



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Philippa Gibbs
philippa.gibbs@bromley.gov.uk

DIRECT LINE: 020 8461 7638

FAX: 020 8290 0608

DATE: 3 March 2020

To: Members of the
STANDARDS COMMITTEE

Councillor Will Harmer (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Dr Simon Davey, Ken Palmer, Councillor Melanie Stevens, Councillor Michael Tickner and Councillor Stephen Wells

A meeting of the Standards Committee will be held at Bromley Civic Centre on
THURSDAY 12 MARCH 2020 AT 7.00 PM

MARK BOWEN
Director of Corporate Services

A G E N D A

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

3 MINUTES OF THE MEETING HELD ON 31 OCTOBER 2019 (Pages 1 - 8)

4 QUESTIONS

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting.

Questions specifically on reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by **5pm on Friday 6th March 2020.**

5 DRAFT PLANNING PROTOCOL (Pages 9 - 32)

6 GDPR COMPLIANT STORAGE, PROCESSING AND DISPOSAL OF INFORMATION

7 MONITORING OFFICER'S GENERAL REPORT (Pages 33 - 52)

8 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of confidential information.

Items of Business

Schedule 12A Description

- | | |
|--|--|
| <p>9 EXEMPT MINUTES OF THE MEETING HELD ON 31 OCTOBER 2019 (Pages 53 - 54)</p> | <p>Information relating to any individual.
Information relating to the financial or business affairs of any particular person (including the authority holding that information)</p> |
| <p>10 MONITORING OFFICER'S GENERAL REPORT - PART 2 APPENDICES (Pages 55 - 56)</p> | <p>Information relating to any individual.</p> |

STANDARDS COMMITTEE

Minutes of the meeting held at 7.00 pm on 31 October 2019

Present:

Councillor Will Harmer (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Dr Simon Davey, Councillor Melanie Stevens, Councillor
Michael Tickner and Councillor Stephen Wells

20 APOLOGIES FOR ABSENCE

There were no apologies for absence.

21 DECLARATIONS OF INTEREST

There were no additional declarations of interest.

22 QUESTIONS

The following question for oral response had been received from Mr Ben McGowan:

Are councillors expected to uphold, support and comply with Bromley Council's Equal Opportunity Policy Statement when carrying out their duties including during council meetings?

Reply:

Yes, Councillors do have to have regard for the Council's equalities duties. In saying that, Councillors are also afforded considerable flexibility to exercise their right to freedom of political speech and judges recognise this as one of the most protected rights. Councillors also, in part, have a duty to represent the varied and diverse views of their residents.

Supplementary Question:

Does the Chair therefore believe that Cllr Tickner's comments at the October Full Council meeting, describing being LGBT+ as a "lifestyle" and "trend", and suggesting that LGBT+ inclusive RSE is encouraging children to become LGBT, are aligned with the Council's equal opportunity statement, due to the homophobia in his comments?

Reply:

As Chairman of the Standards Committee it would not be appropriate for me to comment in case this matter comes more formally to this Committee.

However, it is worth noting that in considering their judgments, judges have sought to protect freedom of political speech.

23 MINUTES OF THE MEETING HELD ON 9TH JULY 2019

In relation to Minute 17(F), a Member noted that the Committee had not unanimously accepted the reasons provided by the Monitoring Officer concerning why substitution was not allowed on the Committee. It was agreed that the minutes should be amended to reflect this.

The minutes of the meeting held on 9th July 2019, were agreed and signed as an accurate record, subject to the amendment above.

24 DISCUSSION WITH THE CHIEF EXECUTIVE

The Chief Executive, Ade Adetosoye, addressed the Committee, noting that the Council's Constitution outlined a requirement for the Chief Executive, as statutory Head of Paid Service, to have overall responsibility for all staffing matters. This necessitated that a good working relationship was developed with the Standards Committee to ensure a high standard of conduct and governance across the organisation through the scrutiny, challenge and support provided by the Standards Committee.

The Chief Executive emphasised that high ethical standards were a cornerstone of good governance in local government, helping to enhance the external reputation of the Council and strengthen its relationships with residents, service users, partners and the voluntary and community sector. High ethical standards supported Members and Officers alike in building trust and confidence and in discharging their duties in a safe, fair and transparent manner. At a staffing level, they had a positive impact on organisational culture, productivity and employee satisfaction.

In terms of the mechanisms in place for ensuring that there were high ethical standards in place for governance arrangements, the Chief Executive pointed towards the checks and balances that had been built into the decision making process: the Council's Constitution, Scheme of Delegation and legislative provisions. In addition the vast majority of Executive decisions received pre-decision scrutiny and there was the added safeguard of the right of non-executive members to 'call-in' executive decisions once they had been taken. In addition to the checks and balances within the decision making process, further assurances should be provided by: the Annual Governance Statement; the CIPFA Code of Corporate Guidance which had been adopted by the Council; Regular monitoring of the Corporate Risk Register and corporate audit activity by the Corporate Leadership Team (CLT); Quarterly departmental performance monitoring and benchmarking by CLT; Quarterly monitoring of complaints and compliments by CLT; and Regulatory inspections and sector led improvement and peer challenge.

The Chief Executive emphasised that it was important to ensure that Members and officers understood the high standards of conduct expected

within the Council and reflected the required behaviours and values in their working relationships with each other, with service users and residents, as well as partners and the wider voluntary and community sector. The Chief Executive reported that he had been reassured by the high standards of behaviour and professional conduct, challenge and support between Officers and Members that he had seen since his appointment in December 2018. In addition a comprehensive Member induction training offer was provided to members; there was also a Member/Officer protocol in place which outlined key principles to enable Members and officers to work well together and show respect for each other's respective roles and responsibilities. The Members' Code of Conduct would be revised to reflect the best practice recommendations outlined in the Local Government Ethical Standards Report with the Standards Committee being asked to make a recommendation to Council.

In concluding his presentation, the Chief Executive outlined the two key challenges going forward:

1. Considering the support that Officers could provide to Members to enable a clear level of transparency in decision making and enable residents to better understand key decision making processes and thus reduce the number of complaints made against elected members.
2. The remit of the Standards Committee allowed it to "monitor the maintenance of high standards of conduct in all the "council's activities". Further consideration would need to be given to this in light of increased service integration and partnership working. There was a delicate balance to be maintained in influencing the ethical standards of other organisations (i.e. the Council's partners and contractors) where there was no specific mandate to influence.

