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STANDARDS COMMITTEE

Day: Tuesday
Date: 7 November 2023
Time: 4.00 pm
Place: Committee Room 2, Level Two, Tameside One, Market Square, Ashton-Under-Lyne, OL6 6BH

Item No.	AGENDA	Page No
1.	APOLOGIES FOR ABSENCE To receive any apologies for absence.	
2.	DECLARATIONS OF INTEREST To allow Members an opportunity to declare any personal or prejudicial interests they may have in any items on the agenda. Members with a personal interest should declare that at the start of the item under consideration. If Members also have a prejudicial or disclosable pecuniary interest, they must withdraw from the meeting during the consideration of the item.	
3.	MINUTES The Minutes of the Standards Committee meeting held on 5 September 2023, to be agreed as a correct record.	1 - 4
4.	REVIEW OF COUNCIL CONSTITUTION To consider the attached report of the Chief Executive.	5 - 62
5.	FLAG FLYING PROTOCOL To consider the attached report of the Chief Executive.	63 - 66
6.	REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY The Register of Interests and Gifts and Hospitality are available for each Councillor via the Your Councillors page on the Council's website.	
7.	DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)	
8.	URGENT ITEMS To consider any items, which the Chair is of the opinion, shall be considered as a matter of urgency.	
9.	DATE OF NEXT MEETING To note that the date of the next Standards Committee meeting is scheduled for 26 March 2024.	

From: Democratic Services Unit – any further information may be obtained from the reporting officer or from Charlotte Forrest, Senior Democratic Services Officer, charlotte.forrest@tameside.gov.uk or 0161 342 2346, to whom any apologies for absence should be notified.

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STANDARDS COMMITTEE

5 September 2023

Commenced: 4:00pm

Terminated: 4.35pm

Present: Mirriam Lawton (Independent Person & Chair), Councillors McNally, Lane, Kitchen, Costello and Parish Councillor Travis

In Attendance: Sandra Stewart Chief Executive

Apologies for Absence: Councillors Ricci and S Homer

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. MINUTES

The minutes of the Standards Committee meeting on the 1 November 2022 were approved as a correct record.

3. ELECTED MEMBER DEVELOPMENT REPORT

Consideration was given to a report of the Assistant Director of People and Workforce Development. The report detailed the proposed delivery plan for 2023-24 including mandatory elements, evening briefing sessions, e-learning, one to ones and attendance at external network events. The report also sought support for the refresh and relaunch of the Elected Member Development Strategy including the review and update of membership and sought support for the procurement of external providers to deliver key learning and development.

The Committee was advised that an Elected Member Development Strategy attached at Appendix 1 had been in place since 2018 and a key part of this was the collation of a skills audit questionnaire which was used in the One-to-One sessions with colleagues from Workforce Development. This practice had remained in place and has been undertaken following the recent all-out election in May 2022. Previous one-to-one discussions identified strengths and capacity of Elected Members to become a mentor, offer a one-off discussion or a forum to share their skills, knowledge and experience with other less experienced Elected Members.

It was reported that evening briefing sessions would continue to be offered to Elected Members throughout the year as a vehicle for sharing key updates and information. It was proposed that most evening briefing sessions would continue to be delivered face to face to ensure maximum engagement and participation. The topics of these sessions were set via recommendations from both Senior Officers and Elected Members to ensure that key updates were covered throughout the year. Session content was designed by the delivering service with support from the Workforce Development team, a pre-meeting would take place with the relevant officers and the Chief Executive to support the development of content and method of delivery, followed by further pre-meet and briefing with the Chief Executive and designated Cabinet Member. Appendix 2 detailed the proposed sessions for the year.

It was proposed that the service increased access to the external opportunities offered to gain a greater breadth of training and development experiences for Elected Members to ensure they had all the necessary skills to continue to develop as an Elected Member and to effectively fulfil their

role. An overview of the offers available via current membership and also development offers which could be purchased are at Appendix 3.

All Elected Members would be required to undertake mandatory training relevant to their role to refresh and update their knowledge, skills and experience. These would be offered as either face to face development session conducted by the relevant officers, through E-Learning or through evening briefings

In regards to newly Elected Member induction training, all newly Elected Members received an Induction package, co-ordinated by Democratic Services following their election. It was proposed that Corporate Parenting training become part of the Induction package from next year, to ensure that all newly Elected Members are fully aware of their responsibilities as a Corporate Parent from immediately after they are elected. As a whole evening briefing session was conducted in March 2023 for Corporate Parenting, it was proposed that a further evening session is organised for this year as Induction had already taken place for this year.

All newly Elected Members were offered the opportunity to meet on a one to one basis after their induction with a member of the Workforce Development Team to discuss any individual development opportunities they would benefit from in their role as an Elected Member. Following one to one discussions, we have received requests for development in; handling challenging conversations and conflict, developing listening skills and creative problem solving, supporting development of digital skills and public speaking. Further feedback received included requests for the opportunity of a tour of Tameside One earlier on in the process to support with familiarisation of the building and meeting room locations.

Scrutiny Panel members were supported with training from the Policy Team particularly relating to the role of the scrutiny function, good practice etc. Additional training and support was also available from the Local Government Association (LGA), Centre for Governance and Scrutiny (CGS) and North West Employers (NWE).

In addition to the internal courses, the Local Government Association had recently shared 23 modules of ELearning that has been built specifically for Elected Members, to deepen knowledge of local government and help with building leadership skills that are needed to work effectively within local communities. We have been able to make this available through the same MeLearning platform for Elected Members to access as part of their continued professional development.

RESOLVED

That the Standards Committee:

- (i) Agree proposed delivery plan for 2023-2024 including, mandatory elements, evening briefing sessions, e-learning, one to ones and attendance at external network events.**
- (ii) Support the refresh and relaunch of the Elected Member Development Strategy and Forum, including the review and update of membership.**
- (iii) Support the procurement of external providers identified in the body of the report to deliver key learning and development**

4. POLITICALLY RESTRICTED POSTS

Consideration was given to a report of the Assistant Director of People and Workforce Development. The report detailed the key statutory definitions of politically restricted posts and proposals to maintain compliance with legislation in this area by ensuring that where required, officers in specific roles were aware of the restriction to political activity. The report also detailed recommendations for amendments to contracts of employment and job descriptions for roles identified as politically restricted.

The report explained that there were two categories of politically restricted posts: specified and sensitive. The following persons were regarded as holding politically restricted posts:

- Head of the Paid Service
- Statutory Chief Officers, (including the Director of Children's Services and Director of Adult Social Services in England, the Director of Public Health, the Chief Finance Officer)
- The Monitoring Officer
- Non-statutory Chief Officers (officers reporting to the Head of Paid Service excluding secretarial/clerical support staff).
- Deputy Chief Officers (officers reporting to a Chief Officer excluding secretarial/clerical support staff).
- Officers exercising delegated powers as set out within Part 3a of the Constitution (see link in the table below).
- Assistants to political groups.

The report detailed that sensitive posts were defined in Section 2 (3) of the Act and were those which involved one or more of the following:

- Giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the
- Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

The initial categorisation of sensitive posts had been undertaken with Assistant Directors for their services. Examples of sensitive posts included:

- Lawyer/Solicitor
- Democratic Services Officer
- Member Services Officer
- Electoral Manager
- Communications Manager
- Marketing and Communications Officer
- Policy Officer/Senior Policy Officer
- Scrutiny Manager

A politically restricted posts statement had been created (Appendix 1) which set out the specific restrictions placed upon holders of politically restricted posts. The statement will be issued to employees where a post is politically restricted.

Where posts were determined to be politically restricted, employees would receive notification which set out the restrictions that applied. Guidance would also be provided in relation to the appeals process for politically sensitive posts.

Where a new post was politically restricted, it was important that this requirement was identified at the point the post was created and that candidates were informed at the earliest stage of recruitment.

Current employees whose posts were identified as politically restricted would receive a letter advising of this with the appropriate information about political restrictions and the appeal process where relevant.

RESOLVED

That the Standards Committee agree:

- (i) **That the Council implements the Politically Restricted Posts statement as detailed in Appendix 1.**
- (ii) **That updates are made to contracts of employment and job descriptions for roles identified as politically restricted.**

- (iii) That employees who occupy politically restricted posts are provided with information and guidance to explain the restrictions, including the appeal process where relevant.
- (iv) To update the recruitment process ensuring job adverts and appointment letters include information regarding politically restrictions, where applicable.
- (v) The changes listed above will take effect from 1 November 2023.

5. REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY

Members were advised that the Register of Interests and Register of Gifts and Hospitality were available online for inspection and that there had been no recent declarations of gifts and hospitality received by Members.

6. DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)

The Chief Executive reported that a review of policies and code of conducts was underway and there would be a need for another meeting within the next 6 – 8 weeks to consider these changes.



Members of the Committee discussed the training requirement of Mossley Town Council Members, the Head of Organisation and Workforce Development agreed to meet Parish Councillor Travis to discuss any training requirements.

7. URGENT ITEMS

There were no urgent items.

CHAIR

Agenda Item 4.

