

Enquiries to Committee Services
Direct Dial: 024 7637 6000
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Date: 3rd July 2023

Our Ref: MM

Dear Sir/Madam,

A meeting of the **AUDIT & STANDARDS COMMITTEE** will be held in the Council Chamber, Town Hall, Nuneaton, on **Tuesday, 11 July 2023** at **6.00pm**

Please note that meetings will be recorded for future publication on the Council's website.

Yours faithfully,

BRENT DAVIS
Chief Executive

To: All Members of the
Audit & Standards
Committee

Councillors R Baxter-Payne (Chair),
J. Sheppard (Vice-Chair), B. Beetham,
D. Brown, T. Cooper, L. Cvetkovic,
L. Downs, J. Hartshorn, J. Kennaugh,
N. Phillips and R. Tromans.

A G E N D A

PART I - PUBLIC BUSINESS

1. ANNOUNCEMENTS

To advise the meeting participants of the procedure that will be followed by the Members of the committee.

A fire drill is not expected, so if the alarm sounds please evacuate the building quickly and calmly. Please use the stairs and do not use the lifts. Once out of the building, please gather outside Lloyds Bank on the opposite side of the road.

Exit by the door by which you entered the room or by the fire exits which are clearly indicated by the standard green fire exit signs.

If you need any assistance in evacuating the building, please make yourself known to a member of staff.

Please also make sure all your mobile phones are turned off or set to silent.

The meeting will be live streamed to YouTube and will be available to view via the NBBC website.

2. APOLOGIES - To receive apologies for absence from the meeting.

3. MINUTES – To confirm the minutes of the meeting of the Audit and Standards Committee held on 14th March 2023, attached (**Page 4**).

4. DECLARATIONS OF INTEREST

To receive declarations of Disclosable Pecuniary and Other Interests, in accordance with the Members' Code of Conduct.

Declaring interests at meetings

If there is any item of business to be discussed at the meeting in which you have a disclosable pecuniary interest or non-pecuniary interest (Other Interests), you must declare the interest appropriately at the start of the meeting or as soon as you become aware that you have an interest.

Arrangements have been made for interests that are declared regularly by members to be appended to the agenda (**Page 9**). Any interest noted in the Schedule at the back of the agenda papers will be deemed to have been declared and will be minuted as such by the Committee Services Officer. As a general rule, there will, therefore, be no need for those Members to declare those interests as set out in the schedule.

There are, however, TWO EXCEPTIONS to the general rule:

1. When the interest amounts to a Disclosable Pecuniary Interest that is engaged in connection with any item on the agenda and the member feels that the interest is such that they must leave the room. Prior to leaving the room, the member must inform the meeting that they are doing so, to ensure that it is recorded in the minutes.

2. Where a dispensation has been granted to vote and/or speak on an item where there is a Disclosable Pecuniary Interest, but it is not referred to in the Schedule (where for example, the dispensation was granted by the Monitoring Officer immediately prior to the meeting). The existence and nature of the

dispensation needs to be recorded in the minutes and will, therefore, have to be disclosed at an appropriate time to the meeting.

Note: Following the adoption of the new Code of Conduct, Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the relevant item (or as soon as the interest becomes apparent). If that interest is a Disclosable Pecuniary or a Deemed Disclosable Pecuniary Interest, the Member must withdraw from the room.

Where a Member has a Disclosable Pecuniary Interest but has received a dispensation from Audit & Standards Committee, that Member may vote and/or speak on the matter (as the case may be) and must disclose the existence of the dispensation and any restrictions placed on it at the time the interest is declared.

Where a Member has a Deemed Disclosable Interest as defined in the Code of Conduct, the Member may address the meeting as a member of the public as set out in the Code.

Note: Council Procedure Rules require Members with Disclosable Pecuniary Interests to withdraw from the meeting unless a dispensation allows them to remain to vote and/or speak on the business giving rise to the interest.

Where a Member has a Deemed Disclosable Interest, the Council's Code of Conduct permits public speaking on the item, after which the Member is required by Council Procedure Rules to withdraw from the meeting.

5. PUBLIC CONSULTATION - Members of the Public will be given the opportunity to speak on specific agenda items, if notice has been received.
6. EMPLOYEE CODE OF CONDUCT – RECOMMENDED CHANGES BY THE EXTERNAL AUDITOR– report of the Monitoring Officer, attached **(Page 12)**.
7. RECOMMENDATIONS FROM THE CONSTITUTION REVIEW WORKING PARTY – report of the Monitoring Officer, attached **(Page 21)**.
8. PROPOSED CORE WORK PROGRAMME 2023/24 - report of the Assistant Director – Governance and Democracy and the Monitoring Officer **(To Follow)**.
9. ANY OTHER ITEMS - which in the opinion of the Chair should be discussed as a matter of urgency because of special circumstances (which must be specified).

NUNEATON AND BEDWORTH BOROUGH COUNCIL

AUDIT & STANDARDS COMMITTEE

14th March 2023

A meeting of the Audit & Standards Committee was held on Tuesday, 14 March 2023 in the Council Chamber, Town Hall, Nuneaton.

Present

Councillor R Baxter Payne – Chair

Councillors: T.Cooper, L. Cvetkovik, L. Downs, M. Green, J Sheppard (Vice- Chair), R. Tromans, S. Harbison (substitution for Councillor J. Hartshorn) and N. Phillips.

Apologies: Councillors B. Beetham, J. Hartshorn and J. Kennaugh.

PART I – PUBLIC BUSINESS

ASC36 **Minutes**

RESOLVED that the minutes of the Audit and Standards Committee meeting held on 10th January 2023 and the Extraordinary meeting held on 31st January 2023, be confirmed, and signed by the Chair.

ASC37 **Declarations of Interest**

As a substitute Councillor for this meeting, the Declarations of Interest for Councillor S. Harbison were not detailed in the Schedule attached to the agenda.

RESOLVED that the declarations of interest are as set out in the Schedule attached to these minutes, with the addition of the Declarations of Interest for Councillor S. Harbison.

ASC38 **Internal Audit Plan 2023 - 24**

A report of the Head of Audit and Governance provided the Committee with a report setting out the proposed Internal Audit Plan for 2023-24.

Public Speakers: Mr P. Smith and Councillor K. Kondakor

RESOLVED that the Internal Audit Plan be approved.

ASC39 **Recommendations from the Constitution Review Working Party**

A report of the Director for Planning and Regulation provided the Committee with the opportunity to consider and approve the recommendations from the Constitution Review Working Party, and recommend changes to the Constitution.

Public Speakers: Mr P. Smith and Councillor K. Kondakor.

RESOLVED that

- a) the decision about minor and major developments be deferred back to the Constitution Review Working Party;
- b) the wording about decisions being made at the discretion of the 'Chair or Vice-Chair' be changed to 'Chair *and* Vice-Chair';

- c) a change in wording be made to confirm the Chair has the discretion to increase the numbers of speakers of a Planning Application as required; and
- d) contact details of speakers be requested.

ASC40 **Exclusion of the Public and Press**

RESOLVED that under section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item, it being likely that there would be disclosure of exempt information of the description specified in paragraph (i) and (ii) of Part I and II of Schedule 12A to the Act.