In posing questions to the Chief Executive, the Committee considered the Member/Officer Protocol which had been in place for approximately 13 years. Members noted that in that time the nature of the way in which the Council conducted its business had changed with a greater focus on commissioning services. Members questioned whether the Member/Officer protocol should be reviewed. In response, the Monitoring Officer explained that the Protocol was an internal document and as such could not be imposed on third parties. However, going forward there was a clear need to maintain democratic accountability and integrity and the development of protocols with partners would be important. Members agreed that whilst the Member/Officer Protocol had stood the test of time, given the remit of the Standards Committee to ensure ethical standards across the Council, it would be helpful to review the Protocol at the next meeting. The Chief Executive commented that as new relationships with partners and contractors developed it would be helpful for the Protocol to reflect expectations around the need for partners to comply with the Protocol and any Codes of Conduct.

The Committee discussed whether there was any scope in broadening its remit to include consideration of allegations made against staff by service

users. Members noted that there were specific regulatory bodies that heard allegations against certain professionals such as social workers and that the Ombudsman also dealt with service complaints. A Member emphasised that the Appeals Sub-Committee was recognised as the final stage of the Council's internal appeal process for staff in relation to grievance and disciplinary matters.

Turning to the issue of transparency in decision making, a Member noted that there had been an increase in the amount of information presented to Committees in Part 2. Recognising that the Council had developed more commercially orientated commissioning processes, Members sought assurances from the Chief Executive that Officers would avoid placing information in Part 2 unless absolutely necessary and that any information that was deemed exempt from publication was published and made publically available as soon as possible in the interest of transparency. The Chief Executive provided assurances that the Monitoring Officer had raised this issue with managers recently. It had been agreed that there would be further education for report authors and managers and guidance had been issued. The situation would be kept under review. If there were no improvements in the unnecessary Part 2 classification of report consideration would be given to whether the Monitoring Officer would have to give agreement to every report that was classified as exempt from publication. The Monitoring Officer confirmed that as a Local Authority, the presumption was that business was open and transparent. The Monitoring Officer reported that he and his staff did challenge when they felt that reports were incorrectly exempt from publication. A number of years ago advice had been issued to staff setting out that as much information as possible should be included in Part 1 with exempt information (i.e. information that was commercially, financially or legally sensitive) included in Part 2 appendices.

The Chairman suggested that consideration should be given to processes around declassifying information once it was no longer sensitive (e.g. following the sale of land, once new ownership was registered at the Land Registry). The Monitoring Officer also highlighted that consideration needed to be given to both the impact of declassifying certain information (e.g. legal advice) as the public interest test would need to be met and balancing the staff resources that would be required to regularly review Part 2 information and identify what information could be declassified.

In response to a question from the Independent Person concerning the visibility of ethical standards to Borough residents, the Chief Executive noted that the Council's website included pages on ethical standards. The Member/Officer Protocol was covered in the Member Indication process however, whilst Officers could provide training there was no mandate to compel Members to attend training.

In response to comments around ethical standards for Members and appropriate mechanisms to measure behavioural change, the Monitoring Officer reported that following the 2011 Act accountability for ethical standards had been given to the electorate who were expected to hold their elected

representatives to account at the ballot box. The Standards Committee now had regular scheduled meetings and received a summary of complaints against councillors made by residents. The Monitoring Officer confirmed that he was comfortable with the number of complaints against councillors that were received as either too many or too few complaints could be indicative of issues. The complaints that were received were well structured, well written and clearly informed by the Code of Conduct.

The Committee considered issues around Member training, noting that candidates at elections should be made aware of the Code of Conduct and refresher training provided to elected Councillors where necessary. The Chairman suggested that alternative, more flexible, options for the delivery of training, such as online training, should also be considered. In response to a question, the Monitoring Officer confirmed that councillors elected at By-elections were also provided with induction and training.

In response to a question from the Independent Person, the Chief Executive confirmed that he was comfortable with the Monitoring Officer completing the first stage 'screening' of complaints to identify whether there had been a breach of the Code of Conduct. Delegated responsibility for this process sat with the Monitoring Officer and the professional views of the Monitoring Officer should be seen as being objective. The Committee also noted that that there was a statutory duty to consult the Independent Person before referring complaints to the Standards Committee for investigation. Members noted that it was important to judge complaints against the public interest test.

**25 CODE OF CONDUCT: CONSIDERATION OF BEST PRACTICE FROM COMMITTEE ON STANDARDS IN PUBLIC LIFE
Report CDS19160**

The Committee considered an update on the work that had been carried out to review the Council's Code of Conduct since publication of the report of the Committee on Standards in Public Life.

The Committee suggested that each paragraph within the revised Code of Conduct should be numbered and that technical terms and abbreviations should be defined. It was agreed that the second substantive paragraph should be amended to read – "You must act solely in the public interest and *must* never improperly confer an advantage or disadvantage..."

In respect of the definition of bullying and harassment, the Committee suggested that the following change be made to paragraph 1.2 – "Harassment, bullying...are unacceptable and *will* not be tolerated." A Member also suggested that in considering complaints of bullying and harassment great weight should be placed on the impact of conduct on others and how the subject of the alleged bullying and harassment perceived the behaviour.

In respect of the additional requirements around confidentiality, a Member suggested that there should be additional guidance around GDPR and the

safeguarding and secure disposal of confidential papers received by Members. The need for Members to fully understand their duties around GDPR compliant storage and disposal of sensitive data was highlighted. It was agreed that the Head of Information Management should be invited to the next meeting to discuss key issues around information governance with the Committee. The Chairman also requested that an update on Members' responsibility to ensure the security of any data held on portable electronic devices was also provided at the next meeting.

The Monitoring Officer confirmed that following the appointment of another Independent Person, in the interests of transparency, the outcome of the first stage of complaints would be sent to the Independent Person for review. Members noted that, in the event of disagreement between the Monitoring Officer and the Independent Person, the final decision would sit with the Monitoring Officer. It was noted that the Monitoring Officer was required to consult with the Independent Person before referring a complaint to the Standards Committee. A Member suggested that for clarity references in the Code of Conduct to "formal standards investigations" should be removed.

