement of Decision**

The Hearings Panel will reconvene the hearing in public and the Chairman will announce whether or not on the facts found the Panel considers that there has been a breach of the Code of Conduct.

#### **9.1.15 Finding of the Hearings Panel**

##### **9.1.15.1 Finding of Non Failure to follow the Code of Conduct**

If the Hearings Panel determine that the Subject Member has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report then the complaint will be dismissed.

The decision notice stating the Hearings Panel's findings, in relation to a non-failure to follow the Code of Conduct, will be provided to the Subject Member, the Investigating Officer, the Monitoring Officer, and the Independent Person on a confidential basis. It will not be published on the Council's website or otherwise disclosed.

##### **9.1.15.2 Finding of Failure to follow the Code of Conduct**

If the Hearings Panel determines that the Subject Member has failed to follow the Code of Conduct then it can decide to take any or more of the following actions:

- a) Formally censure the Subject Member in writing for their failure to follow the Code of Conduct;
- b) Recommend to the Subject Member's Group Leader (or in the case of ungrouped Members, recommend to Council or to Committee(s) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- c) Recommend to the Leader of Council that the Subject Member be removed from the Executive, or removed from particular portfolio responsibilities;
- d) Instruct the Monitoring Officer (or recommend that the relevant Town/Parish Council, as appropriate) to arrange training for the Member;
- e) Remove (or recommend to the relevant Town/Parish Council that the Subject Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Town/Parish Council);

- f) Withdraw (or recommend to the relevant Town/Parish Council that it withdraws) facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and internet access;
- g) Exclude (or recommend that the relevant Town/Parish Council exclude) the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee or Sub-Committee meetings; or
- h) Report its findings to the Crown Prosecution Service in respect of a Subject Member that has been found to have committed an offence under [Appendix A](#).

### **9.1.15.3 Publication of the Decision on Finding a Breach of the Code of Conduct**

Within 3 working days, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Hearings Panel and the Independent Person. A copy of the decision notice will be sent to the complainant, the Subject Member (and, if applicable, the relevant Town/Parish Council) and the Independent Person. The decision notice will be available for public inspection, and published on the Borough Council's website.

If the complaint is directed at a Borough Councillor, the decision will be reported to the next convenient meeting of the Borough Council. At the Council meeting the report will be noted and there will be no discussion on the item. If the complaint is directed at a Town/Parish Councillor, the relevant Council will be requested to report the decision to its next Council Meeting.

The Subject Member or complainant has no right of appeal against a decision of the Monitoring Officer or the Hearings Panel.

## **CHAPTER 9.2 - CODE OF CONDUCT FOR COUNCILLORS**

### **9.2.1 Joint statement**

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

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

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

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

### **9.2.2 Introduction**

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

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

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

### **9.2.3 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 subcommittee of the authority;

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



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

#### **9.2.4 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.

#### **9.2.5 General principles of Councillor conduct**

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

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

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

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

In undertaking my role:

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

#### **9.2.6 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.

**9.2.6.1** This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- a) you misuse your position as a Councillor
- b) 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;

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

- a) at face-to-face meetings
- b) at online or telephone meetings
- c) in written communication
- d) in verbal communication
- e) in non-verbal communication
- f) in electronic and social media communication, posts, statements, and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

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

### **9.2.7 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.

### **9.2.8 General Conduct**

#### **9.2.8.1 Respect**

As a Councillor:

- a) I treat other Councillors and members of the public with respect.
- b) I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

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

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

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and **notify** 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.

### **9.2.8.2 Bullying, harassment and discrimination**

As a Councillor:

- a) I do not bully any person.
- b) I do not harass any person.
- c) 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.

### **9.2.8.3 Impartiality of Officers of the Council**

As a Councillor:

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.

### **9.2.8.4 Confidentiality and access to information**

As a Councillor:

I do not disclose information:

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

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.

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

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

must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### **9.2.8.5 Disrepute**

As a Councillor:

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

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its 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.

#### **9.2.8.6 Use of position**

As a Councillor:

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.

#### **9.2.8.7 Use of local authority resources and facilities**

As a Councillor:

- a) I do not misuse Council resources;
- b) I will, when using the resources of the local or authorising their use by others:
  - i. act in accordance with the local authority's requirements; and
  - ii. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

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

Examples include:

- a) office support;

- b) stationery;
- c) equipment such as phones, and computers;
- d) transport;
- e) 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.

### **9.2.9 Complying with the Code of Conduct**

As a Councillor:

- a) I undertake Code of Conduct training provided by my local authority;
- b) I cooperate with any Code of Conduct investigation and/or determination;
- c) I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings;
- d) 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.

### **9.2.10 Protecting your reputation and the reputation of the local authority**

#### **Interests**

As a Councillor:

I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

#### **9.2.10.1 Registering interests**

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose 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 disclosed 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 disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

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

### **9.2.11 Gifts and hospitality**

As a Councillor:

- a) 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.
- b) I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.
- c) I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

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

## **THE SEVEN PRINCIPLES OF PUBLIC LIFE**

The seven principles of public life 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 disclose and resolve any interests and relationships.

### **Objectivity**

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

### **Accountability**

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

### **Openness**

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

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

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



**APPENDIX B****REGISTERING INTERESTS**

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 which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register **details** of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**“Disclosable pecuniary interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"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.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

**Non participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose 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 disclose the nature of the interest, just that you have an interest.

**Dispensation**

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

## Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects**:
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a friend, relative, close associate; or
  - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

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

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure

that any written statement of that decision records the existence and nature of your 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](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	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.
<b>Contracts</b>	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 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 — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

<b>Land and Property</b>	<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>
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	<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>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the Councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

\* ‘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 have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

## THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

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

The recommendations cover:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **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>i</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 Heda of Legal, or to download:](#)

## LGA Guidance for Councillors on the Use of Social Media

<https://www.local.gov.uk/our-support/guidance-and-resources/comms-hub-communications-support/digital-communications/social-1>

**Be a Person** In the words of Digital Specialist **Euan Semple**, "Organisations don't tweet, people do". You are likely to be more effective if your social media profile is you (with a picture of you) rather than an organisation with a logo.

**Don't worry about reaching everyone in your ward** Social media will be more effective in some wards than others. University towns, urban areas with good broadband and mobile connections, and a working age population tend to work best. Wards with an older population and poor internet connectivity tend not to be so effective at reaching your ward. However don't let this stop you as connections are getting continuously improving as we move towards a higher level of **digital inclusion**.

**Don't let it replace your traditional work** To be an effective Councillor you won't stop meeting people and posting leaflets simply because you are posting online. The traditional work of a Councillor still has to be done. You will know your residents best—consider which channel works best for them to connect with you, online and offline.

**Think about the platform you'll use** If people in your ward are keen Facebook users then think seriously about Facebook. Twitter is popular among politicians because it's easy to use and connects people really well. Whichever one you choose, learn one at a time before even thinking of trying something else. You will know your residents better than anyone else so ask them which channel works best for them.

**See how other Councillors use it** Watch and learn from other Councillors who are using social media. Have a chat to them. You'll very often find they will be happy to talk. Even to those from different parties.

**Don't be a slogan machine** There is a really important decision to be taken over how political to be. You may have been elected on a party political ticket. But you are also a rounded human being. Social media is a chance for you to show your human side. Just posting party political content is likely to switch many people off and you may be talking only to the party faithful.

**Have a conversation** Social media works best as a two-way conversation connecting people and sharing information. Good Councillors do this everyday face-to-face with residents—social media should be no different to this.

**Don't wait for people to come to you** You've got your Facebook profile or your Twitter profile. People won't just come flocking to you. Run a search on your chosen profile for the name of your ward or an issue. Make a connection. Join a Facebook group set-up by residents. Comment on a blog, a website or a video clip.

**Think about times when you won't post** From experience, many elected members say that Friday and Saturday nights are not always the best time to post overtly political

messages. You won't always get the most rounded debates. Many Councillors post sparingly on religious holidays.

**To post in meetings or not?** Some authorities frown on posting from social media in meetings. Check the situation where you are. Residents, residents groups, journalists and bloggers are being encouraged to use social media from meetings. So adding your voice to the conversation may be a good thing as part of democracy. If you can post an update from a meeting and it doesn't hamper your role in that meeting then it's something to think about.

**Don't have a row** Robust debate is fine from time-to-time and it is part of the cut and thrust of local politics. Most people can accept that. But remember how this debate is playing out to passers-by who are not interested in the detail of the issue. They are likely to be switched off. Take the row offline with a phone call or an email.

**Don't be abusive** An absolute 'no no' is abusing people online. It doesn't work. It will make you look awful and is a sure-fire way to land you in trouble with your electorate, the party and the council. Be professional. Don't say anything you wouldn't be happy saying in a public meeting with the Press there.

**Don't discuss case work detail** Case work can be reported to you on social media. Everything from uncollected rubbish and a cracked paving slab to concerns about child protection. As a good rule of thumb, ask residents to tell you the detail of an issue offline. Social media platforms usually have an easy-to-use way to talk one-to-one. Email and telephone can come into play too.

**Pictures work** People respond really well to pictures. They don't have to be print quality. They don't have to be posed. If you are on a ward walk post some pictures. Include the people you are with if they are happy with that. Post pictures that show your human side too. That sunrise you just noticed. Your dog. Things that make you human.

**Enjoy it** It's not meant to be scary. It's not meant to be hard work. Relax. Be yourself. Be a responsible elected member. Enjoy it.

## CHAPTER 9.3 - MEMBER / OFFICER PROTOCOL

### 9.3.1 Preamble

The relationship between Members and Officers is important to the successful working of the Authority. This relationship within Wokingham Borough Council is characterised by mutual respect and trust. Members and Officers should feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is to help Members and Officers to perform effectively by giving guidance in their respective roles and expectation of their respective roles and on their relationship with each other. This Protocol also gives guidance on what to do on the rare occasions when things go wrong and in its appendices, give supporting guidance in respect of specific subjects.

The Protocol must be read and operated in the context of any relevant legislation, the Member's Code of Conduct, Officer Code of Conduct and the Council's Whistleblowing Policy and Guidance. Nothing in this protocol overrides national legislation or these documents.

### 9.3.2 Roles of Members and Staff

The respective roles of Members and Officers can be summarised as follows:

Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council and to carry out the Council's work under the direction of Members through the Council, Executive and relevant committees.

Mutual respect between Members and Officers is essential to good local government and an important part of that is an understanding of these respective roles and responsibility.

### 9.3.3 Members' Responsibilities

Members have three main areas of responsibility: determining the strategic policy of the Council and giving it political leadership, representing the Council externally, and acting as advocates on behalf of their constituents. It is not the role of Members to involve themselves in the day to day operation of Council services.

### 9.3.4 The Mayor, Deputy Mayor, Members of the Executive and Deputy Executive Members, Chairmen, Vice-Chairmen

The Mayor, Deputy Mayor, Members of the Executive and Deputy Executive Members have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from and more complex than those of Members without those responsibilities and this is recognised in the expectations they are entitled to have.

### 9.3.5 Opposition Members

Members shall be given timely access to information that they require in their role as Members. As individual Members of the Council, all Members have the same rights and obligations in their relationships with employees and should be treated equally. This principle is particularly in the context of overview and scrutiny. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between Officers, particularly those at senior level in the organisation and the administration shall differ from that with opposition groups.

### 9.3.6 Officers

The role of Officers is to give advice and information to Members and to implement the policies determined by the Council.

Certain employees e.g. Head of Paid Services, Monitoring Officer, Chief Financial Officer (Section 151) and the Statutory Chief Officers have responsibilities in law over and above their obligations to the Council and its Members which they must be allowed to discharge.

### 9.3.7 Expectations

#### Members can expect from Officers:

- A commitment to the Council as a whole and not to any political group;
- A working partnership;
- An understanding of and support for respective roles, workloads and pressures;
- Timely response to enquiries and complaints;
- Professional advice not influenced by political views or preference, which does not compromise the political neutrality of employees;
- Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- Awareness and sensitivity to the political environment
- Respect, dignity and courtesy;
- Training and development in order that they can carry out their role effectively;
- Integrity, mutual support and appropriate confidentiality;
- That Officers shall not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- That Officers shall at all times comply with the relevant Code of Conduct.

#### Officers can expect from Members:

- A working partnership;
- An understanding of and support for respective roles, workloads and pressures;
- Political leadership and direction;
- Respect, dignity and courtesy;
- Integrity, mutual support and appropriate confidentiality;
- Not to be subject to bullying or to be put under undue pressure. Members should have regard to the seniority of Officers in determining what are reasonable requests, having regard to power relationship between Members and employees and the potential vulnerability of Officers, particularly at junior levels;
- That Members shall not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly;
- That Members shall at all times comply with the relevant Code of Conduct.

### 9.3.8 If things go wrong

#### Procedure for Officers

From time to time the relationship between Members and Officers may break down or become strained. Whilst it shall always be preferable to resolve matters informally, through conciliation by an appropriate senior Manager or Member, Officers should raise any concerns with the Monitoring Officer who will consider how the complaint or allegation should be dealt with.

At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may involve alleged breaches of the Member Code of Conduct and the process for the consideration of Member Code of Conduct complaints is as set out in [Rule 9.1.12](#) .

Nothing in this process negates the right of Officers to make a Code of Conduct complaint to the Monitoring Officer if they wish.

### **Procedure for Members**

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate manager or the relevant Director. Where the matter concerns a Director, it should be raised with the Chief Executive. Where the matter concerns, the Chief Executive it shall be raised with the Director Finance and Resources or with the Leader of the Council as appropriate.

**Appendix 1****Supporting Guidance on Members' Access to Documents and Information**

1. This Guidance should be read in conjunction with the Access to Information Rules contained in Chapter 3.2 of the Council's Constitution.
2. Members may request Directors to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
  - a) it is in the public domain, and
  - b) it is not barred by the Data Protection Act from being given.
3. Every Member of the Executive, the Overview and Scrutiny Committees, and/or any other committee or sub-committee has a right to inspect documents about the business of that committee or sub-committee or the Executive.
4. A Member who is not a Member of a specific Overview and Scrutiny Committee, other committee or sub-committee, or the Executive has rights of access to reports which are set out in the Access to Information Procedure Rules set out in Chapter 3.2.
5. Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a Member's request.
6. A Member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:
  - a) where to do so is likely to be in breach of the Data Protection Act, or
  - b) where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the Members' code of conduct.
7. Information given to a Member must only be used for the purpose for which it was requested.
8. It is an accepted convention that a Member of one political group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another political group.
9. Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
10. When requested to do so, Officers will keep confidential from other Members advice requested by a Member.
11. Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

**Supporting Guidance on Media Relations**

1. All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
2. Press releases or statements made by Officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a political group.
3. Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
4. Before responding to enquiries from the media, Officers shall ensure they are authorised to do so.
5. Likewise, Officers will inform the Council's Communications Team of issues likely to be of media interest, since that section is often the media's first point of contact.
6. If a Member is contacted by, or contacts, the media on an issue, he/she should:
  - a) indicate in what capacity he/she is speaking (e.g. as ward Member, in a personal capacity, as an Executive Member, on behalf of the Council, or on behalf of a political group);
  - b) be sure of what he/she wants to say or not to say;
  - c) if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Communications Team and/or relevant Director, except in relation to a statement which is party political in nature;
  - d) consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
  - e) never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
  - f) consider whether to consult other relevant Members; and
  - g) take particular care in what he/she says during the moratorium on publicity in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.



**Supporting Guidance on Correspondence**

1. Correspondence between an individual Member and an Officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.
2. Official letters written on behalf of the Council should normally be in the name of the relevant Officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of an Executive Member or the chairmen of the Overview and Scrutiny Committees.
3. The Mayor may initiate correspondence in his/her own name.
4. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.
5. When writing in an individual capacity as a ward Member, a Member must make clear that fact.

**Appendix 4****Supporting Guidance on Access to Premises and Use of Council Resources**

1. Officers have the right to enter Council land and premises to carry out their work. Some Officers have the legal power to enter property in the ownership of others.
2. Members have a right of access to Council land and premises to fulfil their duties.
3. When making visits as individual Members, Members should:
  - a) whenever practicable, notify and make advance arrangements with the appropriate manager or Officer in charge;
  - b) comply with health and safety, security and other workplace rules;
  - c) not interfere with the services or activities being provided at the time of the visit;
  - d) if outside his/her own ward, notify the ward Member(s) beforehand; and
  - e) take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.
4. The Council provides all Members with a number of services to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
5. Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:
  - a) where facilities are provided in Members' homes at the Council's expense;
  - b) in relation to any locally-agreed arrangements e.g. payment for private photocopying; and
  - c) regarding ICT security.
6. Members should not put pressure on staff to provide resources or support which Officers are not permitted to give. Examples are:
  - a) business which is solely to do with a political party;
  - b) work in connection with a ward or constituency party political meeting;
  - c) electioneering;
  - d) work associated with an event attended by a Member in a capacity other than as a Member of the Council;
  - e) private personal correspondence;
  - f) work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
  - g) support to a Member in his/her capacity as a Councillor of another local authority.

