

NOTICE OF MEETING

STANDARDS COMMITTEE

**Monday, 14th October, 2019, 7.00 pm – Civic Centre, High Road,
Wood Green, N22 8LE**

Members: Councillors Felicia Opoku (Chair), Luke Cawley-Harrison,
James Chiriyankandath, Mahir Demir and Elin Weston

Quorum: 3

1. FILMING AT MEETINGS

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Although we ask members of the public recording, filming or reporting on the meeting not to include the public seating areas, members of the public attending the meeting should be aware that we cannot guarantee that they will not be filmed or recorded by others attending the meeting. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES FOR ABSENCE

3. URGENT BUSINESS

The Chair will consider the admission of any late items of urgent business.

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

(i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and

(ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct.

5. MINUTES AND MATTERS ARISING (PAGES 1 - 10)

To confirm and sign the minutes of the Standards Committee held on 25th June 2019.

To confirm and sign the unrestricted minutes of the Standards Assessment Sub Committee held on 4th July 2019.

6. FINANCIAL REGULATIONS UPDATE (PAGES 11 - 90)

7. INITIAL FINDINGS FOR THE REVIEW OF MEMBER'S ALLOWANCES 2020/21 (PAGES 91 - 106)

8. REVIEW OF ETHICAL STANDARDS (PAGES 107 - 258)

9. RECRUITMENT OF INDEPENDENT MEMBERS FOR STANDARDS COMMITTEE AND STAFFING REMUNERATION COMMITTEE (PAGES 259 - 268)

10. CHANGES TO COUNCIL STANDING ORDERS AND COUNCIL PROTOCOL

To follow.

11. COMMITTEE WORK PLAN (PAGES 269 - 270)

12. NEW ITEMS OF URGENT BUSINESS

13. DATES OF NEXT MEETINGS

23 January 2020
2 March 2020

14. EXCLUSION OF THE PRESS AND PUBLIC

Item 14 is likely to be subject to a motion to exclude the press and public from the meeting as it contains exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 1 and 2.

15. EXEMPT - RESTRICTED MINUTES OF THE STANDARDS SUB COMMITTEE (PAGES 271 - 272)

To confirm and sign the restricted minutes of the Standards Assessment Sub Committee of 4th July 2019.

Ayshe Simsek, Democratic Services and Scrutiny Manager
Tel – 020 8489 2929
Fax – 020 8881 5218
Email: Ayshe.Simsek@haringey.gov.uk

Bernie Ryan
Assistant Director – Corporate Governance and Monitoring Officer
River Park House, 225 High Road, Wood Green, N22 8HQ

Sunday, 06 October 2019

This page is intentionally left blank

MINUTES OF MEETING STANDARDS COMMITTEE HELD ON TUESDAY, 25TH JUNE, 2019, 7.00PM

PRESENT:

**Councillors: Felicia Opoku (Chair), Luke Cawley-Harrison,
James Chiriyankandath, Mahir Demir and Elin Weston**

81. FILMING AT MEETINGS

Members of the Committee noted the notice attached at item 1 of the agenda pack in respect of filming at meetings.

82. APOLOGIES FOR ABSENCE

There were no apologies for absence.

83. URGENT BUSINESS

The Committee noted that the Constitution prescribes that the Standards Committee should formally establish the Standards sub assessment Committee and Standards Hearing Committee. A report seeking confirmation of the establishment of the sub-Committee prior to the Standards Sub assessment Committee meeting taking place next week was tabled.

This set out the terms of reference of the Standards sub assessment Committee and Standards Hearing Committee as prescribed in Article 9 the Council Constitution and recommended that the membership of the Standards Assessment Sub Committee and the Standards Hearing Sub mirror that of the parent Committee agreed at Annual Council given the need for Members' expertise and discretion on these matters.

RESOLVED

To agree the membership of the Standards Assessment Sub Committee and the Standards Hearing Sub Committee as set out at 5.3.

84. DECLARATIONS OF INTEREST

There were no declarations of interest put forward.

85. MINUTES AND MATTERS ARISING

The minutes of the 4th of March were agreed as a correct record.

Matters arising

The Committee noted the guidance sent out by Legal services on the issue of Councillors not including their home address on their declaration of interest form which is published on the website. The Committee discussed making representations to the Local Government Association to take this forward as a London wide issue on behalf of all Councils .

The Committee discussed what would happen if all Councillors decided to request non- inclusion of their home address and whether this would alter the situation. The report considered at the March meeting was referred to and the position of the Monitoring Officer set out. The Committee noted that the Monitoring Officer was required by legislation to publish declaration of interest forms . The mechanism for withholding an interest from the register (to include redactions) is contained within section 32 of the Localism Act, which deals with 'Sensitive Interests'. This provision is designed to cover situations where the nature of the interest is such that the member or co-opted member, and the authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation. This was also replicated in the Council Constitution at part 5, section 8.1.

The operation of section 32 required some evidence in relation to the Member whose interests are under consideration. That is, there would need to be some material on which to form a rational view as to whether disclosure could lead to the relevant individuals being subjected to violence or intimidation.

The Monitoring Officer has indicated that he is willing to consider individual representations from Councillors that their land interest should be withheld due to actual or potential risk of violence or intimidation, and will make a decision based on the information and evidence provided. However, taking forward a blanket policy of excluding home addresses would not conform to the Council Constitution nor legislation.

The Committee felt that the threshold was quite high for confirming whether section 32 applied . There was discussion about Lambeth Council who do not include the home addresses of all its Councillors. It was agreed to report back to the Monitoring Officer the significant concerns of the Committee regarding this situation and avoiding a potential unsafe situation occurring where the Council is forced to react.

It was agreed to keep this as a running item on the agenda and invite the Monitoring officer to attend the meeting in October.

86. APPOINTMENTS OF SENIOR OFFICERS - CHANGES TO CONSTITUTION SECTION K

The Standards Committee considered the attached report which contained the proposal to redefine the role of members in the appointments process to better reflect the current structure of the senior management team, whilst ensuring that the

authority continues to meet its statutory obligations. Appendix A set out the proposed changes to Part 4 Section K to reflect this change. Members would be responsible for the appointment and/or dismissal of Directors and Assistant Directors, as permitted by the Regulations, however in line with member expectations, it would no longer extend to every deputy chief officer of the Council, as some of these officers were operating below Assistant Director Level, i.e. as Heads of Service.

The Committee noted the significant changes undertaken to senior officer structure over the last year with the delayering of management to allow closer working relationships between senior officers and heads of service. This had enabled operational decision making in key strategic services to be made at the most senior level.

The Committee were advised that the amendment to Part 4 Section K was predominantly a change in language with the deletion of the term 'chief officer' and 'deputy chief' officer and inclusion of replacement term of 'Director'. This definition of senior roles was designed to better reflect the current structure of the senior management team, whilst ensuring that the authority continued to meet its statutory obligations.

The Committee noted that the proposed changes did not diminish the responsibility of Members decision making role in the appointment and dismissal of Directors and Assistant Directors, as permitted by the Regulations. Members would remain responsible for the appointment and dismissal of Directors. The definition of the term 'Director' was clarified and set out at Part 3 Section E Section 1; 2.01 of this Constitution and The Committee noted this included Corporate Board, Directors and Assistant Directors. Essentially, officers that were operating below Assistant Director Level, i.e. as Heads of Service would not be included in the Member appointments process. It was further clarified that, regardless of the role and title of a senior position, if an officer salary was intended to be over £100k, then in accordance with the Pay Policy, this would require Member appointment.

The proposed changes had been considered by the Staffing and Remuneration Committee and The Committee considered their tabled comments along with HR and legal responses to the issues they had raised. This was included at Appendix B.

The Committee considered each comment individually and had the following discussion and decisions.

1. The Committee noted that the Staffing & Remuneration Committee had commented on Part 4 section K - Paragraph 7 (a) asking if there were any provisions for investigations that may take longer than two months. The Committee noted that under the Local Authorities Standing Orders Rags 2001, Schedule 3, Paragraph 3 there was no longer a set time period prescribed. However, the Committee felt it would be prudent to keep the prescribed time period for investigation, to ensure that it was not left open - ended as this would be to the detriment of all parties concerned in such a scenario.
2. The Committee noted Staffing & Remuneration Committee's comments in relation paragraph 6 (c) at Appendix A. This paragraph did not seem to be relevant to the

Council's governance structure as it referred to an Executive Mayor. The Committee concurred with this suggestion to delete this paragraph.

3. The Committee discussed the Staffing & Remuneration Committee's comment concerning Paragraph 9 which was adding the Chief Executive to the list of Corporate Board members. The Committee noted that the Chief Executive is already defined in the Constitution under a legislative role and therefore it was felt that listing the Chief Executive, under the list of Corporate Board, for the purposes of this section, would lead to having a double definition. In conclusion, The Committee did not agree with the comment to add the Chief Executive to the definition of Directors set out at section 4 and listed in paragraph 9 as this statutory position was already covered in section 3 - Appointment and dismissal of Head of Paid Service, dismissal of Chief Finance Officer and Monitoring Officer. Therefore, for consistency purposes, this was still appropriate.
4. The Committee considered the query in relation to Paragraph 4 (b) appointment / dismissal / discipline of the CE of Alexandra Palace, and why this was not coming under the remit of the Staffing & Remuneration Committee whilst paragraph 9 includes the Chief Executive of Alexandra Palace under the definition of Director. Clarity had been sought as to the meaning of 'as appropriate' – what areas of the role were covered if Paragraph 4 (a) did not apply to the CE of Alexandra Palace? In response to this query, legal advised that for the purposes of Part 4 Section K, the CE of Alexandra Palace does not need to be included in the definition of 'Director'.

The Committee noted that Chief Executive of Alexandra Palace was listed in this section due to this role being appointed to by the Chief Executive of the Council. This was to conform to the Council's responsibilities as trustee and ensuring that the recruitment and dismissal process for such a role is streamlined and efficient. The Committee noted that Paragraph 4 (b) had always been in the Constitution as a Chief Officer and director - exercising functions as a trustee and separate from the Council. The Committee noted that there was an ongoing review of the governance arrangements for Alexandra Palace and Park and this appointment/ dismissal process could be considered. The Committee agreed, on balance, that there be no change to Paragraph 4 (b) as set out in appendix A.

5. The Committee continued to note the responses provided to the Staffing & Remuneration comments on change to the post names and the number of posts that the Committee would no longer be involved with.

RESOLVED

To recommend that full Council agree the amendment to Part Four, Section K of the Council's Constitution; Officer Employment Procedure Rules, as set out in Appendix A, for recommendation to full Council for adoption, subject to the amendment outlined at paragraph 2.

87. CHANGES TO COUNCIL STANDING ORDERS AND COUNCIL PROTOCOL

The Committee considered the attached report which sought their initial views on changes to Council and Committee standing orders, including Full Council protocol. The previous administration considered a review of standing orders but did not pursue this further as it was felt most appropriate to be taken forward by the incoming administration.

The report was considered by the Committee in April 2019 but in light of the changes to the membership, the proposals are put forward for any further remaining comments/consideration before wider distribution to councillors and consideration at the Full Council meeting in November.

The following comments were put forward:

- Reducing the time allocated to the Mayors communications by noting the Mayors communication
- Allowing PowerPoint and visual media to accompany presentations/ deputations
- Removing the Haringey debate completely
- Allowing two consecutive supplementary questions from the political parties to the oral questions
- Adding a new section on the Leader's questions
- Increasing public participation with public questions
- Changing the start time of Full Council to 7pm with a 9.30 finish
- Receiving amendments to motions and reports sooner in advance . i.e. Friday 10am instead of Monday 10am
- Where a report is promised, this comes back as a report to the full Council as it might be relevant to all councillors.
- Including a standing item instead of a debate which allows participation from external experts/ partners/ community representatives.

RESOLVED

To consider a report back on the final changes in October.

88. SCOPE FOR THE REVIEW OF MEMBER'S ALLOWANCES 2020/21

The Committee is asked to consider the attached scope for the review of Member's Allowances in order to inform a report from the Committee to full Council on the proposed scheme for 2020/21 in March 2020.

The Committee discussed the scope of the review including deputy Cabinet members in the event that there was a future proposal to include an SRA for these positions.

The independent adviser could be asked to provide advice on an appropriate SRA and connected duties. In the past when considering deputy cabinet member positions, it was found difficult to compare remuneration levels at other councils due to the variance in the duties and responsibilities. Although, it was noted that Cabinet member roles are more generic and involve considering the time allocated to duties as well as levels of power. Therefore, it was also felt that this would be a difficult hypothetical situation to put forward to the independent adviser as generally the duties and responsibilities varied. Given the Council's limited experience of holding these positions, this would involve seeking advice on an abstract situation and in addition it would be difficult to consider what the financial impact this could have on the allowance scheme.

In considering the proposal for evidence gathering meetings with councillors, agreed that there are written depositions sought from members rather than the Committee seeking attendance of councillors at evidence sessions. Particular groups of councillors could be contacted i.e. chairs of Committees to promote submission of their evidence.

Following the above comments the scope for the reviews was agreed.

89. COMMITTEE WORK PLAN

The Committee agreed to add a report to the January meeting on co-opted members.

Agreed the Acting Democratic Services and Scrutiny manager circulate research completed on existing co-opted member and their appointments.

90. PROPOSED COMMITTEE STRUCTURE REVIEW

Members discussed the options for participating in a Committee structure review . A separate paper would be circulated to consider and comment on.

91. NEW ITEMS OF URGENT BUSINESS

As set out in item 83

92. DATES OF NEXT MEETINGS

14th October 2019

CHAIR: Councillor Felicia Opoku

Signed by Chair

Date

This page is intentionally left blank

**MINUTES OF THE MEETING OF THE STANDARDS
ASSESSMENT SUB COMMITTEE HELD ON THURSDAY, 4TH
JULY, 2019, 7.00 - 7.55 pm**

PRESENT:

**Councillors: Luke Cawley-Harrison, James Chiriyankandath, Mahir Demir,
Felicia Opoku (Chair) and Elin Weston**

1. ELECTION OF CHAIR FOR THE DURATION OF THE PROCEEDINGS

Councillor Cawley-Harrison nominated Councillor Opoku to chair the meeting. This was seconded by Councillor Weston.

Councillor Opoku in the chair

2. APOLOGIES FOR ABSENCE

None.

3. DECLARATIONS OF INTEREST

None.

4. URGENT BUSINESS

The exempt minutes of the meeting held on 14 May 2019 were accepted as a late item of exempt urgent business. The minutes were not available at the time of publication of the agenda.

5. ARRANGEMENTS FOR THE HANDLING OF COMPLAINTS

The Committee noted the arrangements for handling complaints.

6. NEW ITEMS OF URGENT BUSINESS

None.

7. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED that the press and public be excluded from the meeting for consideration of Items 8 and 9 as they contain exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 1 & 2; namely information relating to any individual, and information likely to reveal the identity of an individual.

8. STANDARDS COMPLAINT SC001/1920

The Committee considered exempt information pertaining to item 8.

9. NEW ITEMS OF EXEMPT URGENT BUSINESS

RESOLVED that the exempt minutes of the meeting held on 14 May 2019 be approved as a correct record.

CHAIR: Councillor Felicia Opoku

Signed by Chair

Date

Report for: Standards Committee 14 October 2019

Title: Financial Regulations Update

Report authorised by: Jon Warlow, Director of Finance (S151 Officer)

Lead Officer: Thomas Skeen, Head of Pensions, Treasury & Chief Accountant
thomas.skeen@haringey.gov.uk 020 8489 1341

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key decision

1. Describe the issue under consideration

- 1.1. To update the Council's Financial Regulations, and the Budget and Policy Framework Procedure Rules which form a part of the Council's constitution.

2. Cabinet Member Introduction

- 2.1. Not applicable.

3. Recommendations

- 3.1. That Standards Committee recommend Full Council: approve the changes to the Financial Regulations Part 4 Section I (Appendix 2) and associated amendment at Part 4, Section E, Budget and Policy Framework Procedure Rules at paragraph 7.1 (Appendix 3)"

4. Reason for Decision

- 4.1. The proposed changes to the Constitution are to ensure that:
 - the rules and processes by which decisions are made governing the management the Council's financial affairs are clearly set out;
 - effective financial controls are maintained;
 - procedures enable efficient open, accountable and decision making.

5. Other options considered

- 5.1. Leaving the Financial Regulations as they stand was considered, however there is a need to ensure that clear and effective financial procedures and controls are in place. As to the minor changes to the Financial Procedure Regulations no other alternatives were considered as the changes are required to either provide clarity or to reflect changes to legislation, the name of some Council Committees, the management structure, and Council documents.