RESOLVED: That

- 1. The report be noted;**
- 2. Full Council be recommended to approve the updated Code of Conduct, subject to the amendments outlined above and standards committee members consulting with group colleagues; and**
- 3. The Public Interest Test be endorsed.**

26 MONITORING OFFICER'S GENERAL REPORT
Report CDS19158

The Committee received a report from the Monitoring Officer setting out a number of issues for consideration.

(A) Standards Commission for Scotland Case

The Committee noted that the Sheriff Principal in Scotland had recently found in favour of the Standards Commission for Scotland in a case providing that when acting in a quasi-judicial capacity the enhanced protection afforded politicians to make political comment, under the European Convention on Human Rights (ECHR), is less likely to be engaged. Whilst not binding on the English legal system the case may influence the approach taken in England. The message to be taken from this case was that there was arguably a difference between freedom to make political comment in a Council debate and what could be said when sitting in a quasi-judicial capacity.

(B) Committee for Standards in Public Life – Intimidation in Public Office

The Committee noted the report published by the Committee for Standards in Public Life concerning Intimidation in Public Life.

(C) Dispensations Granted

The Committee noted that no dispensations had been granted since the last meeting on 9th July 2019.

(D) Gifts and Hospitality Register

The report set out declarations of gifts and hospitality received since the last meeting (Appendix 2 to the report).

(E) Register of Interests

The Register of Interest was available for inspection.

(F) Code of Governance 2018/19

The final Code of Corporate Governance 2018/19 was noted by the Committee (Appendix 4 to the report).

(G) Work Programme and Matters Outstanding from Previous Meetings

The Committee considered its work programme for future meetings.

(H) Independent Persons

Two applications were received and were considered in Part 2 of the Agenda. It was agreed that an interview panel comprising the Chairman, Vice-Chairman and the current Independent Person and supported by the Monitoring Officer be established to interview the candidates and make a recommendation to the next Full Council meeting on the appointment of one or more Independent Persons for a suggested term of five years. It was agreed that, if suitable, both candidates could be appointed.

The Committee agreed that the term of office of the current Independent Person should be extended to 2022. This would enable the current Independent Person to mentor and guide any newly appointed Independent Person.

(I) Complaints

The Committee received a summary of recent complaints made against councillors.

RESOLVED: That the report be noted.

**27 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY
AMENDED**

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

**28 EXEMPT MINUTES OF THE MEETING HELD ON 9TH JULY
2019**

The exempt minutes from the meeting held on 9th July 2019, were agreed and signed as a correct record.

**29 MONITORING OFFICER'S GENERAL REPORT - PART 2
APPENDICES**

The Committee considered part 2 appendices containing details of the applications for the position of Independent Person and complaints received against individual councillors since the last meeting on 9th July 2019.

The Meeting ended at 9.00 pm

Chairman

Report No.
CSD20047

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **STANDARDS COMMITTEE**

Date: **Thursday 12 March 2020**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **DRAFT PLANNING PROTOCOL**

Contact Officer: Philippa Gibbs, Deputy Democratic Services Manager
Tel: 020 8461 7638 E-mail: Philippa.Gibbs@bromley.gov.uk

Chief Officer: Director of Corporate Services

Ward: All Wards

1. Reason for report

To present the draft Planning Protocol to the Standards Committee to seek Members' views from a standards perspective.

2. **RECOMMENDATION(S)**

That the Standards Committee consider and comment on the draft Planning Protocol.

Impact on Vulnerable Adults and Children

1. Summary of Impact: There is a limited or no impact on vulnerable adults and children arising from this report.
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council Quality Environment Regeneration:
-

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Non-Recurring Cost:
 3. Budget head/performance centre: Planning
 4. Total current budget for this head: £1.7m
 5. Source of funding: Existing revenue budget 2019/20
-

Personnel

1. Number of staff (current and additional): 67.2ftes
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
 2. Call-in: Not Applicable:
-

Procurement

1. Summary of Procurement Implications: N/A
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 The Council requested that the Planning Advisory Service (PAS) carry out a review of the Council's planning committees in order to inform potential service improvements and to assist with sound decision making.
- 3.2 The resulting PAS report put considerable weight on the importance of a Local Planning Protocol for Bromley to help improve knowledge and decision making. The Protocol would allow members and officers to have a clear reference for procedures and approaches which are specific to Bromley as well as incorporating guidance from the PAS publication 'Probity in Planning' which strongly encourages the adoption of a local code.
- 3.3 The draft Local Protocol is appended to this report for consideration by the Standards Committee (at Appendix 2). It was considered and approved by the Development Control Committee on 28 January 2020, and the relevant minutes from that meeting are attached at Appendix 1. The Protocol will then be considered by the Development Control Committee again on 18th March, followed by Executive and the Full Council, to be adopted as part of the Council's Constitution.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children, Policy Implications, Financial Implications, Personnel Implications, Legal Implications, Procurement Implications
Background Documents: (Access via Contact Officer)	Reports to the Development Control Committee – 23 July 2019, 3 October 2019, 26 November 2019, 28 January 2020.

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DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held at 7.30 pm on 28 January 2020

Present:

Councillor Alexa Michael (Chairman)
Councillor Yvonne Bear (Vice-Chairman)
Councillors Vanessa Allen, Katy Boughey, Mark Brock,
Kevin Brooks, Peter Dean, Simon Fawthrop, Christine Harris,
William Huntington-Thresher, Charles Joel, Russell Mellor,
Tony Owen, Angela Page, Richard Scoates, Melanie Stevens
and Michael Turner

56 PLANNING SERVICE IMPROVEMENTS

In respect of continuous service improvements to the Planning Service, Members considered the new committee report template to be used for planning applications submitted to future Plans Sub-Committee and Development Control Committee meetings.

Consideration was also given to the draft Local Planning Protocol for referral of reports to General Purposes and Licensing Committee, Executive and Full Council for adoption as part of the Council's Constitution.

Members were requested to ensure that full planning reasons were given when requesting call-in of planning applications.

Following consultation with the Chief Legal Officer, the Assistant Director, Planning reported that recommendation 2 set out on page 175 of the report be amended to read:

'Members are asked to agree the draft Local Planning Protocol for referral on to meetings of the Standards Committee on 12 March 2020, Development Control Committee on 18 March 2020 and Full Council on 27 April 2020 for adoption as part of the Council's Constitution.'