ASC41 **Complaints Against Members: 20th August 2022 to 28th February 2023**

A report of the Monitoring Officer provided the Committee with details of complaints against Members received from 20th August 2022 to 28th February 2023.

Public Speaker: Councillor K. Kondakor.

RESOLVED that

- a) the report be noted; and
- b) consideration be given by the Constitution Review Working Party about the publication of censures on individual Councillors pages on the NBBC website.

Chair _____

Audit and Standards Committee - Schedule of Declarations of Interests – 2022/2023

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	General dispensations granted to all members under s.33 of the Localism Act 2011			Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> - Housing matters - Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - An allowance, payment given to members - An indemnity given to members - Any ceremonial honour given to members - Setting council tax or a precept under the Local Government Finance Act 1992 - Planning and Licensing matters - Allotments - Local Enterprise Partnership
	R. Baxter-Payne (Chair)	Manager Brinklow Quarry Ltd, Brinklow; County Councillor - WCC	Spouse: Self-employed childminder Member of the following Outside Bodies: <ul style="list-style-type: none"> • West Midlands Combined Audit, Risk and Assurance Committee • Warwickshire Adult Social Care and Health Overview and Scrutiny Committee (substitute) 	
	B. Beetham	Employed at The George Eliot Hospital; Warwickshire County Council – Camp Hill	Member of the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban Village: Pride in Camp Hill Board • Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	T. Cooper	None	Member on the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban Village: Pride in Camp Hill Board • Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	L. Cvetkovic	Head of Geography	The Bulkington Volunteers	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
		(Teacher), Sidney Stringer Academy, Coventry	(Founder); Bulkington Sports and Social Club (Trustee) Member on the following Outside Bodies: <ul style="list-style-type: none"> • Building Control Partnership Steering Group 	
	L. Downs	River Bars Limited; Coventry Plus Beyond the Plane	Member on the following Outside Body: <ul style="list-style-type: none"> • Hammersley, Smith and Orton Charity 	
	M. Green	Employed by Horiba Mira – Calibration Technician	Chair of Education Standards Committee – St Thomas More School Executive Member – Nuneaton Conservatives. President – St Vincent De Paul Society at Our Lady of the Angels Church. Our Lady of the Angels Church Member of the George Eliot Fellowship. Member of the Nuneaton Education Strategy Board Member on the following Outside Bodies: <ul style="list-style-type: none"> • Friendship Project for Children. 	
	J. Hartshorn	Employed by Asda Nuneaton	Member of Nuneaton Conservatives	
	J. Kennaugh	County Councillor W.C.C. Employed by FedEx Express UK Limited.	Member of the W.C.C. Regulatory Committee Member of the Conservative Party Member of UNITE the Union Member on the following Outside Bodies: <ul style="list-style-type: none"> • EQUIP 	
	N. Phillips	Employee of DWP	Member of: <ul style="list-style-type: none"> • Nuneaton Labour CLP • The Fabian Society • The George Eliot Society • The PCS Union • Central Credit Union • Stockingford Sports and Allotment Club • Haunchwood Sports and Social Club 	
	J. Sheppard (Vice-Chair)		Partnership member of the Hill Top and Caldwell Big Local. Director of Wembrook Community Centre.	Dispensation to speak and vote on any matters of Borough Plan that relate to the Directorship of Wembrook Community Centre

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
			Member of the Management Committee at the Mental Health Drop-in.	
	R. Tromans	RTC, Nuneaton AFL, Wellingborough	W.C.C. Warwick Member of the following Outside Bodies: <ul style="list-style-type: none"> • Nuneaton Neighbourhood Watch Committee Hospice Charity	

Audit and Standards Committee - Schedule of Declarations of Interests – 2023/2024

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	General dispensations granted to all members under s.33 of the Localism Act 2011			Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> - Housing matters - Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - An allowance, payment given to members - An indemnity given to members - Any ceremonial honour given to members - Setting council tax or a precept under the Local Government Finance Act 1992 - Planning and Licensing matters - Allotments - Local Enterprise Partnership
	R. Baxter-Payne (Chair)	Manager Brinklow Quarry Ltd, Brinklow; County Councillor - WCC	Spouse: Self-employed childminder Member of the following Outside Bodies: <ul style="list-style-type: none"> • West Midlands Combined Audit, Risk and Assurance Committee • Warwickshire Adult Social Care and Health Overview and Scrutiny Committee (substitute) 	
	B. Beetham	Senior PowerBi Lead at Wye Valley Hospital Trust; Warwickshire County Council – Camp Hill	Member of the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban Village: Pride in Camp Hill Board • Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	D. Brown	Employed by H.M Land Registry	Regional Coordinator, Ragdoll Rescue Charity. Representative on the following Outside Bodies: <ul style="list-style-type: none"> • Exhall Education Foundation (Council appointment). 	
	T. Cooper	None	Member on the following Outside Bodies: <ul style="list-style-type: none"> • Camp Hill Urban 	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
			<p>Village: Pride in Camp Hill Board</p> <ul style="list-style-type: none"> Committee of Management of Hartshill and Nuneaton Recreation Ground 	
	L. Cvetkovic	Head of Geography (Teacher), Sidney Stringer Academy, Coventry	<p>The Bulkington Volunteers (Founder); Bulkington Sports and Social Club (Trustee)</p> <p>Member on the following Outside Bodies:</p> <ul style="list-style-type: none"> Building Control Partnership Steering Group 	
	L. Downs	River Bars Limited; Coventry Plus Beyond the Plane Little Caesars Donuts Limited NBBC Council Contract for market pitch	<p>Member on the following Outside Body:</p> <ul style="list-style-type: none"> Hammersley, Smith and Orton Charity 	
	J. Hartshorn	Employed by Asda Nuneaton	Member of Nuneaton Conservatives	
	J. Kennaugh	County Councillor W.C.C. Employed by FedEx Express UK Limited.	<p>Member of the W.C.C. Regulatory Committee Member of the Conservative Party Member of UNITE the Union</p> <p>Member on the following Outside Bodies:</p> <ul style="list-style-type: none"> EQulP 	
	N. Phillips	Employee of DWP	<p>Member of:</p> <ul style="list-style-type: none"> Nuneaton Labour CLP The Fabian Society The George Eliot Society The PCS Union Central Credit Union Stockingford Sports and Allotment Club Haunchwood Sports and Social Club 	
	J. Sheppard (Vice-Chair)		<p>Partnership member of the Hill Top and Caldwell Big Local. Director of Wembrook Community Centre. Member of Labour Party.</p>	Dispensation to speak and vote on any matters of Borough Plan that relate to the Directorship of Wembrook Community Centre
	R. Tromans	Compliance, GIM, Coventry Warwickshire County Councillor	<p>Member of the Conservative Party</p> <p>Member of the Chartered Institute of Credit Management</p>	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
		(Weddington) Share in a rental property in Hydes Pastures, Nuneaton		

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Audit and Standards Committee – 11 July 2023
From: Monitoring Officer
Subject: Employee Code of Conduct: Recommended changes by the External Auditor

1. Purpose of the report

1.1 To consider and approve the recommendations from the Constitution Review Working Party and recommend changes to the Constitution.