Report To:	STANDARDS COMMITTEE
Date:	7 November 2023
Reporting Officer:	Sandra Stewart, Chief Executive
Subject:	REVIEW OF COUNCIL CONSTITUTION – PART 5: STANDARDS OF CONDUCT AND ETHICS
Report Summary:	The report informs Standards Committee of the overall review of the Council Constitution and seeks the views of the Committee on the contents of Part 5: Standards of Conduct and Ethics.
Recommendations:	The Standards Committee is asked to review Part 5 a – g of the Council Constitution and to recommend any changes they wish to see or to endorse the current contents.
Financial Implications: (Authorised By Section 151 Officer)	There are no significant financial issues arising from this Report.
Legal Implications: (Authorised By Borough Solicitor)	The promotion and maintenance of high standards of conduct by councillors and officers is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.
Risk Management:	Standards Committees should be aware of the National position in order that consistency of approach is taken in respect of setting and advising on local ethical and standard issues.
Links To Community Plan:	Support the current arrangements for ethical and corporate governance of the Authority to ensure that the public can have confidence in local government.
Access To Information	NON-CONFIDENTIAL
	This report does not contain information, which warrants its consideration in the absence of the Press or members of the public.
Reference Documents:	The background papers relating to this report can be inspected by contacting the report writer, Robert Landon, Head of Democratic Services:  Telephone: 0161 342 2146  e-mail: robert.landon@tameside.gov.uk

1. INTRODUCTION

- 1.1 The Local Government Act 2000, as amended, requires a local authority, which is operating executive arrangements, to prepare and keep up-to-date a Constitution. The Monitoring Officer is required to monitor and review the operation of the Constitution on an on-going basis, and, where necessary, bring forward amendments to the Council. Although specific elements of the Constitution have been reviewed and amended, the Constitution as a whole has not been comprehensively reviewed for a number of years. It is also timely to ensure that the Constitution is fit for purpose prior to LGA peer review and to ensure that the Constitution reflects organisation and legislative changes.
- 1.2 The Council Constitution provides a framework within which people can understand their own responsibilities, and the responsibilities of others. It allows decision-making, within a democratically elected body, to be consistent, accountable and transparent. The Constitution should facilitate strong, effective relationships. Good constitutions provide an anchor for strong organisational and political cultures in which people work well together, and in which decision-making is well-understood by (and visible to) the public. Constitutions are also rulebooks, they set out much, but not all, of the technical detail of how the Council's main decision-making systems operate.
- 1.3 The overall review of the Council Constitution will be considered by Council on 5 December 2023. A significant part of the Constitution is Part 5: Standards of Conduct and Ethics. This Part of the Constitution contains a number of codes, protocols and policies, which set the framework within which both Members and Officers are expected to act. The following documents form Part 5 of the Constitution:

5a	Members Code of Conduct
5b	Whistleblowing Policy
5c	Anti-Fraud, Bribery and Corruption Strategy
5d	Members Planning Code
5e	Monitoring Officer Protocol
5f	Section 151 Officer Protocol
5g	Member/Officer Protocol

2. SUMMARY OF PART 5 OF COUNCIL CONSTITUTION

Members Code of Conduct

- 2.1 The Members Code of Conduct was reviewed and amended by Council on 12 January 2021 following recommendations of the Standards Committee.
- 2.2 The purpose of this Code of Conduct is to assist Councillors in modelling the behaviour that is expected of them, to provide personal checks and balances, and to set out the type of conduct against which appropriate action may be taken. It was also to protect Councillors, the public, fellow Councillors, council officers and the reputation of local government. It sets out the conduct expected of all Members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of Members and local government.

Whistleblowing Policy

- 2.3 This policy applies to everyone with a concern about wrongdoing in the Council's activities, whether they are a Councillor, a council employee, a contractor, an associated party or a concerned member of the public. The purpose of the Whistleblowing Policy is to:
- Provide avenues to raise genuine concerns,
 - Allow people to take the matter forward if they are dissatisfied with the Council's response,

- Reassure people that they will be protected from reprisals or victimisation for speaking up in good faith.

2.4 The concern may be about something that:

- is unlawful (for example theft, fraud, bribery and corruption); or
- breaks the Council's constitution; or
- falls below established standards or practice; or
- amounts to improper conduct; or
- anything that makes you feel uncomfortable or that you think is wrong.

Anti-Fraud, Bribery and Corruption Strategy

2.5 This strategy states that the consequences of fraud, bribery and corruption affect all employees, service users and council tax payers as every pound lost results in fewer jobs, reduced services and higher council tax bills and can impact upon the Council's reputation and its ability to achieve its corporate objectives. The Council's aim is to foster a culture where fraud, bribery and corruption within our organisation is never acceptable; therefore, it has formally decided that:

- We will not tolerate malpractice or wrongdoing. We are determined that all instances of malpractice will be fully investigated and will ensure that appropriate action is taken against all those concerned.
- We believe that members of the public, Councillors, employees, contractors or any other interested party should feel able to report any cases of malpractice or wrongdoing without fear of recrimination.
- All Councillors and employees are asked to exercise proper stewardship of public money, carry out all business fairly, honestly and openly, and put in place appropriate systems and procedures, incorporating efficient and effective internal controls, to prevent and detect fraud, bribery and corruption.

Members Planning Code

2.6 The aim of this Code is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. This code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

Monitoring Officer Protocol

2.7 The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Tameside Borough Council. The current responsibilities of the Monitoring Officer role rest with the Assistant Director (Legal Services) who undertakes to discharge their statutory responsibilities in a manner that enhances the overall reputation of the Council. In doing so they will also safeguard, so far as is possible, Members and Officers who are acting in their official capacities from legal difficulties and/or criminal sanctions.

Section 151 Officer Protocol

2.8 The Chief Finance Officer is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. This Protocol provides some general information on how those statutory requirements will be discharged at Tameside Borough Council. 2. The current responsibilities of the Chief Finance Officer role rest with the Director of Resources, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.

Member Officer Protocol

- 2.9 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government, which demands the highest standards of personal conduct. The Protocol sets out the roles of Members and Officers and how they should interact with each other.

3. RECOMMENDATIONS

- 3.1 As set out at the front of the report.

Councillor Code of Conduct 2020

Definitions

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

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

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

Purpose of the Code of Conduct

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

General principles of councillor conduct

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

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

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

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

In undertaking my role:

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

Application of the Code of Conduct

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

This Code of Conduct applies to you when:

- you are acting in your capacity as a councillor and/or as a representative of your council
- you are claiming to act as a councillor and/or as a representative of your council
- you are giving the impression that you are acting as a councillor and/or as a representative of your council
- you refer publicly to your role as a councillor or use knowledge you could only obtain in your role as a councillor.

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

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

You are also expected to uphold high standards of conduct and show leadership at all times. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

As a councillor:

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

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

2. *Bullying, harassment and discrimination*

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

As a councillor:

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

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

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

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

3. *Impartiality of officers of the council*

As a councillor:

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

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

4. Confidentiality and access to information

4.1 I do not disclose information:

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

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

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

As a councillor:

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

5. Disrepute

As a councillor:

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

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

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

6. Use of position

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

As a councillor:

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

7. Use of local authority resources and facilities

7.1 I do not misuse council resources.

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

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

As a councillor:

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

Examples include:

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

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

8. Complying with the Code of Conduct

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

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

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

As a councillor:

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

Protecting your reputation and the reputation of the local authority

9. Interests

9.1 I register and declare my interests.

As a councillor:

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

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

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

10. Gifts and hospitality

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

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

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

As a councillor:

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

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B

Registering interests

1. Within 28 days of this Code of Conduct being adopted by the local authority or your election or appointment to office (where that is later) you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) and Table 2 (Other Registerable Interests). Disclosable Pecuniary Interests means issues relating to money and finances.
2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor/member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Declaring interests

5. Where a matter arises at a meeting which directly relates one of your Disclosable Pecuniary Interests, you must declare the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest, just that you have an interest.
6. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', again you do not have to declare the nature of the interest.
7. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.
8. Where a matter arises at a meeting which *affects* –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a friend, relative, close associate; or
 - c. a body included in those you need to declare under Disclosable Pecuniary Interestsyou must disclose the interest.
9. Where the matter affects the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you must declare the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to declare the nature of the interest.

Table 1: Disclosable Pecuniary Interests

<p>This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.</p> <p>Subject</p>	<p>Description</p>
<p>Employment, office, trade, profession or vocation</p>	<p>Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]</p>
<p>Sponsorship</p>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<p>Contracts</p>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the</p>

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Part 5(b) - Whistleblowing Policy

Introduction

1. In a large organisation like Tameside MBC, employees and Councillors are often the first to be aware when something is seriously wrong. However, there can be a number of reasons why they might not report what they suspect; they may not know how to report a concern; they may be concerned about reprisals or they may feel that making a report would be a betrayal of confidence. If someone knows about wrongdoing and doesn't report it then the Council loses an opportunity to deal with a potentially damaging situation and gives rise to an even greater risk of financial loss, regulatory breach, higher insurance premiums and damaged reputation.
2. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage anyone with serious concerns about any wrongdoing in any aspect of the Council's work to come forward with these concerns. Tameside MBC will not tolerate malpractice or wrongdoing and is determined that all instances of malpractice will be fully investigated and the appropriate action taken against all those concerned.
3. Any disclosures made by employees which are made to their employer and which are intended to shed light on fraud, bribery, corruption or malpractice are in general protected under the Public Interest Disclosure Act 1998. Any employee raising concerns through this policy will be protected from reprisals or victimisation, so long as the employee is not acting maliciously or for personal gain.
4. Internal systems and procedures must seek to prevent fraud, bribery and corruption but also protect individual Councillors and employees against malicious or unfounded allegations of impropriety. Internal controls are the first line of defence against fraud, bribery, corruption and malpractice and national experience shows it is often the case that where fraud, bribery, corruption and malpractice does occur the controls were circumvented or ignored.
5. Tameside already has in place documented procedures to ensure that there are proper controls in place, these procedures can be found in the TMBC Constitution. In addition, each Service Unit has their own procedural manuals on how the various duties should be carried out to ensure that there are efficient and effective controls which include separation of duties.
6. This policy has been discussed with all political groups, the relevant trade unions and professional organisations.