6. Background information

- 6.1. It is good practice to regularly review and update the constitution generally, the financial regulations section of the constitution was last reviewed in 2014. In reviewing the financial regulations, it was noted that change would be required to the Budget and Policy Framework Procedure Rules in order for the two documents to remain consistent. Only one change is proposed to this document, which is detailed later in this report.
- 6.2. Senior officers from the council's finance, legal, audit and debt management teams have reviewed the Council's current financial regulations in order to update these. The current financial regulations and the changes proposed by this report are shown in Appendix 1 as a 'tracked changes' version in order for members to review what is proposed to change in the document. Appendix 2 presents a 'clean' version of the new proposed document, as this would be proposed to be published in the constitution with all the changes incorporated.
- 6.3. One change is proposed to the Budget and Policy Framework Procedure Rules, this is detailed in paragraph 6.4.2 below, and a proposed amended version of this document is appended at Appendix 3.
- 6.4. The review of the financial regulations has highlighted a number of minor amendments required, such as:
 - Changes to post titles where these have changed;
 - Changes to the titles of key documents;
 - Changes to the titles of Council committees;
 - Updates to include new legislation passed since 2014;
 - Using gender neutral pronouns for individuals named in the document, e.g. 'they' instead of 'he' or 'she';
 - Minor amendments to wording to improve the clarity of the document;
- 6.5. The review of the financial regulations also included some more substantive changes or enhancements to the document, and these are detailed individually below:

6.5.1. Paragraph 5.24 has been expanded upon with the below paragraph added to clarify and enhance the description of budget holder responsibilities:

‘to take ownership for all aspects of the financial management of the service(s) which they are responsible for, including managing, controlling and recording all expenditure and income;’

6.5.2. The review of the financial regulations highlighted that the Council’s definition of ‘virement’ required updating. ‘Virement’ is defined in the Council’s Budget and Policy Framework Procedure Rules (Part 4 Section E). It was therefore necessary to also include this document within the scope of the review. The Council currently defines ‘Virement’ as per the below (Part 4 Section E, para 7.1):

“Virement” is the ability to meet increased expenditure or reduced income under one expenditure vote from savings in another expenditure vote or from increased income. The Council’s rules on virement are set out in the Financial Regulations set out in the Constitution.’

6.5.3. In order to update the terminology used in this definition, and indeed to make this definition more specific, finance officers therefore recommend that this definition in the Budget and Policy Framework Procedure Rules is updated to read as follows:

“Virement” is a transfer of a budget for direct spend by the Council, which is required due to a policy change or re-prioritisation of resources between services. The Council’s rules on virement are set out in the Financial Regulations set out in the Constitution.’

6.5.4. In reviewing the virements section of the Financial Regulations, officers recommend updating and expanding paragraph 5.28 to give further detail and to draw the distinction between a ‘virement’ (per the above definition), and a ‘budget adjustment’ which does not represent a change in policy or re-prioritisation and may be required for technical reasons. The proposed wording also includes a time frame in which reporting to cabinet should take place. The current and proposed reading of this paragraph are presented below.

Current reading:

'The Section 151 Officer may authorise virements between service areas for technical reasons, e.g. central support cost allocation, capital charges such as depreciation, FRS17 adjustments. Such adjustments will be reported in the budget monitoring reports to Cabinet.'

Proposed reading:

'The Section 151 Officer may authorise any budget adjustments between or within service areas or capital schemes, required for technical reasons and which do not fall into the below mentioned revenue or capital virement definitions. For example the Section 151 Officer may authorise central support cost allocation, capital charges such as depreciation, IAS19 pension adjustments, or to reflect the enactment of previous decision making. Such adjustments over £250k will be reported in the budget monitoring reports to Cabinet within 3 months of them taking place.'

6.5.5. Paragraphs 5.31 and 5.32 in the Financial Regulations specify particular limits for different types of virements. In reviewing the Financial Regulations, officers included consideration of the content of constitutions of other boroughs: it was noted that the virement limits in other constitutions were generally higher than those in Haringey's constitution, and some of these did not provide for executive (political) approval. Officers do not recommend that the current limits in Haringey's constitution are increased. Paragraphs 5.31 and 5.32 have been reworded to maintain consistency with the definition of virements mentioned above.

6.5.6. The sections in the Financial Regulations which details the role of internal audit has been expanded upon with a new paragraph added: 5.45:

'Internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates, and reports on the adequacy of internal control. It does this by objectively reviewing and advising management upon the effectiveness of their systems of internal control. It aims to provide assurance on the design and operation of internal controls and provide constructive and positive advice on control improvement and risk management.'

6.5.7. The section in the Financial Regulations which details Preventing Fraud and Corruption has been similarly expanded upon with new paragraphs 7.12 – 7.14 added:

7.12. *The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.*

7.13. *The Council's expectation of propriety and accountability is that members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and good practices.*

7.14. *The Council also expects that individuals and organisations (e.g. suppliers, contractors, and service providers) with which it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.*

6.5.8. In reviewing other constitutions, officers noted that the debt write off limits specified in paragraphs 8.14 and 8.15 of the Financial Regulations are also low when compared to other boroughs. The current content of these paragraphs is copied below for ease:

8.14. *Arrears of housing rents and other housing income administered by the ALMO (Homes for Haringey) may be written off in accordance with procedure notes issued by the **Section 151 Officer** with the below authorities:*

- a) *up to £100, the approval of **Chief Executive of the ALMO** and reported to the **Section 151 Officer**.*
- b) *£100 and up to £25,000, the approval of the **Section 151 Officer** upon the advice of the **Chief Executive of the ALMO**.*
- c) *£25,000 or above, the approval of the **Cabinet Member for Resources** upon the advice of the **Chief Executive of the ALMO** and the **Section 151 Officer**.*

The ALMO shall keep a record of all such sums written off.

8.15. *All other debts which remain unpaid may be written off in accordance with the below authorities:*

- a) *Up to £25,000 on the approval of the **Section 151 Officer** upon the advice of the relevant **Director**;*

- b) £25,000 or above on the approval of the Cabinet Member for Resources upon the advice of the relevant Director and the Section 151 Officer.

Corporate Finance shall keep a record of all such sums written off.

- 8.16. All debts written off will be reported in summary to the **Cabinet** in the regular budget monitoring reports.

6.5.9. Of the other borough constitutions examined, it was noted that generally the limits specified within these were higher (for example a limit of £200k where Haringey has £25k currently), and also some boroughs did not require the involvement of the executive to write off debt, this was a delegation only to officers. In reviewing and considering this, officers recommend the below changes:

- That the first level of debt write-off for the ALMO be increased to £1,000
- That an additional lower level write-off provision be included for debts up to £1,000 for the Council
- That the £25,000 limit for write offs be increased to £50,000

6.5.10. The proposed revised reading of these two paragraphs is copied below:

8.14. *Arrears of housing rents and other housing income administered by the ALMO (Homes for Haringey) may be written off in accordance with procedure notes issued by the **Section 151 Officer** with the below authorities for individual debt accounts:*

- a) *up to and including £1,000, the approval of **Chief Executive of the ALMO** and reported to the **Section 151 Officer**.*
- b) *Over £1,000 and up to and including £50,000, on the approval of the **Section 151 Officer** upon the advice of the **Chief Executive of the ALMO**.*
- c) *Over £50,000, on the approval of the **Cabinet Member for Finance** upon the advice of the **Chief Executive of the ALMO** and the **Section 151 Officer**.*

The ALMO shall keep a record of all such sums written off.

8.15. *All other individual debt accounts which remain unpaid may be written off in accordance with the below authorities:*

- a) up to and including £1,000, the approval of relevant **Director** and reported to the **Section 151 Officer**.
- b) Over £1,000 and up to and including £50,000, on the approval of the **Section 151 Officer** upon the advice of the relevant **Director**;
- c) Over £50,000, on the approval of the **Cabinet Member for Finance** upon the advice of the relevant **Director** and the **Section 151 Officer**.

Corporate Finance shall keep a record of all such sums written off.

- 8.16. *All debts written off will be reported in summary to the **Cabinet** in the regular budget monitoring reports.*

7. Contribution to Strategic Outcomes

7.1. None.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

8.1. The financial regulations are one of the Council's core governance documents, these must be kept under regular review to ensure they remain current, changes to these must be carefully scrutinised by Officers from a variety of Council disciplines, and members.

Legal

8.2. Section 9P Local Government Act 2000 requires the Council to prepare and keep up to date a Constitution. By virtue of section 5 of the Local Government and Housing Act 1989 the Monitoring Officer is responsible for the operation of the Council's Constitution. This includes monitoring and reviewing the operation of the Constitution to ensure that its aims and principles are given full effect, and matters of interpretation of the Constitution's Rules and Procedures as necessary.

8.3. The Assistant Director of Corporate Governance confirms that the changes are required to comply with the Council's statutory responsibility to keep the Constitution up-to-date and ensure that the rules and process by which decisions are made in relation to the management of the Council's financial affairs are clearly set out.

Equalities

8.4. There are no equalities issues arising from this report.

9. Use of Appendices

Appendix 1 – tracked changes proposed version of Financial Regulations

Appendix 2 – clean proposed version of Financial Regulations

Appendix 3 – proposed version of Budget and Policy Framework
Procedure Rules

10. Local Government (Access to Information) Act 1985

10.1. Not applicable.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
 Section I – Financial Regulations

Part Four, Section I

Financial Regulations

Contents	Page
Part 1 - Status of Financial Regulations	2
1. Status	2
2. Recording delegations	3
3. Financial Control Framework	3
4. Devolution of Financial Management and Accounting	4
Part 2 - Financial Management	5
5. Financial Management (including virement rules)	5
6. Financial Planning	<u>1917</u>
7. Risk Management and Control of Resources	<u>2424</u>
8. Systems and Procedures	<u>2925</u>
9. External Arrangements	<u>3228</u>
10. Retention of Records	<u>3329</u>

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

Part 1 - Status of Financial Regulations

1. Status

- 1.1. Our Financial Regulations provide the framework for managing the Council's financial affairs and for resources that the Council or its employees manage on behalf of others. They apply to every **Councillor** and **Officer** of the Council and to the ALMO in respect of debt write off.
- 1.2. All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.3. The regulations identify the financial responsibilities of:
- the **full Council**;
 - the **Cabinet**;
 - the **Overview and Scrutiny Committee**;
 - the **Head of the Paid Service (Chief Executive)**;
 - the **Monitoring Officer (Assistant Director of Corporate Governance)**;
 - the **Section 151 Officer (~~interim Chief Finance Officer~~ Director of Finance also known as Chief Finance Officer) and Directors**;
 - **Budget Holders** within service areas.
- 1.4. **The Section 151 Officer (~~Chief Finance Officer~~)** is responsible for maintaining a continuous review of these Financial Regulations and submitting any additions or changes necessary to **full Council** for approval in accordance with article 15.03(a) of the Constitution.
- 1.5. **The Section 151 Officer** is responsible for issuing advice and guidance to underpin these Financial Regulations that **Councillors, Officers and others acting on behalf of the Council** are required to follow. This advice and guidance will generally be based on CIPFA Standards of Professional Practice, which are available on www.cipfa.org.uk.
- 1.6. **The Section 151 Officer** is also responsible for reporting, where appropriate, breaches of these Financial Regulations to the **Council** and/or to the **Cabinet Members**.
- 1.7. These Financial Regulations are supported, where appropriate, by detailed procedure notes, setting out how these Financial Regulations will be implemented.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- 1.8. **Directors** are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them.
- 1.9. It is a disciplinary offence to breach these Financial Regulations. A breach of these regulations should be reported to the **Section 151 Officer** as soon as is practicable to do so.
- 1.10. All staff are required to conduct themselves to the highest standards. The involvement of staff in any form of bribery, corruption, fraud or deception will not be tolerated.
- 1.11. For any aspect of finance relating to schools the Haringey's [Scheme for Financing Schools](#) ~~Schools Financial Regulations~~, which are designed to give detailed assistance to schools, should be referred to.

2. Recording delegations

- 2.1. **Directors** should maintain written records where financial decision making has been delegated to members of their staff, including seconded or temporary staff. Where decisions have been delegated or devolved to other responsible officers references to **Directors** in the regulations should be read as referring to them.

3. Financial Control Framework

- 3.1. The financial administration framework of the Council is organised in accordance with Section 151 of the Local Government Act 1972, requiring that every Local Authority in England and Wales should **'make arrangements for the proper administration of their financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs.'** The framework comprises:
 - **Constitution:** The principal rules governing the Council's affairs, including financial affairs, and the delegation of authority to **Councillors** and **Officers**;
 - **Financial Regulations:** This document is part of the Constitution, created by the Council;
 - The **Scheme of Financial Delegation** and specific delegations by **Directors** to officers in their service area;
 - **Contract Standing Orders**;
 - **Guide to Procurement**;
 - **Medium Term Financial [Plan Strategy \(MTFS\)](#).**

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

4. Devolution of Financial Management and Accounting

- 4.1. The Council seeks to unite operational and financial responsibility to empower managers to give them the tools to deliver high quality services. Part of that empowerment is to give them control of the resources needed to deliver the service so that they can plan and use these resources to obtain the maximum benefit for the service.
- 4.2. The Council also needs to balance responsibilities with accountability and protection for Officers so that they know their authorisation levels and the limit to those authorities.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

Part 2 – Financial Management

5. Financial Management (including virement rules)

Introduction

5.1. Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget. The Financial Regulations are not an exhaustive document and proper financial management should be applied in all circumstances even if not specifically referred to.

The Full Council and the Cabinet

5.2. The **full Council** is responsible for adopting the Council's Constitution and Members' code of conduct and for approving the policy framework and budget within which the **Cabinet** operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in this Constitution. The **full Council** is also responsible for monitoring compliance with the agreed policy and related **Cabinet** decisions.

5.3. The **Leader** has powers to take any decision, including a key decision, which the **Cabinet** could have taken. This is set out in Part 3 Section C of the Council Constitution. When **Members** take decisions on reports, the reports must comply with the Protocol for Decision-making in Part 5 Section D and this must include the provision of the **Chief FinanceSection 151 Officer's** comments on the financial implications.

5.4. The **Cabinet** is responsible for proposing the policy framework and budget to the **full Council** and for discharging Executive functions in accordance with the policy framework and budget.

5.5. **Cabinet** decisions can be delegated, in accordance with the delegation arrangements set out in Part 3 of this Constitution.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

Committees of the Council

Overview and Scrutiny Committee

5.6. The **Overview and Scrutiny Committee** is responsible for scrutinising key decisions (decisions of the **Cabinet, the Leader, or Cabinet** members) before or after they have been implemented and for holding the **executive** (the **Cabinet, the Leader and Cabinet** members) to account. The **Overview and Scrutiny Committee** is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

Corporate Committee

5.7. The **Corporate Committee** is established by the **full Council**. It has right of access, through the officer acting as Chief Internal Auditor (currently the Head of Audit and Risk Management) from time to time, to all the information it considers necessary and can consult directly with internal and external auditors. The **Corporate Committee** is responsible for reviewing the external auditor's reports and the Annual Audit and Inspection Letter and internal audit's annual report. The **Corporate Committee** also monitors responses to audit reports.

Standards Committee

5.8. The **Standards Committee** is established by the **full Council** and is responsible for promoting and maintaining high standards of conduct amongst **Councillors** as Members. In particular, it is responsible for advising the Council on the adoption and revision of the Members' code of conduct, for monitoring the operation of the code, and for recommending proposals for any changes to the Constitution to full Council for approval.

The Pensions Committee and Board

5.9. The **Pensions Committee and Board** acts as the quasi-trustee of the Local Government Pension Scheme (**LGPS**) for the Council.

Formatted: Font: Bold

Alexandra Palace and Park Board

5.10. Alexandra Palace and Park Board is a Committee of the Council with responsibility for discharging a specific statutory charity trustee role. It has its own Financial Regulations and governance but is, nonetheless, subject overall to the Section 151 Officer who has responsibility for its financial affairs. It is also subject to charities law and accounting practice.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

The Statutory officers

Head of Paid Service (Chief Executive)

- 5.11. The **Chief Executive** as Head of Paid Service is responsible, in relation to these Financial Regulations, for the corporate and overall strategic management of the Council as a whole. The **Chief Executive** must report to and provide information for the **Cabinet**, the **full Council**, the **Overview and Scrutiny Committee** and **other committees**.
- 5.12. The **Chief Executive** is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The **Chief Executive** is also responsible, together with the **Monitoring Officer**, for the system of record keeping in relation to all the **full Council's** decisions.

Monitoring Officer (Assistant Director of Corporate Governance)

- 5.13. The **Monitoring Officer** is responsible, in relation to these Financial Regulations, for promoting and maintaining high standards of financial conduct and therefore provides support to the **Standards Committee**. The **Monitoring Officer** is also responsible for reporting any actual or potential breaches of the law or maladministration to the **full Council** and/or to the **Cabinet**.
- 5.14. The **Monitoring Officer** (together with the **Section 151 Officer**) is responsible for advising the **Cabinet** or the **full Council** about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- (a) initiating a new policy;
 - (b) committing expenditure in future years above the budget level;
 - (c) incurring inter-service area transfers above virement limits; and
 - (d) causing the total expenditure financed from Council tax, grants and corporately held reserves to increase.
- 5.15. The **Monitoring Officer** is responsible for maintaining an up-to-date Constitution.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
 Section I – Financial Regulations

The Section 151 Officer (interim Chief Finance Officer)

5.16. The **Section 151 Officer** has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972;
- (b) The Local Government Finance Act 1988;
- (c) The Local Government and Housing Act 1989;
- (d) The Accounts and Audit (England) Regulations 2011;
- (e) The Local Government Act 2003;
- (f) The Accounts and Audit Regulations 2015;
- (e)(g) The Local Audit and Accountability Act 2014

Formatted: Indent: Left: 1.27 cm, Tab stops: 2.02 cm, List tab + Not at 2 cm

5.17. The **Section 151 Officer** is responsible, in relation to these regulations for:

- (a) the proper administration of the Council's financial affairs, including the determination of the appropriate staffing level to ensure proper administration;
- (b) setting and monitoring compliance with financial management standards;
- (c) ensuring these Financial Regulations are fit for purpose and proposing any necessary amendments;
- (d) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- (e) providing financial information;
- (f) preparing the revenue budget and capital programme;
- (g) treasury management;
- (h) internal audit;
- (i) anti-fraud;
- (j) risk management; and
- (k) insurance.

5.18. The Section 151 Officer may from time to time delegate responsibility to a Head of Finance or other/ officer reporting to them/him, as the Section 151 Officer deems appropriate.