2. Recommendations

2.1 That the recommendations as set out in the report and appendix be approved; and;

2.2 IT BE RECOMMENDED TO COUNCIL that the Constitution be amended accordingly.

3. Background

3.1 On the 31st January 2023, this Committee received the External Auditor's Annual report for the financial year 2020/2021. As part of the work undertaken, Grant Thornton reviewed the Governance arrangements for managing Gifts & Hospitality and conflicts of interest. Recommendation 5 of the report made an Improvement Recommendation requiring the Council to prepare and maintain a register of interests for Directs, Assistant Directors and Senior Managers. Currently, this maintained locally within each service area.

3.2 To give effect to this recommendation, it has been necessary to amend the Council's Employee Code of Conduct. As part of this process, Trades Unions were consulted and no adverse comments were received. The changes to the Employee Code are as highlighted in Appendix A and, in brief: establish a central record for officer conflicts of interest; and for transparency, requires the publication of the register on the Council's website (which mirrors the requirement for elected members).

3.3 On the 16th June the Constitution Review Working Party met to consider the changes and approved them for submission to this committee.

WAHEEDA SHEIKH

5B CODE OF CONDUCT FOR EMPLOYEES

5B.1 PURPOSE OF THE POLICY

Nuneaton and Bedworth Borough Council (“the Council/Borough”) is accountable to the people of the Borough and, the public expects the highest standards of conduct from its employees.

An Employee for the purpose of this policy is defined as anyone employed on a permanent, temporary, fixed term or casual basis. It also extends to those working on our behalf via an agency or on a consultancy basis.

This Code of Conduct for Employees sets out standards of conduct expected from all employees of the Council. Employees must conduct themselves in a way that ensures a high standard of service is provided and, the reputation of the Council is protected.

Where an Employee is not a direct employee of the Council, this policy shall be read and construed as applying to them as modified and suitable.

This code has been written for the wellbeing of employees and for the effective operation of Council business. Failure to act in accordance with the Code and in conjunction with other relevant policies and legislation at the time, may result in disciplinary action.

Contents of the Policy is as follows:

- 5B.2 – Employee Responsibilities
- 5B.3 – Management Responsibilities
- 5B.4 – Standards of Service to the Public
- 5B.5 – Party Political Impartiality and Politically Restricted Posts
- 5B.6 – Relationships
- 5B.7 – Conflicts of Interests
- 5B.8 – Council Equipment
- 5B.9 – Information obtained during the Course of Employment
 - Whistleblowing
 - Investigations by Monitoring Officers
- 5B.10 – Compliance with this Code

5B.2 Employees Responsibilities

- a. Employees are accountable, and owe a duty to the Council they work for and, this Code must be complied with as it forms part of the terms and conditions of their employment/terms of their engagement.
- b. Employees are expected to read this Code in conjunction with and adhere to, all other policies/legislation approved by the Council.

Employees are expected to use their knowledge and expertise to give the highest standard of service to the public, and, where it is part of their duties, to provide appropriate advice to councilors and fellow employees with impartiality.

Although the Nolan Committee on Standards in Public Life established its seven principles primarily with elected members in mind, they apply equally to employees in the public service. All employees are therefore expected to conduct themselves in accordance with those principles. The principles are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership. Employees are expected to maintain conduct of the highest standards so that public confidence in their integrity is sustained.

It is the responsibility of all employees to familiarize themselves periodically with the latest version of the Code and for complying with it at all times.

To articulate the Nolan Principles the Council has also developed for staff the following core values:

- Service for our customers
- Integrity in our actions
- Accountability for our performance
- Co-operation with councilors, colleagues and partners
- Objectivity in our decisions
- Efficiency: to keep overall costs down
- Confidence to try things out

5B.3 Management Responsibilities

Managers must ensure this Code is adhered to by all employees. They must

- ensure standards within this Code are established and communicated in the workplace;
- clarify where required to assist in employee understanding of the Code;
- manage non-compliance with the standards set out in this Code at the earliest opportunity.

5B.4 Standards of Service to the Public

Employees must be courteous, efficient and impartial in providing services to all within the community. Aggressive or antagonistic behavior will not be acceptable. If the employees work with customers that behave aggressively, they must familiarize themselves with the appropriate codes/policies on violence/aggression.

Employees should ensure they are familiar with all relevant Council policies and procedures which apply to their role, and act in line with these. This includes Contract ~~Standing Orders~~Procedure Rules, Financial ~~Governance~~Procedure Rules and any other legislative frameworks in force at the time.

5B.5 Party Political Impartiality and Politically Restricted Posts

Employees serve the Council as a whole and must follow every lawful decision and policy of the Council.

Employees must serve all Members and not just those of the controlling group. Individual rights of all councilors must be respected at all times. Employees must not allow their own personal or political opinions to interfere with their work when working with members.

Whilst engaged in council business, employees must not wear or display any objects indicating support for or opposition to any political party or view. This applies to private vehicles used for council business.

Where employees are politically restricted, by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on political activities which they will be advised of upon appointment.

Directors and Officers on occasions, may be invited to attend political group meetings to give information. Their conduct at such venues must not compromise their political neutrality. Employees have a right, without fear of recrimination, to decline to attend a political group meeting.

5B.6 Relationships

a. Councillors

Employees and Members must comply with the Council's Protocol on Member/Employee Relations.

Mutual respect between employees and Councillors is essential to provide a high standard of local government services. Close personal familiarity between employees and councilors should be avoided as this could prove embarrassing to other employees and Councillors.

Employees are accountable to council members through their Chief Officer. Employees may be required to give advice to Councillors in the course of their duties. All employees must declare any personal relations with a Councillor. Where the relationship could present a conflict of interest, the line manager will need to consider how effectively this can be managed,

In general, employees and Councillors should consider the way others may view the potential conflicts arising from social connections, in particularly concerning confidentiality and bias.

b. Other Employees

All employees must treat each other with courtesy and respect and must comply with the standards set out in this Code and all other relevant policies of the Council.

Employees who are partners or if they have a family relationship may at some time work together. It is the council presumption that the relationship will not affect performance. Employees must declare any personal relationship with another employee, where the relationship may affect, or could be perceived to affect the employee's or the employee's colleagues' performance. Where there are situations when a personal relationship between employees become a management concern and, they may unintentionally impair operational efficiency or affect service delivery, this will be addressed by the line manager.

The Council reserves the right (without breach of contract), in any situation where employees in a personal relationship work in close proximity, to require one or both employees to change their roles or duties. This is intended to avoid the employees in a relationship finding themselves in a potentially difficult situation. It will also avoid perceptions of unfairness or undue influence (whether real or imagined).

c. Relationships with Applicants

Employees of the Council, when involved in the recruitment and appointment of staff, must ensure that appointments are made on the basis of merit.

Employees making appointments must be aware of the equalities opportunities legislation. It would be unlawful for an employee, to make an appointment based on anything other than; the ability of the candidate to undertake the duties of the post. The relevant procedures are detailed in the council's Recruitment and Selection Policy and/or the Managing Change Policy.

In order to avoid any accusation of bias, if an applicant is related to, or is in a close personal relationship with, an employee involved in the recruitment decision, the employee must inform the relevant Chief Officer of the relationship. The method of recruitment must then be agreed by the Chief Officer, and must not allow the employee to have a role in the decision-making where unfairness could occur.