Aims of the Policy

7. This policy aims to:
 - Provide avenues for you to raise genuine concerns,
 - Allow you to take the matter forward if you are dissatisfied with the Council's response,
 - Reassure you that you will be protected from reprisals or victimisation for speaking up in good faith.

Scope of the Policy

8. This policy applies to everyone with a concern about wrong doing in the council's activities, whether they are a Councillor, a council employee, a contractor, an associated party or a concerned member of the public.

9. There are existing and separate procedures in place to enable staff to lodge a grievance relating to their own employment. Likewise recipients of a council service can use the complaints procedure about the services they have received.
10. This policy is intended to cover concerns that fall outside the scope of the procedures mentioned above. That concern may be about something that:
 - is unlawful (for example theft, fraud, bribery and corruption); or
 - breaks the Council's constitution; or
 - falls below established standards or practice; or
 - amounts to improper conduct; or
 - anything that makes you feel uncomfortable or that you think is wrong.
11. If you are in doubt then raise it, you will not be criticised for raising concerns in good faith.

Safeguards

Harassment or Victimisation

12. The Council recognises that the decision to report a concern can be difficult, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith. However, the Council will take action against anyone who maliciously makes an accusation of malpractice or wrongdoing.
13. This does not mean that if, for example, you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of you reporting a concern.

Confidentiality

14. The Council will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. However, it must be appreciated that the investigation and/or disciplinary process may reveal the source of the information and a statement by you may be required as part of the evidence.

Raising concerns anonymously

15. You are encouraged to put your name to your allegations so we can take the necessary steps to protect you from victimisation should that be necessary. Anonymous allegations are more difficult to investigate as we cannot know if the allegation is made in good faith or is malicious. When an allegation is made anonymously it is also impossible to come to you for more information, and to keep you informed as to the progress of the investigation where possible. From a practical point of view it is impossible to provide protection if we do not know who you are.
16. For these reasons, anonymous allegations will not normally be investigated.

Allegations which are not found to be proven on investigation

17. If you provide information in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary, or other appropriate, action will be taken against you.

How to raise a concern

To whom should a concern be raised

18. As a first step, employees should normally raise concerns with their immediate manager. Councillors should raise concerns with the Leader of their Group. Your concern will then be passed to the Assistant Director (Legal Services) who is the Council's statutory monitoring officer who will conduct certain enquiries to help decide on the appropriate response.
19. Contractors, associated parties and members of the public, and employees or Councillors who do not wish to raise a concern as set out in paragraph 18 above, may raise the issue direct to any of the following individuals:
 - Chief Executive 0161 342 3500
 - Assistant Director (Legal Services) (Monitoring Officer) 0161 342 4239
 - Director of Resources 0161 342 3201
 - Head of Risk Management and Audit Services 0161 342 3126 or email internalAudit@tameisde.gov.uk

Raising a Concern

20. Concerns should be confirmed in writing. You should, as far as possible, set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not initially feel able to put your concern in writing, you can telephone or meet the appropriate officer. Even in this case a record will be made of your discussions for the sake of ensuring an accurate record is held, and you will be asked to confirm this account.

How the Council will respond

21. Wherever you raise your concern the information will be shared with the Director (Governance and Pensions) who will be asked to decide on the appropriate level of response to the situation, the action taken will depend on the circumstances of each investigation. The matters raised may:
 - be investigated internally (this could be by Internal Audit)
 - be referred to the Police
 - be referred to the External Auditor
 - form the subject of an independent inquiry
 - be dealt with under the ethical framework for Councillors under the direction of the Monitoring Officer
22. In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
23. The Council will write to you within five working days of a concern being received, acknowledging that the concern has been received and initial enquiries are being made.
24. Within ten working days of a concern being received, the Council will write to you indicating how it proposes to deal with the matter, telling you whether any initial enquiries have been made, and telling you whether further investigations will take place, and if not, why not.
25. The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

26. When any meeting is arranged with you, you have the right, if you so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.
27. The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. The Council will take all reasonably practicable steps to ensure that you receive no detriment as a result of your actions. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise you about the procedure.
28. The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigations.

How the concern could be taken further

29. This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied. If you are not, you may feel it is right to take the matter to a law enforcement agency outside the Council. If employees take matters outside the council they may still be protected, but it is advisable to take advice about this, for example via the charity "Protect" who operate a helpline (telephone 020 3117 2520).
30. Before doing this you may wish to discuss matters further with any member of the Standards Panel or Internal Audit.
31. If you do take the matter outside the Council, you need to ensure that you do not disclose confidential information or that disclosure would be privileged. You should consider taking advice about that.

Responsible Officer

32. The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer receives all concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.
33. The Monitoring Officer is – Assistant Director (Legal Services).

Part 5(c) – Anti Fraud, Bribery and Corruption Strategy: Statement of Intent

The consequences of fraud, bribery and corruption affect all employees, service users and council tax payers as every pound lost results in fewer jobs, reduced services and higher council tax bills and can impact upon the Council's reputation and its ability to achieve its corporate objectives.

The Council's aim is to foster a culture where fraud, bribery and corruption within our organisation is never acceptable, therefore it has formally decided that:

1. We will not tolerate malpractice or wrongdoing. We are determined that all instances of malpractice will be fully investigated and will ensure that appropriate action is taken against all those concerned.
2. We believe that members of the public, Councillors, employees, contractors or any other interested party should feel able to report any cases of malpractice or wrongdoing without fear of recrimination.
3. All Councillors and employees are asked to exercise proper stewardship of public money, carry out all business fairly, honestly and openly, and put in place appropriate systems and procedures, incorporating efficient and effective internal controls, to prevent and detect fraud, bribery and corruption.

Definitions of Fraud, Bribery and Corruption

- The Chartered Institute of Public Finance and Accountancy (CIPFA) defines Fraud as the "intentional distortion of financial statements or other records by persons internal or external to the organisation, which is carried out to conceal the misappropriation of assets or otherwise for gain"
- CIPFA defines Corruption as the "offering, giving, soliciting or acceptance of any inducement or reward which may properly influence the action of any person"
- The Theft Act 1968 defines Theft as "a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it"
- CIPFA defines Bribery as "an inducement or reward offered, promised or provided to gain personal, commercial regulatory or contractual advantage"

The internal controls to assist in the prevention of Fraud, Bribery and Corruption include:-

1. Detailed policy and guidance documents

These include:

- The Audit and Accounts Regulations
- The Constitution
 - Code of Conduct for Councillors
 - Procurement Standing Orders
 - Terms of Reference of Committees
 - Scheme of delegation

- Protocol on accepting Gifts and Hospitality
- Standards of Conduct and Ethics (incorporating Code of Conduct for Tameside MBC Employees)
- Corporate Information Technology and Email Security Policy.
- Whistle Blowing policy
- Each Service Unit's procedural manuals

2. Training

We will ensure that employees are informed and trained on policies and procedures which apply to their role.

3. Recruitment

We will take steps to establish the previous record of potential employees to ensure that we minimise the risk of employing those who are likely to engage in fraud or corrupt practices. Particular due diligence will be applied to positions that are considered to be of a high risk nature.

4. Culture

We will promote an anti-fraud culture by promotion and publicity on anti-fraud issues that is led and supported by all Senior Managers of the organisation. However, we expect all managers to be responsible for promoting an anti-fraud culture in their service. Whilst being led by the Senior Management Team, maintenance of a zero tolerance approach to fraud, bribery and corruption requires the efforts of every member and officer of the Council.

5. Contractors/Associated Parties

We will ensure that contractors and any parties associated with the Council are informed about the policies and procedures and take rigorous action against any fraud, bribery or corruption identified by contractors/associated parties.

6. Partnership working

We will work in partnership with others to prevent and detect fraud. Tameside is at the forefront of this by hosting the National Anti-Fraud Network. We will also continue to work with our partner councils across Greater Manchester, with the Department of Work and Pensions and the Audit Commission.

7. Deterring Fraudulent Activity

There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside and/or outside of the Council, and these include: -

- Publicising the fact that the Council is firmly set against fraud, bribery and corruption and states this at every appropriate opportunity.
- Including appropriate anti-corruption/bribery clauses in contracts.
- Acting robustly and decisively when fraud, bribery and corruption are suspected and proven.
- Taking action to effect the maximum recoveries for the Council.
- Having sound internal control systems, that still allow for innovation, but at the same time do not provide the opportunity for fraud, bribery and corruption.
- The operation and advertising of a fraud hotline in the Housing Benefits Unit and a dedicated internal audit email address for reporting any suspected incidents of fraud, bribery and corruption.

APPENDIX D

PLANNING CODE FOR MEMBERS

Tameside Council's Planning Code for Members should be read alongside 'Tameside Council's Code of Conduct', adopted by the Council in January 2021, together with 'Probity in Planning for councillors and officers', produced in April 2013 by the Local Government Association and the Planning Advisory Service.