5.19. Section 114 of the Local Government Finance Act 1988 requires the **Section 151 Officer** to report to the **full Council**, the **Cabinet** and external auditor if the Council or one of its officers:

- (a) has made, or is about to make, a decision which involves incurring unlawful expenditure;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- (b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficit to the Council; or
- (c) is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- (a) the **Section 151 Officer** to nominate a properly qualified member of staff to deputise should ~~he or she~~ they be unable to perform the duties under Section 114 personally. ~~This is currently the Head of Finance;~~ and
- (b) the Council to provide the **Section 151 Officer** with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under Section 114.

5.20. The Section 151 Officer will:

- (a) respond to annual expenditure proposals submitted by the following bodies (if applicable):-

Greater London Authority
London Pension Fund Authority
Lee Valley Regional Park Authority
North London Waste Authority
London Councils
Greater London Magistrates Courts Authority
Environment Agency

- (b) Consult with Ratepayers in accordance with Section 65 of the Local Government Finance Act 1992;
- (c) Authorise redundancy and early termination costs in relation to officers of the Council;
- (d) Authorise redundancy and early termination costs in relation to education staff giving consideration to the Education Act 2002.

Directors

5.21. **Directors** are responsible for the financial affairs of their service area including any financial staff, processes and systems. They must equally report financial issues to the **Section 151 Officer**. The responsibilities include:

- (a) ensuring that **Cabinet** Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the **Section 151 Officer** including:
 - Non-Domestic Rating Discretionary Rate Relief;
 - the annual review of the Council Tax Reduction Scheme;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- (b) ensuring compliance with Contract Standing Orders;
- (c) leading the production of revenue and capital programme budgets for their service area as appropriate and ensuring all plans have appropriate and necessary approved budgetary provision in place;
- (d) ensuring that detailed plans and realistic prudent profiled budgets exist for the delivery of the Medium Term Financial ~~Plan-Strategy~~ and to report variances and forecast outturn adverse or favourable variances immediately when they exist;
- (e) control of income and expenditure within the approved budget and ensuring that expenditure is not incurred without an appropriately approved budget in place;
- (f) reporting known and potential variances from the service area cash limit in excess of £100,000 to the **Section 151 Officer**, through the formal budget management procedures;
- (g) providing appropriate financial information to the **Section 151 Officer** and their respective teams in a timely, accurate and appropriate form and level of detail. e.g. to permit final accounts to be prepared at year end as necessary, in accordance with appropriate legislation, accounting codes of practice ~~as necessary~~ and the Council's accounting procedure notes;
- (h) appointing budget holders for all areas of their own budget;
- (i) monitoring performance levels with budget performance in accordance with published timescales;
- (j) adherence to the budget management procedures contained within service area Schemes of Financial Delegation including virement management;
- (k) ensuring records, systems and appropriate financial controls are up to date and available for audit. Any loss or deficiencies are to be reported to the **Section 151 Officer** immediately;
- (l) actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting them to the **Section 151 Officer**. All grant applications are to be notified to the **Section 151 Officer** prior to submission, to consider any potential future resourcing issues and incorporate into the Grant Register which will be maintained by Corporate Finance;
- (m) ensuring that the necessary systems and controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;
- (n) ensuring all assets are appropriately protected, accounted for and reconciled. Any significant loss of stock or concerns should be reported to the **Section 151 Officer** immediately;
- (o) advise the **Section 151 Officer** and/or the **Head of Audit and Risk Management** of any fraudulent activity and other losses through error

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

and mismanagement by any party connected with or employed by the Council.

- (p) liaise with the **Head of Audit & Risk Management** in agreeing the annual audit plan of the service area. To report to the **Section 151 Officer** any concerns where an audit is considered necessary but is not being undertaken.
- (q) ensure that appropriate timely arrangements are in place to sign off the financial implications of all reports including comments from the **Section 151 Officer** where appropriate, prior to their submission to the full Council, Cabinet, a Committee, Council Management Teams or other bodies within and external to the Council.
- (r) ensure that all appropriate financial controls and systems are in place where not specified above, in particular adequate separation of duties and accurate and timely reconciliations.
- (s) report to the **Section 151 officer** any other matter of financial significance.

5.22. It is the responsibility of **Directors** to consult with the **Section 151 Officer** and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

5.23. **Directors and Budget Holders** are supported in the completion of their financial responsibilities by a **Head of Finance (or another suitably senior finance officer whose post title may vary from this)**. Heads of Finance are part of the Corporate Finance service area and report **directly** to the **Section 151 Officer**. They have a link, therefore, to the **Section 151 Officer** and a functional relationship to their **Directors**.

Formatted: Font: Bold

Budget Holders

5.24. The **Budget Holder** is responsible for the management of the budget for which he/she is allocated by the **Director**. The responsibilities of the role include:

- (a) to take ownership for all aspects of the financial management of the service(s) which they are responsible for, including managing, controlling and recording all expenditure and income;
- (a)(b) leading the production of revenue and capital programme budgets for the service area ensuring all plans have appropriate and necessary budget provision;
- (b)(c) ensuring plans and realistic prudent profiled budgets exist for the delivery of the Medium Term Financial **Plan-Strategy** and to report year

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
 Section I – Financial Regulations

to date variances and forecast outturn adverse or favourable variances on the financial management system immediately when they exist;

~~(e)~~(d) ensuring that appropriate financial controls exist and are maintained properly within the service area and report on any deficiencies to **Directors**;

~~(d)~~(e) providing appropriate financial information to **Directors** and their respective teams in a timely, accurate and appropriate form and level of detail;

~~(e)~~(f) actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting to **Directors**;

~~(f)~~(g) ensuring that appropriate financial controls and systems exist, are applied within the service area and report on any deficiencies to **Directors**;

~~(g)~~(h) ensuring that the appropriate financial controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;

~~(h)~~(i) ensuring value for money is obtained for the whole Council when undertaking any procurement activity;

~~(i)~~(j) reconciling all cash received by the service area on a regular basis (at least monthly);

~~(j)~~(k) ensuring all monies due to the council are recorded accurately and recovered promptly; and

~~(k)~~(l) ensuring that all accounts payable are settled within 30 days unless special terms have been agreed by the **Section 151 Officer**.

5.25. The **Budget Holder** should report to **Directors**:

- (a) any unlawful or inappropriate expenditure immediately it is realised that it is about to take place or has taken place;
- (b) any area where a loss or deficiency is about to occur;
- (c) budget variances by forecasting all variations on the financial management system;
- (d) any occasions where the overall service budget is projected to be overspent or where any individual budget (cost centre) is projected to be overspent by more than £50,000;
- (e) any concerns as regards the slow or non-banking of cash immediately;
- (f) any significant loss of stock or concerns immediately; and
- (g) any other matter of financial significance.

5.26. The **Budget Holder** should:

- a) advise the **Section 151 Officer** and/or the **Head of Audit and Risk Management** of any fraudulent activity and other losses through error

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

and mismanagement by any party connected with or employed by the Council;

- b) ensure that all financial implications of all reports are agreed and approved with **Directors** and the Section 151 Officer prior to their submission to the **full Council, Cabinet**, a Committee, Council Management Teams or other bodies within and external to the Council.

Other Financial Accountabilities

Virements – Revenue and Capital

5.27. The Council controls approved budgets and transfers of budgetary provision representing policy change (i.e. virements) giving consideration to gross expenditure and income, net expenditure and service area cash limits.

5.28. The **Section 151 Officer** may authorise ~~virements-any budget adjustments between or within service areas or capital schemes, required for technical reasons and which do not fall into the below mentioned revenue or capital virement definitions. For example, the Section 151 Officer may authorise for technical reasons, e.g.~~ central support cost allocation, capital charges such as depreciation, ~~FRS17-IAS19 pension adjustments, or to reflect the enactment of previous decision making.~~ Such adjustments over £250k will be reported in the budget monitoring reports to **Cabinet** within 3 months of them taking place.

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Font: Not Bold

5.29. **Directors** must submit appropriately completed virement pro-formas to Corporate Finance for formal ratification and subsequent adjustment of approved cash limits.

5.30. All virements must be recorded on the Council's main accounting system.

Virements – Revenue

5.31. ~~All changes in gross expenditure and/or income budgets, between or within service areas-A policy change/re-prioritisation of resources between services relating to direct spend and excluding internal charges.~~ These are to be approved as a virement in accordance with the below thresholds:

- (a) Up to £100,000 by the relevant **Director(s)**, and reported to the relevant **Head of Finance**;
- (b) £100,000 up to £250,000 by the **Section 151 Officer** following referral from the relevant **Director(s)** and where it has been determined by the **Section 151 Officer** that there is no change to Council policy;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- (c) £100,000 and above involving a policy change; or any other virement of £250,000 and above, by the **Cabinet**.

Virements – Capital

5.32. ~~All changes in gross expenditure and/or income budgets within service areas, including additions, A policy change/re-prioritisation of resources between capital schemes relating to direct spend and excluding internal charges. These~~ are to be approved as a virement in accordance with the below thresholds:

- (a) Up to £250,000 by the **Section 151 Officer** following referral from the relevant **Director(s)**;
- (b) £250,000 and above, by the **Cabinet**

5.32A Any policy changes or re-prioritisation between service areas are to be approved by Cabinet and are a Key Decision in accordance with Part 5 Section C of the Constitution

Treatment of year-end balances

5.33. The **Section 151 Officer** will consider requests to carry forward underspends at year-end before approval by the **Cabinet**. The **Section 151 Officer** will also consider whether any overspends at the year-end on service budgets should be carried forward before approval by the **Cabinet**.

Accounting policies

5.34. The **Section 151 Officer** is responsible for selecting accounting policies and ensuring that they are applied consistently. The **Directors** are responsible for adhering to these policies.

Accounting records, procedures and returns

5.35. The **Section 151 Officer** is responsible for determining the accounting procedures and records for the Council and has a duty to ensure accounting procedures meet statutory duties. Such procedures may include procedures and timetables for the preparation of the budget and the Council's financial statements. **Directors** have a responsibility to:

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- (a) comply with the procedures and timetables determined by the **Section 151 Officer**;
- (b) regularly monitor, reconcile and clear the control accounts;
- (c) supply information to comply with statutory timetables;
- (d) complete grant claims etc. by due dates; and
- (e) retain appropriate financial records as required by the **Section 151 Officer**.

The Annual Statement of Accounts

5.36. The **Section 151 Officer** is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The **Section 151 Officer** has the authority to make such amendments to the treatment of the Council's transactions as are in the overall interest of the Council including the optimisation of the capital financing position and the management of earmarked reserves. The **Corporate Committee and Pensions Committee and Board** are responsible for approving their respective parts of the annual statement of accounts.

5.37. Each **Director**:

- (a) has a responsibility to supply budget monitoring information on time.
- (b) are accountable for the income and expenditure in their budgets and for the service area budgets.
- (c) must supply required information and produce appropriate documents on time as requested by the **Section 151 Officer**.
- (d) need to protect against the risks of creating contingent liabilities and to keep the **Section 151 Officer** informed of any new contingent liabilities or contingent assets as they arise.

Bribery, Corruption and Financial Irregularities

5.38. All employees shall conduct themselves to the highest standards. Any employee involved in bribery, corruption, fraud or deception will be subject to disciplinary action and in certain circumstances criminal prosecutions.

5.39. It is a criminal offence for any person to use their position with the Council to accept or ask for any gift, reward or other advantage from work done in an official capacity. In addition such acts seriously undermine the public image of the Authority and its staff. As a result the Council will discipline staff on the grounds of gross misconduct if they breach this regulation.

PART 4 – RULES OF PROCEDURE – DRAFT VERSION FOR 2019 UPDATE
Section I – Financial Regulations

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
 Section I – Financial Regulations

Financial Irregularities

- 5.40. Staff must act with absolute honesty when dealing with the assets of the Council, and any other assets for which the Council is responsible. The Council will rigorously enforce sanctions laid down in the [Employee Code of Conduct](#) ~~Disciplinary Code of Practice~~ if staff are found to have acted dishonestly. The Code gives examples of financial irregularities that are considered to be gross misconduct.
- 5.41. All staff must ensure that any irregularity or suspected irregularity involving Council funds, property or any other assets for which the Council is responsible is reported immediately to the **Head of Audit and Risk Management**. This also applies to the misuse of computer passwords, misuse of information obtained in any other way, the deliberate malicious damage to information assets and the disclosure to unauthorised individuals of information obtained by their use.
- 5.42. The Council has an approved Anti-Fraud and Corruption Policy and Fraud Response Plan which set out the Council's expectations in relation to standards of behaviour and how it will respond in cases where fraud is suspected. The Anti-Fraud and Corruption Policy is supported by the Council's Whistleblowing Policy, which sets out how the Council will support anyone who wishes to report cases where they suspect fraud.
- 5.43. The **Head of Audit and Risk Management** will decide how such matters should be investigated. Service officers should not undertake any investigation or interview those involved unless prior agreement has been given by the **Head of Audit and Risk Management**.

The Role of Internal Audit

- 5.44. The statutory responsibility for internal audit derives from the **Section 151 Officer's** responsibilities under the 1972 Local Government Act, the Local Government Finance Act 1988 and the specific duties detailed in the Accounts and Audit (England) Regulations 2011. In accordance with these and the Auditing Practices Board guidelines the **Head of Audit and Risk Management** will provide a continuous audit of the accounting, financial and other operations of the Authority.

Formatted: Check spelling and grammar

Formatted: Indent: Left: 1.25 cm, No bullets or numbering

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

5.44.5.45. Internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates, and reports on the adequacy of internal control. It does this by objectively reviewing and advising management upon the effectiveness of their systems of internal control. It aims to provide assurance on the design and operation of internal controls and provide constructive and positive advice on control improvement and risk management.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

~~5.45~~5.46. The **Head of Audit and Risk Management** has authority to:

- (a) enter at any time all Council premises or land;
- (b) have unrestricted access to all records, personnel, documents, assets and correspondence relating to any financial and other transactions that the auditors consider necessary for the purpose of their work;
- (c) remove and/or secure any computer equipment, record, document, and correspondence of the Council as considered necessary;
- (d) require and receive such explanations as s/he considers necessary concerning any matter being examined; and
- (e) obtain from Council employees cash, stores or any other property owned, hired, leased or borrowed by the Authority.

~~5.46~~5.47. The decision to report financial irregularities to the Police shall be made by the **Head of Audit and Risk Management**. Where employees are involved, the **Head of Audit and Risk Management** will inform the **Chief Executive** and appropriate **Directors**.

~~5.47~~5.48. The **Head of Audit and Risk Management** has authority to report to any body of the Council matters which are considered to adversely affect the efficient/proper use of the Council's resources.

Unofficial Funds

~~5.48~~5.49. The **Section 151 Officer** shall be notified of any funds arising from unofficial sources, including school funds, and shall approve audit and accounting arrangements for these funds:

- (a) that come under the control of any **Committee, Sub-Committee** or **Panel** of the Council;
- (b) where a member of staff is involved as a result of their employment with the Authority.

6. Financial Planning

Introduction

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

6.1. **Full Council** is responsible for agreeing the Council's policy framework and budget, which will be proposed by the **Cabinet**. The Council uses the the Council Plan as its framework for determining priorities and is delivered through the business planning process. In terms of financial planning, the key elements are:

- (a) the medium term financial ~~plan~~strategy;
- (b) the budget; and
- (c) the capital programme.

Policy framework

6.2. The **full Council** is responsible for approving the policy framework and budget. The policy framework comprises the statutory plans and strategies set out in the Constitution and the budget. Pensions Committee ~~and Board~~ approves the policy framework for the Pension Fund; namely the ~~investment~~ Sstrategy Statement (including responsible investment policies) and; Funding Strategy Statement; ~~the Statement of Investment Principles and Responsible Investment policy.~~

Preparation of the Council Plan

6.3. The ~~Assistant Director for Corporate Programme Office and Chief Information Officer is responsible~~Council will for producing produce an updated ~~Council Borough~~ Plan ~~every four years~~annually and ~~reporting~~ this to the **Cabinet** for consideration before its submission to the **full Council** for approval.

Budgeting

Budget format

6.4. The general format of the budget will be proposed by the **Cabinet** and approved by the **full Council** on the advice of the **Section 151 Officer**. The draft budget should include allocation to different services and projects, proposed taxation levels, adequacy of the proposed financial reserves and contingency funds.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

Budget preparation

- 6.5. The **Section 151 Officer** is responsible for ensuring that a revenue budget is prepared on an annual basis and a financial plan over three years for consideration by the **Cabinet**, before submission to the **full Council**. The **Section 151 Officer** also has responsibility to confirm budget pressures, robustness of estimates and adequacy of reserves in accordance with Section 25 of the Local Government Act 2003. The **full Council** may amend the budget or ask the **Cabinet** to reconsider it before approving it.
- 6.6. It is the responsibility of **Directors** to ensure that realistic budget estimates reflecting agreed service plans are submitted to the **Cabinet** and that these estimates are prepared in line with guidance issued by the **Cabinet**, through the **Section 151 Officer**. The Budget risk is managed through the Council's budget management process in which the variances are analysed and decisions made accordingly.

Budget management and control

- 6.7. The **Section 151 Officer** is responsible for providing appropriate financial information to enable budgets to be monitored effectively. The **Section 151 Officer** must monitor and control expenditure against budget allocations and report to the **Cabinet** on the overall position on a regular basis. There will be a monthly budget management process determined by the **Section 151 Officer**. Any decision to alter or increase any of the existing services of the Council in such a way as may result in a material increase in the expenditure to be provided for in the budget for the current and future financial years will be subject to the approval of the **Cabinet**.