Employees may be involved in day to day management however, they must not be involved in formal decisions and decision making must be consistent and fair in accordance with Council policies and procedures. While an employee may be involved in the day to day management of the relative or someone with whom they have a close personal relationship, they must not take formal decisions about that person or seek to unduly influence such decisions. Such decisions must be taken by a different employee who has been appointed for the purpose by the relevant Chief Officer. Formal decisions includes but ~~is-are~~ is-are not limited to sanctions, discipline, promotion or pay and conditions.

d. Relationships with Others

Special favours must not be shown to partners, relatives, and friends or to current or former employees or job applicants. Employees must therefore,

disclose to their Director all relevant relationships, whether of a private or business nature, which may have a potential to bring about a conflict with the Council's interests.

e. Contractors

If employees are privy to confidential information on tenders or costs for internal or external contractors, employees must not disclose that information to any unauthorized party or organization.

All orders and contracts must be awarded on merit, by fair competition against other bids, quotations, and tenders and, in accordance with Contract Standing Orders. During any contractual process, employees must disclose all relationships with current or potential contractors and, must be aware of the need for accountability and openness.

No favoritism must be shown nor should any community be discriminated against. If there is possibility of a conflict between an employees' duties to the Council and their relationship with the contractor, lessee etc, then that employee must report that relationship to their line manager. If employees have any doubt on the relevance of a particular relationship, they are advised to disclose it in accordance with Paragraph 5B.7 below~~to their line manager.~~

f. The Media

- All communications with the media relating to the activities of the Council or Council employees, are handled by the Communications Team. If employees are contacted by the media they should report details of the communications to their line manager.
- Employees must not use social media in an official capacity without the authority of their Director.
- Employees personal accounts on social media should not be used for official business and personal views of employees will not be the views of the Council.

5B.7 Conflicts of Interests

5B7.1 Private Interest v Public Duty

- a. Employees must not put themselves in a position where there is a conflict of interests between their private life and public duties. For example, if an employee is a member of a secret society which may cause a conflict of interest, such as the Freemasons, the employee must declare their membership to the their line manager and ~~on-complete~~ a declaration form which must be submitted to the Council's Monitoring Officer for publication on the Council's website.that will then be held on their personal files.
- b. The Council will reserve the right to take legal or (any) other appropriate action against employees where their conduct outside of their workplace conflicts with

public duties. i.e. where the employees conduct outside of work could undermine the Council's reputation or hinder public confidence.

- c. There will be an obligation for employees to inform the Council of any convictions outside work and an assessment will be undertaken by their line manager, in conjunction with Human Resources, as to whether any further action needs to be taken in respect of their employment.
- d. Employees working in departments such as planning, must not be involved with the granting of permissions i.e. taking part in considering any application made by themselves, relative, friend or neighbour.

5B7.2 Secondary Employment/Income

- a. Where an employee has any secondary employment outside the Council, this must not conflict with the Council's interests, or bring it into disrepute. Secondary employment is not permitted during the employees working hours, nor is the use of council property, equipment or associated communications or documents.
- b. Employees may be required to disclose their total working hours of the secondary employment, to enable the council to monitor the hours worked comply with Working Time Regulations.
- c. All secondary employment must be declared to ~~the~~ the Monitoring Officer and the details recorded on a declaration form for publication on the Council's website~~line manager~~. Under the Working Time Regulations, an employee must not work more than 48 hours a week on average over a 17 week period. The 48 hour maximum applies to the working time of that one employee, irrespective of how many jobs that employee has. Ordinarily, it is the employee's responsibility to ensure they adhere to this restriction. However, if the Council is the secondary employer, it is expected that the respective line managers should monitor the overall working hours. It is accepted that at times, such as where there is a need for overtime, this working week limit may be exceeded but this should not be for an extended period. It is an employee's choice to opt out of this restriction and if they choose to do so, a copy of this opt out, whether permanent or temporary, must be shared with the line manager. At no time should the Council insist on any such opt outs.

The declaration of the secondary employment, does not remove the right of the Council to take action if, it is deemed to be detrimental to the interests or reputation of the council, or where it affects the employees' performance at work.

- d. Employees may undertake for example, secondary employment in the Council, or work on a voluntary basis within the Council as well as secondary employment within the Council.
- e. Unless express consent has been given by a Director, an employee may not become a trustee or board member of any organization which receive any form of funding from the Council.

- f. Employees must declare any financial interest whether it be direct or indirect, in any existing or proposed contracts, transactions they are involved in at the Council. The interest must be declared in writing ~~to their line manager on a~~ declaration form and submitted to the Monitoring Officer for publication on the Council's website
- g. Employees must declare in writing to the line manager, any interest or association with any Council activity, which could cause a potential conflict of interest.

5B7.3 Contracts and Partners

- a. In agreeing contracts/agreements with contractors, partners or voluntary bodies and, if employees engage or supervise contractors, or have a working relationship with existing or potential contractors, or have had or have a relationship in a private capacity (with the director or the contractors employee), they must declare that relationship to their line manager, complete a declaration form and submit the form for publication to the Council's Monitoring Officer. No special favour is to be shown to current or former partners, close relatives, friends or associates in awarding contracts to businesses run by them or employing them.
- b. In working with all contractors and partners there must be full compliance with this Code and, all other relevant council policies and procedures, in particular the procurement guidelines.

5B8 Council Equipment

- a. Where the equipment of the Council is no longer required it may be offered for employees to acquire them for personal use. Depending on the value of the items the employee may be required to make a financial contribution to the Council, in line with related council policies.
- b. If a member of the public wishes to access property, facilities, or equipment which may be provided by the Council on a commercial basis, an employee must not gain advantage due to your employment with the Council. Where there may be a perception of conflict, the employee must advise their line manager in order to take the appropriate action.
- c. All Council owned equipment such as laptops, mobile phones, bags, jackets must be returned on termination of employment. Council-owned or supplied data on computers must be deleted. The employees access to systems used will be terminated permanently.

5B9 Information obtained during the Course of Employment

Any information obtained by an employee in the course of their employment must not be used for the employee's personal gain or benefit, nor should it be passed to others who might use it in such a way. Employees must not disclose

to any third party confidential information, which could be prejudicial to the Council's interests.

Whistleblowing

- a. Where an employee becomes aware of activities which that the employee believes to be illegal, improper, unethical or otherwise inconsistent with the model Code of Conduct for employees, the employee should report the matter in accordance with Council's Whistleblowing policy.
- b. The Council will not tolerate any form of malpractice. Although it is often difficult for employees to report legitimate concerns through fear of reprisal or victimisation, employees need to be assured that in raising concerns they will be supported.

Investigations by Monitoring Officers

Where a Monitoring Officer is undertaking an investigation in accordance with a complaint against an elected member under the Localism Act 2011 Part III of the Local Government Act 2000 and associated Regulations, employees must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

5B10 Compliance with this Code

- a. This code is part of an employee's contract of employment and, failure to comply with any of the provisions of this Code may, result in disciplinary action being taken under the Disciplinary policy, or legal action if necessary.
- b. Employees are responsible for ensuring that they keep their line manager informed of any change of circumstance that gives rise to a need to update their declarations.
- c. Declarations must be made in writing to ~~line managers.~~ the Council's Monitoring Officer.
- d. The Council will ~~hold publish~~ all Employee Declarations on the Council's website with proper confidentiality.