If you have any doubts about the application of the Codes to your own circumstances, or have concerns about how any publications, case law, legislation or guidance affects you, you should seek advice early from the Borough Solicitor or one of her staff, and preferably well before any meeting takes place.

1. INTRODUCTION

- 1.1 **The aim of this Code:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who has been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.
- 1.2 **When the Code applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

2. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- 2.1 **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with. This is both the rules on all interests, Disclosable Pecuniary Interests Personal Interests and Personal and Prejudicial Interests, and the general rules giving effect to the seven principles of public life: **selflessness, integrity, objectivity, accountability, openness, honesty and leadership.**
- 2.2 **Do** then apply the rules in this Planning Code for Members, which seeks to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:
- The Council at risk of proceedings on the legality of the related decision or maladministration; and
 - Yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

3. DEVELOPMENT PROPOSALS AND PERSONAL INTERESTS

- 3.1 **Do** disclose the existence and nature of your interest as required by Tameside Council's Member Code of Conduct.
- 3.2 **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that *"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships"*.

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest in a planning application and note that:
 - * you should send the notification no later than submission of that application where you can;
 - * the application will always be reported to the Speakers Panel and not dealt with by officers under delegated powers;
 - * you must not get involved in the processing of the application; and
 - * it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

4. FETTERING, DISCRETION IN THE PLANNING PROCESS

(natural justice, predisposition and predetermination)

- 4.1 **Don't** fetter your discretion by approaching the decision with a closed mind.
- 4.2 **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- 4.3 **Do** keep at the front of your mind that, when you come to make the decision, that you
- Are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
 - Must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;

- Are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- Are only entitled to take into account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
- Are to come to a decision after giving what you feel is the right weight to those material considerations.

4.4 **Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

4.5 **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, or for example, a councillor representative on Transport for Greater Manchester), provided:

- The proposal does not substantially affect the well-being or financial standing of the consultee body;
- You make it clear to the consultee body that:
 - * your views are expressed on the limited information before you only;
 - * you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Panel and you hear all of the relevant information; and
- You will not in any way commit yourself as to how you or others may vote when the proposal comes before the Panel.

4.6 **Do** explain that you do not intend to speak and vote as a member of the Consultee Body because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (Use the disclosure form provided for disclosing interests.)

4.7 **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member at the Panel where you have represented your views or those of local electors and fettered your discretion but do not have a disclosable or other personal conflict of interest. Where you do:

- Advise the Democratic Services Officer or Chair that you wish to speak in this capacity before commencement of the item;
- Remove yourself from the seating area for members of the Panel for the duration of that item; and
- Ensure that your actions are recorded.

5. CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

5.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.

- 5.2 **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying issues, you should seek to arrange that meeting through a request to the Head of Planning or in her/his absence his manager or authorised representative to organise it. The officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Panel.
- 5.3 **Do** otherwise:
- Follow the Authority's rules on lobbying;
 - Consider whether or not it would be prudent in the circumstances to make notes when contacted, and
 - Report to the Head of Planning or in his absence his manager or authorised representative any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ask them to ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- 5.4 **Don't** attend a planning presentation without requesting an officer to be present.
- 5.5 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 5.6 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Speakers Panel.
- 5.7 **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at Panel.

6. LOBBYING OF COUNCILLORS

- 6.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Panel's decision making, to make any sort of promise to vote one way or another or to express such a firm point of view that it amounts to the same thing.
- 6.2 **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to favour, any person, company, group or locality.
- 6.3 **Don't** accept gifts or hospitality for any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, and its acceptance is declared as soon as possible, including its addition to your register of interests where available.
- 6.4 **Do** copy or pass on any lobbying correspondence you receive to the Head of Planning at the earliest opportunity.

- 6.5 **Do** promptly refer to the Head of Planning or in his absence his manager or authorised representative any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- 6.6 **Do** inform the Borough Solicitor where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 6.7 **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
- Listening or receiving viewpoints from residents or other interested parties:
 - Making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
 - Seeking information through appropriate channels;
 - Receiving circulated material from applicants or objectors;
 - Being a vehicle for the expression of opinion of others in your role as a Ward Member.

7. LOBBYING BY COUNCILLORS

- 7.1 **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby or promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Panel when it comes to make its decision.
- 7.2 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- 7.3 **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- 7.4 **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

8. SITE VISITS / INSPECTIONS

- 8.1 **Do** try to attend any site visits organised by the Council where possible.
- 8.2 **Don't** request a site visit unless you feel it is strictly necessary because:
- Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - There are significant policy or precedent implications and specific site factors need to be carefully addressed

- 8.3 **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee.
- 8.4 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- 8.5 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 8.6 **Don't** hear representations from any party. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- 8.7 **Don't** express opinions or views.
- 8.8 **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
- You feel it is essential for you to visit the site other than through attending the official site visit,
 - You have first spoken to the Head of Planning or in his absence his manager or authorised representative about your intention to do so and why (which will be recorded in the file) and
 - You can ensure you will comply with these good practice rules on site visits.

9. PUBLIC SPEAKING AT MEETINGS

- 9.1 **Don't** allow members of the public to communicate with you during the Panel's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- 9.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

10. OFFICERS

- 10.1 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Planning or in his absence his manager or authorised representative, which may be incorporated into any committee report).
- 10.2 **Do** recognise that officers are part of a management structure and you should therefore only discuss a proposal, outside or any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- 10.3 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Panel or its Members.

11. DECISION MAKING

- 11.1 **Do** ensure that, if you request a proposal to go before the Panel rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Panel.
- 11.2 **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- 11.3 **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- 11.4 **Do** come to your decision only after consideration of all of the information reasonably required upon which to base a decision. If you feel there is not sufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- 11.5 **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- 11.6 **Do** have recorded the reasons for Panel's decision to defer any proposal and that this is in accordance with the Council's protocol on deferrals.
- 11.7 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion / decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.
- 11.8 **Do** note that the Chair of the Committee is entitled to vote as any other member on the merits of the application and has a second or casting vote in the event of an equality of votes cast.

12. TRAINING

- 12.1 **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 12.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- 12.3 **Do** participate in any review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

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APPENDIX E

Monitoring Officer Protocol

A. General Introduction to Statutory Responsibilities

1. The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Tameside Borough Council.
2. The current responsibilities of the Monitoring Officer role rests with the Assistant Director (Legal Services) who undertakes to discharge their statutory responsibilities in a manner that enhances the overall reputation of the Council. In doing so they will also safeguard, so far as is possible, Members and Officers who are acting in their official capacities from legal difficulties and/or criminal sanctions.
3. The main functions of the Monitoring Officer at Tameside Borough Council are:
 - a) To report to the Council and to the Cabinet in any case where they are of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989 (LGHA 89);
 - b) To investigate any matter which they have reason to believe may constitute, or where they have received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
 - c) To act as the principal adviser to the authority's Standards Committee in respect of standards and conduct issues;
 - d) To act as the principal adviser to the authority's Hearings Sub-Committee;
 - e) To maintain the register of members' interests;
 - g) To undertake, with others, investigations in accordance with the Council's Whistleblowing procedures
4. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
 - a) Complying with the law (including any relevant Codes of Conduct);
 - b) Complying with any General Guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;
 - c) Making lawful and proportionate decisions;
 - d) Complying with the Council's Constitution and Procedure Rules
 - e) Generally, not taking action that would bring the Council, their offices or professions into disrepute
 - f) Communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters
5. The main statutory references for the Monitoring Officer's functions are set out in the Appendix.

B. Working Arrangements

1. It is important that Members and Officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this and it is vital, therefore, that Members and Officers work with the Monitoring Officer (and their staff) to enable them to discharge their statutory responsibilities and other duties.
2. The following arrangements and understandings between the Monitoring Officer, Members and Senior Managers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:
 - a) Be alerted by Members and Officers to any issue(s) that may become of concern to the Council including, in particular, issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
 - b) Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet or Committee meetings;
 - c) Have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings;
 - d) In carrying out any investigation(s) have unqualified access to any information held by the Council and to any member or officer who can assist in the discharge of their functions;
 - e) Ensure the other statutory officers (the Head of Paid Service and the Chief Finance Officer, otherwise known as the Section 151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
 - f) Meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
 - g) Report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Leader of the Council, the Head of Paid Service and the Chief Finance Officer;
 - h) In accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources they require to discharge their statutory functions;
 - i) Have an appropriate relationship with the Executive Leader, Deputy Leader and the Chairs of Committees with a view to ensuring the effective and efficient discharge of Council business;
 - j) Develop effective working liaison and relationship with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to them, refer any breaches to them or give and receive any relevant information, whether confidential or otherwise, through appropriate

protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council in consultation with the Head of Paid Service and the appropriate Director;

- k) Maintain and keep up-to-date relevant statutory registers for the declaration of members' interests, gifts and hospitality;
 - l) Give informal advice and undertake relevant enquiries into allegations of misconduct;
 - m) In consultation, as necessary, with the Leader of the Council, Cabinet and the Standards Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
 - n) Subject to the approval of the Standards Committee, be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues;
 - o) Oversee the implementation and monitor the operation of the Code of Corporate Governance and report annually to the Cabinet on compliance with the Code;
 - p) Advise on all applications from Council employees (or prospective employees) for exemption from political restriction in respect of their posts and where appropriate sign the certificate of opinion required by the independent adjudicator;
 - q) Appoint one or more deputies and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer. The Deputy will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer.
3. To ensure the effective and efficient discharge of the arrangements set out above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
 4. The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc., or by identifying alternative and legitimate means of achieving the objective of the proposal.
 5. Where the Monitoring Officer receives a complaint of a potential reportable incident, they will in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
 6. In appropriate cases, the Monitoring Officer may rely upon existing processes within the Authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.
 7. In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add their written advice to the report of any other Officer of the Authority.
 8. Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Head of Paid Service and the Chief Finance Officer, they are of the opinion that this is necessary in order to respond

properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the Police for investigation.