Resource allocation

- 6.8. The **Section 151 Officer** is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

Preparation of the capital programme

- 6.11. The **Section 151 Officer** is responsible for ensuring:
- (a) the preparation of the Council's medium-term capital programme on an annual basis, for consideration by the **Cabinet** before submission to **full Council**;
 - (b) that the Council's Capital Strategy is kept up-to-date;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- (c) financial monitoring of the capital programme;
- (d) the Capital Programme is managed flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources;
- (e) preparation of an Asset Management Plan;
- (f) value for money objectives are met;
- (g) adherence to CIPFA Prudential guidelines;
- (h) adherence to the Council's Treasury Management Strategy Statement;
- (i) maximisation of external funding opportunities; and
- (j) financial appraisal/evaluation of proposed capital schemes and options.

6.12. The medium-term capital programme models income and expenditure and resource requirements (both internal and external financing) over a minimum of three years and is reviewed and updated at least annually.

6.13. The Capital Strategy sets out strategic guidance on the Council's approach to capital investment. It provides clear objectives and priorities which are informed by overall corporate and service objectives, the Haringey community and other stakeholders including central government.

6.14. Capital expenditure will only be incurred when the appropriate **Directors** and **Section 151 Officer** have jointly reported the financial implications to the **Cabinet** for approval. All such reports requesting financial provision must be supported by a professionally prepared estimate of the costs of the project. Once financial approval has been obtained the specifications and assumptions upon which the written appraisal of costs was based cannot be substantially altered without the further approval of the **Cabinet**.

Guidelines

6.15. Guidelines on budget preparation may be issued to **Members** and **Directors** by the **Cabinet** following agreement with the **Section 151 Officer**. The guidelines will take account of:

- (a) legal requirements;
- (b) medium-term planning prospects;
- (c) available resources;
- (d) spending pressures;
- (e) best value/value for money and other relevant government guidelines;
- (f) other internal policy documents; and
- (g) cross-cutting issues (where relevant).

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

Maintenance of Reserves

- 6.16. It is the responsibility of the **Section 151 Officer** to advise the **Cabinet** and the **full Council** on prudent levels of general reserves for the Council. When fixing the level of reserves an assessment is made of the key financial risks facing the Council.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

7. **Risk Management and Control of Resources**

Introduction

- 7.1. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services. The effective identification and management of risks is a responsibility that sits with all **Directors**

Risk Management

- 7.2. The **Corporate Committee** is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The **Section 151 Officer** is responsible for and has delegated authority to ensure that proper insurance exists where appropriate.
- 7.3. The **Monitoring Officer** is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.
- 7.4. At a service area level **Directors** should ensure that the Council's risk management strategy is complied with. The Management of Risk Policy and Strategy specifies that **Directors** must align the assessment of their risks and the actions to manage these to the Council's business planning processes. This must be done so that the Council is able to identify any significant risks that could jeopardise delivery of business plans in the following year and for which appropriate actions will need to be taken.

Internal control

- 7.5. Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded. The Council prepares an Annual Governance Statement each year. **Directors** have a role to provide assurances to support the production of the Annual Governance Statement and to maintain appropriate systems of governance and internal control.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- 7.6. The **Section 151 Officer** is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 7.7. It is the responsibility of **Directors** to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency, propriety, regularity and effectiveness and for achieving their financial performance targets.

Audit requirements

- 7.8. The Accounts and Audit (~~England~~) Regulations ~~2011-2015~~ require every local authority to maintain an adequate and effective internal audit. The rights of the internal audit function are set out in Regulation ~~65~~.
- 7.9. ~~The Audit Commission~~ Public Sector Audit Appointments Ltd is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section ~~5-20 of the Local Audit and Accountability Act 2014~~ of the Audit Commission Act 1998.
- 7.10. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs who have statutory rights of access.

Preventing fraud and corruption

- 7.11. The **Monitoring Officer** is responsible for the development and maintenance of an anti-fraud and anti-corruption policy. **Directors** shall notify the **Head of Audit and Risk Management** immediately of any suspected fraud, theft or misuse of the authority's assets or resources. Further guidance can be found in the Haringey Anti-fraud and Corruption ~~Strategy Policy and Strategy~~ (which includes the Council's and the Whistleblowing Policy).
- 7.12. The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
- 7.13. The Council's expectation of propriety and accountability is that members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and good practices.

Formatted: Indent: Left: 1.25 cm, No bullets or numbering, Tab stops: Not at 0.63 cm

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

7.14. The Council also expects that individuals and organisations (e.g. suppliers, contractors, and service providers) with which it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

~~7.11.~~

Assets

~~7.12-7.15.~~ **Directors** should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place. Any disposal of any asset no longer required by the Council shall be for the best available consideration. Inventories of the Council's assets, other than stores, must be kept by the **Budget Holder** concerned. The inventories must be in a form approved by, and include the items defined by, the **Section 151 Officer**. Any write off of stocks must be in accordance with the Council's stock write off policy.

Treasury Management

~~7.13-7.16.~~ The Council has adopted the Code of Practice contained within The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, ~~2011~~2017). The Council will create and maintain, as cornerstones for effective treasury management:

- (a) a Treasury Management Strategy Statement (TMSS) which states the Council's policies, objectives and approach to risk management with respect to its treasury management activities;
- (b) suitable treasury management practices setting out how the Council will achieve those policies and objectives and prescribing how it will manage and control its treasury management activities;
- (c) the TMSS and treasury management practices will follow the recommendations in Sections 6 and 7 of the CIPFA Code of Practice. They may be subject to amendment where necessary to reflect the particular circumstances of Haringey Council but will not deviate materially from the Code's key principles.

Formatted: No bullets or numbering, Tab stops: Not at 0.63 cm

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
 Section I – Financial Regulations

7.17 The **Corporate Committee** will formulate the TMSS and amendments to it. The Cabinet Member for Finance will be consulted on the draft TMSS because of the budget implications. The **Overview and Scrutiny Committee** will scrutinise the draft TMSS annually before its adoption by **full Council**. The **full Council** is responsible for approving and adopting the TMSS setting out the matters detailed in The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, ~~2011~~2017). The **Section 151 Officer** has delegated authority for implementing and monitoring the TMSS. The Council sets its TMSS in line with the indicators required under the Prudential Code for Capital Finance in Local Authorities introduced by CIPFA 1 April 2004 and subsequently revised in ~~2011~~2017.

Formatted: Indent: Left: 0 cm, Hanging: 1.16 cm, Tab stops: 1.16 cm, List tab

7.18 All decisions on borrowing, investment, leasing or financing shall be delegated to the **Section 151 Officer**, who is required to act in accordance with the TMSS and The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, ~~2011~~2017).

7.19 The **Section 151 Officer** is responsible for reporting to the **Corporate Committee** each quarter, or as near as practicable, on the implementation and regular monitoring of the treasury management policies and practices and on the exercise of his/her delegated treasury management powers.

7.20 The **Section 151 Officer** is responsible for consulting the Cabinet Member for Finance on the ~~annual and~~ mid-year monitoring reports and an out-turn report after the close of the year concerning treasury management policies and practices before these reports are considered by the **Corporate Committee** and **full Council**.

Arrangements for Cash and Banking

~~7.18-7.21.~~ All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, in the Council's case the **Section 151 Officer** and save as allowed in the Financial Regulations for Schools where, in any case, arrangements shall be made for the **Section 151 Officer** to be able to exercise control upon the withdrawal of delegation or otherwise, no officer other than the **Section 151 Officer** (or those officers to whom the **Section 151 Officer** has granted delegated authority to) may:

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 21 + Alignment: Left + Aligned at: 1.27 cm + Tab after: 1.9 cm + Indent at: 1.9 cm

- (a) open a bank or credit/purchase card account ;
- (b) agree to or sanction the arrangements for the handling of any liquid resource, cash or instrument of payment;
- (c) make payments, save through imprest accounts; or

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

(d) authorise direct debits.

~~7.19-7.22.~~ The **Section 151 Officer** makes imprest advances to certain officers for giving out petty cash disbursements on behalf of the Council. The value of any advance is subject to the agreement of the **Section 151 Officer**. The officer named as responsible for each imprest is accountable for the full value of the sum advanced at any time. Imprest accounts must be operated in accordance with the procedures set down by the **Section 151 Officer**. Detailed imprest account procedure rules are available from Corporate Procurement Division.

Formatted: Indent: Left: 0 cm, Hanging: 1.25 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 21 + Alignment: Left + Aligned at: 1.27 cm + Tab after: 1.9 cm + Indent at: 1.9 cm

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

Amenity, Trust and Other Unofficial Funds

7.20-7.23. Funds held by the Council on behalf of other bodies or persons must be dealt with in accordance with procedures set down by the **Section 151 Officer. Directors** must ensure such funds are held securely and in such a way that they can be identified, accounted for and reconciled, at any time, separately from Council monies. **Directors** are accountable for the appropriate expenditure from such funds or repayment thereof.

Formatted: Indent: Left: 0 cm, Hanging: 1.25 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 21 + Alignment: Left + Aligned at: 1.27 cm + Tab after: 1.9 cm + Indent at: 1.9 cm

Staffing

7.21-7.24. **Full Council** is responsible for determining how officer support for Executive and non-Executive roles within the Council will be organised.

Formatted: Indent: Left: 0 cm, Hanging: 1.25 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 21 + Alignment: Left + Aligned at: 1.27 cm + Tab after: 1.9 cm + Indent at: 1.9 cm

7.22-7.25. The Head of Paid Service (**Chief Executive**) is responsible for providing overall management to staff. The **Chief Executive** is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

Formatted: Indent: Left: 0 cm, Hanging: 1.25 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 21 + Alignment: Left + Aligned at: 1.27 cm + Tab after: 1.9 cm + Indent at: 1.9 cm

7.23-7.26. **Directors** are responsible for controlling total staff numbers by:

Formatted: Indent: Left: 0 cm, Hanging: 1.25 cm, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 21 + Alignment: Left + Aligned at: 1.27 cm + Tab after: 1.9 cm + Indent at: 1.9 cm

- (a) advising the **Cabinet** on the budget necessary in any given year to cover estimated staffing levels;
- (b) adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs; and
- (c) the proper use of appointment procedures.

8. Systems and Procedures

General

- 8.1. The **Section 151 Officer** is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by **Directors** to the existing financial systems or the establishment of new systems must be approved by the **Section 151 Officer**. However, **Directors** are responsible for the proper operation of financial processes in their own service area in line with overall procedures set by the Council and the **Section 151 Officer**.
- 8.2. Any changes to agreed procedure notes by **Directors** to meet their own specific service needs should be agreed with the **Section 151 Officer**.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- 8.4. **Directors** should ensure that their staff receive relevant financial training that has been approved by the **Section 151 Officer**.
- 8.5. **Directors** must ensure that staff are aware of their responsibilities under data protection, freedom of information legislation and the Computer Misuse Act.
- 8.6. **Directors** must ensure that proper business continuity planning is in place for the delivery of financial services in the event of any incident that affects systems.

Income and expenditure

- 8.7. It is the responsibility of **Directors** to ensure that a proper scheme of delegation in respect of financial matters has been established within their area and is operating effectively. The **Section 151 Officer's** Scheme of Financial Delegation provides detailed procedures for:
- (a) expenditure;
 - (b) income including grants, fees & charges, cash and banking;
 - (c) control of assets, stocks and stores;
 - (d) human resources.

Payments to employees and members

- 8.8. The **Section 151 Officer** should approve any amendments to the approval processes for the payment of all salaries, wages, pensions, compensation, other emoluments and any ex-gratia payments. **Directors** and **Business Unit Heads** must supply such certificates relating to the employment of staff as the **Section 151 Officer** deems necessary. The ~~Assistant Director for~~**Head of Human Resources** is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

Taxation

- 8.9. The **Section 151 Officer** (and the ~~Assistant Director for~~**Head of Human Resources**) for PAYE and NI) are responsible for advising **Directors**, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council. **Directors** should discuss with the **Section 151 Officer** potential tax implications of any new initiatives. **Directors** have a responsibility for the proper application of tax rules as advised.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
 Section I – Financial Regulations

8.10. **Directors** are responsible for ensuring that the appropriate controls and procedures are operated within the relevant service area in relation to taxation issues.

8.11. The **Section 151 Officer (and the ~~Assistant Director for Head of Human Resources~~)** for PAYE and NI) are responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

8.12. **All staff and Councillors** should adhere to VAT rules & regulations and also guidance issued by the **Section 151 Officer**.

Trading accounts/business units

8.13. It is the responsibility of the **Section 151 Officer** to advise on the establishment and operation of trading accounts and business units. **Directors** have a responsibility to advise the **Section 151 Officer** on any plans to utilise trading arrangements.

Debt Write Off

8.14. Arrears of housing rents and other housing income administered by the ALMO (Homes for Haringey) may be written off in accordance with procedure notes issued by the **Section 151 Officer** with the below authorities, applying to individual debt accounts:

- a) up to and including ~~£1001,000~~, the approval of **Chief Executive of the ALMO** and reported to the **Section 151 Officer**.
- b) Over ~~£1001,000~~ and up and including ~~to~~ ~~£25,00050,000~~, on the approval of the **Section 151 Officer** upon the advice of the **Chief Executive of the ALMO**.
- c) Over ~~£25,00050,000 or above~~, on the approval of the **Cabinet Member for ~~Resources Finance~~** upon the advice of the **Chief Executive of the ALMO** and the **Section 151 Officer**.

The ALMO shall keep a record of all such sums written off.

8.15. All other individual debt accounts which remain unpaid may be written off in accordance with the below authorities:

- a) up to and including ~~£1,000~~, the approval of relevant ~~Director and reported to the~~ **Section 151 Officer**.

Formatted: Font: Bold

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

a)b) ~~Over £1,000 and Up to~~ ~~and including £25,000~~**£50,000** on the approval of the **Section 151 Officer** upon the advice of the relevant **Director**;
b)c) ~~Over £25,000~~~~£50,000~~ ~~or above~~ on the approval of the **Cabinet Member** for **Resources Finance** upon the advice of the relevant **Director** and the **Section 151 Officer**.

Formatted: Font: Bold
Formatted: Font: Bold
Formatted: Font: Bold
Formatted: Font: Bold
Formatted: Font: Bold

Corporate Finance shall keep a record of all such sums written off.

- 8.16. All debts written off will be reported in summary to the **Cabinet** in the regular budget monitoring reports.
- 8.17. It is important that Council income is maximised and therefore to ensure that systems and procedures are in place to collect income promptly and to minimise the level of any bad debts.

Procedure Notes

- 8.18. From time to time the **Section 151 Officer** may issue procedure notes pursuant to these Financial Regulations or his statutory duties or otherwise. Failure to comply with a lawful instruction is a disciplinary offence.

9. External Arrangements

Introduction

- 9.1. The Council provides a distinctive Leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- 9.2. The Council works closely with other agencies and private service providers. Other Government funding streams also provide additional resources to enable the Authority to deliver services to the local community.

Partnerships

- 9.3. The **Cabinet** is responsible for approving delegations, including frameworks for partnerships. The **Cabinet** is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- 9.4. The **Cabinet** can delegate functions – including those relating to partnerships to officers. These are set out in the scheme of delegation that forms part of the Council's Constitution. Where functions are delegated, the **Cabinet** remains accountable for them to the **full Council**.
- 9.5. The Head of the Paid Service (**Chief Executive**) represents the Council on partnership and external bodies, in accordance with the scheme of delegation.
- 9.6. The **Section 151 Officer** is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 9.7. The **Section 151 Officer** must ensure that the accounting arrangements to be adopted relating to partnerships, pooled budgets and joint ventures are satisfactory.
- 9.8. The **Monitoring Officer** must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. ~~He or she~~They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 9.9. **Directors** are responsible for ensuring that appropriate approvals both internal and external are obtained before any negotiations are concluded in relation to work with external bodies.

External Funding

- 9.10. **The Section 151 Officer** is responsible for ensuring that all funding noted by external bodies is received and properly recorded in the Council's accounts.

Work for Third Parties

- 9.11. The **Cabinet** is responsible for approving the contractual arrangements for any work for third parties or external bodies. Advice should be obtained from the **Section 151 Officer** and the **Monitoring Officer** before entering into a contract for supply to others.

10. Retention of Records

- 10.1 Records held locally in establishments shall be retained in accordance with the approved guidance, which in turn must meet the Council's standards.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**
Section I – Financial Regulations

- 10.2 **Directors and Budget holders** shall be responsible for ensuring that financial records are carefully and systematically filed and retained for inspection by the **Section 151 Officer** or agencies (e.g. HM Revenue & Customs) in line with the approved local management information schemes that meets relevant statutory requirements.
- 10.3 The list is not exhaustive and, where there is uncertainty, the advice of the **Section 151 Officer** and the Council's **Assistant Director of Corporate Governance** must be sought. Periods referred to are in addition to the current year of account, which ends at the conclusion of the annual external audit of the Council's accounts (i.e. 30 September following the end of the financial year).
- 10.4 The **Section 151 Officer** or his representative shall have access to documents as deemed necessary.
- 10.5 The information governance framework assists services to meet the requirements of the Data Protection Act, the Freedom of Information Act and other statutory requirements.