Members were advised that having reviewed paragraph 4.5 of the Protocol with legal officers, it was agreed the wording be amended to read:

'4.5 It may be useful for committee members to visit a site to familiarise themselves without prior to consideration of an application at committee. Any informal visit should be carried out discreetly and if Members do encounter an applicant or neighbour, they should ensure there is no risk of this leading to the perception that they were no longer impartial i.e. by expressing a particular view.'

Referring to detailed conditions attached to an application, Councillor Fawthrop requested that a standard set of conditions be provided to the

Committee and that the full text of any non-standard conditions be included in future reports.

Councillor Owen was pleased with the new report template which was helpful to all Members whether or not they sat on Planning Sub-Committees or DCC.

Councillor Joel asked if Members were able to contact case officers if they had any queries in regard to planning applications. The Assistant Director, Planning confirmed that case officers would always make themselves available for that purpose.

Recommendation 19 relating to training proposals was currently a work in progress and further information should be available before the next DCC meeting.

It was reported that not all Members call-in requests included clear planning reasons. Councillor Huntington-Thresher requested guidance be circulated to Members on how to make a call-in request without being seen as pre-determining an application. The Assistant Director, Planning advised that a resident contacting a Member about particular aspects of an application was a good enough, clear reason. Another way was to set out the planning issue without giving a view on it i.e. 'design or density issue'.

Councillor Fawthrop asked if planning officers contacted Members who failed to give clear reasons, to remind them to do so as just simply accepting the call-in would likely lead to more of the same. He suggested that a gentle reminder from officers would be helpful. The Assistant Director, Planning confirmed that officers did contact Members.

It was agreed that the above matter would be looked at in further detail and brought to Committee for consideration at a future date.

Councillor Joel asked if the Planning Department could notify Ward Members and invite them to pre-application meetings. The Assistant Director, Planning would welcome input from Members at that stage and suggested meetings be arranged to take place following DCC Committee meetings.

Members were invited to submit comments on the draft Planning Protocol to the Planning Department. The Protocol would be submitted for further considered at the DCC meeting in March 2020.

Councillor Bear requested that a direct reference be made to the new Probity in Planning guidance to state explicitly that the Council's Planning Protocol reflected the key principles and practices as advocated.

It was suggested that a call-in form be designed to ensure that clear reasons were included when Members submitted call-in requests.

Councillor Owen referred to page 187 of the Probity in Planning document relating to Councillor and Officer Conduct and in particular the section on

integrity which stated that 'holders of public office should not act or take decisions in order to gain financial or other material benefits for themselves.' Councillor Owen asked whether any Member had transgressed in this regard and if so, what was the penalty. The Legal officer advised that it would be a criminal offence should a pecuniary interest in a contract (for example) not be declared by a Member.

Councillor Allen reported that complaints re Councillor conduct were dealt with by Officers and the Standards Committee was given a report. When she attempted to raise issues in regard to call-ins etc., she was told this was a DCC matter and yet DCC were now saying it was a matter for the Standards Committee. The Legal Officer confirmed he would raise this issue with the Director of Resources.

Following further discussion and a subsequent vote, Members agreed it was not necessary for a simple form to be designed for use by Councillors when calling in applications.

RESOLVED that:

- 1) the new committee report template for planning applications to be used for all Plans Sub-Committee and Development Control Committee meetings be approved subject to a standard set of conditions being provided to the Committee and the full text of any non-standard conditions being included in future reports;**
- 2) the draft Local Planning Protocol for referral on to meetings of the Standards Committee on 12 March 2020, Development Control Committee on 18 March 2020 and Full Council on 27 April 2020 for adoption as part of the Council's Constitution be agreed subject to the amendment of paragraph 4.5 as reported above. It was further resolved that a direct reference be made back to the new Probity in Planning to explicitly state that the Council's Planning Protocol reflected the key principles and practices as advocated; and**
- 3) full planning reasons be given by Members when requesting call-in of planning applications.**

The meeting ended at 9.21 pm

Chairman

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DRAFT

London Borough of Bromley
Local Planning Protocol and Code of Conduct



Contents:

1. Introduction
2. Referral of Applications to Committee
3. Agenda and Reports
4. Site Visits
5. Late Representations
6. Public Speaking Procedure
7. Order of Proceedings
8. Decision Making and Voting
9. Councillor and Officer Roles

1 Introduction

1.1 Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.

1.2 The planning system works best when officers and councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate. Planning decisions are based on balancing competing interests and making an informed judgement against a local, regional and national policy framework.

1.3 This protocol and code of conduct applies to all planning committee meetings, currently known as Development Control Committee and Plans Sub Committees, and to all Officers and Councillors attending committee meetings. Reference to planning committee is to either of these meetings. Planning committee is a formal meeting of elected Members who make statutory decisions as the Local Planning Authority.

1.4 The purpose of this document is to help all those involved with planning committees, and in particular those making decisions, be consistent in their behaviour and approach and to ensure that the meetings are conducted fairly, transparently and in accordance with the relevant legislation. It has been produced in accordance with the Planning Advisory Service publication 'Probity in Planning' – December 2019.

1.5 In addition, where permission is refused, applicants can appeal against planning decisions to the independent Planning Inspectorate, with a possibility of costs being awarded against the Local Planning Authority if unreasonable behaviour by the Authority can be demonstrated. Appeals can also be submitted against the imposition of planning conditions.

1.6 Planning decisions can be the subject of judicial review, and aggrieved parties can go to the Local Government and Social Care Ombudsman with complaints about maladministration. Adherence to this protocol will minimise the risk of appeals being lost, successful costs claims, lost court cases and upheld complaints.

2. Referral of Applications to Committee

2.1 Applications can be included on a committee agenda for any of the following reasons:

1. They are subject to a written 'call in' by a Councillor
2. They fall outside of the powers delegated to Planning Officers
3. Planning Officers decide to refer the application to committee

2.2 This is a summary and reference should be made to the Scheme of Delegation (Appendix 10 of the London Borough of Bromley Constitution https://www.bromley.gov.uk/downloads/download/211/constitution_of_the_london_borough_of_bromley) which provides the constitutional framework for powers of delegation to Officers and sets out the arrangements for 'call in'.