**Appendix 5****Supporting Guidance on Role and Responsibilities of Members****1 The Role of Members**

Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior Officer(s), and/or the Monitoring Officer but the decision whether or not there is a conflict ultimately rests with the Member:

- a) collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Authority's policy framework, strategic plans and budget;
- b) Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies;
- c) every elected-Member represents the interests of, and is an advocate for their ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies;
- d) some Members have roles relating to their position as Members of the Executive, Overview and Scrutiny Committees, or other committees and sub-committees of the Council.
- e) members of the Executive can have individual delegated powers. They may determine matters within their portfolios but implementation of their decisions is the responsibility of Officers;
- f) Members serving on the Overview and Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision;
- g) Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding planning and licensing applications, which by law are excluded from the remit of the Executive.
- h) some Members may be appointed to represent the Council on local, regional or national bodies.

**2 The Responsibilities of Members**

As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.

**3 Instructing Officers**

Members are not authorised to instruct Officers other than:

- a) through the formal decision-making process;
- b) where staff have been specifically allocated to give support to a Member or group of Members; and
- c) in the case of political assistants.

#### **4 Financial Transactions**

Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.

#### **5 Unlawful Actions**

Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Section 151 (Finance) Officer.

#### **6 Impartiality of Officers**

Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change his/her professional advice.

#### **7 Members Role in Appointments**

Members have a role in:

- a) the appointment of the Chief Executive, and Directors
- b) determining human resources policies and conditions of employment;
- c) determining requests for early retirement and redundancy pay;
- d) involvement in the appointment of political assistants;
- e) hearing and determining appeals; and
- f) a consultative role with staff side and the Trade Unions.

Members shall not act outside these roles.

If participating in the appointment of Officers, Members should:

- a) remember that the sole criterion is merit (other than in the case of political assistants where political consideration may apply);
- b) never canvass support for a particular candidate;
- c) not take part where one of the candidates is a close friend or relative;
- d) not be influenced by personal preferences; and
- e) not favour a candidate by giving him/her information not available to the other candidates.

**Supporting Guidance on Role and Responsibilities of Officers****1 The Role of Officers**

Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, Officers will take into account all available relevant factors. Advice given by the Section 151 (Finance) Officer and Monitoring Officer in accordance with their Statutory functions must always be followed. All Officer reports for Members' attention, excluding reports relating to planning applications which are due to be discussed at the Planning Committee, should be circulated to the Section 151 Officer and Monitoring Officer for information and comment.

Under the direction and control of the Council (including, as appropriate, the Executive, committees and sub-committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

**2 Responsibilities of Officers**

Officers have a duty to implement decisions of the Council, the Executive, committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly minuted.

- a) Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- b) Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the Authority as expressed in the Council's formal decisions.
- c) Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- d) Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

**3 The Relationship Between Members and Officers - General**

The conduct of Members and Officers should be such as to instil mutual confidence and trust:

- a) the key elements are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately;
- b) Members and Officers should not undermine respect for the other at Council Meetings, or at any other meeting they attend in their capacity as a Member or Council employee. A personal attack by a Member on an Officer, or on staff generally, at a formal or informal Member meeting will never be acceptable, nor will a personal attack by an Officer on a Member;
- c) Members should not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public;

- d) informal and collaborative two-way contact between Members and Officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection;
- e) Members and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles;
- f) it is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis;
- g) Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council;
- h) with the exception of political assistants, Officers work to the instructions of their senior Officers, not individual Members. It follows that, whilst such Officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a Director, at least in the first instance;
- i) Officers will do their best to give timely responses to Members' enquiries. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by Directors. Members should avoid disrupting Officers' work by imposing their own priorities;
- j) Members wishing to see Officers in person should make appointments in accordance with any local service area protocol;
- k) Members and Officers will endeavour to give timely responses to each other's enquiries and requests;
- l) an Officer shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an Officer raising on a personal basis, and in his/her own time, a matter with his/her ward Member;
- m) Members and Officers should respect each other's free (i.e. non-Council) time.

#### **4 The Council as Employer**

Officers are employed by the Council as a whole.

#### **5 Mayor and Officers**

Officers will respect the position of Mayor and provide appropriate support.

#### **6 Executive Members and Officers**

Executive Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Directors will be responsible for instructing staff to implement the Executive's decisions.

In addition to individual Members of the Executive, Directors (including the Section 151 Officer) and the Monitoring Officer have the right to submit papers to the Executive as a whole or to individual Executive Members for consideration.

Directors and Executive Members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including, without exception, the Monitoring Officer and Section 151 Officer, and will not direct Officers in the framing of recommendations.

Before any formal decisions with a financial implication are taken by the Executive, the Section 151 Officer and the Directors for the service(s) concerned must be consulted. This is to ensure that those Officers who are budget holders:

- a) are aware of the proposed decision;
- b) have the opportunity to offer advice; and
- c) are subsequently able properly to authorise the financial transactions needed to implement decisions.

## **7 Executive Individual Decisions**

An individual Executive Member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other Members and Officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive Members on cross-cutting issues.

Executive Members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.

## **8 Officer Delegated Powers**

Officers taking decisions under their delegated powers must consult with the relevant Executive Member(s) in advance when the matter to which the decisions relate are likely to be sensitive or contentious, or have wider policy implications.

## **9 Officer Action**

At some meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the chairman/Executive Member. In these circumstances it is the Officer, not the Member, who takes the action and is responsible for it. A Member has no legal power to take decisions, neither should he/she apply inappropriate pressure on the Officer.

## **10 Political Groups and Officers (excluding Political Assistants)**

The Chief Executive and Directors may properly be asked to contribute to deliberations of matters concerning Council business by political groups:

- a) Officers will not normally be expected to attend a meeting of a political group where some of those attending are not Members of the Council, particularly where there is a likelihood that matters of a confidential or political nature will be considered;
- b) Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of a wholly political nature, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed;
- c) political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- d) where Officers provide factual information and advice to a political group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council;

- e) it must not be assumed that an Officer is supportive of a particular policy or view considered at a political group meeting simply because he/she has attended or provided information to the meeting;
- f) Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other Members. This shall not prevent the Chief Executive or a Director providing feedback to other Directors on a need-to-know basis;
- g) in their dealings with political groups, Officers must treat each group in a fair and even-handed manner;
- h) Members must not do anything which compromises or is likely to compromise Officers' impartiality;
- i) during discussions at political group meetings, Members should have regard to the Code of Conduct requiring them to treat others with respect, and to the provisions of this protocol regarding the need for mutual respect between Members and Officers to be maintained at all times. The Clerk to the meeting shall report any comments or behaviour he/she considers to be contrary to these provisions to the Chief Executive and Monitoring Officer;
- j) an Officer accepting an invitation to the meeting of one political group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each;
- k) an Officer who is not a Director shall not be invited to attend a party group meeting, but a Director may nominate another Officer to attend on his/her behalf;
- l) an Officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a political group meeting;
- m) no Member will refer in public or at meetings of the Council to advice or information given by Officers to a political group meeting, and no Officer will refer in public reports to matters discussed by a political group meeting;
- n) any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Monitoring Officer or Chief Executive, and the relevant party group leader.

## **11 Political Assistants**

These Officers have been appointed by the Council exclusively to provide support to each of the party groups. Their function is to assist the interests and work of the group to which they have been assigned. This is in contrast to all other staff whose duty is to serve the Council as a whole:

- a) political Assistants will be treated in accordance with and expected to observe all codes, policies and practices relating to the Council's staff. This includes the courtesy and consideration which the Council expects its Officers to show to one another;
- b) except for their immediate secretarial and clerical support, the assistants will have no line management responsibility or power of direction over other staff;
- c) political Assistants are not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the party group to which they have been assigned;
- d) the level of access to Council documents and information shall be that enjoyed by Members.



## **12 Ward Issues and Officers**

To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Directors must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

This requirement is particularly important:

- a) during the formative stages of policy development, where practicable;
- b) in relation to significant or sensitive operational matters;
- c) whenever any form of public consultation exercise is undertaken; and
- d) during an overview and scrutiny investigation.

Issues may affect a single ward. Where they have a wider impact, a number of Local Ward Members will need to be kept informed.

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should be invited to attend the meeting as a matter of course.

If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant Officer. Provided the meeting has not been arranged on a party political basis:

- a) an Officer may attend but is not obliged to do so, and
- b) the meeting may be held in Council-owned premises.

No such meetings should be arranged or held during the moratorium on publicity during the approximate six week period between the notice of election and the election itself.

Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:

- a) the surgeries must be open to the general public; and
- b) Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

Officers must never be asked to attend ward or constituency political party meetings.

It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive Members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures and in particular locally agreed levels of service. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek direction from their managers.

Under no circumstances should Members seek to use their positions to further their own personal interests as recipients of Council services.

## **CHAPTER 9.4 – CORPORATE ANTI-FRAUD AND ANTI-CORRUPTION POLICY**

### **9.4.1 Introduction**

Wokingham Borough Council (The Council) aims to deliver high quality services and provide value for money by being fully accountable, honest and open in everything that it does.

Fraud and corruption undermine these aims by diverting resources from legitimate activities, damaging public confidence in the Council and adversely affecting staff morale.

To achieve its strategic priorities, the Council seeks to ensure that measures are taken to prevent, detect and investigate fraudulent or corrupt acts. The aim of this policy is to reduce losses from fraud and corruption to an absolute minimum.

The Council has a zero tolerance policy regarding fraud and corruption. It has adopted the following approach.

“In administering its responsibilities the Council is opposed to fraud and corruption whether it is attempted on or from within the Council and is committed to preventing, deterring, detecting and investigating fraud and corruption.”

This policy is particularly relevant to:

- a) elected Members;
- b) employees;
- c) contractors;
- d) consultants;
- e) suppliers;
- f) service users;
- g) customers (including the public); and
- h) partner organisations.

### **9.4.2 Defining Fraud**

The Council defines “fraud” as detailed in the Fraud Act 2006. Most commonly it occurs when a person dishonestly makes a false representation in order to gain for themselves or cause loss to another.

The type of offences for which a person could be prosecuted include:

- Fraud by false representation – lying about something with the intention to cause a gain or a loss
- Fraud by failure to disclose information – not declaring something when you have a legal duty to do so with the intention to cause a gain or a loss.

- Fraud by abuse of position - where someone abuses a position of trust where there is an expectation to safeguard the financial interest of another and places another at financial risk or causes a loss.
  - a) falsification or alteration of accounting records or other documents;
  - b) misappropriation of assets or theft;
  - c) suppression or omission of the effects of transactions from accounting records of other documents;
  - d) recording transactions which have no substance;
  - e) wilful misrepresentation of transactions or of the Council's state of affairs; and
  - f) moonlighting i.e. a situation where an employee works more than one job.

#### **9.4.3 Defining Corruption**

The Council defines corruption as the offering, giving, soliciting or accepting of any inducement or reward which would influence the actions taken by the Council, its Members or Officers. Areas where corrupt practices may occur include, but are not limited to:

- a) tendering and awarding of contracts;
- b) pecuniary interests of Members and Officers;
- c) the award of permissions, planning consents and licenses; and
- d) the disposal of assets.

#### **9.4.4 Framework for Prevention and Detection**

It is a management responsibility to maintain the internal control system and to ensure that the Council's resources are properly applied in the manner and on the activities intended. This includes responsibility for the prevention and detection of fraud and other illegal acts.

#### **9.4.5 Key Principles and Culture**

The Council will not tolerate fraud and corruption in the administration of its responsibilities whether from inside or outside of the authority. The Council is committed to creating a culture of opposition to fraud and corruption. The Council is determined that the authority meets the expectations of the Committee on Standards of Public Life and is committed to the ten general principles which govern standards of conduct in local government, namely:

- a) selflessness;
- b) honesty and integrity;
- c) objectivity;
- d) accountability;
- e) openness;
- f) personal judgement;

- g) respect for others;
- h) duty to uphold the law;
- i) stewardship; and
- j) leadership.

#### **9.4.5.1**

The Council requires Members (elected and co-opted) and employees (including agency staff, consultants and contractors) to lead by example in ensuring effective opposition to fraud and corruption. This includes ensuring adherence to legislation, local rules and regulations, National and Local Codes of Conduct and that all procedures and practices are beyond reproach.

#### **9.4.6 Raising Concerns**

Employees at all levels must be alert to the possibility of fraud and corruption. They are required, and positively encouraged to raise any concerns relating to fraud and corruption which they become aware of. These can be raised in any way that the employee prefers, including with their line manager, through a Director, with the Shared Audit and Investigation Service or through the [Council's Whistleblowing Policy](#). Whichever route is chosen, the employee can be assured that concerns raised in good faith will be fully investigated and, wherever possible, those raising concerns will be dealt with in confidence.

When management receive concerns from employees or others regarding potential fraud or corruption, they must immediately contact the Assistant Director, Governance (Monitoring Officer) with details of the concerns. The Assistant Director, Governance (Monitoring Officer) will make preliminary enquiries through the Internal Audit and Investigation and Legal teams, and in consultation with the Section 151 Officer will determine whether there are grounds for an investigation.

Councillors, service users, suppliers, partner organisations and members of the public are encouraged to report any concerns. These concerns about fraud and corruption should be reported either directly to the Assistant Director, Governance (Monitoring Officer) or via the [Council's Whistleblowing Policy](#).

If employees feel that they are unable to use internal routes then they can contact the council's external auditors, Ernst and Young:

#### **Ernst and Young**

Helen Thompson, Wessex House, 19 Threefield Lane, Southampton, SO14 3QB,

**Email** [hthompson2@uk.ey.com](mailto:hthompson2@uk.ey.com)

**Tel** 07974 007332

Although the Council encourages its staff to report concerns acting in good faith, any maliciously motivated and unfounded allegations may be dealt with through the Council's disciplinary code.

### **9.4.7 Corporate Governance**

The main corporate policies and procedures which formulate the Council's framework for minimising risk and the prevention of fraud and corruption include:

- a) Anti-Fraud and Anti-Corruption Policy;
- b) Internal Audit Charter;
- c) Contract and Procurement Regulations;
- d) Financial Regulations;
- e) Human Resources Policy and Guidance for Discipline;
- f) Human Resources Policy for Conduct and Personal Behaviour;
- g) Human Resources Policy for Recruitment and Retention;
- h) Member's Code of Conduct;
- i) Money Laundering Policy;
- j) Officer's Code of Conduct;
- k) Prosecution and Sanction Policy;
- l) Risk Management Strategy;
- m) Scheme of Delegation;
- n) Whistleblowing Policy; and
- o) Anti-Bribery Policy

### **9.4.8 Corporate Responsibility**

Assistant Directors must ensure that all employees in their service are familiar with the corporate policies and procedures listed in [Rule 9.4.7](#), in addition to any other relevant rules and regulations specific to their service. Failure to adhere to these policies and procedures could result in the instigation of disciplinary procedures.

### **9.4.9 Recruitment**

The Council recognises that one of the most important issues relating to the prevention of fraud and corruption is the effective recruitment of staff and therefore takes pre-employment screening seriously.

Employee recruitment is required to be in accordance with procedures laid down by the Lead Specialist HR. As part of these procedures, particular reference is made to:

- a) verifying the identity of the applicant;
- b) obtaining satisfactory references prior to appointment;

- c) verifying the applicant is able to legitimately work in the UK;
- d) verifying and retaining copies of certificates for stated qualifications; and
- e) undertaking Disclosure Barring Service checks where appropriate.

These practices apply to all permanent appointments including those where employees have entered the organisation as an agency worker or consultant in the first instance.

#### **9.4.10 System of Internal Control**

The risk of fraud and corruption can be minimised by good financial management, sound internal control systems, effective management supervision, and by raising public, member and employee awareness of fraud.

##### **9.4.10.1**

Internal control is the whole system of controls, financial and otherwise, established to provide reasonable assurance of:

- a) proper aims and objectives;
- b) efficient and effective operations;
- c) reliable management information and reporting;
- d) legitimate expenditure;
- e) compliance with laws and regulations;
- f) performance management; and
- g) security of assets and income.