Part Four, Section I

Financial Regulations

Contents	Page
Part 1 - Status of Financial Regulations	2
1. Status	2
2. Recording delegations	3
3. Financial Control Framework	3
4. Devolution of Financial Management and Accounting	4
Part 2 - Financial Management	5
5. Financial Management (including virement rules)	5
6. Financial Planning	18
7. Risk Management and Control of Resources	22
8. Systems and Procedures	27
9. External Arrangements	30
10. Retention of Records	31

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

Part 1 - Status of Financial Regulations

1. Status

- 1.1. Our Financial Regulations provide the framework for managing the Council's financial affairs and for resources that the Council or its employees manage on behalf of others. They apply to every **Councillor** and **Officer** of the Council and to the ALMO in respect of debt write off.
- 1.2. All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.3. The regulations identify the financial responsibilities of:
 - the **full Council**;
 - the **Cabinet**;
 - the **Overview and Scrutiny Committee**;
 - the **Head of the Paid Service (Chief Executive)**;
 - the **Monitoring Officer (Assistant Director of Corporate Governance)**;
 - the **Section 151 Officer (Director of Finance also known as Chief Finance Officer)** and **Directors**;
 - **Budget Holders** within service areas.
- 1.4. **The Section 151 Officer** is responsible for maintaining a continuous review of these Financial Regulations and submitting any additions or changes necessary to **full Council** for approval in accordance with article 15.03(a) of the Constitution.
- 1.5. **The Section 151 Officer** is responsible for issuing advice and guidance to underpin these Financial Regulations that **Councillors, Officers and others acting on behalf of the Council** are required to follow. This advice and guidance will generally be based on CIPFA Standards of Professional Practice, which are available on www.cipfa.org.uk.
- 1.6. **The Section 151 Officer** is also responsible for reporting, where appropriate, breaches of these Financial Regulations to the **Council** and/or to the **Cabinet Members**.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- 1.7. These Financial Regulations are supported, where appropriate, by detailed procedure notes, setting out how these Financial Regulations will be implemented.
- 1.8. **Directors** are responsible for ensuring that all staff in their service areas are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them.
- 1.9. It is a disciplinary offence to breach these Financial Regulations. A breach of these regulations should be reported to the **Section 151 Officer** as soon as is practicable to do so.
- 1.10. All staff are required to conduct themselves to the highest standards. The involvement of staff in any form of bribery, corruption, fraud or deception will not be tolerated.
- 1.11. For any aspect of finance relating to schools the Haringey's Scheme for Financing Schools which are designed to give detailed assistance to schools, should be referred to.

2. Recording delegations

- 2.1. **Directors** should maintain written records where financial decision making has been delegated to members of their staff, including seconded or temporary staff. Where decisions have been delegated or devolved to other responsible officers references to **Directors** in the regulations should be read as referring to them.

3. Financial Control Framework

- 3.1. The financial administration framework of the Council is organised in accordance with Section 151 of the Local Government Act 1972, requiring that every Local Authority in England and Wales should '**make arrangements for the proper administration of their financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs.**' The framework comprises:
 - **Constitution:** The principal rules governing the Council's affairs, including financial affairs, and the delegation of authority to **Councillors** and **Officers**;
 - **Financial Regulations:** This document is part of the Constitution, created by the Council;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- The **Scheme of Financial Delegation** and specific delegations by **Directors** to officers in their service area;
- **Contract Standing Orders**;
- **Guide to Procurement**;
- **Medium Term Financial Strategy (MTFS)**.

4. Devolution of Financial Management and Accounting

- 4.1. The Council seeks to unite operational and financial responsibility to empower managers to give them the tools to deliver high quality services. Part of that empowerment is to give them control of the resources needed to deliver the service so that they can plan and use these resources to obtain the maximum benefit for the service.
- 4.2. The Council also needs to balance responsibilities with accountability and protection for Officers so that they know their authorisation levels and the limit to those authorities.

5. Financial Management (including virement rules)

Introduction

5.1. Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget. The Financial Regulations are not an exhaustive document and proper financial management should be applied in all circumstances even if not specifically referred to.

The Full Council and the Cabinet

5.2. The **full Council** is responsible for adopting the Council's Constitution and Members' code of conduct and for approving the policy framework and budget within which the **Cabinet** operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in this Constitution. The **full Council** is also responsible for monitoring compliance with the agreed policy and related **Cabinet** decisions.

5.3. The **Leader** has powers to take any decision, including a key decision, which the **Cabinet** could have taken. This is set out in Part 3 Section C of the Council Constitution. When **Members** take decisions on reports, the reports must comply with the Protocol for Decision-making in Part 5 Section D and this must include the provision of the **Section 151 Officer's** comments on the financial implications.

5.4. The **Cabinet** is responsible for proposing the policy framework and budget to the **full Council** and for discharging Executive functions in accordance with the policy framework and budget.

5.5. **Cabinet** decisions can be delegated, in accordance with the delegation arrangements set out in Part 3 of this Constitution.

Section I – Financial Regulations

Committees of the Council

Overview and Scrutiny Committee

5.6. The **Overview and Scrutiny Committee** is responsible for scrutinising key decisions (decisions of the **Cabinet, the Leader, or Cabinet** members) before or after they have been implemented and for holding the **executive** (the **Cabinet, the Leader and Cabinet** members) to account. The **Overview and Scrutiny Committee** is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

Corporate Committee

5.7. The **Corporate Committee** is established by the **full Council**. It has right of access, through the officer acting as Chief Internal Auditor (currently the Head of Audit and Risk Management) from time to time, to all the information it considers necessary and can consult directly with internal and external auditors. The **Corporate Committee** is responsible for reviewing the external auditor's reports and the Annual Audit and Inspection Letter and internal audit's annual report. The **Corporate Committee** also monitors responses to audit reports.

Standards Committee

5.8. The **Standards Committee** is established by the **full Council** and is responsible for promoting and maintaining high standards of conduct amongst **Councillors** as Members. In particular, it is responsible for advising the Council on the adoption and revision of the Members' code of conduct, for monitoring the operation of the code, and for recommending proposals for any changes to the Constitution to full Council for approval.

The Pensions Committee and Board

5.9. The **Pensions Committee and Board** acts as the quasi-trustee of the Local Government Pension Scheme (LGPS) for the Council.

Alexandra Palace and Park Board

5.10. Alexandra Palace and Park Board is a Committee of the Council with responsibility for discharging a specific statutory charity trustee role. It has its own Financial Regulations and governance but is, nonetheless, subject overall to the Section 151 Officer who has responsibility for its financial affairs. It is also subject to charities law and accounting practice.

The Statutory officers

Head of Paid Service (Chief Executive)

5.11. The **Chief Executive** as Head of Paid Service is responsible, in relation to these Financial Regulations, for the corporate and overall strategic management of the Council as a whole. The **Chief Executive** must report to and provide information for the **Cabinet**, the **full Council**, the **Overview and Scrutiny Committee** and **other committees**.

5.12. The **Chief Executive** is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The **Chief Executive** is also responsible, together with the **Monitoring Officer**, for the system of record keeping in relation to all the **full Council's** decisions.

Monitoring Officer (Assistant Director of Corporate Governance)

5.13. The **Monitoring Officer** is responsible, in relation to these Financial Regulations, for promoting and maintaining high standards of financial conduct and therefore provides support to the **Standards Committee**. The **Monitoring Officer** is also responsible for reporting any actual or potential breaches of the law or maladministration to the **full Council** and/or to the **Cabinet**.

5.14. The **Monitoring Officer** (together with the **Section 151 Officer**) is responsible for advising the **Cabinet** or the **full Council** about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- (a) initiating a new policy;
- (b) committing expenditure in future years above the budget level;
- (c) incurring inter-service area transfers above virement limits; and
- (d) causing the total expenditure financed from Council tax, grants and corporately held reserves to increase.

5.15. The **Monitoring Officer** is responsible for maintaining an up-to-date Constitution.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

The Section 151 Officer (interim Chief Finance Officer)

5.16. The **Section 151 Officer** has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972;
- (b) The Local Government Finance Act 1988;
- (c) The Local Government and Housing Act 1989;
- (d) The Accounts and Audit (England) Regulations 2011;
- (e) The Local Government Act 2003;
- (f) The Accounts and Audit Regulations 2015
- (g) The Local Audit and Accountability Act 2014

5.17. The **Section 151 Officer** is responsible, in relation to these regulations for:

- (a) the proper administration of the Council's financial affairs, including the determination of the appropriate staffing level to ensure proper administration;
- (b) setting and monitoring compliance with financial management standards;
- (c) ensuring these Financial Regulations are fit for purpose and proposing any necessary amendments;
- (d) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- (e) providing financial information;
- (f) preparing the revenue budget and capital programme;
- (g) treasury management;
- (h) internal audit;
- (i) anti-fraud;
- (j) risk management; and
- (k) insurance.

5.18. The Section 151 Officer may from time to time delegate responsibility to a Head of Finance or other officer reporting to them, as the Section 151 Officer deems appropriate.

5.19. Section 114 of the Local Government Finance Act 1988 requires the **Section 151 Officer** to report to the **full Council**, the **Cabinet** and external auditor if the Council or one of its officers:

- (a) has made, or is about to make, a decision which involves incurring unlawful expenditure;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- (b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficit to the Council; or
- (c) is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- (a) the **Section 151 Officer** to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under Section 114 personally; and
- (b) the Council to provide the **Section 151 Officer** with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under Section 114.

5.20. The Section 151 Officer will:

- (a) respond to annual expenditure proposals submitted by the following bodies (if applicable):-

Greater London Authority
London Pension Fund Authority
Lee Valley Regional Park Authority
North London Waste Authority
London Councils
Greater London Magistrates Courts Authority
Environment Agency

- (b) Consult with Ratepayers in accordance with Section 65 of the Local Government Finance Act 1992;
- (c) Authorise redundancy and early termination costs in relation to officers of the Council;
- (d) Authorise redundancy and early termination costs in relation to education staff giving consideration to the Education Act 2002.

Directors

5.21. **Directors** are responsible for the financial affairs of their service area including any financial staff, processes and systems. They must equally report financial issues to the **Section 151 Officer**. The responsibilities include:

- (a) ensuring that **Cabinet** Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the **Section 151 Officer** including:
 - Non-Domestic Rating Discretionary Rate Relief;
 - the annual review of the Council Tax Reduction Scheme;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019
UPDATE**

Section I – Financial Regulations

- (b) ensuring compliance with Contract Standing Orders;
- (c) leading the production of revenue and capital programme budgets for their service area as appropriate and ensuring all plans have appropriate and necessary approved budgetary provision in place;
- (d) ensuring that detailed plans and realistic prudent profiled budgets exist for the delivery of the Medium Term Financial Strategy and to report variances and forecast outturn adverse or favourable variances immediately when they exist;
- (e) control of income and expenditure within the approved budget and ensuring that expenditure is not incurred without an appropriately approved budget in place;
- (f) reporting known and potential variances from the service area cash limit in excess of £100,000 to the **Section 151 Officer**, through the formal budget management procedures;
- (g) providing appropriate financial information to the **Section 151 Officer** and their respective teams in a timely, accurate and appropriate form and level of detail. e.g. to permit final accounts to be prepared at year end as necessary, in accordance with appropriate legislation, accounting codes of practice and the Council's accounting procedure notes;
- (h) appointing budget holders for all areas of their own budget;
- (i) monitoring performance levels with budget performance in accordance with published timescales;
- (j) adherence to the budget management procedures contained within service area Schemes of Financial Delegation including virement management;
- (k) ensuring records, systems and appropriate financial controls are up to date and available for audit. Any loss or deficiencies are to be reported to the **Section 151 Officer** immediately;
- (l) actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting them to the **Section 151 Officer**. All grant applications are to be notified to the **Section 151 Officer** prior to submission, to consider any potential future resourcing issues and incorporate into the Grant Register which will be maintained by Corporate Finance;
- (m) ensuring that the necessary systems and controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;
- (n) ensuring all assets are appropriately protected, accounted for and reconciled. Any significant loss of stock or concerns should be reported to the **Section 151 Officer** immediately;
- (o) advise the **Section 151 Officer** and/or the **Head of Audit and Risk Management** of any fraudulent activity and other losses through error

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

and mismanagement by any party connected with or employed by the Council.

- (p) liaise with the **Head of Audit & Risk Management** in agreeing the annual audit plan of the service area. To report to the **Section 151 Officer** any concerns where an audit is considered necessary but is not being undertaken.
- (q) ensure that appropriate timely arrangements are in place to sign off the financial implications of all reports including comments from the **Section 151 Officer** where appropriate, prior to their submission to the full Council, Cabinet, a Committee, Council Management Teams or other bodies within and external to the Council.
- (r) ensure that all appropriate financial controls and systems are in place where not specified above, in particular adequate separation of duties and accurate and timely reconciliations.
- (s) report to the **Section 151 officer** any other matter of financial significance.

5.22. It is the responsibility of **Directors** to consult with the **Section 151 Officer** and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

5.23. **Directors and Budget Holders** are supported in the completion of their financial responsibilities by a **Head of Finance** (or another suitably senior finance officer whose post title may vary from this). Heads of Finance are part of the Corporate Finance service area and report to the **Section 151 Officer**. They have a link, therefore, to the **Section 151 Officer** and a functional relationship to their **Directors**.

Budget Holders

5.24. The **Budget Holder** is responsible for the management of the budget for which he/she is allocated by the **Director**. The responsibilities of the role include:

- (a) to take ownership for all aspects of the financial management of the service(s) which they are responsible for, including managing, controlling and recording all expenditure and income;
- (b) leading the production of revenue and capital programme budgets for the service area ensuring all plans have appropriate and necessary budget provision;
- (c) ensuring plans and realistic prudent profiled budgets exist for the delivery of the Medium Term Financial Strategy and to report year to date

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- variances and forecast outturn adverse or favourable variances on the financial management system immediately when they exist;
- (d) ensuring that appropriate financial controls exist and are maintained properly within the service area and report on any deficiencies to **Directors**;
 - (e) providing appropriate financial information to **Directors** and their respective teams in a timely, accurate and appropriate form and level of detail;
 - (f) actively seeking additional income or savings opportunities, including grant and new financing opportunities, and reporting to **Directors**;
 - (g) ensuring that appropriate financial controls and systems exist, are applied within the service area and report on any deficiencies to **Directors**;
 - (h) ensuring that the appropriate financial controls are in place to ensure that all the Council's cash is paid into its bank accounts quickly and efficiently;
 - (i) ensuring value for money is obtained for the whole Council when undertaking any procurement activity;
 - (j) reconciling all cash received by the service area on a regular basis (at least monthly);
 - (k) ensuring all monies due to the council are recorded accurately and recovered promptly; and
 - (l) ensuring that all accounts payable are settled within 30 days unless special terms have been agreed by the **Section 151 Officer**.

5.25. The **Budget Holder** should report to **Directors**:

- (a) any unlawful or inappropriate expenditure immediately it is realised that it is about to take place or has taken place;
- (b) any area where a loss or deficiency is about to occur;
- (c) budget variances by forecasting all variations on the financial management system;
- (d) any occasions where the overall service budget is projected to be overspent or where any individual budget (cost centre) is projected to be overspent by more than £50,000;
- (e) any concerns as regards the slow or non-banking of cash immediately;
- (f) any significant loss of stock or concerns immediately; and
- (g) any other matter of financial significance.

5.26. The **Budget Holder** should:

- a) advise the **Section 151 Officer** and/or the **Head of Audit and Risk Management** of any fraudulent activity and other losses through error and mismanagement by any party connected with or employed by the Council;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- b) ensure that all financial implications of all reports are agreed and approved with **Directors** and the Section 151 Officer prior to their submission to the **full Council, Cabinet**, a Committee, Council Management Teams or other bodies within and external to the Council.

Other Financial Accountabilities

Virements – Revenue and Capital

- 5.27. The Council controls approved budgets and transfers of budgetary provision representing policy change (i.e. virements) giving consideration to gross expenditure and income, net expenditure and service area cash limits.
- 5.28. The **Section 151 Officer** may authorise any budget adjustments between or within service areas or capital schemes, required for technical reasons and which do not fall into the below mentioned revenue or capital virement definitions. For example the **Section 151 Officer** may authorise central support cost allocation, capital charges such as depreciation, IAS19 pension adjustments, or to reflect the enactment of previous decision making. Such adjustments over £250k will be reported in the budget monitoring reports to Cabinet within 3 months of them taking place.
- 5.29. **Directors** must submit appropriately completed virement pro-formas to Corporate Finance for formal ratification and subsequent adjustment of approved cash limits.
- 5.30. All virements must be recorded on the Council's main accounting system.

Virements – Revenue

- 5.31. A policy change/re-prioritisation of resources between services relating to direct spend and excluding internal charges. These are to be approved as a virement in accordance with the below thresholds:
 - (a) Up to £100,000 by the relevant **Director(s)**, and reported to the relevant **Head of Finance**;
 - (b) £100,000 up to £250,000 by the **Section 151 Officer** following referral from the relevant **Director(s)** and where it has been determined by the **Section 151 Officer** that there is no change to Council policy;
 - (c) £100,000 and above involving a policy change; or any other virement of £250,000 and above, by the **Cabinet**.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

Virements – Capital

5.32. A policy change/re-prioritisation of resources between capital schemes relating to direct spend and excluding internal charges. These are to be approved as a virement in accordance with the below thresholds:

- (a) Up to £250,000 by the **Section 151 Officer** following referral from the relevant **Director(s)**;
- (b) £250,000 and above, by the **Cabinet**

5.32A Any policy changes or re-prioritisation between service areas are to be approved by Cabinet and are a Key Decision in accordance with Part 5 Section C of the Constitution

Treatment of year-end balances

5.33. The **Section 151 Officer** will consider requests to carry forward underspends at year-end before approval by the **Cabinet**. The **Section 151 Officer** will also consider whether any overspends at the year-end on service budgets should be carried forward before approval by the **Cabinet**.

Accounting policies

5.34. The **Section 151 Officer** is responsible for selecting accounting policies and ensuring that they are applied consistently. The **Directors** are responsible for adhering to these policies.

Accounting records, procedures and returns

5.35. The **Section 151 Officer** is responsible for determining the accounting procedures and records for the Council and has a duty to ensure accounting procedures meet statutory duties. Such procedures may include procedures and timetables for the preparation of the budget and the Council's financial statements. **Directors** have a responsibility to:

- (a) comply with the procedures and timetables determined by the **Section 151 Officer**;
- (b) regularly monitor, reconcile and clear the control accounts;
- (c) supply information to comply with statutory timetables;
- (d) complete grant claims etc. by due dates; and

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- (e) retain appropriate financial records as required by the **Section 151 Officer**.