This policy provides you with an overview of the purpose of this policy and your responsibilities as an employee. Failure to act in accordance with the Code and in conjunction with other relevant policies of the Council and legislation at the time, may result in disciplinary action. Other documents which provide further details and helpful guidance that should be read in conjunction with this policy, can be found on the council's website.

AGENDA ITEM NO. 7

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Audit and Standards Committee – 11 July 2023

From: Monitoring Officer

Subject: Recommendations from the Constitution Review Working Party

1. Purpose of the report

- 1.1 To consider and approve the recommendations from the Constitution Review Working Party and recommend changes to the Constitution.

2. Recommendations

- 2.1 That the recommendations as set out in the report and appendices be approved; and;
- 2.2 IT BE RECOMMENDED TO COUNCIL that the Constitution be amended accordingly.

3. Background

- 3.1 On the 16th June the Constitution Review Working Party met to re-consider a number of proposals to update the Council's Constitution. The changes are summarised below and are shown in the Appendices attached to this report. Whilst some of the items didn't raise any issues, the decision of the Committee was to refer some items back to the Working Party for further consideration, without formally approving the remainder. All items are, therefore, resubmitted for formal approval.

4. Recommended changes

4.1 Role Description for Borough Councillors

The Role Description for Borough Councillors is set out in part 5E of the Council's Constitution. It effectively sets out the expectations of the Council from its Members. The proposed changes are shown in Appendix A as tracked changes. Broadly speaking, they emphasise the importance of ward members to represent their communities; the importance of reading and understanding the reports at meetings; and the importance of attendance at training sessions to be kept up to date on developments.

4.2 Delegations to Assistant Director - Planning

The Scheme of Delegation to the Assistant Director - Planning is set out in Part 3E.8 of the Constitution and reproduced at Appendix B with the proposed changes highlighted. The Scheme, in connection with public call-in required updating. A revised proposal is included, based upon the draft fee proposals currently under consultation by the Government.

The Scheme has also been amended to make it clear that, where the chair is to be consulted on a matter, the vice chair will also be consulted.

Finally, one additional matter that emerged recently relates to the deferral of a item. Currently, this sits with the Planning Applications Committee and there is no provision within the scheme of delegation. This means that, where an item needs to be deferred (such as where additional information is required from a statutory consultee) the item has to be presented to the Committee and the Committee can then determine the need for the deferral. This obviously puts the applicant and the objectors to the inconvenience of attending the meeting – which causes both confusion and irritation. To address this, the Scheme has been amended to permit the Assistant Director to consider deferral in consultation with the Chair and Vice-chair.

4.3 Planning Code of Practice

Paragraph 5D.6 of the Code of Practice for Members and Officers Dealing with Planning Matters is set out in Appendix C. This paragraph deals with public speaking at Planning Applications Committee. The proposed changes are intended to change the priority of speakers from first come first served. This will give local residents, directly affected by a proposal, priority over other speakers, who may be interested parties, but who won't suffer any direct impact from a proposal. The changes do allow for vacant slots to be allocated to such interested parties, should there be insufficient neighbour interest in the matter.

One further change relates to the number of public speakers. The Working Party considered whether it would be appropriate to give the chair discretion to allow additional speakers. Because this can't be undertaken in advance, the difficulty would be that it might lead to an "inequality of arms" insofar as there may be no opportunity for the applicant to call additional speakers (or objectors where there are a number of supporters). To strike the right balance, the Working Party

determined that it would be better to increase the number of speakers both for and against an application to 3.

4.4 Overview & Scrutiny Procedure Rules

Arising from the recent call-in of an executive decision, a review of the Overview & Scrutiny Procedure Rules identified that non-members of the Panel did not have speaking rights. To address this, participation rights have been added as shown in Appendix D attached.

4.5 Petitions Scheme

The amendment to the Petitions Scheme was recommended to take account of the council's own software solution which is now available on the Council's website. The scheme has been amended to indicate that petitions via Change.org are no longer accepted. In practice, this will require petition organisers to utilise the Council's e-petitions software, with the added advantage that it will require correct details adding to the petition by signatories, including a relevant post-code.

The proposed deletion is shown at Appendix E.

4.6 Members Code of Conduct: Complaints Process & Hearings Procedure

The Complaints Process was recently amended and a further minor amendment is being proposed. This is as shown in Appendix F. The change is to give some flexibility to the Monitoring Officer, in consultation with the chair of the Audit & Standards Committee to reject a complaint which clearly does not engage the Members' Code of Conduct. Where the complaint is arguable, it will be submitted to the Assessment Sub-committee as set out in the procedure.

The Council's Hearings procedure has also been updated to reflect the approach adopted by the Appeals Committee. The previous Hearings Procedure was based upon the guidelines set by the former Standards Board for England, which set out a cumbersome procedure requiring exchange of documents; agreement on agreed facts and facts in dispute, etc.. The simplified procedure now leaves open questions of fact for the Hearings Panel to determine through the course of the hearing. The revised Procedure is shown as Appendix G.

4.7 Public Participation

Part 5M of the Constitution sets out the arrangements for Public participation at all Council meetings, with the exception of Planning Application Committee. The Working Party were concerned that a number of public speakers have sought permission to speak on items but have strayed away from the agenda item onto other matters. To manage public expectation and to reinforce the role of the chair, it is proposed to add wording: to the agenda; to the chair's brief; and amend paragraph 5M to reflect this. The suggested wording is reproduced in Appendix H

PHILIP RICHARDSON

5E ROLE DESCRIPTION FOR BOROUGH COUNCILLORS

5E.1 VISION, VALUES AND PRIORITIES

“We will provide high quality services for the local community, within available resources, which compare with the best in the country. We will work with everyone who wants a better future for our Borough. Our actions will be driven by the concerns of the local people, whom we represent.

Working under the Council’s Constitution and Code of Conduct for Members, and in line with accepted standards, policies, and procedures, we will participate constructively and effectively in the good governance of the Council, the Borough as a whole, and our own Ward.”

a) **Key Objectives**

To oversee the work of the Council, and ensure high quality services are provided to local people.

To represent the people of the area you are elected to serve.

b) **Duties**

May include:-

- i. representation;
- ii. policy making;
- iii. policy review;
- iv. regulation of services;
- v. scrutiny of services;

Appendix A

- vi. partnership working; and
- vii. consultation.

Will include:-

- i. being an advocate for ~~local residents~~your ward;
- ii. helping electors in your ward by attending to casework;
- iii. attending community events and meetings;
- iv. attending Council meetings;
- v. helping decide Council service priorities, including budget decisions;
- vi. developing and/or scrutinising Council decisions;
- vii. monitoring Council performance; and
- viii. maintaining the highest standards of conduct and ethics.