##### **9.4.10.2**

Weaknesses in the design and operation of administrative and financial internal control systems may increase the risk of fraud. Systems must contain efficient, effective, and well documented internal controls that cover the following:

- a) adequate segregation of duties;
- b) proper authorisation and approval procedures;
- c) adequate physical security over assets; and
- d) reliable monitoring and reporting arrangements.

##### **9.4.10.3**

It is management's responsibility to install adequate internal controls and rectify weaknesses if they occur. To help management discharge this responsibility, systems may be subject to review by both Internal and External Audit. Auditors are responsible for reporting to management on significant weaknesses in the control environment, including

deficiencies in the operation of internal controls and highlighting exposure to the risk of fraud.

High risk audit concerns are promptly followed up to ensure issues highlighted are appropriately actioned.

Management must instigate occasional deterrent compliance checks on the operation of internal controls within their service and are encouraged to seek advice from the Shared Audit and Investigation Service on what checks must be carried out. This work must be used to inform the Annual Governance Statement.

#### **9.4.11 Risk Management**

Major fraud risks relating to services must be included within local Risk Registers and subject to regular review to ensure that appropriate controls are in place to mitigate those risks.

#### **9.4.12 Role of Statutory Officers**

The Council has a statutory responsibility, under Section 151 of the Local Government Act 1972, to ensure the proper administration of its financial affairs and also to nominate one of its Officers to take responsibility for those affairs. The Council's nominated Section 151 Officer is the Deputy Chief Executive and Director of Corporate Services

##### **9.4.12.1**

The Council's Assistant Director, Governance (Monitoring Officer) is responsible under Section 5 of the Local Government and Housing Act 1989 to guard against, inter alia, illegality, impropriety and maladministration in the Council's affairs.

#### **9.4.13 Effective Action**

Responsibility for investigating suspected fraud and corruption against the Council rests with the Shared Audit and Investigation Service. This is to ensure that the investigation is performed only by properly trained officers in accordance with the appropriate legislation.

#### **9.4.14 Procedure**

All referrals received by the Internal Audit and Investigation Service will initially be risk assessed and material instances of fraud or irregularity in the Council will be referred to the Assistant Director, Governance (Monitoring Officer) and the Deputy Chief Executive and Director of Resources and Assets (S151 Officer).

For any investigation undertaken the Shared Audit and Investigation Service will ensure the following objectives are met:

- a) Investigations are undertaken fairly, objectively and in accordance with relevant laws and regulations, so as to avoid jeopardising the outcome on legal and procedural technicalities;
- b) Evidence and unused material is secured and protected, in accordance with the law and best practice;
- c) All reasonable lines of enquiry are followed to establish whether or not there is a case to answer;

- d) Conclusions and recommendations for action are always based on (and, where appropriate, supported by) the evidence gathered during the investigation;
- e) The case is reported and prepared in an appropriate format, in line with the relevant procedures; in the case of criminal process, this means the *National File Standard*;
- f) Appropriate sanctions and redress is sought against any and all individuals and organisations that seek to defraud the Council.

#### **9.4.15 Completion**

Once an investigation is completed the Shared Audit and Investigation Service may have responsibilities in relation to:

- a) recommending improvements to systems;
- b) attendance at disciplinary hearings and tribunals;
- c) attendance at Court as a witness; and
- d) reporting to the Audit Committee.

Conclusions will be based on fact allowing management to take forward any required disciplinary and / or criminal proceedings as they determine appropriate.

#### **9.4.16 Disciplinary**

The Council has in place disciplinary procedures which must be followed whenever staff are suspected of committing a fraudulent or corrupt act. The disciplinary procedures are set out in the Disciplinary Policy and Guidance. The Chief Executive has overall responsibility for ensuring that the disciplinary procedure is managed effectively. Line managers, under the overall direction of an Assistant Director are responsible for day to day management and ensuring compliance with the Disciplinary Policy and Guidance.

#### **9.4.17 Reporting and Publicity**

Incidents of fraud and corruption are reported through the following mechanisms:

- a) Corporate Leadership Team;
- b) Audit Committee; and
- c) External Auditors (currently Ernst and Young).

Where evidence of fraud and corruption is found, appropriate sanctions will be sought in line with the Council's Case Disposal Policy. The details of any proven act of fraud or corruption, including action taken by the Council will be publicised to employees, Members and the public. This is aimed at deterring further attempts of fraud or corruption by demonstrating the seriousness with which the Council views such cases. In agreement with the Section 151 Officer, Monitoring Officer, the Council will report criminal activity to the Police at the appropriate stage.

#### **9.4.18 Working with Others**

The Council will put into place and continue to develop such arrangements, as it deems proportionate and necessary in order to facilitate the exchange of information between the



Council and other agencies on national and local fraud and corruption activity. This includes participation in the National Fraud Initiative which matches data across a wide range of public service organisations in order to detect fraud or erroneous payments.

#### **9.4.19 Money Laundering**

Money laundering is the process of moving illegally generated funds through a cycle of transformation in order to create the end appearance of legitimately earned funds.

The Proceeds of Crime Act 2002 details the three principal money laundering offences as:

- a) assisting another to retain the benefit of crime;
- b) acquisition, possession or use of criminal proceeds; and
- c) concealing or transferring proceeds to avoid prosecution.

In addition there are related offences for failing to report where a person has knowledge, suspicion or reasonable grounds for knowledge or suspicion that money laundering has taken place, as well as for tipping off a person that a disclosure has taken place.

Council Officers and Members who suspect money laundering activities must report their concern to the Council's nominated Money Laundering Reporting Officer (MLRO), the Section 151 Officer (Deputy Chief Executive and Director of Corporate Services).

The Council has adopted an Anti-Money Laundering Policy; all reports must be made in accordance with that policy.

(Further details are contained in Chapter 9.7 [Anti-Money Laundering Policy](#).)

#### **9.4.20 Conclusion and Review**

The Council has in place a clear framework of systems and procedures to deter and investigate fraud and corruption. It will ensure that these arrangements are fair and are monitored and updated to keep pace with future developments in preventative, deterrent and detection techniques regarding fraudulent or corrupt activity.

To this end, the Council maintains a continuous review of these arrangements through, in particular the Audit Committee, the Section 151 Officer (Deputy Chief Executive and Director of Corporate Services), Shared Audit and Investigation Service, External Audit and the Assistant Director, Governance (Monitoring Officer)

## CHAPTER 9.5 – WHISTLEBLOWING POLICY AND GUIDANCE

### 9.5.1 Introduction

The Council is committed to delivering high quality services to its customers and expects high standards from its Officers, Councillors and contractors. In order to maintain those high standards a culture of openness and accountability is vitally important. The aims of this policy are:

- a) to encourage the raising of concerns about malpractice within the organisation without fear of reprisal;
- b) to provide reassurance that concerns will be taken seriously; and
- c) to provide information about how to raise concerns and explain how the council will respond.

This policy applies to all Council employees, former employees, agency staff and contractors engaged by the Council.

### 9.5.2 What is Whistleblowing?

In practical terms, whistleblowing occurs when a concern is raised about danger or illegality that affects others, e.g. clients, members of the public or the Council itself. As the person “blowing the whistle” you would not usually be directly affected by the danger or illegality. Consequently you would rarely have a personal interest in the outcome of any investigation into your concerns. This is different from a complaint or grievance. If you make a complaint or lodge a grievance, you are saying that you personally have been poorly treated. This poor treatment could involve a breach of your individual employment rights or bullying and you are entitled to seek redress for yourself. A qualifying disclosure means any disclosure of information that, in the reasonable belief of the worker is made in the public interest. As a result of this employees will generally be precluded from being able to “blow the whistle” about breaches of his or her employment contract. Although an employee making such a complaint can still use the Council’s grievance policy.

Examples of whistleblowing concerns which is not exhaustive are:

- a) fraud in, on or by the Council;
- b) offering, taking or soliciting bribes;
- c) unauthorised use of public funds;
- d) financial maladministration;
- e) the physical, emotional or sexual abuse of clients;
- f) failure to comply with legal obligations;
- g) endangering of an individual’s health and safety;
- h) damage to the environment;
- i) a criminal offence;

- j) failure to follow financial and contract procedure rules;
- k) showing undue favour to a contractor or a job applicant;
- l) misreporting performance data; or
- m) neglect of people in care.

This Policy does not replace the Council's complaints or grievance procedures.

### **9.5.3 Who must I contact?**

Having considered this Policy, an employee of the Council, or any other person covered by the Public Interest Disclosure Act (PIDA) 1998, who has serious concerns about any aspect of the Council's work, must in the first instance inform one of the following methods:

#### **a) Inform Line Manager**

In many cases, raising concerns with the immediate line manager is the most appropriate route for an employee. The line manager must inform the Assistant Director, Governance (Monitoring Officer) of the disclosure and an appropriate course of action will be agreed. If this is not a suitable option (for example because the issue may implicate the manager or if the concern has been raised but remains unaddressed) the concern may be raised using one of the other methods.

#### **b) Dedicated Whistleblowing Communication Channels**

The Shared Audit and Investigation Service have established a dedicated 24 hour answerphone hotline for receiving disclosures.

**Hot line number** - 0118 974 6550;

**Email**:- [confidential.whistleblowing@wokingham.gov.uk](mailto:confidential.whistleblowing@wokingham.gov.uk)

**By Post** - Confidential Whistleblowing, Shared Audit and Investigations Service, Shute End, Wokingham, RG40 1BN;

**In person** at Shute End by asking for Shared Audit and Investigations Service at reception.

#### **c) Shared Audit and Investigation Service and Assistant Director, Governance (Monitoring Officer)**

The Shared Audit and Investigation Service can offer confidential independent advice on the use of the Whistleblowing Policy. If you suspect an employee, a member of the public or contractor (in their business dealings with the Council) of fraud or corruption you can contact the Shared Audit and Investigation Service who will discuss your concerns with you in complete confidence. If you are in receipt of any allegation involving possible corruption, fraud or malpractice you must notify the Assistant Director, Governance (Monitoring Officer) immediately on 07747 777298.

#### **d) Director Children's Services and Director Adult Services**

If you wish to raise a concern involving vulnerable children, you can contact the Director of Children's Services on 0118 974 6205 to seek guidance on how to proceed. If you wish to raise a concern involving vulnerable adults, you can contact the Director of Adult Services on 0118 974 6414 to seek guidance on how to proceed.

**e) Schools**

You must refer to the whistleblowing arrangements for the individual school. If it is not suitable for the school's Governing Body to deal with, the concern must be raised with the Director Children's Services (contact details shown in d)).

**9.5.3.1**

Advice and guidance on how matters of concern may be pursued can be obtained from: the Assistant Director, Governance (Monitoring Officer).

**9.5.4 Legal Protection**

The Public Interest Disclosure Act (PIDA) 1998 – sets out a framework of protection against victimisation or dismissal for workers who blow the whistle ("disclosure") on criminal behaviour and other specified forms of malpractice.

**9.5.4.1**

It applies to making a 'protected' disclosure in respect of specific types of malpractice, which are:

- a) that a criminal offence has been committed, is being committed or is likely to be committed;
- b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
- d) that the health or safety of any individual has been, is being or is likely to be endangered;
- e) that the environment has been, is being or is likely to be damaged; or
- f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

**9.5.4.2**

The Act covers internal disclosures to the Wokingham Borough Council as the employer, disclosures to prescribed 'persons' such as regulatory bodies (e.g. for health and safety issues, the Health and Safety Executive), and wider disclosures, for example to the police and the media.

**9.5.5 Raising Concerns Outside the Council**

In certain circumstances it may be appropriate to raise concerns outside the Council to the appropriate 'prescribed regulator'. This may only be done where any disclosure of information that is made in the public interest and where you believe the information is true, i.e. more than just suspicion. You are advised to discuss your concerns with a legal advisor, trade union or Public Concern at Work before reporting them outside the Council. Examples of prescribed regulators are set out below:

- a) The Council's external auditors (Ernst and Young);
- b) Information Commissioner;
- c) Environment Agency;
- d) Health and Safety Executive;
- e) Commissioner of the Inland Revenue;
- f) Ofsted;
- g) General Social Care Council;
- h) Care Quality Commission;
- i) The Commission for Social Care Inspection; and
- j) National Care Standards Commission.

#### **9.5.5.1**

As a last resort you may choose to raise your concern outside the Council to someone other than a prescribed regulator, e.g. to the police or your MP. You should only do this if, in addition to the conditions above, they meet one of three preconditions. Provided the disclosure is reasonable in all the circumstances and is not made for personal gain, the preconditions are that you:

- a) reasonably believed that you would be victimised if you raised the matter internally within the Council; or
- b) reasonably believed that the matter would be 'covered up' and there is no prescribed regulator; or
- c) have already raised the matter internally or with a prescribed regulator.

#### **9.5.5.2**

It should be noted that wider disclosures (i.e. to the media) can only be protected where there is a justifiable cause for going wider and where the particular disclosure is reasonable. The Council therefore encourages concerns to be raised initially using one of the methods described in [Rule 9.5.3](#).

#### **9.5.6 Making a Protected Disclosure**

This policy is intended to allow the internal investigation and resolution of any concerns raised. In accordance with the PIDA 1998, to make a 'protected' disclosure the whistleblower has to meet certain conditions:

- a) A qualifying disclosure means any disclosure of information that, in the reasonable belief of the worker is made in the public interest. Therefore, while the employer can seek a declaration from the whistleblower that he or she is not knowingly making false allegations, disciplinary action is likely to be appropriate only where there is clear evidence that the reporting worker has misused the whistleblowing policy.

- b) Disclosure to a regulatory body will be protected where, in addition, the whistleblower honestly and reasonably believes that the information they provide and any allegation contained in it are substantially true.
- c) Disclosure to other external bodies will be protected if, in addition, making it is in all respects reasonable. 'In all respects reasonable' means, in effect
  - i) the disclosure is not made for personal gain;
  - ii) the whistleblower reasonably believed that they would be victimised if they raised the matter internally;
  - iii) there is no relevant regulatory body;
  - iv) the whistleblower reasonably believed that evidence was likely to be concealed or destroyed;
  - v) the concern has already been raised with the employer and/or relevant regulatory body; and
  - vi) the concern is of an 'exceptionally serious' nature – which in a local government setting could include, say, the alleged abuse of children or vulnerable adults in an authority's care.

#### **9.5.6.1**

This may be done orally or in writing. If you are writing, remember to give details of how you can be contacted. Anonymous disclosures present difficulties for effective investigation. Your identity will be kept strictly confidential if you so request, unless disclosure is required by law. However the Council recognises that despite the dual safeguards of confidentiality and legal protection from recrimination that individuals may still feel unable to reveal their identity. In these situations individuals can report their concerns anonymously, but should be aware that these concerns carry less weight with the investigation teams and the disclosure may not be sufficiently detailed to provide a successful investigation. (Those making reports should also note that by concealing their identity it is harder for the Council to ensure that they are protected in accordance with the Act; this is simply because those responsible for putting the Act into effect within the Council will not know who they are.)

#### **9.5.6.2**

Allegations that are malicious, or allegations made for personal gain, may result in action against the person making them. If an allegation is made in the public interest, but is not confirmed by an investigation, no action will be taken against the person who raised the concern.

#### **9.5.6.3**

It is preferable that a whistleblowing concern be raised as soon as there is reasonable suspicion. Employees are not expected to investigate the matter themselves or prove that their concern is well-founded.

#### **9.5.6.4**

Anyone who has made a protected disclosure will not suffer any detriment as a result of raising their concern unless it is later proved that they knew they were providing false

information. In addition, whistleblowers are protected from suffering a detriment, bullying or harassment from another worker.

Examples of detriment includes (but is not limited to)

- a) failure to promote, if linked to the disclosure;
- b) denial of training;
- c) closer monitoring;
- d) ostracism;
- e) blocking access to resources;
- f) unrequested re-assignment or re-location;
- g) demotion;
- h) suspension;
- i) disciplinary sanction;
- j) bullying or harassment;
- k) victimisation;
- l) dismissal;
- m) failure to provide an appropriate reference; or
- n) failing to investigate a subsequent concern.

#### **9.5.7 How will the Council respond?**

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- a) be investigated internally;
- b) be referred to the Police;
- c) be referred to the external auditors (Ernst and Young);
- d) form the subject of an independent inquiry; or
- e) be considered a service issue and referred to the service to respond by any combination of the above.