The Annual Statement of Accounts

5.36. The **Section 151 Officer** is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The **Section 151 Officer** has the authority to make such amendments to the treatment of the Council's transactions as are in the overall interest of the Council including the optimisation of the capital financing position and the management of earmarked reserves. The **Corporate Committee and Pensions Committee and Board** are responsible for approving their respective parts of the annual statement of accounts.

5.37. Each **Director**:

- (a) has a responsibility to supply budget monitoring information on time.
- (b) are accountable for the income and expenditure in their budgets and for the service area budgets.
- (c) must supply required information and produce appropriate documents on time as requested by the **Section 151 Officer**.
- (d) need to protect against the risks of creating contingent liabilities and to keep the **Section 151 Officer** informed of any new contingent liabilities or contingent assets as they arise.

Bribery, Corruption and Financial Irregularities

5.38. All employees shall conduct themselves to the highest standards. Any employee involved in bribery, corruption, fraud or deception will be subject to disciplinary action and in certain circumstances criminal prosecutions.

5.39. It is a criminal offence for any person to use their position with the Council to accept or ask for any gift, reward or other advantage from work done in an official capacity. In addition such acts seriously undermine the public image of the Authority and its staff. As a result the Council will discipline staff on the grounds of gross misconduct if they breach this regulation.

Financial Irregularities

- 5.40. Staff must act with absolute honesty when dealing with the assets of the Council, and any other assets for which the Council is responsible. The Council will rigorously enforce sanctions laid down in the Employee Code of Conduct if staff are found to have acted dishonestly. The Code gives examples of financial irregularities that are considered to be gross misconduct.
- 5.41. All staff must ensure that any irregularity or suspected irregularity involving Council funds, property or any other assets for which the Council is responsible is reported immediately to the **Head of Audit and Risk Management**. This also applies to the misuse of computer passwords, misuse of information obtained in any other way, the deliberate malicious damage to information assets and the disclosure to unauthorised individuals of information obtained by their use.
- 5.42. The Council has an approved Anti-Fraud and Corruption Policy and Fraud Response Plan which set out the Council's expectations in relation to standards of behaviour and how it will respond in cases where fraud is suspected. The Anti-Fraud and Corruption Policy is supported by the Council's Whistleblowing Policy, which sets out how the Council will support anyone who wishes to report cases where they suspect fraud.
- 5.43. The **Head of Audit and Risk Management** will decide how such matters should be investigated. Service officers should not undertake any investigation or interview those involved unless prior agreement has been given by the **Head of Audit and Risk Management**.

The Role of Internal Audit

- 5.44. The statutory responsibility for internal audit derives from the **Section 151 Officer's** responsibilities under the 1972 Local Government Act, the Local Government Finance Act 1988 and the specific duties detailed in the Accounts and Audit (England) Regulations 2011. In accordance with these and the Auditing Practices Board guidelines the **Head of Audit and Risk Management** will provide a continuous audit of the accounting, financial and other operations of the Authority.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

5.45. Internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates, and reports on the adequacy of internal control. It does this by objectively reviewing and advising management upon the effectiveness of their systems of internal control. It aims to provide assurance on the design and operation of internal controls and provide constructive and positive advice on control improvement and risk management.

5.46. The **Head of Audit and Risk Management** has authority to:

- (a) enter at any time all Council premises or land;
- (b) have unrestricted access to all records, personnel, documents, assets and correspondence relating to any financial and other transactions that the auditors consider necessary for the purpose of their work;
- (c) remove and/or secure any computer equipment, record, document, and correspondence of the Council as considered necessary;
- (d) require and receive such explanations as s/he considers necessary concerning any matter being examined; and
- (e) obtain from Council employees cash, stores or any other property owned, hired, leased or borrowed by the Authority.

5.47. The decision to report financial irregularities to the Police shall be made by the **Head of Audit and Risk Management**. Where employees are involved, the **Head of Audit and Risk Management** will inform the **Chief Executive** and appropriate **Directors**.

5.48. The **Head of Audit and Risk Management** has authority to report to any body of the Council matters which are considered to adversely affect the efficient/proper use of the Council's resources.

Unofficial Funds

5.49. The **Section 151 Officer** shall be notified of any funds arising from unofficial sources, including school funds, and shall approve audit and accounting arrangements for these funds:

- (a) that come under the control of any **Committee, Sub-Committee** or **Panel** of the Council;
- (b) where a member of staff is involved as a result of their employment with the Authority.

6. Financial Planning

Introduction

6.1. **Full Council** is responsible for agreeing the Council's policy framework and budget, which will be proposed by the **Cabinet**. The Council uses the the Council Plan as its framework for determining priorities and is delivered through the business planning process. In terms of financial planning, the key elements are:

- (a) the medium term financial strategy;
- (b) the budget; and
- (c) the capital programme.

Policy framework

6.2. The **full Council** is responsible for approving the policy framework and budget. The policy framework comprises the statutory plans and strategies set out in the Constitution and the budget. Pensions Committee and Board approves the policy framework for the Pension Fund; namely the Investment Strategy Statement (including responsible investment policies) and Funding Strategy Statement.

Preparation of the Council Plan

6.3. The **Council** will produce an updated Borough Plan every four years and report this to the **Cabinet** for consideration before its submission to the **full Council** for approval.

Budgeting

Budget format

6.4. The general format of the budget will be proposed by the **Cabinet** and approved by the **full Council** on the advice of the **Section 151 Officer**. The draft budget should include allocation to different services and projects, proposed taxation levels, adequacy of the proposed financial reserves and contingency funds.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

Budget preparation

- 6.5. The **Section 151 Officer** is responsible for ensuring that a revenue budget is prepared on an annual basis and a financial plan over three years for consideration by the **Cabinet**, before submission to the **full Council**. The **Section 151 Officer** also has responsibility to confirm budget pressures, robustness of estimates and adequacy of reserves in accordance with Section 25 of the Local Government Act 2003. The **full Council** may amend the budget or ask the **Cabinet** to reconsider it before approving it.
- 6.6. It is the responsibility of **Directors** to ensure that realistic budget estimates reflecting agreed service plans are submitted to the **Cabinet** and that these estimates are prepared in line with guidance issued by the **Cabinet**, through the **Section 151 Officer**. The Budget risk is managed through the Council's budget management process in which the variances are analysed and decisions made accordingly.

Budget management and control

- 6.7. The **Section 151 Officer** is responsible for providing appropriate financial information to enable budgets to be monitored effectively. The **Section 151 Officer** must monitor and control expenditure against budget allocations and report to the **Cabinet** on the overall position on a regular basis. There will be a monthly budget management process determined by the **Section 151 Officer**. Any decision to alter or increase any of the existing services of the Council in such a way as may result in a material increase in the expenditure to be provided for in the budget for the current and future financial years will be subject to the approval of the **Cabinet**.

Resource allocation

- 6.8. The **Section 151 Officer** is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council's policy framework.

Preparation of the capital programme

- 6.11. The Section 151 Officer is responsible for ensuring:
- (a) the preparation of the Council's medium-term capital programme on an annual basis, for consideration by the **Cabinet** before submission to **full Council**;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- (b) that the Council's Capital Strategy is kept up-to-date;
 - (c) financial monitoring of the capital programme;
 - (d) the Capital Programme is managed flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources;
 - (e) preparation of an Asset Management Plan;
 - (f) value for money objectives are met;
 - (g) adherence to CIPFA Prudential guidelines;
 - (h) adherence to the Council's Treasury Management Strategy Statement;
 - (i) maximisation of external funding opportunities; and
 - (j) financial appraisal/evaluation of proposed capital schemes and options.
- 6.12. The medium-term capital programme models income and expenditure and resource requirements (both internal and external financing) over a minimum of three years and is reviewed and updated at least annually.
- 6.13. The Capital Strategy sets out strategic guidance on the Council's approach to capital investment. It provides clear objectives and priorities which are informed by overall corporate and service objectives, the Haringey community and other stakeholders including central government.
- 6.14. Capital expenditure will only be incurred when the appropriate **Directors** and **Section 151 Officer** have jointly reported the financial implications to the **Cabinet** for approval. All such reports requesting financial provision must be supported by a professionally prepared estimate of the costs of the project. Once financial approval has been obtained the specifications and assumptions upon which the written appraisal of costs was based cannot be substantially altered without the further approval of the **Cabinet**.

Guidelines

- 6.15. Guidelines on budget preparation may be issued to **Members** and **Directors** by the **Cabinet** following agreement with the **Section 151 Officer**. The guidelines will take account of:
- (a) legal requirements;
 - (b) medium-term planning prospects;
 - (c) available resources;
 - (d) spending pressures;
 - (e) best value/value for money and other relevant government guidelines;
 - (f) other internal policy documents; and
 - (g) cross-cutting issues (where relevant).

Maintenance of Reserves

- 6.16. It is the responsibility of the **Section 151 Officer** to advise the **Cabinet** and the **full Council** on prudent levels of general reserves for the Council. When fixing the level of reserves an assessment is made of the key financial risks facing the Council.

7. Risk Management and Control of Resources

Introduction

7.1. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services. The effective identification and management of risks is a responsibility that sits with all **Directors**

Risk Management

7.2. The **Corporate Committee** is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The **Section 151 Officer** is responsible for and has delegated authority to ensure that proper insurance exists where appropriate.

7.3. The **Monitoring Officer** is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.

7.4. At a service area level **Directors** should ensure that the Council's risk management strategy is complied with. The Management of Risk Policy and Strategy specifies that **Directors** must align the assessment of their risks and the actions to manage these to the Council's business planning processes. This must be done so that the Council is able to identify any significant risks that could jeopardise delivery of business plans in the following year and for which appropriate actions will need to be taken.

Internal control

7.5. Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded. The Council prepares an Annual Governance Statement each year. **Directors** have a role to provide assurances to support the production of the Annual Governance Statement and to maintain appropriate systems of governance and internal control.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

7.6. The **Section 151 Officer** is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

7.7. It is the responsibility of **Directors** to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency, propriety, regularity and effectiveness and for achieving their financial performance targets.

Audit requirements

7.8. The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The rights of the internal audit function are set out in Regulation 5.

7.9. Public Sector Audit Appointments Ltd is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 20 of the Local Audit and Accountability Act 2014.

7.10. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs who have statutory rights of access.

Preventing fraud and corruption

7.11. The **Monitoring Officer** is responsible for the development and maintenance of an anti-fraud and anti-corruption policy. **Directors** shall notify the **Head of Audit and Risk Management** immediately of any suspected fraud, theft or misuse of the authority's assets or resources. Further guidance can be found in the Haringey Anti-fraud and Corruption Policy and Strategy (which includes the Council's Whistleblowing Policy).

7.12. The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

7.13. The Council's expectation of propriety and accountability is that members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and good practices.

Section I – Financial Regulations

7.14. The Council also expects that individuals and organisations (e.g. suppliers, contractors, and service providers) with which it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

Assets

7.15. **Directors** should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place. Any disposal of any asset no longer required by the Council shall be for the best available consideration. Inventories of the Council's assets, other than stores, must be kept by the **Budget Holder** concerned. The inventories must be in a form approved by, and include the items defined by, the **Section 151 Officer**. Any write off of stocks must be in accordance with the Council's stock write off policy.

Treasury Management

7.16. The Council has adopted the Code of Practice contained within The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, 2017). The Council will create and maintain, as cornerstones for effective treasury management:

- (a) a Treasury Management Strategy Statement (TMSS) which states the Council's policies, objectives and approach to risk management with respect to its treasury management activities;
- (b) suitable treasury management practices setting out how the Council will achieve those policies and objectives and prescribing how it will manage and control its treasury management activities;
- (c) the TMSS and treasury management practices will follow the recommendations in Sections 6 and 7 of the CIPFA Code of Practice. They may be subject to amendment where necessary to reflect the particular circumstances of Haringey Council but will not deviate materially from the Code's key principles.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- 7.17 The **Corporate Committee** will formulate the TMSS and amendments to it. The Cabinet Member for Finance will be consulted on the draft TMSS because of the budget implications. The **Overview and Scrutiny Committee** will scrutinise the draft TMSS annually before its adoption by **full Council**. The **full Council** is responsible for approving and adopting the TMSS setting out the matters detailed in The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, 2017). The **Section 151 Officer** has delegated authority for implementing and monitoring the TMSS. The Council sets its TMSS in line with the indicators required under the Prudential Code for Capital Finance in Local Authorities introduced by CIPFA 1 April 2004 and subsequently revised in 2017.
- 7.18 All decisions on borrowing, investment, leasing or financing shall be delegated to the **Section 151 Officer**, who is required to act in accordance with the TMSS and The Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes (CIPFA, 2017).
- 7.19 The **Section 151 Officer** is responsible for reporting to the **Corporate Committee** each quarter, or as near as practicable, on the implementation and regular monitoring of the treasury management policies and practices and on the exercise of his/her delegated treasury management powers.
- 7.20 The **Section 151 Officer** is responsible for consulting the Cabinet Member for Finance on the mid-year monitoring report and an out-turn report after the close of the year concerning treasury management policies and practices before these reports are considered by the **Corporate Committee** and **full Council**.

Arrangements for Cash and Banking

- 7.21 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, in the Council's case the **Section 151 Officer** and save as allowed in the Financial Regulations for Schools where, in any case, arrangements shall be made for the **Section 151 Officer** to be able to exercise control upon the withdrawal of delegation or otherwise, no officer other than the **Section 151 Officer** (or those officers to whom the S151 Officer has granted delegated authority to) may:
- (a) open a bank or credit/purchase card account ;
 - (b) agree to or sanction the arrangements for the handling of any liquid resource, cash or instrument of payment;

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- (c) make payments, save through imprest accounts; or
- (d) authorise direct debits.

7.22 The **Section 151 Officer** makes imprest advances to certain officers for giving out petty cash disbursements on behalf of the Council. The value of any advance is subject to the agreement of the **Section 151 Officer**. The officer named as responsible for each imprest is accountable for the full value of the sum advanced at any time. Imprest accounts must be operated in accordance with the procedures set down by the **Section 151 Officer**. Detailed imprest account procedure rules are available from Corporate Procurement Division.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

Amenity, Trust and Other Unofficial Funds

7.23. Funds held by the Council on behalf of other bodies or persons must be dealt with in accordance with procedures set down by the **Section 151 Officer. Directors** must ensure such funds are held securely and in such a way that they can be identified, accounted for and reconciled, at any time, separately from Council monies. **Directors** are accountable for the appropriate expenditure from such funds or repayment thereof.

Staffing

7.24. **Full Council** is responsible for determining how officer support for Executive and non-Executive roles within the Council will be organised.

7.25. The Head of Paid Service (**Chief Executive**) is responsible for providing overall management to staff. The **Chief Executive** is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

7.26. **Directors** are responsible for controlling total staff numbers by:

- (a) advising the **Cabinet** on the budget necessary in any given year to cover estimated staffing levels;
- (b) adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs; and
- (c) the proper use of appointment procedures.

8. Systems and Procedures

General

8.1. The **Section 151 Officer** is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by **Directors** to the existing financial systems or the establishment of new systems must be approved by the **Section 151 Officer**. However, **Directors** are responsible for the proper operation of financial processes in their own service area in line with overall procedures set by the Council and the **Section 151 Officer**.

8.2. Any changes to agreed procedure notes by **Directors** to meet their own specific service needs should be agreed with the **Section 151 Officer**.

Section I – Financial Regulations

- 8.4. **Directors** should ensure that their staff receive relevant financial training that has been approved by the **Section 151 Officer**.
- 8.5. **Directors** must ensure that staff are aware of their responsibilities under data protection, freedom of information legislation and the Computer Misuse Act.
- 8.6. **Directors** must ensure that proper business continuity planning is in place for the delivery of financial services in the event of any incident that affects systems.

Income and expenditure

- 8.7. It is the responsibility of **Directors** to ensure that a proper scheme of delegation in respect of financial matters has been established within their area and is operating effectively. The **Section 151 Officer's** Scheme of Financial Delegation provides detailed procedures for:
- (a) expenditure;
 - (b) income including grants, fees & charges, cash and banking;
 - (c) control of assets, stocks and stores;
 - (d) human resources.

Payments to employees and members

- 8.8. The **Section 151 Officer** should approve any amendments to the approval processes for the payment of all salaries, wages, pensions, compensation, other emoluments and any ex-gratia payments. **Directors** and **Business Unit Heads** must supply such certificates relating to the employment of staff as the **Section 151 Officer** deems necessary. The **Head of Human Resources** is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

Taxation

- 8.9. The **Section 151 Officer (and the Head of Human Resources)** for PAYE and NI) are responsible for advising **Directors**, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council. **Directors** should discuss with the **Section 151 Officer** potential tax implications of any new initiatives. **Directors** have a responsibility for the proper application of tax rules as advised.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- 8.10. **Directors** are responsible for ensuring that the appropriate controls and procedures are operated within the relevant service area in relation to taxation issues.
- 8.11. The **Section 151 Officer (and the Head of Human Resources)** for PAYE and NI) are responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 8.12. **All staff** and **Councillors** should adhere to VAT rules & regulations and also guidance issued by the **Section 151 Officer**.

Trading accounts/business units

- 8.13. It is the responsibility of the **Section 151 Officer** to advise on the establishment and operation of trading accounts and business units. **Directors** have a responsibility to advise the **Section 151 Officer** on any plans to utilise trading arrangements.