2.3 Planning applications, tree matters and contravention reports can be considered by either Plans Sub Committee or Development Control Committee. Matters of policy and strategic reports are only considered by Development Control Committee.

2.4 If an application is to be considered at planning committee (see 2.1 above), the following procedures apply to determining which committee to report it to:

- 'Non-major' applications are considered by Plans Sub Committee unless the Assistant Director (Planning) determines that the application is of strategic importance and refers it to Development Control Committee.
- 'Major' applications - Officers recommend a decision route and this is agreed by the Chairman and/or the Vice Chairman of Development Control

Committee within 3 working days of receiving the Officer recommended decision route in writing. This will normally be via a monthly recommendation list.

3. Agenda and Reports

3.1 The planning committee agenda will include planning applications in numerical order based on the application reference number.

3.2 Application reports are normally presented in a standard format provided by the Assistant Director (Planning). Reports will identify and analyse the material considerations, of which the committee will need to take account when considering the application on its planning merits. The presentation of reports for matters other than applications may vary according to their content but will present a clear recommendation where appropriate.

3.3 Planning committee agendas must be published on the Council's website a minimum of 5 working days prior to the committee meeting.

3.4 Planning application reports will always include an officer recommendation for approval or refusal. Non application reports will include a recommendation where appropriate.

4. Site Visits

4.1 Planning Officers will normally visit each application site and these visits are used to inform the committee report and recommendation. Photographs from these visits are often used within reports to illustrate particular important points.

4.2 For formally arranged Councillor site visits, the Chairman of the relevant committee in consultation with the Assistant Director (Planning) will decide whether a site visit for committee members is necessary in advance of any particular application being determined at committee. Such visits will not be publicised.

4.3 A site visit for committee members is only likely to be necessary if either:

- I. the impact of the proposed development is particularly difficult to visualise from the plans and any supporting material, including photographs taken by officers; or
- II. the proposal is particularly contentious

4.4 Formally arranged site visits are for observing the site and gaining a better understanding of the issues. They should not be used as a lobbying opportunity by applicants or their agents, local residents, objectors or supporters or for debating any aspect of the proposal or for making any decision. Councillors will usually be accompanied by a Planning Officer.

4.5 It may be useful for committee members to visit a site to familiarise themselves with it prior to consideration of an application at committee. Any informal visit should be carried out discreetly and if Members do encounter an applicant or neighbour they should ensure that there is no risk of this leading to the perception that they were no longer impartial, for example by expressing a particular view.

4.6 Doing so could be misinterpreted as lobbying and may create a suspicion of bias. If such contact is made this should be declared in Committee, but this should not prevent that Member from taking part in the consideration of that application provided they have acted in accordance with the advice in this Protocol.

5. Late Representations

5.1 Planning applications involve public consultation which has to comply with a legal statutory minimum requirement. In many cases we consult over and above the statutory minimum and our approach to this is set out in Section 4 of our published Statement of Community Involvement

https://www.bromley.gov.uk/info/1004/planning_policy/154/statement_of_community_involvement.

5.2 Public consultation on planning applications includes a formal period for representations to be submitted, and representations are accepted only on a discretionary basis after the expiry of the formal consultation period. Representations received after formal consultation has closed are not guaranteed to be considered in the determination of an application.

5.3 To ensure that all representations can be assessed and presented to planning committee as appropriate, it is necessary to have a cut off time for receiving representations on applications to be considered at committee and this is 12 noon on the day of the meeting. The Assistant Director (Planning) has the final decision on whether to accept late representations.

5.4 As committee reports are prepared and published some time in advance of committee meetings, any representations (including those from consultees) received after publication of the report will be uploaded to our website and may be verbally summarised by the Officer attending the meeting.

5.5 If late representations affect the conclusions of the report or recommendation this will be reported verbally to the committee.

5.6 Documents must not be distributed to committee members at the committee meeting (including by public speakers) to ensure that the material considered in the determination of the application is available to all.

6. Public and Visiting Councillor Speaking Procedure

6.1 Members of the public making written comments on planning applications which are to be considered by a planning committee have the opportunity to verbally address Councillors at committee if they wish. Anyone wishing to speak must have already written in expressing their views on the application. Speakers are not normally permitted on items other than planning applications.

6.2 Members of the public wishing to speak at planning committee must give notice to the Democratic Services Team of their intention to speak by calling 020 8313 4745 or 020 8461 7566 no later than 10:00 am on the working day before the meeting. Requests to speak will only be registered once the relevant agenda has been published.

6.3 Should speakers wish to table any correspondence or photographs to supplement their speech to the committee, all documents must be submitted to the Democratic Services Team by 5.00 p.m. on the working day before the meeting. A permanent copy of any item must be provided and it is not acceptable to refer to online maps, photographs on phones/ipads or similar. The Chairman's agreement must be sought at the meeting for any items to be considered.

6.4 Order of public speakers: if the recommendation is 'permission' then it will normally be the opponent first, supporter second. If the recommendation is 'refusal', the reverse order will apply.

6.5 Normally one person is permitted to speak for an application and one person permitted to speak against it. If there are more than two requests to speak for or against, people with similar views should get together and agree spokespersons. If there is no agreement, the first person to notify Democratic Services of their intention to speak will be called. Among supporters, the applicant (or if the applicant wishes, the agent) takes precedence, and if the applicant or agent do not wish to speak, the first supporters will be called.

6.6 Residents' Associations or other organisations wishing to make use of these arrangements must appoint a single spokesperson to represent their views.

6.7 Speakers are reminded that only material planning considerations are relevant to the determination of planning applications.

6.8 Each speaker will normally be given up to three minutes and this will be indicated by the warning light system in front of the speaker: - an amber light will show the passing of two-and-a-half minutes and a red light will show the completion of the three minute period. At the red light the Chairman will normally ask the speaker to cease their presentation.

6.9 Members of the Committee (but not visiting Ward Members) may ask speakers to clarify points raised. Otherwise, once members of the public have spoken, no further intervention will be permitted. Visiting Members must not sit with members of the committee or sub-committee.

6.10 Visiting Ward Councillors should notify the Democratic Services Team of their intention to speak at committee prior to 5:00pm the day before the meeting. Visiting Councillors do not have a formal time constraint but should aim to keep their

presentation to within 3 minutes. Any representations must be limited to material planning considerations

7. Order of Proceedings

7.1 Whilst the order of consideration of items at planning committee is ultimately a matter for the Chairman, planning applications will normally be heard first, followed by other items.