5E.2 POLICY MAKING AND PERFORMANCE MONITORING

a) **Monitoring Council Performance**

Overview & Scrutiny Panels have been set up to look at the work of a Council, and the policies that it may be implementing. You might be involved in Best Value Reviews of the Council from time to time.

b) **Partnership Working**

Appendix A

Increasingly, Councils and Members work with the private, public and voluntary sectors in the area. There are partnerships to deliver regeneration programmes, to co-ordinate facilities in a town centre, to promote economic development, or to develop a vision and strategy for the area. Some Members will represent the Council on these bodies.

c) Official Council Meetings

Read reports, attend and participate in Full Council meetings (including Extraordinary and Special Annual meetings), assigned Committees (e.g. OSPs, Planning, Licensing, etc.), meetings of outside bodies (as assigned), any other Council/outside meetings (as necessary); and-

Be prepared to take well informed and sometimes difficult decisions for the benefit of the Borough as a whole.

d) Training and Support

Upon becoming a Councillor you will receive an initial NBBC orientation for the post. To undertake knowledge/skill development training, as the requirements of new legislation dictate, or take-up of additional responsibilities which may be required (i.e. roles such as Leader of the Council, Opposition Party Leader, Cabinet Member, or Chair of a Committee).

Appendix A

e) **Support for your Role**

Members must:-

i. comply with Council procedures;

~~ii.~~ complete a declaration and register of Members' interests;

~~iii.~~ Take personal responsibility for your own development, participating fully in the training and development programme in order to build understanding, knowledge and skills that you need to undertake your role effectively;

~~iii-iv.~~ learn more about Local Government issues;

~~iv-v.~~ identify and work with local stakeholders;

~~v-vi.~~ develop communication skills;

~~vi-vii.~~ comply with the Member's Code of Conduct and Protocol for Member/Employee relations.

Also:-

~~vii-viii.~~ be aware of Council Policy.

Appendix B

3E.X8 ~~Assistant Director - Planning~~ ~~Head of Planning & Building Control~~

- a) Exercise any power, take any enforcement or other action of the Local Authority under the following statutory provisions or pursuant to regulations made (now or in future) under them.

Statutory Provision – ~~Assistant Director - Planning~~ ~~Director – Head of Planning & Building Control~~

Statutory Provision	Brief Description
Parts III, VII, VIII Town and Country Planning Act 1990	Planning enforcement and rights of entry
S.330 Town and Country Planning Act 1990	Notices requiring information
Town and Country Planning (General Development Procedure) Order 1995	Procedure for dealing with applications and appeals
S.70A Town and Country Planning Act 1990	Decline to determine planning application
Town and Country Planning (Environmental Impact Assessment)(England & Wales) Regs 1999	Various
Housing and Planning Act 2016	Various
S137 and 139 Town and Country Planning Act 1990	Respond to all Purchase Notices
S198, 201 and 203 Town and Country Planning Act 1990	Making of Tree Preservation Orders
Part VIII Anti-Social Behaviour Act 2003	High Hedges
Planning (Listed Buildings and Conservation Areas) Act 1990 and Planning (Hazardous Substances) Act 1990	Listed buildings and conservation areas and rights of entry

- b) To process and make decisions on all planning applications as defined in Schedule 1 below except in any one of the following cases:
- i. Where an Environmental Impact Assessment has been submitted with a planning application.

Appendix B

ii. Where ~~five or more~~ letters of objections ~~that meet the criteria as set out in the table at Annex A below~~ have been received from neighbours, interested parties or statutory consultees within the 21 day consultation period, ~~unless where (unless~~ the objection does not, in the ~~Assistant Director – Planning’s Head of Planning & Building Control’s~~ opinion, relate to valid planning considerations (which are set out in the leaflet ‘Having Your Say on Planning Applications’) ~~and or are matters as set out in Schedule 2 below)~~, ~~or where the objections will be addressed by the decision of the officer either by the refusal of the application, or by attaching suitable conditions, or where amendments to the application overcome the objections.~~

~~ii-iii.~~ Where the application is recommended for refusal ~~and the Head of Planning & Building Control has informed the applicant and objectors of this~~, the ward Members will be given notice of this and allowed five working days in which they can request that the application be referred to Committee.

~~iii-iv.~~ Where five or more letters of support have been received from neighbours, interested parties or statutory consultees within the 21 day consultation period ~~(unless the letter of support does not, in the Assistant Director – Planning’s opinion, relate to valid planning considerations (which are set out in the leaflet ‘Having Your Say on Planning Applications’) or are matters as set out in Schedule 2 below)~~ and the ~~officer~~ Assistant Director - Planning is minded to ~~approve~~ ~~refuse~~ the application.

~~iv-v.~~ Where a Member requests and the ~~Assistant Director - Planning Head of Planning & Building Control~~ agrees (having consulted the chair ~~and vice-chair~~ of the Planning Applications Committee that:

- i. in the case of a minor application in their ward; or
- ii. in the case of a major application, any 3 Councillors,

that application be dealt with by the Planning Applications Committee.

The request has to be made to the ~~Assistant Director - Planning Head of Planning & Building Control~~ in writing or by e-mail within 28 days of the date of the relevant weekly list of planning applications (or 14 days in the case of ~~a non-material amendment or~~ proposals submitted to other authorities). In both cases above, sufficient and rational reasons need to be given for the call in to be determined by ~~Assistant Director - Planning Head of Planning and Building Control~~, in consultation with the chair ~~(or, if applicable, and~~ vice-chair) of Planning Application Committee.

~~v-vi.~~ The ~~Assistant Director - Planning Head of Development & Building Control~~ considers the application or notified matter should be considered by the Planning Applications Committee.

Appendix B

~~vi.vii.~~_____ The terms of a legal agreement needs to be agreed other than where a contribution is in accordance with a tariff agreed in adopted Supplementary Planning Guidance.

~~vii.viii.~~_____ The proposal involves the Borough Council either as applicant or land owner, and the scheme is not of a minor nature, as defined in statistical returns to the Government.

~~viii.ix.~~_____ The applicant is a member or an employee of the Development Control or Building Control Section.

Schedule 1

1. Planning Permission
2. Approval of Reserved Matters
3. Minor Amendments to Approved Schemes
4. Consent to Display Advertisements
5. Listed Building Consent
6. Conservation Area Consent
7. Proposals Submitted to Other Local Authorities
8. Non-Material Amendments

Schedule 2

1. Developers/applicants' motives or morals
 2. Loss of views over other people's land
 3. Impact on property value
 4. Impact on private rights and/or covenants
 5. Boundary disputes or objections arising from disputes unrelated to the planning application.
- c) Determine applications for consent or approval required by any conditions attached to a planning permission (other than reserved matters) where indicated in the Schedule of Applications.
- d) To process and initiate enforcement procedures against breaches of planning control, and in the making of Tree Preservation Orders.
- e) Where (s)he feels urgent action is required, take any step pursuant to Town and Country Planning or related legislation.
- f) ~~Where no adverse representations have been received, To~~ (i) confirm Tree Preservation Orders, and (ii) grant any consent necessary for works to trees.
- g) After consultation with Ward Members, determine applications for telecommunications masts which cannot be considered by Planning Applications Committee within 56 days of receipt.
- h) Negotiate terms of S106 TCPA90 obligations.