9. The Monitoring Officer is available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (for example, Procedure Rules, policy framework, terms of reference, scheme of delegation etc).
10. To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

C. Sanctions for Breach of Council's Code of Conduct for Members and this Protocol

1. Complaints about any breach of the Council's Code of Conduct for Elected Members must be referred to the Monitoring Officer. Complaints about any breach of this Protocol by a Member will be referred to the Standards Committee and to the relevant Leader of the Political Group. Complaints about any breach of this Protocol by an Officer may be referred to the relevant Director and/or the Chief Executive.

Appendix

Monitoring Officer Protocol

Summary of Main Monitoring Officer Functions

Summary of Main Monitoring Officer Functions

Description	Source
Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
Appointment of Deputy	Section 5 Local Government and Housing Act 1989
Report on resources	Section 5 Local Government and Housing Act 1989
Exercising responsibilities in respect of submitted complaints against elected members and voting co-opted members	Code of Conduct for Elected Members and Voting Co-Opted Members
Establish and maintain registers of members interests and gifts and hospitality	Section 81 LGA 2000 and Code of Conduct for Elected Members and Voting Co-opted Members
Advice to members on interpretation of the Code of Conduct for Members.	Code of Conduct for Elected Members and Voting Co-opted Members
Key role in promoting and maintaining high standards of conduct through support to the Standards Committee	Statutory Guidance paragraph 8.20.
Compensation for maladministration	Section 92 LGA 2000
Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members	Department for Communities & Local Government, Local Government Ombudsman guidance

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APPENDIX F

Chief Finance Officer (Section 151 Officer) Protocol

A. General Introduction to Statutory Responsibilities

1. The Chief Finance Officer is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. This Protocol provides some general information on how those statutory requirements will be discharged at Tameside Borough Council.
2. The current responsibilities of the Chief Finance Officer role rest with the Director of Resources, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.
3. A summary list of the statutory responsibilities appears in the table appended to this document. In general terms, the Chief Finance Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
 - a complying with the Council's financial regulations & procedures;
 - b making lawful payments; and
 - c not taking action that would result in unlawful payments or unlawful action.

B. Working Arrangements

4. According to the Chartered Institute of Public Finance and Accountancy (CIPFA), there are five key roles that are critical to the achievement of a Chief Finance Officer's statutory responsibilities:
 - maintaining strong financial management underpinned by effective financial controls;
 - contributing to corporate management and leadership;
 - supporting and advising democratically elected representatives;
 - supporting and advising officers in their operational roles; and
 - Leading and managing an effective and responsive financial service.
5. Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Chief Finance Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by elected members) will assist in fulfilling those responsibilities. Members and Officers should, therefore, work with the Chief Finance Officer to discharge the Council's statutory and discretionary responsibilities.
6. The following arrangements and understandings between the Chief Finance Officer, Members and Senior Managers are designed to ensure the effective discharge of the Council's business and functions. The Chief Finance Officer will:
 - a be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular, issues around financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
 - b have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings and delegated decision making of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and Sub-Committee meetings (or equivalent arrangements);

- c) have the right to attend any meeting of the Council (including the right to be heard and report to the Cabinet) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
 - d) in carrying out any investigation(s) and exercising any fiduciary duties have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions;
 - e) ensure the other statutory officers (the Head of Paid Service and the Monitoring Officer) are kept up-to-date with relevant information regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
 - f) meet regularly with the Head of Paid Service and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
 - g) report to the Council, from time to time, on the Financial Regulations and any necessary or desirable changes following consultation, in particular with the Head of Paid Service and the Monitoring Officer;
 - h) as per the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources required to discharge his or her statutory functions;
 - i) develop effective working liaison and relationship with the External Auditor (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
 - j) in consultation, as necessary, with the Leader of the Council, the Cabinet and the External Auditor, defer the making of a formal report under Section 114, 115 and 116 of the Local Government and Finance Act 1988 where another investigative body is involved;
 - k) have sufficient resources to address any matters concerning his or her Chief Finance Officer functions; and
 - l) nominate at least one suitably qualified deputy and keep the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Chief Finance Officer. Appoint an appropriate external adviser in cases where the Chief Finance Officer is precluded from offering advice and the deputy is unable to advise.
7. To ensure the effective and efficient discharge of the arrangement set out in paragraph 6 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other legal or constitutional concerns to the Chief Finance Officer, as soon as practicable.
8. The Chief Finance Officer is also available for Members and Officers to consult on any issues of the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.
9. To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for

the same to protect and safeguard the interests of the Council and the proper discharge of the Chief Finance Officer role.

10. The Chief Finance Officer or deputy will record details of any advice given.

APPENDIX

Summary of Main Chief Finance Officer Functions Description		Source
1.	Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account.	Section 114, 114a, 115, 116 Local Government and Finance Act 1988.
2.	Appointment of Deputy.	Section 114 Local Government and Finance Act 1988.
3.	Report on resources.	Section 114 Local Government and Finance Act 1988.
4.	Responsibility for the administration of financial affairs.	Section 151 Local Government Act 1972.
5.	Borrowing, investment accounts and financial administration.	Local Government Act 2003 Sections 192.
6.	Responsibility to determine the form of the Council's accounts and records, provide internal audit and statement of accounts.	The Accounts and Audit Regulations 2003. Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

APPENDIX G

Protocol for Relationships between Members and Council Employees Protocol for Relationships Between Members and Council Employees

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- 2 The Role of Members
- 3 The Role of Council employees
- 4 The Relationship Between Members and employees
- 5 The Council as Employer
- 6 Mayor and employees
- 7 Executive Members and employees
- 8 Overview and Scrutiny Members and employees
- 9 Members of Other Committees or Sub-Committees and employees
- 10 Conduct of Members at All Meetings of the Council
- 11 Party Groups and Council employees
- 12 Local Members and Council employees
- 13 Members' Access to Documents and Information
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- 15 Correspondence
- 16 Access to Premises
- 17 Use of Council Resources
- 18 Interpretation, Complaints and Allegations of Breaches of This Protocol

PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND COUNCIL EMPLOYEES

1. PRINCIPLES

- 1.1 Members and Council employees must at all times observe this protocol. References to Council employees in this protocol include any member of staff, whether employed on a permanent or temporary basis, or seconded to or by the Council.
- 1.2 The Council's **Audit and Governance Committee** will monitor the operation of this protocol.
- 1.3 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government, which demands the highest standards of personal conduct.
- 1.4 Members and Council employees must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards and courtesy, and by not seeking to take unfair advantage by virtue of their position.
- 1.5 Whilst members and employees are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Employees are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work under the direction of the Council.
- 1.6 The Council has adopted codes of conduct for both members and Council employees. Both represent best practice. The members' code is based on the general principles governing members' conduct enshrined in law, namely:
 - Selflessness - serving only the public interest.
 - Honesty and integrity - not allowing these to be questioned; not behaving improperly.
 - Objectivity - taking decisions on merit.
 - Accountability - to the public; being open to scrutiny.
 - Openness - giving reasons for decisions.
 - Personal judgement - reaching one's own conclusions and acting accordingly.
 - Respect for others - promoting equality; avoiding discrimination; respecting others (member/member, as well as member/officer).
 - Duty to uphold the law - not acting unlawfully.
 - Stewardship - ensuring the prudent use of a council's resources.
 - Leadership - acting in a way which has public confidence.
- 1.7 Breaches of this protocol by a member may result in a complaint to the Standards Committee if it appears the members' code has also been breached. Breaches by an employee may lead to disciplinary action.

2. THE ROLE OF MEMBERS

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior staff, and/or the Monitoring Officer.
- 2.2 Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.

- 2.3 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 2.4 Every elected member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.5 Some members have roles relating to their position as members of the Cabinet, overview and scrutiny committees or other committees and sub-committees of the Council.
- 2.6 Members of the Cabinet can have individual delegated powers. They may determine matters within their portfolios but implementation of their decisions is the responsibility of Council employees.
- 2.7 Members serving on scrutiny committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health and crime service provision.
- 2.8 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters, which by law are excluded from the remit of the Executive.
- 2.9 Some members may be appointed to represent the Council on local, regional or national bodies.
- 2.10 As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
- 2.11 Members are not authorised to instruct employees other than:
- through the formal decision-making process;
 - to request the provision of consumable resources provided by the Council for members' use; and
 - where staff have been specifically allocated to give support to a member or group of members.
- 2.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.13 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have a regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Section 151 Officer.
- 2.14 Members must respect the impartiality of employees and do nothing to compromise it, e.g. by insisting that an employee change his/her professional advice.
- 2.15 Members have a duty under their code of conduct:
- to promote equality by not discriminating unlawfully against any person, and
 - to treat others with respect.
- 2.16 Under the code, a member must not, when acting as a member:
- bring the Council or his/her position as a member into disrepute, or

- use his/her position as a member improperly to gain an advantage or disadvantage for his/herself or any other person.