Debt Write Off

- 8.14. Arrears of housing rents and other housing income administered by the ALMO (Homes for Haringey) may be written off in accordance with procedure notes issued by the **Section 151 Officer** with the below authorities applying to individual debt accounts:
- a) up to and including £1,000, the approval of **Chief Executive of the ALMO** and reported to the **Section 151 Officer**.
 - b) Over £1,000 and up to and including £50,000, on the approval of the **Section 151 Officer** upon the advice of the **Chief Executive of the ALMO**.
 - c) Over £50,000, on the approval of the **Cabinet Member for Finance** upon the advice of the **Chief Executive of the ALMO** and the **Section 151 Officer**.

The ALMO shall keep a record of all such sums written off.

- 8.15. All other individual debt accounts which remain unpaid may be written off in accordance with the below authorities:
- a) up to and including £1,000, the approval of relevant **Director** and reported to the **Section 151 Officer**.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- b) Over £1,000 and up to and including £50,000, on the approval of the **Section 151 Officer** upon the advice of the relevant **Director**;
- c) Over £50,000, on the approval of the **Cabinet Member for Finance** upon the advice of the relevant **Director** and the **Section 151 Officer**.

Corporate Finance shall keep a record of all such sums written off.

- 8.16. All debts written off will be reported in summary to the **Cabinet** in the regular budget monitoring reports.
- 8.17. It is important that Council income is maximised and therefore to ensure that systems and procedures are in place to collect income promptly and to minimise the level of any bad debts.

Procedure Notes

- 8.18. From time to time the **Section 151 Officer** may issue procedure notes pursuant to these Financial Regulations or his statutory duties or otherwise. Failure to comply with a lawful instruction is a disciplinary offence.

9. External Arrangements

Introduction

- 9.1. The Council provides a distinctive Leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- 9.2. The Council works closely with other agencies and private service providers. Other Government funding streams also provide additional resources to enable the Authority to deliver services to the local community.

Partnerships

- 9.3. The **Cabinet** is responsible for approving delegations, including frameworks for partnerships. The **Cabinet** is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

PART 4 – RULES OF PROCEDURE – **DRAFT VERSION FOR 2019 UPDATE**

Section I – Financial Regulations

- 9.4. The **Cabinet** can delegate functions – including those relating to partnerships to officers. These are set out in the scheme of delegation that forms part of the Council's Constitution. Where functions are delegated, the **Cabinet** remains accountable for them to the **full Council**.
- 9.5. The Head of the Paid Service (**Chief Executive**) represents the Council on partnership and external bodies, in accordance with the scheme of delegation.
- 9.6. The **Section 151 Officer** is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- 9.7. The **Section 151 Officer** must ensure that the accounting arrangements to be adopted relating to partnerships, pooled budgets and joint ventures are satisfactory.
- 9.8. The **Monitoring Officer** must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 9.9. **Directors** are responsible for ensuring that appropriate approvals both internal and external are obtained before any negotiations are concluded in relation to work with external bodies.

External Funding

- 9.10. **The Section 151 Officer** is responsible for ensuring that all funding noted by external bodies is received and properly recorded in the Council's accounts.

Work for Third Parties

- 9.11. The **Cabinet** is responsible for approving the contractual arrangements for any work for third parties or external bodies. Advice should be obtained from the **Section 151 Officer** and the **Monitoring Officer** before entering into a contract for supply to others.

10. Retention of Records

- 10.1 Records held locally in establishments shall be retained in accordance with the approved guidance, which in turn must meet the Council's standards.

Section I – Financial Regulations

- 10.2 **Directors and Budget holders** shall be responsible for ensuring that financial records are carefully and systematically filed and retained for inspection by the **Section 151 Officer** or agencies (e.g. HM Revenue & Customs) in line with the approved local management information schemes that meets relevant statutory requirements.
- 10.3 The list is not exhaustive and, where there is uncertainty, the advice of the **Section 151 Officer** and the Council's **Assistant Director of Corporate Governance** must be sought. Periods referred to are in addition to the current year of account, which ends at the conclusion of the annual external audit of the Council's accounts (i.e. 30 September following the end of the financial year).
- 10.4 The **Section 151 Officer** or his representative shall have access to documents as deemed necessary.
- 10.5 The information governance framework assists services to meet the requirements of the Data Protection Act, the Freedom of Information Act and other statutory requirements.

Part Four, Section E

Budget & Policy Framework Procedure Rules

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The framework for Cabinet decisions

- 1.1 The Council will be responsible for the adoption of the budget and policy framework as set out in Article 4 of this constitution. Once the framework is in place, it will be the responsibility of the Cabinet to implement it.

2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- 2.1 Each year the relevant Director and relevant Cabinet Members will in their joint report to the Overview and Scrutiny Committee on potential issues for Committees work programmes include any matters which form part of the Budget and Policy Framework, which will require adoption in the coming year.
- 2.2 If the Overview and Scrutiny Committee or a Scrutiny Review Panel wishes to include the matter into the work programme the relevant Director will ensure that the Committee is consulted in good time to enable the Committee's views to be considered by the Cabinet or Cabinet Member prior to firm proposals being submitted to the Council. In the event that the Overview and Scrutiny Committee or Scrutiny Review Panel chooses to consider a report which forms part of the Budget and Policy Framework then its views shall be included in the report submitted to the Cabinet or Cabinet Member who shall take them into account in drawing up firm proposals for submission to the Council. The report to Council will reflect the comments made by Overview and Scrutiny Committee consultees and the Cabinet's response.
- 2.3 Once the Cabinet or relevant Cabinet Member has approved the firm proposals, the Cabinet will recommend the proposals to Full Council for approval or decision at the earliest opportunity.
- 2.4 In reaching a decision, the Council may adopt the Cabinet's/Cabinet Member's proposals, amend them, refer them back to the Cabinet for further consideration, or, substitute its own proposals in their place.

PART FOUR – RULES OF PROCEDURE

Section E – Budget and Policy Framework Procedure Rules

- 2.5 If it accepts the recommendation of the Cabinet/Cabinet Member without amendment, or the Leader of the Council on behalf of the Cabinet or the Cabinet Member supports the amended recommendation the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting. The decision will be publicised.
- 2.6 An in-principle decision will automatically become effective on the expiry of 5 working days from the date of the Council's decision, unless the Leader informs the proper officer in writing within the period of 5 working days that he/she objects to the decision becoming effective and provides reasons why. If the Leader informs the proper officer that he/she has no objection it shall become effective upon receipt of such notice.
- 2.7 In that case, the proper officer will call a Council meeting to take place within a further 10 working days. The Council will be required to re-consider its decision and the Leader's written submission. The Council may:
- (i) approve the Cabinet's/Cabinet Member's recommendation by a simple majority of votes cast at the meeting; or
 - (ii) approve a different decision which does not accord with the recommendation of the Cabinet/Cabinet Member's by a simple majority.
- 2.8 The decision shall then be made public and shall be implemented immediately;
- 2.9 The decision of the Council is final. The Leader may not ask for this or any decision to the same effect to be reconsidered for a further 6 months

3. Decisions outside the budget or policy framework

- 3.1 Subject to the provisions of paragraph 5 (urgent decisions outside the budget or policy framework), the Leader, the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to 3.2 and 3.3 below.
- 3.2 If the Leader, the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall

PART FOUR – RULES OF PROCEDURE

Section E – Budget and Policy Framework Procedure Rules

take advice from the Monitoring Officer and the Chief Finance Officer as to whether the decision they want to make would be contrary to or not wholly in accordance with the budget. If the advice of either of these officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 shall apply.

3.3 Council may either:

- (a) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (b) amend the budget framework or policy concerned to encompass the decision or proposal of the decision taker responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to, or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the decision taker to reconsider the matter in accordance with the advice of either the Monitoring Officer/ Chief Finance Officer and refer it back to the Cabinet. The decision taker must reconsider within 7 working days of the Council meeting. Whatever decision the Cabinet takes at that meeting is final, bearing in mind that a decision taken outside the policy or budget framework will be unlawful.

4. Urgent Decisions

4.1 Where the Director is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Authority, and that the urgency of the matter is such that it is not practicable to complete the Executive decision-making process set out above or to comply with the Access to Information Procedure Rules at Part 4 of the Constitution, the decision may be deemed “urgent”:

- (a) In order for a decision to be deemed urgent, the “General Exception” or “Special Urgency” procedures set in the Access to Information Procedure Rules must be followed.
- (b) the Director shall use their best endeavours, as far as the urgency of the matter permits, to consult those persons whom

PART FOUR – RULES OF PROCEDURE

Section E – Budget and Policy Framework Procedure Rules

- he/she would have been required to consult had the full Executive decision-making process been followed; and
- c) the decision-making body shall have the power to take that relevant decision, notwithstanding that the full procedure has not been followed;
 - d) These urgency procedures should only be used in cases of genuine urgency and should not be abused, for example, in attempting to put right failures in forward planning.

5. Urgent decisions outside the budget or policy framework

- 5.1 The Leader, the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest and it is not practical to convene a quorate meeting of the full Council within the Access to Information Procedure Rules.
- 5.2 The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is urgent for the purposes of rule 18 of the Call-In Procedure Rules at Part 4 Section H of the Constitution, and therefore not subject to call-in.
- 5.3 In order for a decision to be deemed urgent, the Chair of the Overview and Scrutiny Committee must agree that the decision is both reasonable in all circumstances and that it should be treated as a matter of urgency. In the absence or unavailability of the Chair the consent of the Deputy-Chair of the Overview and Scrutiny Committee is required. In the absence of both, the consent of the Mayor shall be required.
- 5.4 The reasons why it is not practical to convene a quorate meeting of full Council and the consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 5.5 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 5.6 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

6. Calculation of Budget Requirement

PART FOUR – RULES OF PROCEDURE

Section E – Budget and Policy Framework Procedure Rules

- 6.1 Subject to paragraph 6.5 where, before 11 March in any financial year, the Cabinet submits to Council for its consideration in relation to the following financial year:
- a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992 (the calculation of budget requirements);
 - b) estimates of the amounts to be used for purposes of such a calculation; or
 - c) estimates of such a calculation.
- 6.2 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6.1, it must inform the Leader of any objections that it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.
- 6.3 Where the Council gives instructions in accordance with paragraph 6.2, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:
- a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
 - b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- 6.4 When the period specified by the Council, referred to in paragraph 6.3 has expired, the Council must, when making calculations (whether originally or by way of substitute), in accordance with the sections referred to in paragraph 6.1a), take into account:
- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
 - (b) the Cabinet's reasons for those amendments;
 - (c) any disagreement that the Cabinet has with any of the Council's objectives; and

PART FOUR – RULES OF PROCEDURE

Section E – Budget and Policy Framework Procedure Rules

- (d) the Cabinet's reasons for that disagreement, that the Leader submitted to the Council, or informed the Council of, within the period specified.

6.5 Paragraphs 6.1 to 6.4 (inclusive) shall not apply in relation to calculations or substitute calculations that an authority is required to make in accordance with section 52I or 52T of the Local Government Finance Act 1992.

7. Virement

7.1 “Virement” is a transfer of a budget for direct spend by the Council, which is required due to a policy change or re-prioritisation of resources between services. The Council’s rules on virement are set out in the Financial Regulations set out in the Constitution.

8. In-year changes to policy framework

8.1 Subject to the provisions of section 5 (urgent decisions outside the budget and policy framework) the responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Leader, the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by the Leader, the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions except where the Council has agreed this at the time of agreeing the budget or relevant policy or strategy.

Report for: Standards Committee 14 October 2019

Title: Update on Review of Member's Allowances 2020/21

Report

Authorised by: Ayshe Simsek – Acting Democratic Services and Scrutiny Manager

Lead Officer: Ayshe Simsek Acting Democratic Services and Scrutiny Manager

Ward(s) affected: N/A

Report for Key/

Non Key Decision: Non Key

1. Describe the issue under consideration

1.1 This Committee has responsibility for considering and recommending changes to the Member's Allowance scheme, to full Council for adoption.

1.2 The Committee agreed previously to instigate a review of the Member's Allowance scheme focusing on the functions and responsibilities of Council Committees together with the volume and complexity of their decision making to ascertain whether the SRA's provided to the Leader, Cabinet Members, Committee chairs, Vice -Chairs and Scrutiny Panel Chair's reflects the allocated allowance. It was agreed that the review would be supported by an independent adviser to the Committee and Richard Penn, an LGA associate has agreed to provide independent advice and support to the review.

1.3 This report provides an update on the progress of the review with some comparative data to consider and a questionnaire is enclosed which will seek members views on the current member's allowance scheme and the changes to be made. This is compiled in response to the Committee's agreement that written depositions be sought.

1.4 The independent advisor, Richard Penn will be attending the meeting to discuss his approach to this review and seeking Committee member's comments.

1.5 The review will be operating under the principle that any changes proposed will need to be evidence based.

2. Cabinet Member Introduction

Not applicable

3. Recommendations

3.1. To note the update on progress with the review.

3.2 To approve/comment on the attached questionnaire for distribution to Members on the 15th of October and completion by the 14th of November.

3.3 To comment on the attached comparative data at appendix 3.

4. Reasons for decision

The Council has a legal duty under the Local Authorities (Members Allowances) (England) Regulations 2003 to adopt a Members' Allowances Scheme before the end of each year to cover the following year. The Council can amend a scheme any time during the year but can only revoke a scheme with effect from the beginning of the year. The scheme must make provision for basic allowances and, if they are to be paid, special responsibility, dependents' carers, travelling and subsistence and co-optees' allowances.

The Committee agreed in January 2019 that an independent review of Members Allowances be taken forward

5. Alternative options considered

To not review the scheme which would be contrary to previous resolutions of the Committee.

6. Background information

The Committee agreed the scoping document attached at their meeting in June.

Since this meeting, Richard Penn, an LGA Senior Associate, has been commissioned to provide independent support and advice to the Committee. Richard has completed a number of reviews of Members Allowances in the recent past and also chairs the Independent Remuneration Panel for South Derbyshire Council. In January 2008 he was appointed by the Minister for Local Government as the Chair of the Independent Remuneration Panel for Wales, a post he held until the end of 2015. The Panel was responsible for setting the remuneration arrangements for all 22 unitary councils in Wales, for also the four Fire and Rescue Authorities and the three National Parks in Wales. It was also responsible for setting remuneration for the 750 plus Town and Community Councils in Wales.

Richard has been provided with information on the Council in the form of the boundary commission review submission on council size, and previous Standards and Full Council reports on the members allowance scheme.

Following Richard's advice, Democratic Services have compiled a questionnaire which is proposed for distribution to all Councillors. The purpose of the questionnaire is to obtain the views of Councillors regarding the Council's current Member's Allowance Scheme. These views will particularly be picked up under the section on special responsibility allowances, whereby Councillors would be able to indicate the level of appropriateness of special responsibility allowances for each of the roles under the current scheme; and also under the space at the end of questionnaire for Councillors to give a full response of their views on the current scheme. Moreover, the first two questions would assist in providing a quantifiable understanding of the roles and duties of Councillors to assess the appropriateness of the current remuneration scheme.

In addition to the questionnaire, Democratic Services conducted research on Member's Allowances Schemes at local authorities. Sources of research included the Local Government Association website to analyse demographics, and investigation of local authority websites, in particular, the up-to-date versions of the constitution of each of the local authorities, which contain information on Members' Allowances Schemes and Committees. The local authorities selected for the review had similar demographics to Haringey. An analysis between Conservative local authorities and Liberal Democrat local authorities was undertaken following comments at previous meeting to ensure that there was a wider range of council's compared to. These choices were determined by considering those with the closest demographic aspects to Haringey. Additionally, a mixture of Leader & Cabinet and Committee forms of governance systems was chosen to also create a wider comparison for the review.

Based on the research, Democratic Services compiled a comparative data table on the following local authorities:

- Leader and Cabinet governance model
 - Haringey Council (Labour majority)
 - Enfield Council (Labour majority)
 - Islington Council (Labour majority)
 - Camden Council (Labour majority)
 - Waltham Forest Council (Labour majority)
 - Southwark Council (Labour majority)
 - Westminster Council (Conservative majority)

- Committees governance model
 - Barnet Council (Conservative majority)
 - Richmond upon Thames Council (Liberal Democrat majority)
 - Sutton Council (Liberal Democrat majority)

The key findings of the research are as follows:

- The Chief Whip and Chief Whip of the Opposition at Haringey Council are provided the highest amount of special allowance in comparison to the local authorities selected. The former receiving £16, 965 and the latter receiving £8,482 in special allowance.
- The Regulatory Chairs at Haringey Council receive the highest amount of special allowance (£16,965) in comparison to the local authorities selected. Of the selected Labour majority Councils, only Haringey Council and Waltham Forest Council provides special responsibility allowance to the Regulatory Vice-Chairs. However, Haringey Council provides almost double the amount of special responsibility allowance to the Regulatory Vice-Chairs (£8,482) in comparison to Waltham Forest Council (£4,590).
- From the selected local authorities, Haringey Council's Overview and Scrutiny Chair receives the second highest amount of special responsibility allowance (£23,134). The Overview and Scrutiny Chair at Southwark Council receives the highest amount at £24,547, and Richmond upon Thames Council provides the OSC Chair equivalent (Chair of Policy & Performance Review Board) the lowest amount of special responsibility allowance at £5,100.
- **Leader of the Council**
 - The Leader and Deputy Leader of Southwark Council have the highest amount of special responsibility allowances in comparison to the other local authorities examined as part of the review. The Leader of Southwark Council comes receives a special responsibility allowance of £54,303, and the Deputy Leader of Southwark Council receives a special responsibility allowance of £36,448.
 - Waltham Forest Council provides the second highest amount of special responsibility allowances in comparison to the local authorities examined. The Leader of Waltham Forest Council receives a special responsibility allowance of £51,000, and the Deputy Leader of Waltham Forest Council receives a special responsibility allowance of £32,640.
 - In contrast, Enfield Council provided the lowest amount special responsibility allowances to the Leader (£26,364). However, Enfield Council provides the Deputy Leader a special responsibility allowance of £15,828, whereas Haringey, Islington and Camden Council do not provide special responsibility allowances to the Deputy Leader.