**9.5.7.1**

In all cases, where a concern is raised, the contacted Officer shall notify the Assistant Director, Governance (Monitoring Officer) and Deputy Chief Executive and Director of Resources and Assets (S151 Officer). These officers will assess the nature of the concern to decide the appropriate response. Some concerns may be resolved by agreed action without the need for investigation. Any investigation will be overseen by the Assistant Director, Governance (Monitoring Officer) using the Internal Audit and Investigation and Legal teams.

**9.5.7.2**

Feedback on the outcome of the concern will be given to the person raising the concern. This feedback may be limited due to legal obligations of confidentiality (i.e. if disciplinary action is taken against a Council employee). The person raising a concern should normally be told:

- a) how and by whom a concern will be handled;
- b) an estimate of how long an investigation will take;
- c) the outcome of the investigation (where appropriate);
- d) that if they believe they are suffering detriment as a result of raising the concern that they should report it;
- e) that he or she is entitled to independent advice.

**9.5.8 What if I am Dissatisfied with the Council's Response?**

This policy is intended to provide you with an avenue to raise concerns within the Council. However, if at the end of the process an employee of the Council, or any other person covered by the Act, is not satisfied with how a disclosure has been dealt with and wishes to pursue matters by means of a wider disclosure, the following points of contact are available to you:

- a) the Chairman of the Council's Audit Committee
- b) your local Member (if you live in the area of the borough);
- c) the Council's external auditors (Ernst and Young);
- d) relevant professional bodies or regulatory organisations;
- e) relevant inspection body;
- f) your solicitor; or
- g) the Police.

**9.5.8.1**

If you do decide to take the matter outside of the Council, you need to ensure that you do not disclose confidential information and that you are 'protected' in accordance with the PIDA 1998 ([Rule 9.5.5](#)). If you wish to raise a concern outside of the Council, you may raise it with an external body from the list of prescribed persons and bodies detailed in the



'Department for Business Innovation & Skills [Blowing the Whistle to a Prescribed Person](#) document

### **9.5.9 Further Information and Advice**

Independent advice on 'whistleblowing' can also be obtained from:

#### **Public Concern at Work**

3rd Floor, Bank Chambers, 6 - 10 Borough High Street, London, SE1 9QQ

**Email:** [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

**Tel** General enquiries: 020 3117 2520

**Tel** Whistleblowing Advice Line: 020 7404 6609

#### **External Audit**

Contact details can be obtained from Wokingham Borough Council Annual Accounts, published on the Council Website

#### **Professional Body or Trade Union**

If you are a member of a professional body or trade union they should be able to advise you on Whistleblowing.

## **CHAPTER 9.6 - ANTI-BRIBERY POLICY**

### **9.6.1 Policy Statement: Anti-Bribery**

Bribery is a criminal offence. Wokingham Borough Council ('the Council') does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does it or will it, accept bribes or improper inducements.

#### **9.6.1.1**

To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.

#### **9.6.1.2**

The Council is committed to the prevention, deterrence and detection of bribery. The Council has zero-tolerance towards bribery. The Council will embed anti-bribery compliance within its usual "business processes"; the Council will NOT treat it as a one-off exercise.

### **9.6.2 Objective of this Policy**

This policy provides a coherent and consistent framework to enable Council employees to understand and implement arrangements that enable compliance with the anti bribery rules. In conjunction with related policies and key documents it will also enable employees to identify and effectively report any actual or potential breaches of those rules..

We require that all personnel including those permanently employed, temporary agency staff and contractors:

- a) act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible; and
- b) comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

### **9.6.3 Scope of this Policy**

This policy applies to all of the Council's activities. For partners, joint ventures and suppliers, the Council will require the adoption of principles (and will seek to promote the adoption of formal policies) that are consistent with the principles set out in this policy.

#### **9.6.3.1**

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels, in every service.

#### **9.6.3.2**

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

### 9.6.4 Commitment

Wokingham Borough Council commits to:

- a) setting out a clear anti-bribery policy and keeping it up to date;
- b) making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- c) training all employees so that they can recognise and avoid the use of bribery by themselves and others;
- d) encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately;
- e) rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution;
- f) taking firm and vigorous action against any individual(s) involved in bribery;
- g) provide information to all employees to report breaches and suspected breaches of this policy;
- h) include appropriate clauses in contacts to prevent bribery.

### 9.6.5 The Bribery Act

The Council defines bribery as 'an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage'.

#### 9.6.5.1

There are four key offences under the Act:

- a) bribery of another person (section 1);
- b) accepting a bribe (section 2);
- c) bribing a foreign official (section 6); and
- d) failing to prevent bribery (section 7).

#### 9.6.5.2

The [Bribery Act 2010](#) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

### **9.6.5.3**

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “.it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” Therefore, the Council is a “commercial organisation”.

### **9.6.6 Adequate Procedures**

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis.

Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles.

The six principles are as follows;

- Proportionality
- Top-level commitment
- Risk Assessment
- Due diligence
- Communication
- Monitoring and Review

These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national enterprises.

The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

### **9.6.7 Proportionate Procedures**

An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.

### **9.6.8 Top Level Commitment**

The Chief Executive, Directors, Assistant Director Governance (Monitoring Officer) and Councillors are committed to preventing bribery by persons associated with it. Bribery is never acceptable.

### **9.6.9 Risk Assessment**

The Council will assess the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage. All managers within the Council must ensure that appropriate risk assessments are carried out in relation to the work carried out by their staff.

### **9.6.10 Due Diligence**

The Council applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks. All staff involved in managing commercial activities must ensure that appropriate due diligence is carried out before the Council enters into a business relationship with another organisation.

### **9.6.11 Communication (including training)**

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

### **9.6.12 Monitoring and Review**

The Council monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary. Wokingham Borough Council is committed to proportional implementation of these principles.

### **9.6.13 Bribery is not tolerated**

It is unacceptable to:

- a) give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- b) give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- c) accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- d) accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- e) retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy;
- f) engage in activity in breach of this policy.

### **9.6.14 Facilitation Payments**

Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. Facilitation payments are not tolerated and are illegal.

### **9.6.15 Gifts and Hospitality**

The Council's Gifts and hospitality policy is included in the Code of Conduct - Employees must ensure:

- a) when acting in an official capacity they must not give the impression that their conduct both inside and outside work with any person or organisation is influenced by the receipt of gifts, rewards and hospitality or any other such consideration;

- b) they think about the circumstances in which offers are made and are aware that they may be regarded as owing a favour in return;
- c) they have permission from their line managers before accepting such offers and are aware that the offers may have to be returned or refused;
- d) that when gifts or hospitality have to be declined those making the offer must be courteously but firmly informed of the procedures and standards operating within the Council; and
- e) all offers regardless of value and whether or not accepted must be recorded in the Gifts and Hospitality register.

#### **9.6.15.1**

How an employee must react to an offer depends on the type of offer, the relationship between the parties involved and the circumstances in which the gift or hospitality is offered:

- a) employees must not be seen to be acting in their own personal interests and need to be careful that their behaviour cannot be misinterpreted;
- b) when receiving authorised gifts/hospitality, employees must be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality;
- c) an offer of a bribe or commission made by contractors, their agents or by a member of the public must be reported to the line manager and the Assistant Director, Governance (Monitoring Officer). Hospitality from contractors must also be avoided where employees / team are singled out for example Christmas lunch etc, this may be perceived as preferential treatment; and
- d) employees must not accept significant personal gifts from the contractors and outside suppliers, although the Council may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc not exceeding the value of £25. The most common form of gift is the offer of wine and chocolates etc. In general these are shared out among colleagues and provided the offers are reasonable, for example a single bottle of wine, they may be accepted. It is important that all offers are recorded in the Gifts/Hospitality Register including those that are offered and not accepted. Directors must remind their staff of the process to be followed with regards to gifts and hospitality.

#### **9.6.15.2**

No one working for, employed by, or providing services on behalf of the Council is to make, or encourage another to make any personal gain out of its activities in any way. Any person becoming aware of a personal gain being made at the expense of the Council, contractors or the public must follow the Whistleblowing procedures on the [Council's website](#).

#### **9.6.15.3**

Employees may only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions may only be accepted when these are part of the life of the community

or where the authority should be seen to be represented. All hospitality must be properly authorised and recorded in the Gifts/Hospitality Register.

#### **9.6.15.4**

Employees may accept hospitality when attending relevant conferences and courses where it is clear the hospitality is corporate rather than personal, where consent is given in advance and where it is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees must ensure that their service meets the cost of such visits to avoid putting at risk the integrity of subsequent purchasing decisions.

#### **9.6.15.5**

The acceptance of gifts and hospitality may be a subject of criticism placing the Council in a position that it has to defend such action. Consequently, it is essential that all offers and details of gifts and hospitality be recorded in the Gifts & Hospitality Register which will be held by the Director or nominated Manager.

#### **9.6.16 Public Contracts and Failure to Prevent Bribery**

Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This organisation has the discretion to exclude organisations convicted of this offence.

#### **9.6.17 Staff Responsibilities**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

Staff must:

- a) ensure that they read, understand and comply with this policy; and
- b) raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

#### **9.6.18 Raising a Concern**

The Council is committed to ensuring that we all have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns. We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

##### **9.6.18.1**

There are multiple channels to help you raise concerns – these are explained in [Chapter 9.5 the Whistleblowing Policy](#). Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the

repercussions. The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken. For the avoidance of doubt any and all reports made in good faith will, therefore, be treated as Whistleblowing and gain the protection that entails.

#### **9.6.18.2**

The Council is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith. If you have any questions about these procedures, please contact Andrew Moulton, Assistant Director Governance (Monitoring Officer).

#### **9.6.19 Other Relevant WBC Policies**

[Anti-Fraud and Anti-Corruption Policy, Chapter 9.4](#)

[Anti-Money Laundering Policy, Chapter 9.7](#)

[Code of Conduct and Finance, Chapter 9.2](#)

[Whistleblowing Policy, Chapter 9.5](#)

[Procurement and Contract Rules and Procedures \(Section 13\)](#)



## **CHAPTER 9.7 - ANTI-MONEY LAUNDERING POLICY**

### **9.7.1 Introduction**

Money laundering legislation requires local authorities to establish internal procedures to prevent the use of their services for money laundering. Money laundering legislation in the UK is primarily governed by the following legislation:

- a) the Terrorism Act 2000;
- b) the Anti-Terrorist Crime & Security Act 2001;
- c) the Proceeds of Crime Act 2002;
- d) Serious Organised Crime and Police Act 2005;
- e) the Money Laundering, Terrorist Financing and Transfer of Funds (information on the payer) Regulations 2017; and
- f) Anti Money Laundering Act 2018

### **9.7.2 Scope of the Policy**

This Policy applies to all employees and contractors of the Council. The Policy sets out the procedures that must be followed to enable the Council to comply with its legal obligations.

#### **9.7.2.1**

Staff are instructed to report any suspicions to the appointed Money Laundering Reporting Officer (MLRO) (see section 5.0) and it is for the MLRO to consider if the circumstances warrant the completion of a 'suspicious activity report' (SAR), which is sent to the National Crime Agency.

Failure by a member of staff to comply with the procedures set out in this Policy may lead to disciplinary action being taken against them in accordance with the Council's Disciplinary procedures. It may also render them liable to criminal action, if their actions have helped to facilitate money laundering or warned the potential money-launderer of the Council's suspicions.

### **9.7.3 What is Money Laundering?**

The legislation is not limited to major organised crimes, but covers proceeds of all crimes, however small. The primary money laundering offences and thus prohibited acts under the legislation are:

- a) concealing, disguising, converting, transferring criminal property or removing it from the UK (section 327 of the 2002 Act); or
- b) entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person (section 328 of the 2002 Act); or
- c) acquiring, using or possessing criminal property (section 329 of the 2002 Act); or

- d) becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorist property (section 18 of the Terrorism Act 2000); or
- e) failing to disclose suspected money laundering.

#### **9.7.3.1**

The defence to these offences is to be able to show that the person has made an 'authorised disclosure' to an approved person. Approved persons are Customs Officers, Police Officers and the Council's MLRO ([Rule 9.7.6.](#)).

#### **9.7.4 Suspicious Activity**

Some indications of suspicious activity are:

- a) any unusually large cash payment;
- b) any overpayment or duplicate payment in cash where the refund is requested via a different bank account or payment method.
- c) if an unconnected 'third party' is involved in any transaction (e.g., someone paying cash to settle someone else's bill).
- d) a customer behaved strangely, or made unusual requests that did not seem to make sense.
- e) the transaction the customer wanted to make just did not add up commercially.
- f) Persons withholding reasonably requested information e.g. name/address.
- g) Absence of an obvious legitimate source of the funds.
- h) Payments received from overseas that would not normally be expected.

#### **9.7.4.1**

The Council must be alert to large amounts of "Cash" accepted as a payment, which would normally arouse suspicion.

#### **9.7.4.2**

Officers involved in Treasury Management and cashiering activities are the most likely to encounter attempts to launder money but all staff must be alert to the possibilities.

#### **9.7.4.3**

All organisations and each individual is required by law to try to prevent and to report any attempts to 'launder' money (i.e. to use the proceeds of crime in apparently legitimate business transactions).

#### **9.7.4.4**

Potentially any member of staff could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way and/or do nothing about it.

### **9.7.5 The Council's Obligations**

Organisations conducting "relevant business" must:

- a) appoint a MLRO to receive disclosures from employees of money laundering activity (their own or anyone else's);
- b) implement a procedure to enable the reporting of suspicions of money laundering;
- c) maintain client identification procedures in certain circumstances; and
- d) maintain record keeping procedures.

### **9.7.6 The Money Laundering Reporting Officer (MLRO)**

If you have any suspicions, you must contact the MLRO. The Council's nominated MLRO is the Section 151 Officer (Deputy Chief Executive and Director of Corporate Services), Email [Graham.Ebers@wokingham.gov.uk](mailto:Graham.Ebers@wokingham.gov.uk) or Tel 0118 974 6557.

### **9.7.7 Disclosure Procedure**

Reporting to the MLRO: Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO. In order to gain the protection from prosecution of having made a disclosure the disclosure must be made as soon as reasonably practicable and, in any case, must be within "hours" of the information coming to your attention, not weeks or months later. Should you not make a prompt disclosure, you may be liable to prosecution. Disclosure must always be made in writing on the AML1 form, which is available on the shared drive.

#### **9.7.7.1**

Once you have reported the matter to the MLRO you must follow any directions they may give you. You must NOT make any further enquiries into the matter yourself.

#### **9.7.7.2**

Similarly, at no time and under no circumstances may you voice any suspicions to the person(s) whom you suspect of money laundering, without the specific consent of the MLRO; otherwise you may commit a criminal offence of "tipping off". Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

#### **9.7.7.3**

On receipt of the disclosure the MLRO will:

- a) consider the report and make such further enquiries as are necessary to form a view on whether a person is engaged in money laundering;
- b) consider all other relevant information in making this judgement;

- c) ensure that nothing is done which could alert the person or business concerned that a report and an investigation could ensue;
- d) make a report to National Crime Agency, if appropriate, making full notes of the reasons for doing so;
- e) co-operate with any enquiries made by the proper authorities; and
- f) maintain all records of disclosures and reports for at least five years.

#### **9.7.8 Client Identification Procedure**

Each unit of the Council conducting relevant business where a business relationship is to be established and an account is to be opened or a one-off transaction or series of linked transactions amounting to approximately £10,000 or more must maintain procedures which:

- a) require satisfactory evidence of the identity of both internal and external clients at the outset of the matter;
- b) require that if satisfactory evidence of identity is not obtained at the outset of the matter then the business relationship or one off transaction(s) cannot precede any further;
- c) recognise the greater potential for money laundering when the client is not present; and
- d) require that where a client appears to act for another that reasonable measures are taken to establish the identity of that person.

Staff involved in Treasury Management must ensure that all dealings are carried out in accordance with the Treasury Management Strategy and Treasury Management Policies which ensure that transactions are only undertaken with approved counterparties.

#### **9.7.9 Record Keeping Procedures**

Each unit of the Council conducting relevant business must maintain records for at least five years of:

- a) client identification evidence obtained; and
- b) details of all relevant business transactions carried out for clients

The precise nature of the records is not prescribed by law, however, they must be capable of providing an audit trail.