Appendix B

i) Lodge representations to the Traffic Commissioner in respect of Goods Vehicles Operators' Licence applications.

j) Following consultation with the Chair and Vice-chair of the Planning Applications Committee, to defer applications listed on an agenda for Planning Applications Committee where there is a good reason to do so and subject to ensuring that all applicants and objectors can be notified of the deferral in advance of the meeting date.

ii)

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Annex A: Criteria for letters of Objection

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1. For an objection to be valid, it shall be a letter or e-mail from a single household. Multiple letters from one property address shall be treated as a single objection, unless the premises are a registered house in multiple occupation;

2. Objectors must be aged 16 or over

3. The number of objectors required for an application to be referred to Planning Applications Committee shall be as set out in the table below (subject to the test of planning relevance applied by the Assistant Director – Planning mentioned at b ii) above;

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Scale of Application

Number of valid objections required

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Non-major (residential - less than 10 dwellings, or sites of less than 0.5 hectares; non-residential, less than 1,000 sqm gross floorspace, or sites less than 1 hectare)

At least 5 valid objections

10 to 50 dwellings and commercial non-residential between 1,000 and 3,750 sqm of floorspace

At least 10 valid objections

Appendix B

Over 50 dwellings or more than 3,750 sqm commercial floorspace

At least 15 valid objections

Extract of Part 5D CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

5D.6 PUBLIC SPEAKING AT PLANNING APPLICATIONS COMMITTEE

The Council operates a system of public speaking at all of its Committees. Planning Applications Committee is no exception. However, by necessity, the number of speakers is limited and the time allowed for speeches is limited to three minutes per speaker. In operating the system, it is the role of the Chair to ensure that all speakers are dealt with fairly and equally. To assist with this process, those allowed to speak at the Planning Applications Committee and the order of speakers is as follows:

- a) Members on Planning Applications Committee who have declared a Disclosable or Deemed Disclosable Interest or who have indicated that they have a predetermined view of the matter under consideration;
- b) Ward Members of specific applications who are not members of the Committee; and
- c) Two speakers against and two for the proposal. In allocating speaking rights, priority will be given to those speakers who are, in the opinion of the Assistant Director – Planning, directly affected by the proposal, irrespective of when the request to speak is received. If there are vacant speaking slots, these will be allocated to those not directly affected who wish to speak, on a first come, first served basis.

A Ward Member of a specific application, where there is no Ward Member representative on the Planning Applications Committee, will be allowed to participate during consideration of that item but will not be allowed to vote.

Extract from the Overview & Scrutiny Procedure Rules

4E.15 **CALL-IN**

- a) Call-in should only be used where Members of the appropriate OSP have clear evidence suggesting that the Cabinet, an individual Member, or an officer making a Key Decision, did not take the decision in accordance with the principles set out in Article 12 (Decision Making) or the decision appears to be outside the Budget and Policy Framework approved by Council

- b) When a decision is made by the Cabinet or an individual member of the Cabinet, or a Key Decision is made by an officer, or an Area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council as soon as possible but in any event within ten days of being made. All Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- c) For decisions that do not appear to accord with Article 12:
 - i. The published decision will bear the date of publication and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless called in;

 - ii. During that period, the proper officer shall call in a decision for scrutiny by an OSP if he/she receives a valid request in writing signed by any one Member of the relevant OSP together with any other two Members of the Council. Once satisfied that the request is valid, having regard to the principles in Article 12 (Decision Making), either Chief Executive shall forthwith notify the decision-taker of the call-in. The OSP shall meet within ten working days of the end of the five day period mentioned in (c) above. The decision maker (or Chair of the decision making body) shall be entitled to address the OSP at its meeting. The called in decision may be implemented on expiry of this ten day period.

Appendix D

- iii. The OSP may refer the decision back to the decision maker for reconsideration, or refer the matter to Full Council. If the matter was referred to Full Council, the Council will refer its views on the decision back to the decision maker.
- iv. Any Member, who is not a member of the OSP but who has signed the Request for Call in shall have the right to participate in the debate at the meeting convened to consider the Call-in, but shall not have the right to vote.

Petitions Scheme (extract)

5K.2.10 Who should you send a petition to?

The Petitions Officer shall be the Head of Paid Services, who is responsible for receiving, managing and reporting petitions received by the Council. Please address petitions to –

The Petitions Officer
Nuneaton & Bedworth Borough Council
Coton Road
Nuneaton
CV11 5AA

Or to petitions@nuneatonandbedworth.gov.uk

The Council accepts e-petitions ~~from the change.org that use the Council's e-petitions system which can be found on the Council's website at:~~

<https://www.nuneatonandbedworth.gov.uk/petition>

5A.1 Nuneaton & Bedworth Borough Council Member Complaint Process

Filter Stage

As a matter of principle, the preferred option for resolving complaints shall be through informal resolution whenever possible. Upon receipt of a complaint, the Monitoring Officer shall consult with the chair of the Audit & Standards Committee to confirm that the subject matter of the complaint engages the Code of Conduct. If the chair agrees, the subject Member and the complainant will be contacted to establish whether informal resolution is achievable. If the chair and the Monitoring Officer agree that the Code of Conduct is not engaged, the complainant will be notified and the complaint closed.

Where the Code is engaged, the Complaint will ~~then~~ be submitted to the Assessment Sub-committee for consideration. A copy of the report will be sent to the subject Member at that time. The report will be submitted as an exempt item, but a Subject member may attend the meeting and make representations as to whether the complaint should be heard in public, subject to the Sub-committee's consideration of the Public Interest test. Where appropriate the Monitoring Officer may also consult an independent person.

Where the allegation concern matters which may amount to a criminal offence the Monitoring Officer should also consult with the Police on whether the matter should be referred to them.

Options available at the filter stage are

Complaint resolved by informal action acceptable to both member and complainant.	No further action where complaints fall outside the Code or do not justify investigation and there is no informal resolution	Allegations of criminal matters if appropriate referred to Police	Referral for investigation if criteria are met
--	--	---	--

We will only refer a complaint for investigation if the following criteria are met

- it is serious enough, if proven, to justify the costs of an investigation **or**
- it is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it **and**
- the conduct complained of occurred within 6 months of the date the complaint was received

We will not normally refer complaints for investigation where they fall within one or more of the following categories

- we believe it to be malicious, relatively minor, or tit-for-tat

Appendix F

- the same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained
- the complaint concerns acts carried out in the member's private life, when they are not carrying out the work of the authority or have not misused their position as a member
- it appears that the complaint is really about dissatisfaction with a council decision
- there is not enough information currently available to justify a decision to refer the matter for investigation

Referral for investigation

The complaint is investigated by an Investigator appointed by the Monitoring Officer. Estimated timescales for investigation to be agreed between Investigator and Monitoring Officer in consultation with the chair of Audit & Standards Committee on a case by case basis.

Before finalising the investigation report, the Monitoring Officer will seek the views of an independent person.

Report Stage

The Monitoring Officer will arrange for the investigation report recommendations to be reported to Audit & Standards Committee and decide what should happen to the report next. A copy of the report will be sent to the subject Member at that time. The options are: no further action; or referral for a hearing.

Hearing Stage

The Hearing Sub-committee will consider the investigation report, take account of the views of any independent person consulted in relation to the matter, hear representations from the member concerned and the Monitoring Officer. Other people may be heard at the discretion of the Chair.