7.2 The Chairman will normally vary the order of the agenda taking items with visiting Councillors and public speakers first. Speakers and visiting Councillors should leave the table once they have spoken, prior to the debate on the item commencing.

7.3 Matters will proceed for each item as follows, skipping items where there is nothing to report or no speaker present:

1. Update from Planning Officer and presentation for major applications
2. Public speaker(s) (see 6.7 above)
3. Visiting Ward Councillor (see 6.13 above)
4. Committee debate
5. Chairman summarises motions put and seconded
6. Chairman to clarify reasons for refusal or permission if different to that recommended or if additional reasons / conditions are to be added
7. Planning Officer opportunity to advise committee prior to motion being considered
8. Vote taken
9. Chairman to summarise and confirm the decision

Planning, legal and other professional officers have a right to be heard and to give advice within their area of professional expertise at any point in the consideration of an application.

7.4 The Chairman should be careful to ensure that additional conditions or reasons for refusal are clearly identified prior to going to the vote and not afterwards to ensure that the committee is clear what it is voting on. The Chairman can take advice from legal planning or other professional officers present.

7.5 Should there be differing views about the content of reasons for refusal or conditions, the Chairman may take a separate vote following the main vote to clarify the outcome.

7.6 Committee members are given the opportunity to record their vote against whatever motion is put if they wish.

7.7 It is important for the quality of decision making that the Planning Officer is provided with an opportunity to update Members and make any final comment immediately prior to the vote being taken to help ensure that the committee is fully aware of any further advice pursuant to the debate / motion.

7.8 Meetings will normally finish by 10:00pm.

8. Decision Making and Voting

8.1 The Chairman should take the motion that is proposed and seconded first and only if that motion fails move to the next motion that is proposed and seconded.

8.2 Should votes for or against a recommendation both fail it is still open to the committee to consider whether they might defer the application for possible changes

to make it acceptable to the majority of the committee. The Chairman can use her or his casting vote to decide if voting is equal for and against a motion.

8.3 Councillors should state motions they put clearly and include any specific changes they propose to the officer recommendation so that the committee understand the extent of the motion being proposed (see also 7.5 above).

8.4 When voting, committee members should raise their hands clearly to ensure an accurate count for the vote.

Motions and Votes Against Officer Recommendation:

8.5 If a motion is proposed that contradicts that in the Officer report the Planning Officer should be given the opportunity to give the committee advice on that motion prior to any vote. That advice will be based upon the material considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge. The solicitor advising the Committee will be called upon as necessary to give advice on legal matters.

8.6 If the officer considers that he/she is unable to give that advice immediately, further consideration of the matter will be suspended and the agenda item will be adjourned so that the officer can bring a report to the next available committee setting out his/her advice.

9. Councillor and Officer Roles

9.1 The PAS publication 'Probity in Planning' 2019 states: "*Councillors and officers have different but complementary roles within this system, and effective*

communication and a positive working relationship between officers and councillors is essential to delivering a good planning service..”

9.2 The 7 Standards of Public Life identified in the Localism Act 2011 are:

- Selflessness – public interest
- Integrity – not open to inappropriate influence/private gain
- Honesty – truthful; declaration of interests and gifts
- Objectivity – use best evidence; impartial; non-discriminatory
- Accountability – open to scrutiny
- Openness – open and transparent decisions in public
- Leadership – uphold and exhibit standards and behaviours

9.3 The Planning Advisory Service Report for Bromley (May 2019) states: *“The role of Councillors on the Committees presents a challenge to the individual. It is often considered to be a quasi-judicial role, but has been described as*

“A formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly.”

(Local Government Association/Planning Advisory Service: Probity in Planning for Councillors and Officers 2013.)

In this role Councillors are expressly being asked to place to one side any party political interests, and their role as the representatives of a particular ward, and assess, debate, and then determine often controversial planning proposals in the wider public interest of the whole Council area, and in line with national and local

planning policy. They must do so in a way which demonstrates they have understood their role and have approached the decision point open to considering and weighing the merits of all the material issues.”

Members must never consider applications submitted by themselves, a family member or a close personal associate and must comply with the Members Code of Conduct at all times when such applications are submitted.

If on consideration of a planning application a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that a Member was biased the Member must recuse themselves from consideration of that application.

9.4 The role of the committee Chairman is to lead and manage the committee and in particular:

- determine the order in which questions may be addressed from the committee members following the officers presentation;
- ensure that the public speaking procedure is followed;
- manage the committee debate about applications including the order in which Councillors who wish to address the committee may speak;
- determine when the debate has come to a close and votes should be cast in the order in which the motions were first completed (i.e. where the motion has been moved and seconded by Members of the Committee).
- ensure that debate and decisions made are suitably focused on relevant planning considerations.

9.5 Councillors sitting on the planning committee should:

- make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons;
- exercise their responsibilities with regard to the interests of the London Borough of Bromley as a whole rather than with regard to their particular Ward's interest and issues;
- come to meetings with an open mind;
- not allow anyone (except officers, other committee Members and public speakers when they are addressing the committee) to communicate with them during the meeting (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact immediately before the meeting starts;
- consider the advice that planning, legal or other officers give the committee in respect of the recommendation or any proposed amendment to it;
- comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires the Local Planning Authority to make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision;
- come to their decision only after due consideration of all of the information available to them, including the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If Members feel there is insufficient time to digest new information or that there is insufficient information before them, then they should seek an adjournment to address these concerns;
- not vote on a proposal unless they have been present to hear the entire debate, including the officer update and any public speaking;

- make sure that if they are proposing, seconding or supporting a decision contrary to the officer's recommendation or the development plan, that they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other officers give them. Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of challenge;
- members should avoid requests for officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties;
- seek to attend relevant training and briefing sessions organised from time to time for them.

9.6 The role of Planning Officers at committee is:

- to use professional judgement when recommending decisions on applications and other planning matters;
- to provide professional advice to the committee on planning applications and other matters at any point in the meeting.