#### **9.7.10 Further Information and Advice**

For any further information or guidance, please contact the MLRO:

Graham Ebers

**Tel** 0118 974 6557 or

**Email** [Graham.Ebers@wokingham.gov.uk](mailto:Graham.Ebers@wokingham.gov.uk)

## **CHAPTER 9.8 – ENFORCEMENT SANCTIONS POLICY**

### **9.8.1 Introduction**

Wokingham Borough Council (The Council) has the power to prosecute granted under defined legislation, if there is sufficient evidence and if, in the opinion of the Council, it is in the public interest to do so.

#### **9.8.1.1**

When deciding if it is in the public interest, all officers authorised to decide whether to prosecute on behalf of the Council will be guided by the Code for Crown Prosecutors. Whenever it is appropriate, the Council will consider offering other sanctions as an alternative to prosecution.

#### **9.8.1.2**

The Council will consider each case on its own merits before deciding whether or not to prosecute. If it is the case that the Council has suffered a material/financial loss, it may take separate action to stop further payments/ recover money, irrespective of whether it decides to take criminal proceedings.

#### **9.8.1.3**

The Council authorises case disposal decisions to be made in accordance with the guidance in the Crown Prosecution Service guidance on charging responsibility, noting that for 'CPS' will be read 'Legal Services' and for 'police' will be read 'investigators', in so far as this is possible.

### **9.8.2 Alternatives to Prosecution - Cautions**

In the issuing of Cautions the Council will be guided by the relevant statutory Guidance.

### **9.8.3 Alternatives to Prosecution - Statutory Sanctions**

The Council may consider a Statutory Sanction, whether a financial penalty or otherwise, as an alternative to prosecution for an offence where the imposition or offer of such a sanction for the specified offence or offences is prescribed by law.

### **9.8.4 Code for Crown Prosecutors – The Evidential and Public Interest Test**

When making a decision on whether to prosecute, the Council will follow the Code for Crown Prosecutors when considering the evidential and public interest tests.

### **9.8.5 Other Sanctions or Penalties**

The Council may also consider the imposition or offer of a sanction or and/or monetary penalty where to impose a monetary penalty or sanction for the given circumstances is prescribed by law. The Council may also offer such sanctions and/or monetary penalties where a person undertakes criminal conduct, but the Council determine that a prosecution is not to be undertaken for any reason.

### **9.8.6 Investigation Costs**

In all cases where the Council is put to the cost of an investigation (and this may also include, but is not limited to, costs associated with civil and/or criminal proceedings and enforcement action), the Council will seek to recover those costs from the party whose conduct has caused those costs.

In cases where legislation allows the responsible party to be billed for costs, the Council will normally do this. In litigated cases, the Council will normally seek to recover all costs

through the courts, as part of the relevant litigation. In other cases, the Council will always consider seeking the cost directly from any party whose actions have given rise to the costs, either by voluntary contribution or by taking legal action to recover the costs.

## **CHAPTER 9.9 – ACQUISITION OF COMMUNICATIONS DATA AND USE OF COVERT SURVEILLANCE AND COVERT HUMAN INTELLIGENCE SOURCES POLICY** (Regulation of Investigatory Powers Act 2000/Investigatory Powers Act 2016)

### **9.9.1 Introduction**

Officers and employees of (and contractors working on behalf of) Wokingham Borough Council may, in the course of their investigatory, regulatory and enforcement duties, need to make observations of persons in a covert manner, to use a Covert Human Intelligence Source or to acquire Communications Data. These techniques may be needed whether the subject of the investigation is a member of the public, the owner of a business or a Council employee.

By its very nature, this sort of action is potentially intrusive and so it is extremely important that there is a very strict control on what is appropriate and that, where such action is needed, it is properly regulated in order to comply with Legislation and to protect the individual's rights of privacy.

Privacy is a right, but in any democratic society, it is not an absolute right. The right to a private and family life, as set out in the European Convention on Human Rights, must be balanced with the right of other citizens to live safely and freely, which is the most basic function that every citizen looks to the state to perform.

Drawing on the principles set out in the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and the Data Protection Act 2018, this policy sets out the Council's approach to Covert Surveillance, the use of Covert Human Intelligence Sources and the acquisition of Communications Data.

The policy also sets out Members' oversight of this area, adopts a set of procedures and appoints appropriate officers to ensure that these areas are properly controlled and regulated.

### **9.9.2 Policy**

It is the policy of Wokingham Borough Council (the Council) that all Covert Surveillance, the use of Covert Human Intelligence Sources (informants) and the acquisition of Communications Data by those working for or on behalf of this Council (investigators) will be carried out in accordance with this policy and the associated procedure (the RIPA Procedure). Any member, officer or employee who deliberately or recklessly breaches this policy will normally be considered to have committed an act of gross misconduct and will be dealt with accordingly.

#### **9.9.2.1**

In so far as the Regulation of Investigatory Powers Act (RIPA) allows, Covert Surveillance and the use of Covert Human Intelligence Sources (informants) will always be subject to the RIPA application process. (This does NOT affect monitoring activities where the actions undertaken do not amount to covert surveillance.) Where officers wish to undertake covert surveillance or use informants but where RIPA is not available, a similar process of considering the proportionality and necessity of any such activities must be carried out before the activities are undertaken and approval gained from a RIPA authorising officer. Officers are instructed to consider when online investigations, where actions go beyond the scope of *open source* enquiries, would meet the criteria for covert investigations and to obtain relevant authorisations in those cases.

**9.9.2.2**

When acquiring Communications Data officers are instructed to use those set out in the IPA and the associated *Communications Data Code of Practice*, unless they are doing so with the consent of the data subject. DPA requests and other powers may NOT be used to seek the disclosure of Communications Data. Communications data may only be obtained using IPA powers for the applicable crime purpose. (Note that the guidance in the statutory code of practice takes precedence over any contrary content of a public authority's internal advice or guidance.)

**9.9.2.3**

The Council resolves to maintain membership of the *National Anti-Fraud Network*, so that the relevant sections of the IPA and the associated *Communications Data Code of Practice* may be complied with.

**9.9.3 Appointments**

The Council appoints the Assistant Director Governance (Monitoring Officer) (SAO) for RIPA purposes and as Senior Responsible Officer (SRO) for all purposes under RIPA and IPA.

**9.9.3.1**

The Council appoints the Assistant Director, Governance as the RIPA Monitoring Officer (RMO) to monitor the use of covert techniques within this Council (whether using the RIPA or non-RIPA processes) and reports to members on the activities the policy covers. They are also directed to ensure that appropriate training is made available to RIPA Authorising Officers (AOs) IPA Verifying Officers (VOs) and applicants when it is required.

**9.9.3.2**

The Council directs that only those appointed by this policy as AOs and VOs may authorise covert surveillance, the use of informants or the acquisition of communications data. In so far as is practical and possible, the Council intends that the same officers should be nominated as both AOs and VOs.

**9.9.3.3**

The Council appoints Directors and Assistant Directors to meet the training criteria as AOs, subject to a maximum number of six (including the SAO) at any given time. The Council instructs the RMO to maintain a list of all those currently authorised as part of the RIPA/IPA Procedures.

**9.9.3.4**

In order for the Council's RIPA authorisations to take effect they must be approved by a Magistrate. The Chief Legal Officer is instructed to authorise all those who may need to apply to a Magistrate to appear for that purpose for the Council. The RMO is directed to maintain a list, as part of the RIPA Procedures, of all those so authorised.

**9.9.3.5**

The Council appoints Directors and Assistant Directors who meet the training criteria as VOs, subject to a maximum number of six at any given time. The Council instructs the RMO to maintain a list of all those currently authorised as part of the RIPA/IPA Procedures.



#### **9.9.4 Oversight and Reporting**

The RMO shall report to elected Members on the use of RIPA regulated activity by officers of the Council every six months. Such a report shall be presented to the Members (or to such a sub-committee as the full council shall deem appropriate to constitute for oversight purposes) by the RMO and the SRO. The report must not contain any information that identifies specific persons or operations but must be clear about the nature of the operations carried out and the product obtained.

##### **9.9.4.1**

Alongside this report, the RMO and SRO will report details of 'Non-RIPA' surveillance undertaken or informants used in precisely the same fashion.

##### **9.9.4.2**

Elected Members shall have oversight of the Council's policy and shall review that policy annually should it be deemed by the RMO that significant changes have been made. At that review (or following any six-monthly report) elected Members shall make such amendments as they deem necessary to the Council's policy, and may give such directions as they deem necessary to the RMO and SRO in order to ensure that the Council's policy is followed.

##### **9.9.4.3**

Elected Members shall not interfere in individual authorisations. Their function is to, with reference to the reports, satisfy themselves that the Council's policy is robust and that it is being followed by all officers involved in this area. Although it is elected members who are accountable to the public for council actions, it is essential that there should be no possibility of political interference in law enforcement operations

#### **9.9.5 RIPA/IPA Procedures**

The RMO is instructed to create a set of procedures that provide instruction and guidance for the use of surveillance and informants, and the acquisition of communications data. They are further instructed to maintain and update the RIPA/IPA Procedures, ensuring that they continue to be both lawful and examples of best practice.

##### **9.9.5.1**

The reference to 'maintain and update' in this section includes the duty to remove AOs/VOs from the list if they cease to be employed in a relevant role or if they no longer satisfy the requirements to be an AO/VO, and the right to add names to that list so long as

- a) they satisfy the policy and regulatory requirements and
- b) at no time does the number of AOs exceed six.

If a change is required, in the opinion of the RMO, in order to comply with this part, they are authorised to make that change without prior approval from any person.

The RMO must report any changes made under this section to Members when they undertake their annual oversight of the Policy, as set out above.

##### **9.9.5.2**

All managers are required to ensure that their staff understand that covert investigation techniques may only be used in accordance with this policy and the associated procedures.

### **9.9.6 Training**

In accordance with this Code of Practice, AOs/VOs must receive full training in the use of their powers. They must be assessed at the end of the training, to ensure competence, and must undertake refresher training at least every two years. Training will be arranged by the RMO. Designated officers who do not meet the required standard, or who exceed the training intervals, are prohibited from authorising applications until they have met the requirements of this paragraph. AOs and VOs must have an awareness of appropriate investigative techniques, Data Protection and Human Rights Legislation.

#### **9.9.6.1**

Those officers who actually carry out surveillance work must be adequately trained prior to any surveillance being undertaken. A corporate training programme has been developed to ensure that AOs, VOs and staff undertaking relevant investigations are fully aware of the legislative framework.

#### **9.9.6.2**

Senior management who have no direct involvement with covert investigation will undertake a briefing at least biannually, to ensure that they have a good understanding of the activities that might fall into the definition of covert investigation techniques.

### **9.9.7 Exceptions, Notes and Complaints**

CCTV cameras operated by this Council are not covered by this policy, unless they are used in a way that constitutes covert surveillance; only under those circumstances must the provisions of this policy and the RIPA Procedures be followed.

Interception of communications, if it is done as part of normal business practice, does NOT fall into the definition of acquisition of communications data. (This includes, but is not limited to opening of post for distribution, logging of telephone calls, for the purpose of cost allocation, reimbursement, benchmarking, etc.; logging E Mails and internet access for the purpose of private reimbursement.)

#### **9.9.7.1**

If any person wishes to make a complaint about anything to which this policy applies is invited to use the Council's Complaints Procedure. Any complaint received will be treated as serious and investigated in line with this Council's policy on complaints. Regardless of this, the detail of an operation, or indeed its existence, must never be admitted to as part of a complaint. This does not mean it will not be investigated, just that the result of any investigation would be entirely confidential and not disclosed to the complainant.

### **9.9.8 Adoption and Amendment of the Policy**

This version of the Policy was agreed prior to its adoption being recommended to Council via the Constitution Review Group on 17 September 2020 after which it came into immediate effect. It replaces all previous policies on these subjects

## **CHAPTER 9.10 - COUNCILLOR REPRESENTATION ON OUTSIDE BODIES PROTOCOL**

### **9.10.1 Introduction**

Service on outside bodies has always been an established part of a Councillor's role. A Councillor appointed to an external body will be able to use their knowledge and skills both as Councillor, and as a representative of their communities, to assist the organisation to which they are appointed, as well as the Council.

#### **9.10.1.1**

The Council is increasingly working in partnership with outside organisations as part of a move to a commissioning based organisation set out in the Transformation Blueprint. This means that it is important that everyone is clear about the role of the Councillors appointed to these bodies. Questions of accountability and governance are likely to arise particularly as funding may be channelled through the Council to these outside bodies.

#### **9.10.1.2**

Councillors are appointed by the Council to serve on a range of outside bodies. In the context of this protocol, an 'outside body' covers organisations such as trusts, companies, industrial and provident societies, voluntary bodies, charities, community associations, joint venture vehicles, public private partnerships and companies, including Local Authority Trading Companies.

#### **9.10.1.3**

Membership of an outside body brings into play different considerations to those which relate to Council membership. As members of outside bodies, elected Councillors will have different duties, obligations and liabilities depending upon the type of organisation involved. Councillors' roles on these outside bodies may appear to conflict, sometimes with each other, and sometimes with their position as a Wokingham Borough Councillor.

#### **9.10.1.4**

This guidance sets out the main issues which Councillors should consider when appointed by the Council to serve on outside bodies, though much of the advice applies equally to Councillors who are involved in outside bodies in a private capacity. It may be read as a separate stand alone document or together with the document 'Appendices to the Protocol for Councillor Representation on Outside Bodies'.

#### **9.10.1.5**

Depending on the legal nature of the body and the role fulfilled by the Councillor they may attract personal responsibility for decisions and actions of the body.

#### **9.10.1.6**

The remainder of this guidance includes the following general information:

- a) issues to consider before beginning an appointment;
- b) application of the Code of Conduct for Councillors;
- c) legal status of outside bodies, capacity of appointment, duties and liabilities;
- d) insurance and indemnity;

- e) more detailed separate appendices relating to the main type of outside bodies to which Councillors may be appointed.

### **9.10.2 Issues to Consider before Appointment**

Before beginning an appointment to an outside body, Councillors should consult information available about the outside body and satisfy themselves that they have a reasonable understanding of the following:

- a) the legal status of the organisation e.g. company, trust, charity, unincorporated association;
- b) the capacity in which the Councillor is to be appointed e.g. director, trustee, member
- c) with voting rights or member with observer status;
- d) the purpose of the organisation and how this relates to the Council's functions and objectives;
- e) the relationship between the Council and the body and the likelihood and extent of any conflicts of interest;
- f) the requirements of the organisation's governing instrument (e.g. constitution, trust deed, memorandum and articles of association), both as a Councillor and generally;
- g) the financial status of the organisation;
- h) the governance and decision making arrangements, including the management of risk;
- i) any code of conduct for members of the outside body;
- j) potential liabilities;
- k) the extent of any insurance cover for members of the outside body;

#### **9.10.2.1**

Each outside body will usually have a connection with an aspect of the Council's activities and it may be there are Officers who would be able to provide useful background information on the outside body to the Councillor. Councillors unsure of the appropriate Officer can seek the assistance of Democratic Services;

#### **9.10.2.2**

If having begun an appointment on an outside body a Councillor considers that the Council should not continue to participate formally in the management of the external organisation e.g. as a director, trustee or voting member and that their role as a representative of the Council may be more effectively discharged as a non-voting member with observer status only, they should seek the advice of the Monitoring Officer.

### **9.10.3 General Principles**

There are some general principles which can be applied across all outside bodies whatever their legal or organisational model. These include:

- a) Acting according to the rules, constitution and framework set by the outside body;
- b) Making independent and personal judgements in line with their duty of care to the outside body;
- c) Reporting back, at least annually as set out in Paragraph 7;
- d) Behaving ethically and following as far as applicable the National Code of Conduct of Local Government Conduct or any local voluntary Code of Conduct for Councillors that may be agreed by the Council;
- e) Taking an active and informed role in the outside body's affairs.

**It does not mean:**

- a) exclusively representing the views of their own political party;
- b) avoiding taking part in the outside body's discussions and decisions;
- c) looking at things simply from the Council's perspective;
- d) not being an active participant at meetings

### **9.10.4 Application of the Code of Conduct for Councillors**

The Council's current [Code of Conduct for Councillors](#) places specific obligations on Councillors in relation to their dealings with outside organisations, including the registration and declaration of interests. The relevant provisions are set out in detail within Appendix A of the supporting document 'Appendices to the Protocol for Councillor Representation on Outside Bodies', which includes guidance from Standards for England on the position of dual-hatted members under the Code of Conduct.