3. THE ROLE OF COUNCIL EMPLOYEES

- 3.1 Council employees are responsible for giving advice to members to enable them to fulfil their roles. In doing so, employees will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, committees and sub-committees), Council employees manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Employees have a duty to implement decisions of the Council, the Cabinet, committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly recorded.
- 3.4 Employees have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Council employees must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Council employees must be alert to issues which are, or likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public.
- 3.7 Employees have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on Council employees' involvement in political activities.

4. THE RELATIONSHIP BETWEEN MEMBERS AND COUNCIL EMPLOYEES: GENERAL

- 4.1 The conduct of members and Council employees should be such as to instil mutual confidence and trust.
- 4.2 The key elements are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 Informal and collaborative two-way contact between members and employees is encouraged. However, personal familiarity can damage the relationship, as might a family or business connection.
- 4.4 Members and Council employees should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.5 It is not enough to avoid actual impropriety. Members and Council employees should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived.

Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

- 4.6 Employees serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
- 4.7 Council employees work to the instructions of senior staff, not individual members. It follows that, whilst such employees will always seek to assist a member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns to a senior member of staff, at least in the first instance.
- 4.8 Council employees will do their best to give timely responses to members' enquiries. However, employees should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting employees' work by imposing their own priorities.
- 4.9 Members will endeavour to give timely responses to enquiries from Council employees.
- 4.10 A Council employee shall not discuss with a member personal matters concerning him/herself or another individual employee. This does not prevent an employee raising on a personal basis, and in his/her own time, a matter with his/her ward member.
- 4.11 Members and employees should respect each other's free (i.e. non-Council) time.

5. THE COUNCIL AS EMPLOYER

- 5.1 Council employees are employed by the Council as a whole.
- 5.2 In relation to employment matters, members' roles are limited to:
 - the appointment of specified senior posts,
 - determining human resources policies and conditions of employment, and
 - hearing and determining appeals.
- 5.3 Members shall not act outside these roles.
- 5.4 If participating in the appointment of senior employees, members should:
 - remember that the sole criterion is merit,
 - never canvass support for a particular candidate,
 - not take part where one of the candidates is a close friend or relative,
 - not be influenced by personal preferences, and
 - not favour a candidate by giving him/her information not available to other candidates.
- 5.5 A member should not sit on an appeal hearing if the appellant is a friend, a relative, or an employee with whom the member has had a working relationship.

6. MAYOR AND COUNCIL EMPLOYEES

- 6.1 Council employees will respect the position of Mayor and provide appropriate support.

7. EXECUTIVE MEMBERS AND COUNCIL EMPLOYEES

- 7.1 Executive Members will take decisions in accordance with the constitution and will not otherwise direct staff. Directors will be responsible for instructing staff to implement the Executive's decisions.
- 7.2 In addition to individual members of the Executive, Directors (including the Monitoring Officer and the Section 151 Officer) have the right to submit papers to the Executive Members for consideration.
- 7.3 Directors, and Executive Members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including, without exception, that of the Monitoring Officer and the Section 151 Officer.
- 7.4 Before any formal decisions with a financial implication are taken by the Executive, the Director of Resources and Director(s) for the service(s) concerned must be consulted. This is to ensure that those Council employees who are budget holders:
- are aware of the proposed decision,
 - have the opportunity to offer advice, and
 - are subsequently able properly to authorise the financial transactions needed to implement decisions.
- 7.5 Executive Members when making decisions (whether collectively or individually) must state the reason for those decisions. The written record of the decisions must include the reasons.
- 7.6 Directors taking decisions under their delegated powers must consider the advisability of informing the relevant Cabinet member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

8. SCRUTINY MEMBERS AND COUNCIL EMPLOYEES

- 8.1 Chairs and other leading scrutiny members shall maintain regular contact with the staff providing the principal support to the scrutiny function. In consultation with chairs, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 8.2 A scrutiny committee or its chair acting on its behalf may require Council employees to attend scrutiny meetings. Members should not normally expect junior employees to give evidence. All requests should be made to Directors in the first instance.
- 8.3 When making requests for officer attendance, scrutiny members shall have regard to the workload of Council employees.
- 8.4 It is recognised that employees required to appear before a scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, an officer may have a conflict of interest. Both members and employees need to consider the severity of the conflict and if deemed appropriate, research and advice may be sought elsewhere.
- 8.5 Subject to 8.4 above, Council employees should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.

- 8.6 Employees must also be prepared to justify decisions they have taken under delegated powers.
- 8.7 In giving evidence, Employees must not be asked to give political views.
- 8.8 Council employees should respect members in the way they respond to members' questions.
- 8.9 Members should not question Council employees in a way which could be interpreted as harassment, nor should they ask about matters of a disciplinary nature.
- 8.10 Scrutiny proceedings must not be used to question the capability or competence of any employees. Chairs and members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not a scrutiny function.
- 8.11 In exercising the right to call-in a decision of the Executive, scrutiny members must have regard to the advice of the Monitoring Officer if they are minded to consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

9. MEMBERS OF OTHER COMMITTEES OR SUB-COMMITTEES AND COUNCIL EMPLOYEES

- 9.1 The appropriate senior employees will offer to arrange regular informal meetings with chairs, vice-chairs, and spokespersons of committees and sub-committees.
- 9.2 Directors (including the Monitoring Officer and the Section 151 Officer) have the right to present reports and give advice to committees and sub-committees.
- 9.3 Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct Council employees to act.
- 9.4 At some committee or sub-committee meetings, a resolution may be passed which authorises a named member of staff to take action between meetings after consultation with the chair. In these circumstances it is that employee, not the chair, who takes the action and is responsible for it. A chair has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the employee.

10. CONDUCT OF MEMBERS AT ALL MEETINGS OF THE COUNCIL

- 10.1 Members must not make a personal attack on any Council employee in any public forum, including a meeting of the Council.
- 10.2 In the event that a Member has a criticism of an employee, that Member should first contact them directly and give them the opportunity to answer the criticism and address any issues.
- 10.3 In the event that the above action does not resolve the matter, the member should contact the employee's line manager for resolution of the matter.
- 10.4 If that action is unsuccessful, the appropriate Director should be contacted. If necessary the matter may also be escalated to the Chief Executive.

11. PARTY GROUPS AND COUNCIL EMPLOYEES

- 11.1 Directors may properly be asked to contribute to deliberations of matters concerning Council business by party groups.
- 11.2 Directors have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not members of the Council.
- 11.3 Employee support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Council employees must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are discussed.
- 11.4 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an employee confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- 11.5 Where Council employees provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 11.6 It must not be assumed that an employee is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.
- 11.7 Council employees will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an employee providing feedback to other members or to other senior Council employees on a need-to-know basis.
- 11.8 In their dealings with party groups, Council employees must treat each group in a fair and even-handed manner.
- 11.9 Members must not do anything which compromises or is likely to compromise an employees' impartiality.
- 11.10 The duration of an employee's attendance at a party group meeting will be at the discretion of the group, but the employee may leave at any time if they feel it is no longer appropriate to be there.
- 11.11 An employee accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. They must give substantially the same advice to each.
- 11.12 A Council employee who is not a Director shall not be invited to attend a party group meeting, but a Director may nominate another employee to attend on their behalf.
- 11.13 An employee should be given the opportunity of verifying comments and advice attributed to them in any written record of a party group meeting.
- 11.14 No member will refer in public or at meetings of the Council to advice or information given by Council employees to a party group meeting.
- 11.15 At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not members are not bound by the members' code of conduct. They do not have the same rights to Council information as members.

11.16 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.

12. LOCAL MEMBERS AND COUNCIL EMPLOYEES

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

12.2 This requirement is particularly important:

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

12.3 Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.

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

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

- a Director may attend but is not obliged to do so, and
- the meeting may be held in council-owned premises.

12.6 No such meetings should be arranged or held in the immediate run-up to Council elections (i.e. after the publication of the Notice of Election).

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

- the surgeries must be open to the general public, and
- Council employees should not be requested to accompany members to surgeries held in the offices or premises of political parties.

12.8 Council employees must never be asked to attend ward or constituency political party meetings.

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

12.10 In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Council employees have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale, and may need to seek instructions from their managers.

13. MEMBERS' ACCESS TO DOCUMENTS AND INFORMATION

- 13.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution.
- 13.2 Members may request senior Council employees to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is required on behalf of a third party, it will only be provided if:
- it is in the public domain, and
 - it is not exempted by the Data Protection Act or the Freedom of Information Act from being given.
- 13.3 Every member of the Executive, a scrutiny committee, and/or any other committee or sub-committee has a right to inspect documents about the business of that scrutiny committee, other committee or sub-committee or the Executive.
- 13.4 A member who is not a member of a specific scrutiny committee, other committee or sub-committee, or the Executive may have access to any document of that specific part of the Council provided:
- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a member (the "need to know" principle), and
 - the documents do not contain "confidential" or "exempt" information as defined by the law.
- 13.5 Disputes as to the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Council employees should seek their advice if in any doubt about the reasonableness of a member's request.
- 13.6 A member should obtain advice from the Monitoring Officer in circumstances where they wish to have access to documents or information:
- where to do so is likely to be in breach of the Data Protection Act or the Freedom of Information Act, or
 - where the subject matter is one in which they have a personal or prejudicial interest as defined in the members' code of conduct.
- 13.7 Information given to a member must only be used for the purpose for which it was requested.
- 13.8 It is an accepted convention that a member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 13.9 Members and Council employees must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 13.10 When requested to do so, employees will keep confidential from other member's advice requested by a member.
- 13.11 Members and Council employees must not prevent another person from gaining access to information to which that is entitled by law.