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Report No.
CSD20039

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **STANDARDS COMMITTEE**

Date: **Thursday 12 March 2020**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MONITORING OFFICER'S GENERAL REPORT**

Contact Officer: Philippa Gibbs, Deputy Democratic Services Manager
Tel: 020 8461 7638 E-mail: Philippa.Gibbs@bromley.gov.uk

Chief Officer: Director of Corporate Services

Ward: All Wards

1. Reason for report

1.1 To update the Committee on a number of standards issues -

- Member Officer Protocol
- Dispensations granted
- Gifts and Hospitality declarations
- Register of Interests
- Work Programme and Matters Outstanding
- Independent Persons
- Complaints
- Revised Code of Conduct

2. **RECOMMENDATION(S)**

(1) That the Committee notes and comments on the Monitoring Officer's report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £358,740
 5. Source of funding: 2019/20 revenue budget
-

Personnel

1. Number of staff (current and additional): 6.79fte
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000 and subsequent legislation.
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The standards system affects all Members of the Council, and potentially any member of the public who considers that a member may have breached the Code of Conduct.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

Member Officer Protocol

- 3.1 An amended Member Officer Protocol is attached at Appendix 1 for consideration and review by the Standards Committee.

Dispensations Granted

- 3.2 The Council has delegated to the Monitoring Officer, in consultation with members of the Urgency Committee, the authority to grant dispensations to Councillors to attend and speak at meetings of the authority in circumstances where, under the Code of Conduct, they have a disclosable pecuniary interest (Scheme of Delegation to Officer, Part 2A, 3 (xxv)). Where these dispensations have been sought, they are typically about town planning issues, where the Code of Conduct means that councillors have less opportunity to assert their interests than other residents, or about employment, where technically there is a disclosable pecuniary interest, but in practice that interest is not significant. In order to be transparent, applications for dispensations since the last meeting are normally presented to this Committee, but in this case no dispensations have been granted since the last meeting.

Gifts and Hospitality Register

- 3.3 Under the Code of Conduct, Councillors are required to declare gifts and hospitality received due to their role as Councillors over the value of £25. These are published on the Council website, with a link from each Member's page. A schedule of the gifts and hospitality declarations made since the Committee's last meeting, is attached as Appendix 2.

Register of Interests

- 3.4 Under the Localism Act 2011, the Register of Interests is required to be published on the Council's website, and a link to each Councillor's declaration is provided on their page. Members of the Standards Committee are asked to review the Register of Interest prior to the meeting. The online Register of Interest will also be available at the meeting.

Work Programme and Matters Outstanding from Previous Meetings

- 3.5 Full Council at its meeting on 8th April 2019 decided that all Council Committees and Sub-Committees should include provision at scheduled meetings to consider matters outstanding from previous meetings. These matters will often form part of the future work programme. A table of matters outstanding is attached at Appendix 3.
- 3.6 The Council's 2019/20 programme of meetings now includes three scheduled meetings of this Committee. The Committee's next meeting is provisionally scheduled to take place on Thursday 4th June 2020. Members of the Committee are requested to consider what issues they wish to consider at future meetings.

Independent Persons

- 3.7 Every principal local authority must appoint at least one independent person to be consulted by the authority or by members of the authority on standards issues. The changes to the Standards system brought about by the Localism Act 2011 have greatly reduced the involvement of Independent Persons compared to the former arrangements where there were several co-opted members of the Standards Committee, a need for frequent Sub-Committee meetings and the Chairman was a co-opted member. However, it is still useful to have at least two Independent Persons, not only to have a broader input at Committee meetings, but so that

different parties on a particular issue are not dependent on the same person for independent advice and also to avoid conflicts of interest.

- 3.8 At its meeting on 31st October 2019, the Standards Committee considered two applications for the role of Independent Person, and decided that both applicants should be interviewed. Since then, one of the applicants has met with the Standards Sub-Committee – comprising the Chairman and Vice-Chairman and current Independent Person and supported by the Monitoring Officer. The Standards Sub-Committee unanimously recommended the applicant for appointment. The other applicant has withdrawn from the process.
- 3.9 On 24 February 2020, the Full Council confirmed the appointment of Mr Ken Palmer as Independent Person and reaffirmed the appointment of Dr Simon Davey as Independent Person until the end of the current Council in May 2022.

Complaints

- 3.9 A summary of recent complaints against Councillors, since the Committee's last meeting, is included at Appendix 4. As these complaints contain personal details about Councillors and complainants, and also as the Councillors concerned have not necessarily done anything that is clearly against the Code of Conduct, this information is included on the part 2 (private) agenda. There are no formal standards investigations at present.

Code of Conduct

- 3.10 Following the meeting on 31 October 2019, the changes to the Code of Conduct recommended by the Standards Committee were incorporated. The revised Code of Conduct is attached at Appendix 5 for approval by the Standards Committee prior to final approval by Full Council.

London Borough of Bromley

Member/Officer Protocol

Councillors and Officers recognise that effective working for the benefit of people who live, work and visit Bromley is based on mutual trust and courtesy.

Within this, the following key principles are recognised:

- The different roles of Members and officers;
- The necessary political independence and impartiality of Chief Officers and officers as a whole;
- The legitimate political aspirations of Members and the need for officers to support and implement democratically made decisions of the Council, Executive and decision making Committees;
- The need for officers to provide professional advice and support to Member bodies and the right for Chief Officers to attend such meetings;
- The need for Councillors and officers to follow the respective Codes of Conduct and any standards set by the Council – including the Council's Equality Policy Statement;
- The need for specific briefings to be provided to the Leader, Portfolio Holders and Committee Chairmen whilst also recognising that officers are there to serve the Council as a whole;
- The need for officers to engage with Ward Councillors and to provide responses to enquiries and information to enable Ward councillors to contribute to decision making and undertake their representative role;
- To provide access to information to Members unless prohibited by law;
- That officers may on invitation attend party group meetings to provide factual and non-partisan advice, but that where this occurs the same facilities are offered equally to all parties.