#### **9.10.4.1**

The Government is currently legislating through the Localism Bill to abolish the current Code of the Code of Conduct regime, including the requirement that Councils adopt a nationally prescribed Code of Conduct and to clarify the legal position with regard to predisposition and bias. However, the Localism Bill includes continued provision for the obligation on individual Councillors to register and declare personal interests. Councillors appointed to outside bodies should be mindful of any duties placed upon them as a result of the provisions of the Localism Bill as enacted and any voluntary Code of Conduct, should one be adopted by the Council in the future. Democratic Services or the Monitoring Officer can provide advice on this.

### **9.10.5 Legal Status, Capacity and Liabilities**

The specific responsibilities of Councillors will depend upon the legal status of the outside body and the capacity in which they have been appointed. The position of Councillors in relation to the various types of outside body is set out in more detail within the document '*Appendices to the Protocol for Councillor Representation on Outside Bodies*' as follows:

- a) Appendix B – Director of a Company
- b) Appendix C – Trustee of a Trust or Charitable Trust
- c) Appendix D – Member of Unincorporated Association
- d) Appendix E – Membership of Steering Groups, Joint Committees or Partnership Bodies

A fundamental point that Councillors should be aware of is that in undertaking their duties as a trustee, director, or management committee member, they may take account of the wishes of the Council, but their primary duty is to act in the best interests of the organisation to which they have been appointed.

### **9.10.6 Liability, Insurance and Indemnity**

Councillors can incur personal, civil and criminal liability from formal participation in outside bodies.

#### **9.10.6.1**

Under Section 265 of the Public Health Act 1875, (as applied by Section 39, Local Government (Miscellaneous) Act 1976), Councillors enjoy statutory immunity from civil liability where they act within the powers of the Council, in good faith and without negligence.

#### **9.10.6.2**

However, this immunity does not apply where they act beyond the powers of the council or act in bad faith (i.e. with dishonest or malicious intent) or negligently, and it does not protect them from criminal liability, for example for fraud or for corporate killing where they exercise managerial responsibilities.

#### **9.10.6.3**

The Council has adopted the provisions of the Local Authorities (Indemnities for Members and Officers) Order 2004 and agreed to provide indemnity on specific grounds to Councillors and officers including the provision of appropriate insurance cover.

#### **9.10.6.4**

Wokingham Borough Council has also made appropriate insurance provision to protect its assets and liabilities. Within these provisions the Council has extended its cover to protect its elected and co-opted members when carrying out appointed duties in connection with the business of Wokingham Borough Council. It is important to note that this provision is limited to Councillors appointed to 'not for profit' entities and would not cover Councillors appointed as directors of 'for profit' limited companies including local authority trading companies. The expectation would be that such companies would make their own indemnity and insurance provision.

#### **9.10.6.5**

Councillors wishing to clarify specific issues around liability, indemnity and insurance related to their appointment should in the first instance approach the outside bodies to which they are to be appointed.

### **9.10.7 Expenses, Remuneration and Benefits**

As a general rule Councillors should not benefit personally from their appointment to outside bodies or be out of pocket as a result of their service to the community.

#### **9.10.7.1**

Where a Councillor has been appointed to an outside body by the Council, they may claim travel and subsistence expenses as an 'approved' duty set out within the Wokingham Borough Council Members' Allowances Scheme, unless the outside body has its own provision for the payment of expenses.

#### **9.10.7.2**

Reasonable hospitality, e.g. lunch after a board meeting and minor promotional gifts may be accepted. As set out in the [Councillors' Code of Conduct](#), anything worth over £25.00 that has been given to the Councillor must be declared on the Councillor's Register of Gifts and Hospitality within 28 days of receipt. Other more substantial gifts should not be accepted.

#### **9.10.7.3**

In the case of Councillors sitting on the boards of local authority trading companies, local authority law restricts the level of remuneration that they can receive from the company. The amount of remuneration that a Councillor can receive from a company cannot exceed that received for comparable duties undertaken through the Council's Member Allowances Scheme.

#### **9.10.7.4**

Free access to an outside body's facilities should only be accepted where it is necessary to discharge the Councillor's duties and responsibilities as an appointed representative and should be declared in the Councillor Register of Interests.

### **9.10.8 Representatives Reporting Back**

Councillors are under a specific obligation as a result of the 1995 Local Authorities (Companies) Order to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. While the law now makes this a requirement for involvement in outside companies, it is also logical and best practice that the requirement to report back should apply to involvement in all outside bodies.

Accordingly, Councillors are requested to lodge their annual report using the attached feedback form with Democratic Services by 1 May each year. The reports will then be circulated with the Annual Council Agenda.

### **9.10.9 Further Advice**

Councillors should contact the Monitoring Officer or Democratic Services for further advice if they have any particular issues of concern regarding Code of Conduct and outside bodies. Councillors wishing to raise matters relating to insurance or indemnity should contact the Insurance Manager.





<p><b>Please indicate how effective you think the organisation is, e.g. has it met or contributed to the Council's Vision and Priorities and give examples to illustrate your reply?</b></p>	
<p> </p>	
<p><b>Do you think the Council should continue to be represented on this Outside Body?</b></p>	<p><b>Yes / No</b></p>
<p><b>If No, please state why</b></p>	
<p> </p>	
<p><b>Please provide any additional information that fellow Members might find useful</b></p>	
<p> </p>	

**Councillor**.....

**Signed**..... **Dated:**.....

Return completed forms to: Democratic Services Manager  
 Governance and Improvement Services,  
 Shute End, Wokingham, RG40 1WQ or  
 democratic.services@wokingham.gov.uk

**Appendix A****Code of Conduct for Members Relevant Provisions and Guidance**

- 1 Where a Councillor is acting as a representative of the Council on any other body (other than a relevant authority) they must comply with the *Council's Code of Conduct* *except where it conflicts with any lawful obligations to which that body may be subject, ([Rule 9.2.1](#))* of the Council's Code of Conduct for Members).
- 2 Councillors appointed to serve on outside bodies must be mindful of their duties regarding disclosure of confidential information under [Rule 9.2.8.5](#) of the Code of Conduct.
- 3 Councillors must not use or attempt to use their position as a Councillor improperly to confer on or secure for themselves or any other person, an advantage or disadvantage – ([Rule 9.2.8.3](#)). In particular they must not use their position as a Councillor improperly to secure benefits or advantages for the outside body to which they have been appointed.
- 4 [Rule 9.2.3.1](#) of the Code requires Councillors to register any personal interests which fall within the categories set out in Appendix B of the Code of Conduct. Registration is by written notification to the Monitoring Officer within 28 days of taking up office, or within 28 days of becoming aware of any new interest or change of interest.
- 5 The categories of interest which are most relevant in this context are:
  - any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority: [Appendix B i\) ii\)](#)
  - any body -
    - exercising functions of a public nature;
    - directed to charitable purposes;
    - 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.

**Personal interest**

- 6 A Councillor will have a personal interest in any business of the Council which relates to or is likely to affect any of their registerable interests. They will, therefore, have a personal interest in any business of the Council which relates to or is likely to affect an outside body to which they have been appointed by the Council.
- 7 They may also have a personal interest where a decision in relation to the business under consideration might reasonably be regarded as affecting their well-being or financial position, or the well-being or financial position of a relevant person to a greater extent than the majority of council tax payers in the electoral division affected by the decision. A 'relevant person' includes a body which falls within the categories of interest described in paragraph 5 above. ([Appendix B i\) ii\)](#) of the Code).

- 8 Where a Councillor has a personal interest in any business of the Council and attends a meeting of the Council at which the business is considered, they must disclose the existence and nature of their interest to the meeting when the matter begins to be considered or when the interest becomes apparent, ([Rule 9.2.5.1](#) of the Code). For example, if the Councillor is attending a council debate on education policy and is also a council appointed governor, they would only need to declare an interest if they decided to speak during the debate.
- 9 In the case of a personal interest in any business which relates to or is likely to affect any body to which the Councillor has been appointed, or a body exercising functions of a public nature, the Councillor only needs to disclose the existence and nature of their interest when they address the meeting on that business, ([Rule 9.2.5.1 of the Code](#)).

### **Prejudicial Interest**

- 10 Considered where the personal interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgment of the public interest, ([Rule 9.2.6.1](#) of the Code).
- 11 A prejudicial interest will only arise, however, where none of the exemptions in [Rule 9.2.7.1](#) of the Code apply, and the business being considered:
- affects the Councillor's financial position or the financial position of a person or body included in their register of interests e.g. a body to which they have been appointed by the Council;
  - relates to the determination of a regulatory matter affecting them or any such person or body.
- 12 A Councillor who is considering an application for a grant or a planning application by a body to which they have been appointed by the Council will, therefore, have a prejudicial interest in that matter. This will apply equally to a Councillor who is a member of one of the other bodies mentioned in paragraph 5 above.
- 13 Where a Councillor has a prejudicial interest they may make representations on the matter to the same extent as a member of the public, answer questions or give evidence, if required, but they must then leave the meeting and not take any further part in the item or vote. They must not seek to influence the decision improperly in any way, ([Rule 9.2.4.4.](#) of the Code).
- 14 A Councillor who participates in decision making on business in which they have a prejudicial interest may invalidate the decision.

## Standards for England Guidance on Dual-hatted Members and the Code of Conduct

### What is a dual-hatted member?

- 15 Dual-hatted members are members who serve on two or more relevant authorities; for instance, a member who is both a Borough and parish council member.

### When should a dual-hatted member declare an interest?

- 16 If a dual-hatted member is taking part in a council meeting and an issue is under discussion which affects that member's other authority, then provided that they do not have a prejudicial interest, [under Rule 9.2.6](#) of the Code of Conduct the dual-hatted member only needs to declare a personal interest if they intend to speak on the matter involving the other authority. If the member does speak on the matter then they must declare a personal interest, but they are still able to vote.
- 17 Members must consider carefully, however, if the nature of the matter under discussion means that their membership of another authority may also give rise to a prejudicial interest.
- 18 For dual-hatted members who would not otherwise have a prejudicial interest for any other reason, a prejudicial interest will arise as a result of membership of the other authority if all of the following conditions are met:
- the matter affects the other authority's financial position or is about a licensing or regulatory matter applied for by the other authority;
  - the matter does not fall within one of the exempt categories of decisions under [Rule 9.2.7.1](#) of the Code;
  - a reasonable member of the public with knowledge of the relevant facts would believe that the member's ability to judge the public interest would be impaired.
- 19 Standards for England takes the view that where a regulatory application, including a matter of consent or approval, is made by a body on a member's register of interests, or a matter is discussed that would impact upon the financial interests of a body on a member's register of interests, then a prejudicial interest will arise. For example if a parish council planning application was being considered at a borough council meeting, a member of the planning committee who is also a parish council member would need to declare a personal and prejudicial interest when that matter is considered, leave the chamber and not vote.

### Predetermination and dual-hatted members

- 20 A dual-hatted member does not automatically have an interest in an item just by virtue of having considered the issue at the meeting of a different authority. If the issue does not meet the normal criteria for needing to declare a personal interest, then an interest does not need to be declared. However, the issue of predetermination or bias may need to be considered where members sit on different bodies determining matters.

## Councillors appointed as Directors of Limited Companies

### Legal Status

- 1 Upon incorporation a company becomes a separate legal entity, which can hold property in its own right, enter into contracts and sue and be sued in its own name.
- 2 Limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.
- 3 Wokingham Borough Council has since 2010 established a number of Local Authority Trading Companies, (LATCs). It is possible for LATCs to take different structural models, but to date, the model chosen by the Council is a company limited by shares whereby the Council is the sole shareholder. As profits are distributed on the basis of the number of shares held, the Council receives 100% of any profits generated as the sole shareholder. Liability in the event of winding-up is as with any company limited by shares is limited to the amount unpaid on the shares held.
- 4 Companies limited by guarantee do not have shares. Instead, each member agrees that in the event of the company being wound up they will agree to pay an agreed amount e.g. £1. This is most common in the public and voluntary sector, particularly where charitable status is sought.

### Directors' Duties

- 5 Whatever the exact form of a company's structure, the role of a Councillor who has been appointed as a director will depend upon the company's Articles of Association (its constitution). A company's constitution will vest most of its powers in the board of directors and the board will exercise these either directly or through managers appointed by the board. Directors must understand the requirements of the Articles of Association in order to fulfil their responsibilities properly.
- 6 Directors should be aware of the best practice requirements of the '*UK Corporate Governance Code*' to the extent that this has been adopted by the company, including general management of the company, internal financial and operational controls and risk management.

Comment: I have deleted reference to Directors remuneration as this is principally reserved as the Shareholder function in the articles

- 7 Directors, as agents of the company, must:
  - act within their powers and make sure the company follows its constitution as set out in the Articles of Association;
  - act in good faith to promote the success of the company for the benefit of its members. Directors must also have taken into consideration employees, suppliers, customers, the environment and the community;
  - carry out their duties with reasonable care and skill. Higher standards may be expected from executive directors who are responsible for an area in which they have a specialist or professional qualification;
  - exercise independent judgement;
  - avoid situations where there are conflicts of interest. Directors must not take bribes, and must disclose any personal interests to the company. Directors must

not divert business opportunities to themselves that ought to be available to the whole company;

- make a declaration of interest where appropriate. Directors may not be allowed to vote on matters if there is a conflict of interest;
- not benefit from a third party by reason of being a director, or by doing or not doing something;
- not act with intent to defraud creditors or for any other fraudulent purpose;
- not engage in wrongful trading, that is, allowing the company to carry on trading when you know (or ought to know) that it is insolvent. This can lead to personal liability;
- to carry out the statutory obligations imposed by the Companies Act 2006 and other legislation.

- 8 Some directors may be given special responsibilities under the company's constitution, for instance a managing director or finance director. Those with special roles will be expected to have the personal and technical skills to perform the duties associated with that role, which may be onerous.
- 9 The above duties apply to non-executive directors as well as executive directors.
- 10 There are other statutory requirements which may be relevant depending on the company's business. Directors will need to be familiar with these. For example, if the company is an investment vehicle which engages in fundraising activity, financial services legislation will apply.

### **Observer status**

- 11 The position of observer has no specific legal status in company or local authority law. Any person appointed as an observer should ensure that their role is clearly defined and avoid involvement in the management of the Company. If an observer acts beyond their remit and exercises real influence over the company's affairs and decision making the observer may be deemed to be a shadow director, with all the duties of an ordinary director.
- 12 Observers and others, such as professional advisors, may attend board meetings. Generally the minutes of the meetings will note the names of observers and the fact that they are "in attendance". Persons "in attendance" have no specific legal status and in itself the phrase does not indicate any particular level of participation in the company's affairs. The extent of the participation of a Councillor described in board minutes as "in attendance" is a question of fact. They should, however, take care to avoid involvement in the management of the company so as to avoid being treated as a shadow director.
- 13 A director (or shadow director) may incur personal liability if they are in breach of the above duties.

This may arise where:

- the company is found, in the course of winding up, to have been trading for fraudulent purposes. If a director has acted dishonestly this is also a criminal offence;
- following liquidation, a director is found liable for wrongful trading, i.e. allowing the Company to continue to trade at a time when the director knew or ought

reasonably to have known that there was no reasonable prospect that the company would avoid going into insolvent liquidation;

- the company commits a breach of the criminal law, for example, health and safety legislation;
- a director acts negligently or in breach of their duty to the company (including the duty to maintain confidential any confidential information relating to the company that comes into their possession);
- a director knowingly causes the company to act beyond the activities authorised by its Articles of Association;
- there is a breach of trust, such as the misappropriation of company funds or property;
- a director uses their powers improperly or makes a personal profit from their position as director;
- there is a failure to comply with the requirements of companies legislation, such as the making of returns to the Registrar of Companies.

### **Insurance**

14 The Council will endeavour to ensure that appropriate insurance is in place. However Councillors appointed as directors should check on appointment that the company maintains appropriate insurance cover against directors' liability. If this is not in place this should be requested, but this is a matter entirely for the board and the Council cannot normally insist upon this. It will be necessary to ensure that the company has the resources to maintain payment of the insurance premiums.

15 Further guidance on the responsibilities of company directors is available on the websites of the Institute of Directors and Companies House:

<https://www.iod.com/Home>

<http://www.companieshouse.gov.uk>

## **Councillors Appointed as Trustees to a Trust or Charity**

- 1 To be a charity, an organisation must operate for charitable purpose as defined by the Charities Act 2006. These are
  - the prevention or relief of poverty;
  - the advancement of education;
  - the advancement of religion;
  - the advancement of health or saving lives;
  - the advancement of citizenship or community development;
  - the advancement of the arts, culture, heritage or science;
  - the advancement of amateur sport;
  - the advancement of human rights, conflict resolution or the promotion of religious or racial harmony or equality and diversity;
  - the advancement of environmental protection or improvement;
  - the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
  - the advancement of animal welfare;
  - the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services;
  - any other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.