14. MEDIA RELATIONS

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

15. CORRESPONDENCE

- 15.1 Correspondence between an individual member and an employee should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no "blind" copies.
- 15.2 Official letters written on behalf of the Council should normally be in the name of the relevant Council employee. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of an Executive member or the chairman of a scrutiny committee.
- 15.3 The Mayor may initiate correspondence in his/her own name.
- 15.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.
- 15.5 When writing in an individual capacity as a ward member, a member must make clear that fact.

16. ACCESS TO PREMISES

- 16.1 Council employees have the right to enter Council land and premises to carry out their work. Some Council employees have the legal power to enter property in the ownership of others.
- 16.2 Members have a right of access to Council land and premises to fulfil their duties.
- 16.3 When making visits as individual members, members should:
- whenever practicable, notify and make advance arrangements with the appropriate manager or member of staff in charge;
 - comply with health and safety, security and other workplace rules;
 - not interfere with the services or activities being provided at the time of the visit;
 - if outside his/her own ward, notify the ward member(s) beforehand; and
 - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

17. USE OF COUNCIL RESOURCES

- 17.1 The Council provides all members with services such as typing, printing and photocopying, and goods such as stationary and computer equipment, to assist them in discharging their roles as members of the Council. These goods and services are paid for from the public purse. They must not be used for private purposes or in connection with party political or campaigning activities.
- 17.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:
- where facilities are provided in members' homes at the Council's expense;
 - in relation to any locally-agreed arrangements e.g. payment for private photocopying; and
 - regarding ICT security.
- 17.3 Members should not put pressure on staff to provide resources or support which Council employees are not permitted to give. Examples are:
- business which is solely to do with a political party;
 - work in connection with a ward or constituency party political meeting;
 - electioneering;
 - work associated with an event attended by a member in a capacity other than as a member of the Council;
 - private personal correspondence;
 - work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
 - support to a member in his/her capacity as a Councillor of another local authority.

18. INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

- 18.1 Members or Council employees with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

- 18.2 A member who is unhappy about the actions taken by, or conduct of, an employee should:
- avoid personal attacks on, or abuse of, the employee at all times,
 - ensure that any criticism is well founded and constructive,
 - never make a criticism in public, and
 - take up the concern with the employee privately.
- 18.3 If direct discussion with the member of staff is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the employee's manager or the relevant Director.
- 18.5 A serious breach of this protocol by a Council employee may lead to an investigation under the Council's disciplinary procedure.
- 18.6 An employee who believes a member may have acted other than in accordance with this protocol should raise their concern with the Monitoring Officer. They will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the members' code of conduct, and may be referred to the **Audit and Governance Committee**.

Definitions

- a) Unless the context indicates otherwise, references to the term Council include the Executive, scrutiny committees, and all other committees and sub-committees.
- b) For the purposes of this protocol, the term Executive refers to the Leader and Cabinet.
- c) Unless the context indicates otherwise, the terms member and members include non-elected (i.e. co-opted) members as well as elected Councillors.
- d) Council employees and staff mean all persons employed by the Council in any capacity.
- e) Chief Finance Officer means the officer exercising the duties prescribed by law for the financial administration of the Council.

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TAMESIDE METROPOLITAN BOROUGH COUNCIL

GIFTS AND HOSPITALITY A PROTOCOL FOR COUNCILLORS AND EMPLOYEES

1. Introduction

1.1 The purpose of this guidance note is to provide a guide to employees and Councillors about:

- * The legal rules on gifts and hospitality and what may happen if they are breached
- * When gifts and hospitality may be accepted
- * The procedure to follow if you are offered a gift or hospitality
- * What to do if you think an employee or a Councillor has acted inappropriately

1.2 Persons in public service (both employees and elected officials) are expected to act in the interest of the public and to act impartially – and be seen to act impartially. Moreover, they should avoid putting themselves in a position where their integrity is called into question because of any financial or other obligation. As well as avoiding actual impropriety, the appearance of it should also be avoided. Council employees should not benefit personally in any way from their position as paid employees of the Council.

1.3 To quote from the judgment in a 1970s corruption case:

“People who take you to Wimbledon or to watch the Rugby are not doing it because they like you, it is because they want you to like them. It is because when you go to make a decision on a contract it is going to be based on friendship”.

2. The Legal Rules on Gifts and Hospitality:

Title of rule	Applies to	What the rule says	Consequences of breach
The Public Bodies Corrupt Practices Act 1889	Councillors and employees	Councillors and employees must not corruptly receive or agree to receive any gift, loan, fee, reward or advantage for doing or not doing something in connection with the work of the Council.	Criminal offence – prosecution – on conviction you can be sentenced to up to 7 years in prison
The Prevention of Corruption Act 1916	Councillors and employees	Where a gift, loan etc., is received by an employee or Councillor from a person seeking a contract with the Council then the gift or loan is deemed to have been received corruptly unless proved otherwise. This would place the giver and the receiver in the position of having to prove that they did not act dishonestly.	Criminal offence – prosecution – on conviction you can be sentenced to up to 7 years in prison
Local Government Act 1972	Employees only	S117 Local Government Act 1972 states that an employee of a local authority shall not, under colour of their office or employment, accept any fee or reward whatsoever other than their proper remuneration.	Criminal offence - prosecution
Local Authority Employees Conditions of Service (“the Green Book”)	Employees only	Employees will maintain conduct of the highest standard such that public confidence in their integrity is maintained.	Breach of contract of employment – disciplinary action/ dismissal

Code of Conduct for Councillors	Councillors and co-opted members only	Councillors must not use or attempt to use their position as a Councillor improperly to confer on or secure for themselves or any other person, an advantage or disadvantage. Councillors must register with the Monitoring Officer the name of any person from whom they have received a gift or hospitality with an estimated value of at least £25.	Suspension or disqualification by Standards Committee or a Case Tribunal
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3. When gifts and hospitality may be accepted

3.1 The legal rules, and the potentially severe penalties for breaking them, mean that Councillors and employees must be cautious about accepting gifts or hospitality in the course of their duties.

Gifts

3.2 Employees and Councillors should usually refuse gifts offered to them or to a member of their immediate family by any person or body who has or seeks to have dealings with the Authority. Councillors must record all gifts and hospitality received with a value of £25 or more but employees must record all offers of gifts and hospitality regardless of value or whether accepted or not.

3.3 However, the following gifts may generally be accepted, although employees must obtain the permission of a Director before accepting:

- (i) A modest gift of a promotional/advertising character given to a wide range of people and not uniquely to the employee. The gifts would normally bear the Company's name and/or trademark/ logo and would be the sort of item that would be useful in the every-day working environment eg pens, calendars, diaries, note pads, desk sets, tape measures.
- (ii) A modest gift given to a teacher or a "carer". However, cash or monetary gifts should be refused – as should a legacy (a gift given under a will).
- (iii) From time to time, as part of a sales promotion drive, firms offer gifts or vouchers exchangeable for gifts, for ordering in excess of certain targets. When this happens Value for Money and the best interests of the Authority should always be uppermost in an employee's mind. Employees should not over order, over stock, or purchase items not forming part of the Authority's normal requirements.
- (iv) Modest gifts given in a lottery at Exhibitions, Conferences, Seminars etc., as part of a free raffle or draw.
- (v) Modest gifts of alcohol or non-perishable foodstuffs (which must be donated to the Mayor's Charity).

3.4 Where a gift is accepted with the permission of a Director but the gift is of no direct use to the Council, eg chocolates, alcohol, gift vouchers etc., it should be forwarded to the Civic Mayor's Secretary in order that it can either be the subject of a raffle with the proceeds going to a charitable fund of the Civic Mayor's choosing or donated to a suitable charity. Where this happens the employee who initially received the gift must complete a form to record the gift having been accepted has been donated to the Mayor's charity.

3.5 The Mayor's Secretary will write to the donor to thank them for the gift and tell them that, as employees cannot accept gifts, their gift has been donated to the Mayor's Charity. A copy of this letter will be sent to the employee who accepted or received the gift.

3.6 Where perishable gifts eg cakes, biscuits, flowers are received or accepted, whilst these remain the property of the Council and not the individual, they may be accepted and shared

amongst the Service/Office as appropriate. Where this happens the employee who initially received the gift must complete a form to recording the gift having been accepted and shared around the relevant office.