If the Sub-committee finds there is no failure to comply with the Code of Conduct the matter will end there. At that point, the subject member will be given the option of requesting a public notification of the outcome.

If the Sub-committee finds that there is a failure to comply with the Code of Conduct of it will consider what action if any should be taken, this may or may not include the imposition of sanctions on the member concerned

Imposition of Sanctions

The Audit & Standards Committee has delegated to the Hearings Sub-committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Sub-committee may:

- a. Censure or reprimand the Member

Appendix F

- b. Publish its findings in respect of the Member's conduct;
- c. Report its findings for information;
- d. Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to or to Committees) that he/she be removed from any or all Committees or Sub-Committees;
- e. Recommend to the Leader that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- f. Instruct the Monitoring Officer to arrange training for the Member;
- g. Remove from all outside appointments to which he/she has been appointed or nominated by the Council;
- h. Withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and internet access, or
- i. Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Panel's Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the Member, or to withdraw Members' or special responsibility allowances.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal Decision Notice in consultation with the Chair of the Hearings Sub-committee, and send a copy to the complainant, to the Member, and make that Decision Notice available for public inspection, and report the decision to the next convenient meeting of the Council.

Assessment & Hearing Sub-committees

Composition

Any three elected members of the Audit & Standards Committee to sit as and when required. The Sub-committees shall be politically balanced and where possible will include representation from at least one of the opposition political groups, represented on the Council. The selection of members to form a sub-committee to deal with a particular matter or matters shall be made by the Chief Executive or his/her nominated deputy.

Terms of Reference

To consider complaints about members in relation to the Code of Conduct and determine whether or not there has been a failure to comply with the Code of Conduct

Appendix G

Members Code of Conduct: Hearings Procedure

PRELIMINARIES

Introductions

[Appointment of Chair](#)

Declarations of Interest

[Preliminary Applications](#), ie Decision whether to proceed or adjourn in the absence of the Member or any other relevant party.

HEARING OF THE ALLEGATION

- a) ~~Evidence~~ [Monitoring Officer \(or his/her representative\) presents the report and evidence](#) of disputed facts ~~given by the Reporting Officer~~, calling witnesses allowed by the Panel.
- b) ~~Any~~ [Monitoring Officer/representative makes any](#) further representations from the Complainant to the Panel.
- c) ~~Subject~~ Member asks questions ~~for via~~ the Panel to ~~put to~~ the ~~Reporting Officer/Monitoring Office/representative~~ (and witnesses), ~~and questions from the Panel (who may ask questions at any time) are put to the Reporting Officer.~~
- d) ~~Evidence of disputed facts given by the Member, calling witnesses allowed by the Panel.~~
- e)d) ~~Questions to the Panel by the Reporting Officer to put to the Member (and witnesses) and questions from the~~ The Panel (who may ask questions at any time) ~~are~~ put [their questions](#) to the ~~Member/Monitoring Officer/Witnesses~~.
- f)e) ~~Member makes representations~~ [Subject member presents their case](#) as to why he/she believes they have not ~~broken the Code of Conduct~~ [breached the code](#) and ~~calls~~ [evidence of disputed facts](#), calling witnesses allowed by the Panel.
- f) ~~Investigator and/or Reporting~~ [The Monitoring Officer/rep may asks](#) questions ~~for via~~ the Panel to put to the Subject Member (and witnesses).

Appendix G

- g) The Panel (who may ask questions at any time) ~~put~~ may ask their questions addressed to the Subject Member/Witnesses.
- g)h) Monitoring Officer/representative makes final representations as to why it is believed the Code of Conduct has been broken.
- h)i) Member makes any final representations as to why they believe the Code of Conduct has not been broken.
- i)j) When the Chair and the Panel is satisfied that ~~the Panel has obtained~~ all necessary information has been obtained and the parties have been given a reasonable opportunity to put their case, the Panel, and Legal Advisor ~~and Clerk~~ will consider the matter in private, ~~if necessary~~, following a resolution pursuant to Part 1 of Sched 12A of the Local Government Act 1972.
- j)k) The Panel will then proceed to adjudicate on the complaint. The Panel may recall the parties to clarify any point of uncertainty. If recall is necessary, all parties will return (other than witnesses who do not need to be present).
- k)l) ~~The~~Once a decision has been made the Panel will recall the parties and the Chair will announce its decision.
- l)m) If the decision is that the Panel has determined that there was a breach of the Code and that they are minded to ~~impose a sanction set a penalty~~, the Monitoring Officer/representative and Member will be invited to make any oral or written representations of mitigation as to whether a penalty should be set and what form it should take.
- m)n) The Panel will consider what penalty-sanction (if any) to impose in private, ~~if necessary~~, following a resolution pursuant to Part 1 of Sched 12A of the Local Government Act 1972, and may be accompanied by the Legal Advisor ~~and Clerk~~.
- n)o) The Panel will recall the parties and the Chair will announce its decision.
- o)p) The Hearing Panel ~~will~~ may then consider in open session whether there are any recommendations which the Authority should make arising from consideration of the allegation. For example, ~~providing recompense to any person who has suffered detriment as a result of the breach of the Code of Conduct or related matters; for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct~~, for rectifying any deficiency in the Authority's decision making procedures, or for preventing or deterring any further breaches of the Code of Conduct.

Public Participation

5M GUIDANCE FOR SPEAKERS AT MEETINGS

- 5.1 This guidance is intended for use at all Cabinet, Panel and Committee meetings with the exception of Council, Planning Applications and Licensing Committees (which have their own prescribed arrangements).

Note: Urgent items: The Chair will announce at the start of the meeting whether there are any urgent items.

- 5.2 Members of the public may attend Committee meetings of the Council and speak on a particular agenda item, having notified the appropriate officer they wish to do so before the start of the meeting.

- 5.3 The Chair shall invite the appropriate officer or, in the case of Cabinet, the Portfolio Holder, to introduce the report and outline its proposals and recommendations. Once the report has been introduced, the Chair shall move to the public participation stage and the Chair will inform speakers of the right to object to being filmed.

- 5.4 Members of the public will be given three minutes to speak on a particular item and this is strictly timed. The chair will inform all public speakers that: their comments must be limited to addressing issues raised in the agenda item under consideration: and that any departure from the item will not be tolerated.

- 5.5 The chair may interrupt the speaker if they start discussing other matters which are not related to the item, or the speaker uses threatening or inappropriate language towards Councillors or officers and if after a warning issued by the chair, the speaker persists, they will be asked to stop speaking by the chair. The chair will advise the speaker that, having ignored the warning, the speaker's opportunity to speak to the current or other items on the agenda may not be allowed. In this eventuality, the chair has discretion to exclude the speaker from speaking further on the item under consideration or other items of the agenda.

- 5.56 The speaker can address the Committee from the allocated speaker's chair or, if preferred, they can stand or remain seated and speak from their seat. When finished, or the three minutes are up, questions of clarification may be asked of the speaker by any member of the Committee or Cabinet to help clarify any points made.

- 5.67 The Chair will then invite members of the Committee or Cabinet to debate the matter, once it has been proposed and seconded. Speakers will not be permitted to speak further on the item and cannot participate in the debate on the item.