### **Trustees and their responsibilities**

- 2 Charity trustees are the people who serve on the governing body of a charity. They may be known as trustees, directors, board members, governors or committee members. The principles and main duties are the same in all cases.
- 3 Trustees have and must accept ultimate responsibility for directing the affairs of a charity, and ensuring that it is solvent, well-run, and delivering the charitable outcomes for the benefit of the public for which it has been set up.
- 4 **Compliance - Trustees must:**
  - Ensure that the charity complies with charity law, and with the requirements of the Charity Commission as regulator; in particular ensure that the charity prepares reports on what it has achieved and Annual Returns and accounts as required by law;
  - Ensure that the charity does not breach any of the requirements or rules set out in its governing document and that it remains true to the charitable purpose and objects set out there;
  - Comply with the requirements of other legislation and other regulators (if any) which govern the activities of the charity;
  - Act with integrity, and avoid any personal conflicts of interest or misuse of charity funds or assets.
- 5 **Duty of prudence - Trustees must:**
  - Ensure that the charity is and will remain solvent;
  - Use charitable funds and assets reasonably, and only in furtherance of the charity's objects;



- Avoid undertaking activities that might place the charity's endowment, funds, assets or reputation at undue risk;
- Take special care when investing the funds of the charity, or borrowing funds for the charity to use.

## **6 Duty of care - Trustees must:**

- Use reasonable care and skill in their work as trustees, using their personal skills and experience as needed to ensure that the charity is well-run and efficient;
- Consider getting external professional advice on all matters where there may be material risk to the charity, or where the trustees may be in breach of their duties.

## **7 Liability**

Trustees are jointly and severally liable to the charity for breaches of trust. They may incur personal liability for losses incurred if they:

- act outside of the scope of the trust deed;
- fall below the required standard of care;
- make a personal profit from the trust assets.

8 Trustees will incur personal liabilities under contracts they enter into in the name of the charity. They are, however, entitled to be reimbursed from the charity's funds for all liabilities and expenses in accordance with the trust deed.

## **9 Insurance and Indemnity**

An indemnity can be given from the charity provided the trustee has acted properly and within their powers. Trustees may take out personal insurance to protect themselves against personal liability except criminal liability. Payment of the premiums must be authorised by the trust deed if they are to be met from charitable funds.

## **Appointment of Councillors to Committees of Management or Unincorporated Associations**

### **Legal Status**

- 1 Most societies, clubs and similar organisations (other than companies, industrial societies and trusts), are unincorporated associations. This is an informal organisation, which may arise where several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
- 2 There is no statutory definition of an unincorporated association but it has been described by the court as “an association of persons bound together by identifiable rules and having an identifiable membership”. Unlike a company it does not have a separate legal status distinct from its members.
- 3 The rules of an unincorporated association are found in its constitution, which sets out the roles and responsibilities of its members.

### **Duties**

- 4 An unincorporated association will typically have an executive or management committee with its powers and composition defined by the constitution. Key decisions will usually be made by the members at general meetings. The day to day administration of an association is usually undertaken by the officers and members of the executive or management committee.
- 5 Broadly executive or management committee members must act within the constitution and must take reasonable care in exercising their powers.
- 6 Where an unincorporated association is a registered charity the members of the executive or management committee may also be charity trustees. As such, their role and responsibilities will be determined not only by the association’s constitution but also by the general law relating to trusts and charities.

### **Observer Status**

- 7 The Council may appoint a Councillor to the executive or management committee of an unincorporated association as an observer. A Councillor acting as an observer should avoid exceeding this role by becoming directly involved in the management of the association as they may be deemed to be an ordinary member for the purposes of determining liability.

### **Liabilities**

- 8 Members of the management committee are generally liable, jointly and severally, for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are insufficient funds the members are personally liable for the shortfall.
- 9 Particular care should also be taken when entering into contracts on behalf of the association. If the individual lacks the authority to do so, they may find themselves personally liable for the performance of the contract.

**Insurance**

- 10 Insurance may be available, but payment of the premiums must be authorised by the constitution if they are to be met from the association's funds.

**Appointment of Councillors to Steering Groups,  
Joint Committees and Partnership Bodies**

- 1 The responsibilities of a Councillor who is appointed as a member of any of these bodies will be determined by the terms of reference, constitution or partnership agreement under which they are established and governed;
- 2 It is necessary to ensure that the Councillor's role on the body is clear, in accordance with the Council's adopted *Partnership Protocol* and, in particular, whether they are acting as a delegate or representative of the Council to further the interests of the Council, or whether they are expected to exercise independent judgment in the best interests of the body concerned;
- 3 Liability will depend on the nature and functions of the body and the constitution or agreement under which it is established. Insurance may be available to cover certain liability.

<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 Head of Legal, or to download:  
<http://webarchive.nationalarchives.gov.uk/20090505163356/http://www.standardsboard.gov.uk/TheCodeofConduct/Guidance/CodeofConduct/Factsheets/filedownload,16138,en.pdf>

# Appendix



**WOKINGHAM  
BOROUGH COUNCIL**

## **Wokingham Borough Council**

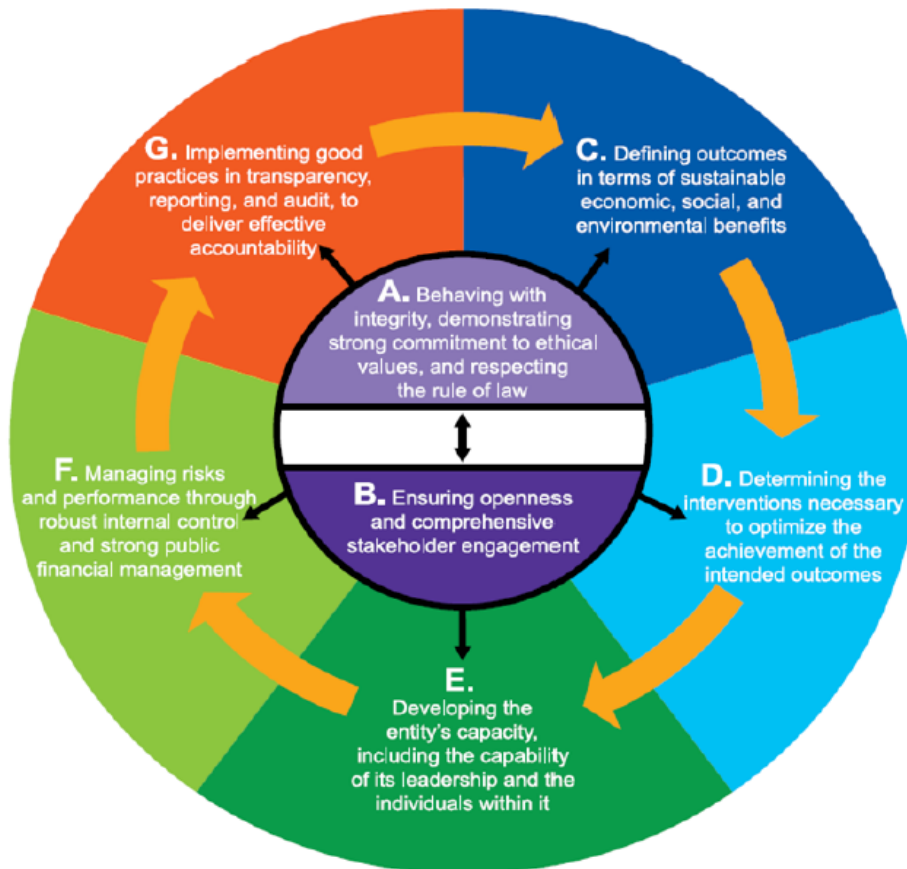
### **Local Code of Corporate Governance**

November 2020

## 1. Delivering Good Governance

- 1.1 Good governance is everyone's responsibility. The Leader of the Council and the Chief Executive have a special leadership role as custodians of the Council's governance arrangements.
- 1.2 Each year an Annual Governance Statement is published with the Statement of Accounts (as required by the Accounts and Audit (England) Regulations 2015). This follows a review on the effectiveness of the Council's system of internal control and governance.
- 1.3 Good governance at Wokingham Borough Council is delivered and guided by the Chartered Institute of Public Finance & Accountancy (CIPFA) and the Society of Local Authority of Chief Executives (SOLACE): *Delivering Good Governance in Local Government – Framework (2016)* and the *International Framework: Good Governance in the Public Sector* (Chartered Institute of Public Finance and Accountancy / International Federation of Accountants, 2014).
- 1.4 The 'International Framework' defines governance as follows: "*Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved*".  
It also states that:  
*"To deliver good governance in the public sector, both governing bodies and individuals working for public sector entities must try to achieve their entity's objectives while acting in the public interest at all times. Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders"*.
- 1.5 The Foreword to the 'Framework' sets out that "*Good governance requires a qualitative approach, not a mindless quantitative one. It requires integrity, objectivity, transparency, and accountability, built on a foundation of intellectual honesty. These principles are already embedded throughout this Framework, but it should be read with these fundamentals firmly in mind*".
- 1.6 The diagram below shows how the various principles of good governance in the public sector relate to each other.

**Achieving the Intended Outcomes  
While Acting in the Public Interest at all Times**



**2. The Principles of Good Governance**

2.1 The Framework requires governance processes and structures to focus on the attainment of sustainable outcomes for the economy, society and the environment.

2.2 Principles A and B are overarching principles and spread through all other principles C to G and ensure that the Council achieves its intended outcomes while acting in the public interest at all times. This requires:

**A. Behaving with integrity, demonstrating strong commitment to ethical values,**

**and respecting the rule of law.**

**B. Ensuring openness and comprehensive stakeholder engagement.**

2.3 In addition to the overarching requirements for acting in the public interest in principles A and B, achieving good governance in the public sector also requires effective arrangements for:

**C. Defining outcomes in terms of sustainable economic, social, and environmental benefits.**

**D. Determining the interventions necessary to optimise the achievement of the intended outcomes.**

***E. Developing the Council's capacity, including the capability of its leadership and the individuals within it.***

***F. Managing risks and performance through robust internal control and strong public financial management.***

***G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability.***

### **3. Monitoring and Review**

- 3.1 The Council will monitor its governance arrangements for their effectiveness in practice and will review them on a continuing basis to ensure that they are up to date. The process of review to produce the Annual Governance Statement will assess in more detail how the Council has performed in its adherence to the adopted principles of governance detailed in this code.
- 3.2 On an annual basis, the Chief Executive and Leader of the Council will publish an Annual Governance Statement which will:
- Assess how the Council has complied with this Code of Corporate Governance;
  - Provide an opinion on the effectiveness of the Council's arrangements;
  - Provide details of how continual improvement in the systems of governance will be achieved.

### **4. Certification**

We hereby endorse our commitment to this Code of Corporate Governance and will ensure that the Council continues to review, evaluate and develop the Council's Governance arrangements to ensure continuous improvement of the Council's systems.

Leader of the Council – John Halsall  
Chief Executive – Susan Parsonage



**How the Council ensures good governance:**

<b>Principle A - Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.</b>		
<b>Supporting Principles</b>	<b>To embed the behaviour and actions that demonstrate good governance, the council is committed to:</b>	<b>This is demonstrated by:</b>
<b>Behaving with integrity.</b>	<ul style="list-style-type: none"> <li>• Ensure that members and officers behave with integrity and lead a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organisation.</li> <li>• Ensure that members take the lead in establishing specific standard operating principles or values for the organisation and its staff and that they are communicated and understood. These will build on the Seven Principles of Public Life (The Nolan Principles).</li> <li>• Lead by example and using the above standard operating principles or values as a framework for decision making and other actions.</li> <li>• Demonstrate, communicate and embed the standard operating principles or values through appropriate policies and processes, which are reviewed on a regular basis to ensure that they are operating effectively.</li> </ul>	<ul style="list-style-type: none"> <li>• The Council's values</li> <li>• The Community Vision and Corporate Delivery Plan</li> <li>• The Constitution</li> <li>• Standards Committee</li> <li>• Member and Officer Codes of Conduct</li> <li>• Member Declarations of Interests, Register of Interests and details of Gifts and Hospitality are published on the Council's website</li> <li>• Officer declarations of interest</li> <li>• Officer job descriptions and Appraisals</li> <li>• Member and Officer induction and training</li> <li>• Whistleblowing and counter-fraud arrangements</li> </ul>
<b>Demonstrating strong commitment to ethical values.</b>	<ul style="list-style-type: none"> <li>• Seek to establish, monitor and maintain the organisation's ethical standards and performance.</li> <li>• Underpin personal behaviour with ethical values and ensure they permeate all aspects of the organisation's culture and operation.</li> <li>• Develop and maintain robust policies and procedures which place emphasis on agreed ethical values.</li> <li>• Ensure that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the organisation.</li> </ul>	<ul style="list-style-type: none"> <li>• The Council's values</li> <li>• The Constitution</li> <li>• Standards Committee</li> <li>• Overview &amp; Scrutiny Committees</li> <li>• Regulatory and other Committees</li> <li>• Codes of Conduct</li> <li>• Member and Officer induction and training</li> <li>• Member Declarations of Interests, Register of Interests and details of Gifts and Hospitality are published on the Council's website</li> <li>• Officer declarations of interest</li> <li>• Equality Policy / BAME Group</li> <li>• Procurement and</li> </ul>

		Contract rules, and procedures
<b>Respecting the rule of law.</b>	<ul style="list-style-type: none"> <li>• Ensure that members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations.</li> <li>• Create the conditions to ensure that the statutory officers, other key post holders, and members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements.</li> <li>• Strive to optimise the use of the full powers available for the benefit of citizens, communities and other Stakeholders.</li> <li>• Deal with breaches of legal and regulatory provisions effectively.</li> <li>• Ensure that corruption and misuse of power are dealt with effectively.</li> </ul>	<ul style="list-style-type: none"> <li>• Legal and finance senior officers review reports going for Member decision making.</li> <li>• Project Managers have responsibility to secure legal and finance advice for projects</li> <li>• Corporate complaints, compliments and monitoring procedures.</li> <li>• Ombudsman process</li> <li>• Companies – Compliance with Companies Act and Directors duties</li> <li>• Head of Paid Service post / advice</li> <li>• S151 officer post / advice</li> <li>• Monitoring Officer post / advice</li> <li>• The Constitution</li> <li>• Roles, responsibilities and competencies</li> <li>• Anti-Fraud and Corruption Policy</li> <li>• Whistleblowing Policy</li> <li>• Data Protection Policy</li> </ul>

<b>Principle B - Ensuring openness and comprehensive stakeholder engagement.</b>		
<b>Supporting Principles</b>	<b>To embed the behaviour and actions that demonstrate good governance, the council is committed to:</b>	<b>This is demonstrated by:</b>
<b>Openness.</b>	<ul style="list-style-type: none"> <li>• Ensure an open culture through demonstrating, documenting and communicating the organisation's commitment to openness.</li> <li>• Make decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes.</li> <li>• Provide clear reasoning and evidence for decisions in both public records and explanations to Stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensure that the impact and consequences of those decisions are clear.</li> <li>• Use formal and informal consultation and engagement to determine the most appropriate and effective interventions / courses of action.</li> </ul>	<ul style="list-style-type: none"> <li>• The Council's values</li> <li>• The Community Vision and Corporate Delivery Plan</li> <li>• Communication Strategy / Policy</li> <li>• WBC website</li> <li>• Committee meetings documentation, standard report templates and minutes</li> <li>• Call-in periods for Executive decisions</li> <li>• Overview &amp; Scrutiny</li> </ul>