Hospitality

- 3.7 Hospitality should in general be declined. Employees should never accept any hospitality without the consent of a Director.
- 3.8 The following are examples of what is generally ACCEPTABLE:
- (i) A working meal provided to allow the parties to discuss or continue to discuss business. Employees are reminded they must not claim subsistence unless money has actually been expended by them on paying for their share of the meal or purchase of drinks. Employees should endeavour to pay their share of the cost where practicable; for example where the meal is taken in a café/restaurant.
 - (ii) An invitation from an established or prospective trading partner to a function that is part of a wider gathering eg conference lunches or dinners, where other local government employees connected with the service provided by the trading partner are also invited.
- 3.9 The following would never be acceptable:
- (i) Holidays or free accommodation.
 - (ii) Offers of hotel vouchers, theatre tickets, free travel etc (this should be treated as a gift)
 - (iii) Tickets for football matches or other sporting events; and
 - (iv) Use of a company flat or hotel suite
- 3.10 If you are unsure then you should contact the Borough Solicitor or (in the case of employees) the Director responsible for your service.
- 3.11 When a firm is participating in a tendering exercise or in a dispute with the Council about an existing contract then clearly offers of hospitality should be refused even if in normal times they would be acceptable.
4. **The procedure for responding to offers of gifts or hospitality**
- 4.1 The form must be completed as soon as the offer has been received. Employees must complete the form even if the offer is rejected.
- 4.2 Councillors must return the form to the Borough Solicitor within 28 days from accepting the gift or hospitality.
- 4.3 Employees must not accept the gift or hospitality without the written permission of a Director. They must therefore complete the form and give it to the Director responsible for their service. Once the Director has made a decision he or she will send a copies of the form to the Borough Solicitor and the employee.
- 4.4 The Borough Solicitor will ensure that everyone who offers a gift or hospitality will receive a letter drawing their attention to this policy.
- 4.5 The register of gifts and hospitality will be open to inspection by Standards Committee and by Internal Audit.
5. **What should I do if I think that someone isn't following this procedure?**
- 5.1 If you have a concern that any gifts or hospitality are being inappropriately accepted then you should raise it with the Borough Solicitor or Internal Audit.

APPENDIX 1

REGISTRATION OF OFFERS OF GIFTS AND HOSPITALITY

Councillors are required to register all hospitality received where the gift or hospitality:

- has an estimated value of £25 or more; and
- is received in connection with the carrying out of the councillor or officer's duties (including whilst representing the council on an outside body)

Registration must be completed within 28 days of receiving the gift or hospitality.

Councillors are also encouraged to voluntarily register all offers of gifts and hospitality - whether or not accepted.

Advice about what has to be registered is available from the Borough Solicitor or one of her team.

Name of Councillor receiving offer of gift or hospitality:

--

Details of hospitality or gift received/ or offered

Date hospitality or gift received	Name of person or body giving the hospitality	Description of what was received	Estimated value	Have you or will you accepted this gift or hospitality?*
				YES/NO
				YES/NO
				YES/NO

Information given on this form will be used for the purpose of promoting and maintaining good standards of probity and will be placed on the register of interests which is available to the public.

Declaration

The information on this form is true and complete to the best of my knowledge

Signed.....

Dated.....

Once complete this form should be sent to the Head of Democratic Services.

APPENDIX 2

REGISTRATION OF OFFERS OF GIFTS OR HOSPITALITY

Council employees must not accept gifts or hospitality without the prior permission of a Director.

All offers of gifts and hospitality must be recorded on this form, even if an employee has refused the offer or does not want to accept it.

This form must be completed before any gift or hospitality can be accepted.

Advice about what has to be registered is available from the Borough Solicitor or one of her team.

Name of Employee receiving offer of gift or hospitality:

--

Details of hospitality or gift received or offered

Date hospitality or gift offered	
Name of person or body making the offer	
Description of what has been offered	
Estimated value	
Reason for offer	
The current situation is:	<input type="checkbox"/> This form is for information only because the offer has already been refused <input type="checkbox"/> The offer is of non-perishable food/drink/vouchers and I seek authority to donate it to the Civic Mayor's Charity. <input type="checkbox"/> I request guidance on how to respond to the offer

Information given on this form will be used for the purpose of promoting and maintaining good standards of probity and may be made available to the public.

Declaration

The information on this form is true and complete to the best of my knowledge

Signed.....

Dated.....

Agenda Item 5.

Report To: STANDARDS COMMITTEE

Date: 7 November 2023

Reporting Officer: Sandra Stewart, Chief Executive

Subject: FLAG FLYING PROTOCOL

Report Summary: The report sets out the current arrangements for flag flying on civic occasions and the arrangements for flying flags at half-mast. It is suggested that the current protocol, which has been in place since 2009, be amended to reflect changed circumstances and changing practices. The current Flag Flying Protocol is attached at **Appendix 1**.

The current Flag Flying Protocol includes details of when flags on Council buildings should be flown at half-mast. It is suggested that the requirement to fly flags on Council buildings in the event of the death of a former Chief Officer of the Council should be removed. An assessment of other local authority flag flying protocols show that the inclusion of this requirement is rare and is difficult to apply.

Recommendations: That the protocol be amended to:

1. remove the requirement to fly flags on Council buildings at half-mast in the event of the death of a former Chief Officer of the Council; and
2. note that the only Town Hall with a working flag pole is Dukinfield Town Hall.

Links to Community Strategy: The flying of the flag at civic buildings is intended to encourage civic pride, which underpins a number of elements of the Community Strategy.

Policy Implications: The Council is responsible for setting the policy for flag flying and agreeing any related protocols.


Financial Implications: There are no financial implications.

(Authorised by the statutory Section 151 Officer & Chief Finance Officer)

Legal Implications: It is appropriate that the Council reviews and considers a revised Flag Protocol on a regular basis to ensure it remains relevant and fit for purpose.
(Authorised by the Borough Solicitor)

Risk Management: The approach taken whereby the Union Flag is flown all year round reduces the risk a breach of protocol.

Access to information: The background papers relating to this report can be inspected by contacting the report writer, Robert Landon, Head of Democratic Services.

 Telephone: 0161 342 2146

 e-mail: robert.landon@tameside.gov.uk

APPENDIX 1

PROTOCOL FOR FLAG FLYING ON TAMESIDE MBC BUILDINGS

The protocol follows guidance issued by the Department for Culture, Media and Sports (DCMS) and its predecessor Departments. The Union Flag is flown at full-mast all year round on all civic buildings in the Borough which have a flag pole, these are:

- Denton Town Hall;
- Dukinfield Town Hall;
- Hyde Town Hall;
- Stalybridge Civic Hall

Protocol for Flag Flying

1. Flags

The Union Flag is to be flown at full mast on civic buildings all year (together with other flags where in accordance with the protocol, for example the Cross of St George being flown on St George's Day).

2. Death and Funeral Commemoration

The Union Flag will be flown at half-mast (from 8am until sunset) on the following occasions across all buildings unless stated otherwise:

1. Death of The Sovereign – from announcement of death to day of the funeral except on Proclamation Day when the flag will be hoisted to full mast from 11:00 hrs until 13:00 hrs the following day on all buildings.
2. Death of a member or near relative of the Royal Family or the funeral of members of the Royal Family – subject to special command from Her Majesty.
3. The funerals of Prime Ministers and former Prime Minister – subject to special command from Her Majesty.
4. The funerals of Foreign Rulers - subject to special command from Her Majesty.
5. Death of a Lord Lieutenant or Deputy Lieutenant of Greater Manchester – day of funeral on all buildings.
6. Death of a serving Mayor, Mayoress, Deputy Mayor or Deputy Mayoress - day of death to day of funeral on all buildings.
7. Death of a serving Member of Tameside Council – day of death to day of funeral on all buildings.
8. Death of a former Member of Tameside Council and former Mayor or Mayoress of Tameside – day of funeral on all buildings.
9. Death of a former Member of a predecessor district or county council (including ex Mayor, Chairman, Mayoress or Chairman's Lady of one of those councils) – day of funeral at the Town Hall or Council Offices of former Council (or in old county electoral division).
10. Death of an Honorary Freeman or Hon Alderman of the Borough of Tameside – from day of death to the day of the funeral.
11. Death of an Honorary Freeman of a predecessor Borough – day of funeral at the civic building in the former Borough.
12. Death of a serving Chief Officer of Tameside Council – day of the funeral at the Town Hall/Council Offices where they had served.
13. Death of a retired Chief Officer of Tameside or a predecessor council – day of the funeral at the Town Hall/Council Offices where they had served.
14. Death of a serving or former Member of Parliament – day of funeral at the Town Halls/Council Offices within their constituency.

15. Death of armed forces personnel who were residents of the Borough killed on active service – day of the announcement of death and on the day of the funeral.
16. Death of a serving Chief Constable of Greater Manchester, County Fire Officer or a serving Tameside Borough Police Commander – day of funeral.

On special flag flying days/civic occasions (e.g. St George's Day) when the flying of flags coincide with days for flying flags at half-mast, the following rules are observed.

Flags are flown at full mast:

- although a member of the royal family, or a near relative of the royal family, may be lying dead, unless special commands are received from the Queen to the contrary.
- although it may be the day of the funeral of a foreign ruler

3. Civic Occasions

1. Twinning exchange visits – Union Flag and National Flag of visiting twin town to be flown (or displayed where suitable vertical poles not available) during the period of the visit at the Town Hall/Council Offices in the Tameside twin town and also at Ashton Town Hall when the visitors visit there
2. St George's Day (23rd April) – the Cross of St George to be flown from 8am until sunset
3. Merchant Navy Day (3 September) - the Merchant Navy Flag to be flown at Ashton Town Hall

4. Other Occasions

The Union Flag may be flown at half-mast on other occasions at the discretion of the Chief Executive.

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