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Appendix 1

Gifts and Hospitality Declarations (since October 2019)

Councillor	Date	Provider	Gift or hospitality
Cllr Yvonne Bear	7 th January 2020	Prestige Cars	Christmas Hamper (worth £90)
Cllr Kim Botting	7 th November 2019	Bromley Business Awards	Hospitality at the Bromley Business Awards ceremony at Oakley House, Bromley Common.
Cllr Mike Botting	7 th November 2019	Bromley Business Awards	Hospitality at the Bromley Business Awards ceremony at Oakley House, Bromley Common.
Cllr Robert Evans	6 th February 2020	The Bank Restaurant	Invitation for a meal at the opening of The Bank Restaurant, Locksbottom, with Mrs Evans.
Cllr Christine Harris	19 th December 2019	Langley Park School for Boys	Attended School Showcase
Cllr Charles Joel	6 th February 2020	The Bank Restaurant	Invitation for a meal at the opening of The Bank Restaurant, Locksbottom, with Mrs Joel.
Cllr Angela Page	2nd January 2020	Churchill Theatre	Four tickets at a reduced rate of £20 each for the Pantomime

Updated on 26 February 2020

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Work Programme and Matters Outstanding from Previous Meetings

Minute No.	Issue	Update
17(B)	That a revised Code of Conduct be prepared for the Committee's next meeting and the Director of Corporate Services be requested to bring forward draft proposals to allow for informal consideration by the party groups.	The revised Code of Conduct has been presented to the party groups and feedback will be provided at the meeting.
17(G)	That the Chief Executive and Group Leaders be invited to a future meeting.	The Chief Executive attended the meeting on 31 st October 2019. Group leaders will be programmed into meetings in 2020/21.

Future Meetings -

Meetings are to be scheduled three times a year and the 2020/21 Council Programme of includes the following dates for Standards Committee meetings – 4th June 2020, 22nd October 2020, and 2nd March 2020.

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**LONDON BOROUGH OF BROMLEY
CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS**

- 1.1 You are a member or co-opted member of the London Borough of Bromley and, hence, you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2 Accordingly, when acting in your capacity as a member or co-opted member -
 - (i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
 - (ii) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 1.3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- 1.4 You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- 1.5 You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- 1.6 You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.
- 1.7 You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 1.8 You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

- 1.9 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (i) you have the written consent of a person authorised to give it; or
 - (ii) you are required by law to do so; or
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Authority;
- 1.10 You acknowledge there may be times when you will be required to treat discussions, documents or other information relating to or held by the Council in a confidential manner, in which case you must observe such requirements for confidentiality.
- 1.11 You will often receive information of a private nature which is not yet public or which is not be intended to be public. You must respect and comply with the requirement to keep such information private, including information deemed to be confidential by statute. You acknowledge
- (i) that legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out Council duties,
 - (ii) that such information is, for your use as a councillor and must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.
- 1.12 You need to take adequate steps to familiarise yourself with your duties around GDPR complaint storage and disposal of sensitive data.
- 1.13 You must not prevent another person from gaining access to information to which that person is entitled by law.
- 1.14 You must treat all individuals with courtesy and respect when carrying out your duties as a councillor. Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.
- 1.15 You must respect your fellow Councilors and treat them with courtesy at all times when acting as a councillor. You should not make trivial or malicious complaints about other Councillors or make a complaint to secure a political advantage.

1.16 You will cooperate fully with any Standards Investigation.

1.17 Registering and declaring pecuniary and non-pecuniary interests

1.17.1 You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. A copy of the current Regulations which sets out details of disclosable pecuniary interests is attached to this Code and will be up-dated as necessary if the Regulations change.

1.17.2 In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

1.17.2 In addition you must:

- (i) Register any gift or hospitality with a value of over £25.00 with the Monitoring Officer within 28 days of receipt. Notification should include details of the gift/hospitality and the identity of the donor;
- (ii) In addition to registering your disclosable pecuniary interests, you should also register the following non-pecuniary interests, namely:
 - (a) membership of outside bodies (as appointed by the Council);
 - (b) membership of other public organisations;
 - (c) membership of charities;
 - (d) membership of campaigning groups, political parties and trade unions.
- (iii) You must notify the Monitoring Officer of any change to your disclosable pecuniary or other interests within 28 days of the change occurring so that your Register of Interests may be kept up-to-date.

1.17.3 If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any

matter being considered and where the matter is not a 'sensitive interest'.¹

- 1.17.4 Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
- 1.17.5 Unless dispensation has been granted, you may not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You may attend a meeting where you have a disclosable pecuniary interest where that right would be available to any member of the public, provided that you do not address the meeting on the matter in which you have an interest. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

**The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012**

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011^(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

(a) 2011 c.20.
(b) 2000 c.8.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State

6th June 2012

Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of

(a) 1992 c. 52.

business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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2. Bullying and Harassment

2.1. Introduction

2.1.1 Everybody has the right to be treated with dignity and respect and to work in an environment which is free from harassment, bullying, discrimination and victimisation. This is now reinforced by paragraph 3.6 of the Councillors' Code of Conduct 2018, which states:

'Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.'

2.1.2 Harassment, bullying, discrimination and victimisation (either directly or indirectly) are unacceptable and will not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness. In considering complaints of bullying and harassment due regard will be given to the impact of conduct on others and how the subject of the alleged bullying and harassment perceived the behaviour.

2.1.3 You are responsible for your own behaviour and must ensure that you are aware of, and comply with, the provision concerning bullying and harassment in the Councillors' Code of Conduct and also any policy your Council has on ensuring dignity in the workplace.

2.2. Harassment

2.2.1 Harassment is any unwelcome behaviour or conduct which has no legitimate workplace purpose and which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable at work. Harassment can be experienced directly or indirectly (such as being in the room while unacceptable conduct is being displayed and being affected by it), and can occur as an isolated incident or as a course of persistent behaviour.

2.2.2 It is also important to note that even if behaviour is unintentional, it can still be classed as a form of harassment. Harassment is essentially about what the recipient deems to be offensive, not about what was intended. You should be aware, therefore, of the impact of your conduct on others and that what may seem harmless to you can be offensive to someone else.

2.2.3 Harassment can occur through verbal or written comments (including ones made online). The following list provides some examples but it is, by no means, exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes (such as ones of a racial, sexual or sectarian nature);
- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome emails, messages or notes; circulating or displaying explicit or inappropriate images.

2.3. Bullying

2.3.1 Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. Again, it is the impact of any behaviour rather than the intent which is the key.

2.3.2 Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and, again, can occur through all means of communication. Bullying tends to be a pattern of behaviour or can be a one off serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
- Intimidatory behaviour including verbal abuse or the making of threats;
- Making someone's working life difficult;
- Disparaging, ridiculing or mocking comments and remarks;
- Physical violence; and
- Deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate.

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