		<p>panels</p> <ul style="list-style-type: none"> <li>• Forward Plan</li> <li>• Publication Scheme</li> <li>• Consultation Policy, webpage and e-Petitions</li> <li>• Transparency data published</li> <li>• Freedom of Information processes</li> <li>• HR Policies and procedures</li> <li>• Equality Framework and Equality Impact Assessments</li> </ul>
<p><b><i>Engaging stakeholders effectively, including individual citizens and service users.</i></b></p>	<ul style="list-style-type: none"> <li>• Establish a clear policy on the type of issues that the organisation will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes.</li> <li>• Ensure that communication methods are effective and that members and officers are clear about their roles with regard to community engagement.</li> <li>• Encourage, collect and evaluate the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs.</li> <li>• Implement effective feedback mechanisms in order to demonstrate how views have been taken into account.</li> <li>• Balance feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity</li> <li>• Take account of the impact of decisions on future generations of tax payers and service users.</li> </ul>	<ul style="list-style-type: none"> <li>• Consultation Policy, webpage and e-Petitions</li> <li>• Corporate complaints, compliments and monitoring procedures</li> <li>• Customer Service Strategy</li> <li>• Public attendance at meetings and web stream</li> <li>• Annual Budget consultation</li> <li>• Wokingham Borough News surveys</li> </ul>
<p><b><i>Engaging comprehensively with institutional stakeholders.</i></b></p>	<ul style="list-style-type: none"> <li>• Effectively engage with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably.</li> <li>• Develop formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively.</li> <li>• Ensure that partnerships are based on: <ul style="list-style-type: none"> <li>- trust;</li> <li>- a shared commitment to change;</li> <li>- a culture that promotes and accepts challenge among partners; and,</li> <li>- that the added value of partnership working is explicit.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The Community Vision and Corporate Delivery Plan</li> <li>• Local Enterprise Partnership Arrangements</li> <li>• Joint Strategic Needs Assessment</li> <li>• Joint Health and Wellbeing Strategy</li> <li>• Community Safety Partnership</li> <li>• Berkshire West Children's Safeguarding partnership</li> <li>• Wokingham Integrated Partnership</li> </ul>

<b>Principle C - Defining outcomes in terms of sustainable economic, social, and environmental benefits.</b>		
<b>Supporting Principles</b>	<b>To embed the behaviour and actions that demonstrate good governance, the council is committed to:</b>	<b>This is demonstrated by:</b>
<b>Defining outcomes.</b>	<ul style="list-style-type: none"> <li>• Have a clear vision, which is an agreed formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation's overall strategy, planning and other decisions.</li> <li>• Specify the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer.</li> <li>• Deliver defined outcomes on a sustainable basis within the resources that will be available.</li> <li>• Identify and manage risks to the achievement of outcomes.</li> <li>• Manage service users' expectations effectively with regard to determining priorities and making the best use of the resources available.</li> </ul>	<ul style="list-style-type: none"> <li>• The Community Vision and Corporate Delivery Plan</li> <li>• Directorate and Service Plans</li> <li>• Medium Term Financial Plan</li> <li>• Capital Strategy</li> <li>• Statement of Accounts</li> <li>• Corporate Risk Register and project risk assessments</li> <li>• Performance Framework and reporting to Officers and Members</li> </ul>
<b>Sustainable economic, social, and environmental benefits.</b>	<ul style="list-style-type: none"> <li>• Consider and balance the combined economic, social and environmental impact of policies and plans when taking decisions about service provision.</li> <li>• Take a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation's intended outcomes and short-term factors such as the political cycle or financial constraints.</li> <li>• Determine the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs.</li> <li>• Ensure fair and equal access to services.</li> </ul>	<ul style="list-style-type: none"> <li>• Standard templates for Business Cases and Executive papers</li> <li>• MTFP, Capital and Investment Strategies</li> <li>• The Community Vision and Corporate Delivery Plan</li> <li>• Directorate and Service Plans</li> <li>• Adults social care strategies and policies</li> <li>• Children's social care strategies and policies.</li> <li>• Climate emergency objectives.</li> <li>• Air Quality Management Group</li> <li>• Health &amp; Wellbeing Strategy</li> <li>• Development and Planning policies</li> <li>• Housing policies</li> <li>• Equality Framework and Equality Impact Assessments</li> </ul>

<b>Principle D - Determining the interventions necessary to optimise the achievement of the intended outcomes.</b>		
<b>Supporting Principles</b>	<b>To embed the behaviour and actions that demonstrate good governance, the council is committed to:</b>	<b>This is demonstrated by:</b>
<b>Determining interventions.</b>	<ul style="list-style-type: none"> <li>• Ensure that decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and associated risks. Therefore ensuring best value is achieved however services are provided.</li> <li>• Consider feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.</li> </ul>	<ul style="list-style-type: none"> <li>• Standard templates for Business Cases and Executive papers</li> <li>• Consultation Policy, webpage and e-Petitions</li> <li>• Corporate complaints, compliments and monitoring procedures.</li> <li>• Annual Budget consultation</li> </ul>
<b>Planning interventions.</b>	<ul style="list-style-type: none"> <li>• Establish and implement robust planning and control cycles that cover strategic and operational plans, priorities and targets.</li> <li>• Engage with internal and external stakeholders in determining how services and other courses of action should be planned and delivered.</li> <li>• Consider and monitor risks facing each partner when working collaboratively, including shared risks.</li> <li>• Ensuring arrangements are flexible and agile so that the mechanisms for delivering goods and services can be adapted to changing circumstances.</li> <li>• Establish appropriate key performance indicators (KPIs) as part of the planning process in order to identify how the performance of services and projects is to be measured.</li> <li>• Ensure that capacity exists to generate the information required to review service quality regularly.</li> <li>• Prepare budgets in accordance with objectives, strategies and the medium term financial plan.</li> <li>• Inform medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy.</li> </ul>	<ul style="list-style-type: none"> <li>• The Community Vision and Corporate Delivery Plan</li> <li>• Directorate and Service Plans</li> <li>• MTFP, Capital and Investment Strategies.</li> <li>• Consultation Policy, webpage and e-Petitions</li> <li>• Performance Framework and reporting to Officers and Members</li> <li>• Corporate and service risk registers</li> <li>• Project management policies and guidance</li> </ul>
<b>Optimising achievement of intended outcomes.</b>	<ul style="list-style-type: none"> <li>• Ensure that the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints.</li> <li>• Ensure that the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term.</li> <li>• Ensure that the medium term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage.</li> <li>• Ensure that the achievement of 'social value' through service planning and commissioning (The Public Services (Social Value) Act 2012 states that this is "the</li> </ul>	<ul style="list-style-type: none"> <li>• MTFP, Capital and Investment Strategies</li> <li>• Capital and revenue monitoring and reporting to officers and Members</li> <li>• Annual budget consultation</li> <li>• Consultation Policy, webpage and e-Petitions</li> <li>• Resident surveys</li> </ul>

	additional benefit to the community.... over and above the direct purchasing of goods, services and outcomes”.	
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<b>Principle E - Developing the Council's capacity, including the capability of its leadership and the individuals within it.</b>		
<b>Supporting Principles</b>	<b>To embed the behaviour and actions that demonstrate good governance, the council is committed to:</b>	<b>This is demonstrated by:</b>
<b>Developing the entity's capacity.</b>	<ul style="list-style-type: none"> <li>• Review operations, performance and use of assets on a regular basis to ensure their continuing effectiveness.</li> <li>• Improve resource use through appropriate application of techniques such as benchmarking and other options in order to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently.</li> <li>• Recognise the benefits of partnerships and collaborative working where added value can be achieved</li> <li>• Develop and maintain an effective workforce plan to enhance the strategic allocation of resources.</li> </ul>	<ul style="list-style-type: none"> <li>• The Community Vision and Corporate Delivery Plan</li> <li>• Asset Management Plan</li> <li>• Highways Asset Management Strategy</li> <li>• Benchmarking within Directorate and Service plans</li> <li>• Local Enterprise Partnership Arrangements</li> <li>• Joint Strategic Needs Assessment</li> <li>• Joint Health and Wellbeing Strategy</li> <li>• Community Safety Partnership</li> <li>• Berkshire West Children's Safeguarding partnership</li> <li>• Wokingham Integrated Partnership</li> <li>• Shared Services arrangements</li> <li>• Workforce plan</li> </ul>
<b>Developing the entity's leadership and the capability of individuals within the entity.</b>	<ul style="list-style-type: none"> <li>• Develop protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained.</li> <li>• Publish a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body.</li> <li>• Ensure that the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy and managing the delivery of services and other outputs set by members and each provides a check and a balance for each other's authority.</li> <li>• Develop the capabilities of members and senior management to achieve effective leadership and to enable the organisation to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks by: <ul style="list-style-type: none"> <li>- Ensuring members and staff have access to appropriate induction tailored to their role and that ongoing training and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Member / officer protocol</li> <li>• Constitution including delegated powers</li> <li>• Training plans for officers and Members</li> <li>• Standard induction and training for both officers and Members</li> <li>• Mandatory e-learning modules</li> <li>• Intranet guidance, policies and procedures</li> <li>• Corporate recruitment processes with job profiles and competencies</li> <li>• Appraisals and 121s</li> <li>• Corporate staff surveys</li> </ul>



	<p>development matching individual and organisational requirements is available and encouraged;</p> <ul style="list-style-type: none"> <li>- Ensuring members and officers have the appropriate skills, knowledge, resources and support to fulfil their roles and responsibilities and ensuring that they are able to update their knowledge on a continuing basis;</li> <li>- Ensuring personal, organisational and system-wide development through shared learning, including lessons learnt from governance weaknesses both internal and external.</li> </ul> <ul style="list-style-type: none"> <li>• Ensure that there are structures in place to encourage public participation.</li> <li>• Take steps to consider the leadership's own effectiveness and ensuring leaders are open to constructive feedback from peer review and inspections.</li> <li>• Hold staff to account through regular performance reviews which take account of training or development needs.</li> <li>• Ensure that arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.</li> </ul>	<ul style="list-style-type: none"> <li>• Apprenticeship scheme</li> <li>• Coaching Cadre</li> <li>• Peer Reviews – council and service Specific</li> <li>• Companies – Companies Act, Articles of Association, Directors duties</li> <li>• Health and Wellbeing policies, guidance and events</li> </ul>
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<b>Principle F - Managing risks and performance through robust internal control and strong public financial management.</b>		
<b>Supporting Principles</b>	<b>To embed the behaviour and actions that demonstrate good governance, the council is committed to:</b>	<b>This is demonstrated by:</b>
<b>Managing risk.</b>	<ul style="list-style-type: none"> <li>• Recognising that risk management is an integral part of all activities and must be considered in all aspects of decision making.</li> <li>• Implementing robust and integrated risk management arrangements and ensuring that they are working effectively.</li> <li>• Ensuring that responsibilities for managing individual risks are clearly allocated.</li> </ul>	<ul style="list-style-type: none"> <li>• Risk Management Strategy</li> <li>• Corporate Risk Register</li> <li>• Directorate and Service risk Registers</li> <li>• Standard templates for Executive decision making</li> <li>• Audit Committee</li> <li>• Overview &amp; Scrutiny panels</li> <li>• Audit &amp; Investigation service</li> </ul>
<b>Managing performance.</b>	<ul style="list-style-type: none"> <li>• Monitor service delivery effectively including planning, specification, execution and independent post implementation review</li> <li>• Make decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook.</li> <li>• Ensure that an effective scrutiny or oversight function is in place which provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organisation for which it is responsible.</li> <li>• Provide members and senior management with regular reports</li> </ul>	<ul style="list-style-type: none"> <li>• Performance reporting framework to officers and Members</li> <li>• Standard templates for Executive decision making</li> <li>• Overview &amp; Scrutiny panels and quarterly performance reporting to them</li> <li>• Directorate and Service plans</li> <li>• MTFP</li> </ul>

	<p>on service delivery plans and on progress towards outcome achievement.</p> <ul style="list-style-type: none"> <li>• Ensure that there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements).</li> </ul>	<ul style="list-style-type: none"> <li>• Capital and revenue budget</li> <li>• Monitoring</li> <li>• Statement of Accounts</li> <li>• Project monitoring</li> <li>• Internal and External Audit reports</li> <li>• Peer reviews / inspections</li> </ul>
<b>Robust internal control.</b>	<ul style="list-style-type: none"> <li>• Align the risk management strategy and policies on internal control with achieving objectives.</li> <li>• Evaluate and monitor risk management and internal control on a regular basis.</li> <li>• Ensure that effective counter fraud and anti-corruption arrangements are in place.</li> <li>• Ensure that additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor.</li> <li>• Ensure an audit committee which is independent of the executive and accountable to the governing body: <ul style="list-style-type: none"> <li>- Provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment; and,</li> <li>- That its recommendations are listened to and acted upon.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Audit &amp; Investigation annual plan</li> <li>• External Audit</li> <li>• Audit Committee</li> <li>• Anti-Fraud and Corruption Policy</li> <li>• Whistleblowing Policy</li> <li>• Anti-Money Laundering Policy</li> <li>• Financial Procedure Rules, Regulations and Contract Standing Orders</li> <li>• Chief Audit Executive annual report</li> <li>• Annual Governance Statement</li> <li>• Risk Management Strategy and Policy</li> </ul>
<b>Strong public financial management.</b>	<ul style="list-style-type: none"> <li>• Ensure that financial management supports both long term achievement of outcomes and short-term financial and operational performance.</li> <li>• Ensure that well-developed financial management is integrated at all levels of planning and control, including management of financial risks and controls.</li> </ul>	<ul style="list-style-type: none"> <li>• MTFP</li> <li>• Financial Regulations / Contract Standing Orders</li> <li>• Capital and revenue reporting to officers and Members</li> <li>• Standard templates for Executive decision making</li> <li>• Annual budget process</li> </ul>
<b>Managing data</b>	<ul style="list-style-type: none"> <li>• Ensure that effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data.</li> <li>• Ensure that effective arrangements are in place and operating effectively when sharing data with other bodies.</li> <li>• Review and audit regularly the quality and accuracy of data used in decision making and performance monitoring.</li> </ul>	<ul style="list-style-type: none"> <li>• Information Security and Acceptable Use of ICT Policy</li> <li>• Data Protection / GDPR Guidelines</li> <li>• Privacy Notices</li> <li>• Mandatory GDPR e-learning</li> <li>• Data sharing agreements with Partners</li> <li>• E-mail security classification</li> <li>• Freedom of Information policy</li> </ul>



		<ul style="list-style-type: none"> <li>• Records Retention guidance</li> <li>• Internal Audit</li> <li>• Caldicott Guardians</li> </ul>
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<b>Principle G - Implementing good practices in transparency, reporting, and audit to deliver effective accountability.</b>		
<b>Supporting Principles</b>	<b>To embed the behaviour and actions that demonstrate good governance, the council is committed to:</b>	<b>This is demonstrated by:</b>
<b>Implementing good practices in transparency.</b>	<ul style="list-style-type: none"> <li>• Write and communicate reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate.</li> <li>• Strike a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand.</li> </ul>	<ul style="list-style-type: none"> <li>• Standard templates for public reports</li> <li>• Committee Agendas, papers and minutes published</li> <li>• Forward Plan</li> <li>• Publication Scheme</li> <li>• Only using Part 2 reporting for the purposes intended</li> <li>• Website streaming of meetings and public questions</li> <li>• Transparency Data published</li> <li>• Annual Governance Statement</li> <li>• Companies – Companies House reporting and submissions</li> </ul>
<b>Implementing good practices in reporting.</b>	<ul style="list-style-type: none"> <li>• Report at least annually on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way.</li> <li>• Ensure that members and senior management own the results reported.</li> <li>• Ensure that robust arrangements for assessing the extent to which the principles contained in this framework have been applied and publishing the results on this assessment, including an action plan for improvement and evidence to demonstrate good governance (the Annual Governance Statement).</li> <li>• Ensure that this Framework is applied to jointly managed or shared service organisations as appropriate.</li> <li>• Ensure the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar organisations.</li> </ul>	<ul style="list-style-type: none"> <li>• Statement of Accounts</li> <li>• Annual Governance Statement and improvement plan</li> <li>• Annual External Audit report and Letter</li> </ul>
<b>Assurance and effective accountability.</b>	<ul style="list-style-type: none"> <li>• Ensure that recommendations for corrective action made by external audit are acted upon.</li> <li>• Ensure that an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon.</li> <li>• Welcome peer challenge, reviews and inspections from regulatory bodies and implementing</li> </ul>	<ul style="list-style-type: none"> <li>• External Audit reporting to Audit Committee</li> <li>• Internal Audit reporting to Audit Committee</li> <li>• Peer reviews / inspections</li> </ul>

	<p>recommendations.</p> <ul style="list-style-type: none"><li>• Gain assurance on risks associated with delivering services through third parties and that this is evidenced in the Annual Governance Statement.</li><li>• Ensure that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognised and met.</li></ul>	<p>published results and monitoring of outcomes</p> <ul style="list-style-type: none"><li>• Overview &amp; Scrutiny panels</li><li>• Partnerships Governance Protocol</li></ul>
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