- **Cabinet Members**

- Southwark Council has 9 Cabinet Members (similar amount of Cabinet Members to Haringey Council), and its Cabinet Members receive the highest amount of special responsibility allowance in comparison to the other local authorities examined as part of the review. The Cabinet Members of Southwark Council receive a special responsibility allowance of £36,448.
- In relation to the local authorities reviewed that follow the Leader and Cabinet model, the Cabinet Members of Westminster Council receive the lowest amount of special responsibility allowance, which comes to the amount of £11,000 for each of the 8 Cabinet members (excluding the Deputy Leader, who although has a Cabinet portfolio, has a higher special responsibility allowance of £19,000).

Committee members are asked to provide any further comments on this information.

7. Contribution to strategic outcomes

Members of the Council are directly responsible for the setting and oversight of all strategic priorities.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 Finance and Procurement

8.2 The review is being facilitated through the LGA and there will budget implications. Currently this can be contained within the budget for Democratic Services and Scrutiny following the delayed recruitment of a Committee post holder.

8.3 Legal

8.4 Legal services have reviewed the scoping report and their comments have been included.

8.5 Equality

8.6 These are set out in the scoping document.

9. Use of Appendices

Appendix 1 Project Plan
Appendix 2 Questionnaire
Appendix 3 Comparative data

10. Local Government (Access to Information) Act 1985

10.1 The Council Constitution which can be found at;

<http://www.haringey.gov.uk/local-democracy/about-council/council-constitution>

11. IRP Member's Allowances 2018

Standards Committee 14 October 2019

Member's Allowances review 2020/21

Review Topic	Review / Project Title
Rationale	<p>To explore potential disparities between the current Special Responsibility Allowances as initially discussed at the Standards Committee meetings held in January and March. These meetings noted the differences in the Leader's allowance in proportion to the Cabinet Member allowances, the perceived higher number of committee meetings chaired and attended by some Committee memberships in comparison to other committees where an SRA was payable. The discussions demonstrated considering, the functions and responsibilities of Council committees together with the volume and complexity of their decision making to ascertain whether the SRA's provided to the Leader, Cabinet Members, Committee chairs ,Vice -Chairs and Scrutiny Panel Chair's reflects the allocated allowance.</p> <p>The Committee also discussed the review including consideration of an uplift of Allowances to correlate with the equivalent percentage staff pay. It will also be prudent to confirm whether the Mayoral allowances remain as separate statutory provisions in the Member Allowance Scheme (under Section 3 and 5 of the Local Government Act 1972).</p> <p>This exercise is to ensure that members are appropriately remunerated and to address any inequalities in the allocation of Members Allowances and SRA's.</p> <p>The review will also allow a benchmarking exercise to be completed to further ensure that the borough is in line with comparator boroughs for the provision of SRA's.</p>

Committee Member	Councillors Opoku, Cllr Weston, Cllr Chiriyankandath, Cllr Demir, Cllr Cawley- Harrison Richard Penn – independent adviser
Terms of Reference (Purpose of the Review/ Objectives)	An independent review of the Member Allowance Scheme to be completed between July 2019 and March 2020, for implementation in 2020/21, undertaking analysis of roles and responsibilities with reference to neighbouring and comparator boroughs, as well as considering the recommendations of the Independent Remuneration Panel.
Evidence Sources	These will include: <ul style="list-style-type: none"> • Data on number of meetings covered by Members • Submission to Boundary Commission on the business case for maintaining 57 councillors • References to the recent review of Scrutiny Functions • Interviews with relevant key Council officers, Planning Licensing, Policy, Scrutiny, • Independent Panel Review report 2018 • Officer review of member’s Allowances carried out in 2017 -18
Witnesses	<ul style="list-style-type: none"> • Council officers • Members • Independent advisor
Methodology/Approach	A variety of methods will be used to gather evidence from the witnesses above, including: <ul style="list-style-type: none"> • Desk top research; • Questionnaire • Independent Advisor meeting with the Chair of Standards Committee, Leader of the Council and Leader of the Opposition .

<p>Equalities Implications</p>	<p>The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to: (1) Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act; (2) Advance equality of opportunity between people who share those protected characteristics and people who do not; (3) Foster good relations between people who share those characteristics and people who do not.</p> <p>The three parts of the duty applies to the following protected characteristics: age; disability; gender reassignment; pregnancy/maternity; race; religion/faith; sex and sexual orientation. In addition, marriage and civil partnership status applies to the first part of the duty.</p> <p>The Committee should ensure that it addresses these duties by considering them during final scoping, evidence gathering and final reporting. This should include considering and clearly stating: How policy issues impact on different groups within the community, particularly those that share the nine protected characteristics; Whether the impact on particular groups is fair and proportionate; Whether there is equality of access to service and fair representation of all groups within Haringey; Whether any positive opportunities to advance equality of opportunity and/or good relations between people, are being realised.</p> <p>The Panel should ensure that equalities comments are based on evidence, when possible. Wherever possible this should include demographic and service level data and evidence of residents/service-users views gathered through consultation.</p>
<p>Timescale</p>	<p>The Committee will aim to complete its evidence gathering by November 2019, compiling proposals between December, draft report to Standards Committee in January, final report to the March meeting of Standards and seeking agreement to the Allowances at the Full Council in March.</p>
<p>Reporting arrangements</p>	<p>Acting Democratic Services and Scrutiny Manager to compile reports to the October and January and March meetings of Standards</p>
<p>Publicity</p>	<p>The review will be publicised through the Members area web page and Members newsletter .The outcomes of the review will be similarly published once complete.</p>

Officer Support	Lead Officer; Ayshe Simsek, Acting Democratic services and Scrutiny Manager Ajda Ovat Principal Committee Co-ordinator
------------------------	---

Strictly confidential**Members' Allowance Scheme Questionnaire**

An independent external review of the Members' Allowance Scheme has been commissioned by the Standards Committee focussed on Special Responsibility Allowances (SRAs). The views of all Council members will be very important in informing the review, so please take a few minutes to complete this short questionnaire.

For more information about the Council's current Members' Allowances Scheme, please see [Haringey Council Members' Allowances Scheme](#)

Please return the completed questionnaire to Ajda Ovat, Principal Committee Co-ordinator) (by hard copy or via the SNAP surveys web link by no later than [14 Nov 2019]

Full name: *(optional)*

Councillor

Q1 Please tick your responsibility (if any) and/or your Committee(s) membership: relevant

A. Leadership

Leader of the Council Leader of the Principal Opposition
Deputy Leader Deputy Leader of the Principal Opposition

B. Cabinet Member:

If so, what portfolio?:

.....

C. Committee/Boards:

i. Planning: Chair Vice-Chair Member
ii. Licensing: Chair Vice-Chair Member
iii. Regulatory: Chair Vice-Chair Member
iv. Pensions: Chair Vice-Chair Member
v. Corporate: Chair Vice-Chair Member
vi. Staffing and Remuneration: Chair Vice-Chair Member
vii. Standards: Chair Vice-Chair Member
viii. Health and Wellbeing Board: Chair Member
ix. Alexandra Palace and Park Board: Chair Vice-Chair Member
x. Alexandra Park and Palace Advisory Committee: Chair Vice-Chair Member
xi. Alexandra Park and Palace Consultative Committee: Chair Vice-Chair Member
xii. Corporate Parenting Advisory Committee: Chair Member

D. Scrutiny:

- i. Overview & Scrutiny: Chair Vice-Chair Member
- ii. Adults & Health: Chair Vice-Chair Member
- iii. Children and Young People: Chair Vice-Chair Member
- iv. Environment and Community Safety: Chair Vice-Chair Member
- v. N Central London Joint Health Overview and Scrutiny: Chair Vice-Chair Member
- vi. Housing and Regeneration: Chair Vice-Chair Member

E. Partnership Body:

- i. Community Safety Partnership: Member

F. Chief Whip:

- Chief Whip of Majority Party Chief Whip of Principal Opposition Party

G. Mayoral:

- Mayor Deputy-Mayor

Q2 Please indicate how many hours on average you spend each week on the following activities:

A. Ward and political duties as a Councillor

- Less than 1 hour
- Between 1 and 3 hours
- Between 4 and 6 hours
- Between 6 and 8 hours
- 8 hours or more

B. Decision-making duties as a Councillor (including Cabinet, Committee, Chairing)

- Less than 1 hour
- Between 1 and 3 hours
- Between 4 and 6 hours
- Between 6 and 8 hours
- 8 hours or more
- N/A

C. External duties (including Partnership bodies, Community group and external meetings)

- Less than 1 hour
- Between 1 and 3 hours
- Between 4 and 6 hours
- Between 6 and 8 hours
- 8 hours or more
- N/A

Q3 Special Responsibility Allowance (SRAs):

The current Members Allowances Scheme provides for Special Responsibility Allowances (SRAs) to be paid to those Councillors who take on certain additional roles. These payments are additional to the Basic Allowance and are designed to reflect the additional responsibilities involved for each post holder in six Bands.

If a Councillor does not serve as such for the whole period or becomes suspended or partially suspended, he/she will only be entitled to receive pro-rata additional payment for the period(s) during which he/she actually was a serving Councillor and had any special responsibility.

Please indicate whether you consider that the different SRAs are appropriate or not in each case:

	'Too High'	'Fair'	'Too Low'
Leader (Band 4 - £33,926)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cabinet Members (Band 3B - £25,443)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chair of Overview and Scrutiny Committee (Band 3A - £23,134)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chief Whip (Band 2B - £16,965)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chair of Regulatory Committee (Band 2B - £16,965)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chair of Alexandra Palace and Park Board (Band 2B - £16,965)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Leader of the Principal Opposition (Band 2B - £16,965)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4 x Councillors serving on Overview and Scrutiny Committee (Band 2A - £15,421)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chair of Combined Pensions Committee and Board (Band 1B - £8,482)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chair of Staffing and Remuneration Committee (Band 1B - £8,482)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chair of Standards Committee (Band 1B - £8,482)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chair of Corporate Committee (Band 1B - £8,482)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Vice Chair of Regulatory Committee (Band 1B - £8,482)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Leader of the second Opposition Group or Deputy Leader of the Principal Opposition (Band 1B - £8,482)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Chief Whip of the Principal Opposition (Band 1B - £8,482)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mayor (£16,965)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Deputy Mayor (£4,238)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q4 Do you consider that there are any posts or responsibilities held by any Councillor which are not recognised in the current Scheme, i.e. any that you consider should attract an SRA?

Yes

No

If yes, please specify which other posts/responsibilities you consider should attract an SRA

.....

Q5 Do you consider that there are any posts or responsibilities held by any Councillor which presently attracts an SRA but which you consider should no longer do so?

Yes

No

If yes, please specify which other posts/responsibilities you consider should no longer attract an SRA

.....

Q6 Other comments

Please set out below details of any other aspects of the Members' Allowances Scheme which you would like to bring to our attention and/or any specific issues you want to raise:

.....

.....

.....

.....

.....

.....

Thank you for completing this survey. All the responses will be combined, and no responses will be attributable to any individual Member.

Allowances	Haringey *Leader & Cabinet model	Enfield *Leader & Cabinet model	Islington *Leader & Cabinet model	Camden *Leader & Cabinet model	Waltham Forest *Leader & Cabinet model	Southwark *Leader & Cabinet model	Barnet *Committees model	Westminster *Leader & Cabinet model	Sutton *Committees model	Richmond upon Thames *Committees model
Basic allowance	£11,025	£10,570	£10,519.04	£9,849	£11,266	£11,496	£10,597	£9,180	£11,164	£9,450
Special allowance										
Leader	Band 4 - £33,926	£26,364	Band 4 - £39,590	£29,293	£51,000	Band 4 - £54,303	Band 5 - £34,000	£37,500	£43,748	£30,000
Deputy Leader	X	£15,828	X	X	£32,640	Band 3 - £36,448	Band 4 - £27,000	£19,000	£29,802	£14,000
Leader of the opposition	(1 Leader of the opposition) Band 2B - £16,965	(1 Leader of the opposition) £15,828	(No Leader of the opposition) X	(2 Leaders of the opposition) £16,275	(1 Leader of the opposition) £18,035	(1 Leader of the opposition - majority) Band 2a - £15,674	(1 Leader of the opposition) Band 3 - £15,333	(1 Leader of the opposition) £9,000	(1 Leader of the opposition) £16,153	(*2 Leaders of the opposition from majority & minority opposition) a) Leader of majority opposition: £17,500 b) Leader of minority opposition: £5,600
Cabinet Members/Executive Members	(9 Cabinet Members) Band 3B - £25,443	(8 Cabinet Members) £13,184	(7 Cabinet Members) Band 3 - £30,912	(9 Cabinet Members) £16,275	(8 Cabinet Members) £25,500	(9 Cabinet members, included Deputy Leader who is also Cabinet Member, same amount received as above) Band 3 - £36,448	(*Cabinet Member equivalent - 8 Chairs) a) Band 3 - Chair of: •Policy and Resources Committee •Children, Education and Safeguarding Committee •Adults and Safeguarding Committee •Housing Committee •Community Leadership and Libraries Committee •Environment Committee •Financial Performance and Contracts Committee •Assets, Regeneration and Growth Committee £15,333	(8 Cabinet Members, excluding Deputy Leader. Although Deputy Leader also has a Cabinet portfolio, the Deputy receives a different allowance as above) £11,000	(*Cabinet Member equivalent - 5 Chairs, but Chair of Strategy and Resources Committee is the same as the Chair of Health & Wellbeing Board) a) Chair of Standing Committee: •Environment and Neighbourhood Committee •Health & Wellbeing Board •Housing, Economy and Business Committee •People Committee •Strategy and Resources Committee £19,052	(*Cabinet Member equivalent - 5 Chairs) a) Chair of Finance, Policy and Resources Services Committee (is also Leader of the Council*): £30,000 b) Chair of Transport and Air Quality Services Committee (is also Deputy Leader*): £14,000 c) Chair of: •Education & Childrens Services Committees •Environment, Sustainability, Culture and Sports Committee •Health, Housing and Adult Social Care Committee £9,200
Associate Cabinet Members/Junior CM	X	(3 Associate Cabinet Members) £7,608	X	X	(3 Junior Cabinet Members) £10,200	(2 Deputy Cabinet Members) Band 1a - £3,005	*Associate Cabinet Member equivalent - 8 Vice Chairs) a) Band 1 - Vice Chair of: •Policy and Resources Committee •Children, Education and Safeguarding Committee •Adults and Safeguarding Committee •Housing Committee •Community Leadership and Libraries Committee •Environment Committee •Financial Performance and Contracts Committee •Assets, Regeneration and Growth Committee £2,368	X	(*Associate Cabinet Member equivalent - 9 Vice Chairs) a) Vice-Chair of Standing Committee: £9,700	(*Associate Cabinet Member equivalent) a) Vice-Chair of Housing Committee: £14,000 b) Vice-Chair of: •Finance, Policy & Resources Committee •Education & Childrens Services Committees •Environment, Sustainability, Culture and Sports Committee •Transport Sub Committee £4,850
Committee Chairs (excluding Regulatory)	a) Band 2B - Chair of Alexandra Palace and Park Board: £16,965 b) Band 1B - Chair of Combined Pensions Committee and Board; Chair of Staffing and Remuneration Committee; Chair of Standards Committee; Chair of Corporate Committee: £8,482	a) Chair of Audit & Risk Management Committee: £8,442 b) Chair of Pension Policy & Investment Committee; Chair of Local Pension Board: £1,000	Band 1 - Chair of Audit Committee: £3,255	Chair of: •Audit and Corporate Governance Committee •Pension Committee £5,426	a) Chair of Audit and Governance Committee: £10,200 b) Chair of Pension Fund Committee; Chair of Transport Liason Consultative Group: £4,590	a) Band 1a - Chair of Audit & Governance Committee: £3,005	a) Band 3 - Chair of: •Audit Committee •Health and Well-Being Board •Constitution and General Purposes Committee •Pension Fund Committee £15,333 b) Band 2 - Chair of: •Finchley and Golders Green Area Committee •Chipping Barnet Area Committee •Hendon Area Committee £8,852	a) Chair of Audit and Performance: £8,160 b) Chair of: •Standards Committee •Pension Fund Committee £3,060	a) Chair of: •Audit and Governance Committee •Local Committee: £9,700 b) Chair of Pension Committee: £5,688	a) Chair of Audit and Standards Committee: £2,800
Vice-Committee Chairs (excluding Regulatory)	X	X	X	X	X	X	X	X	a) Vice-Chair of Audit and Governance Committee: £5,688	a) Vice-Chair of Audit & Standards Committee: £1,000
Regulatory Chairs	Band 1B - £16,965	Chair of: •Planning Committee •Licensing Committee £8,442	Band 1 - Chair of: •Licensing Committee •Planning Committee •Planning Sub Committee A •Planning Sub Committee B £3,255	Chair of: •Planning Committee •Licensing Committee £5,426	Chair of Regulatory Committee (Planning and Licensing): £10,200	a) Band 2a - Chair of: •Planning Committee •Licensing Committee £15,674 b) Band 1c - Chair of Planning Sub-Committee: £9,064	a) Band 3 - Chair of: •Planning Committee •Hendon Area Planning Committee •Chipping Barnet Area Planning Committee •Finchley and Golders Green Area Planning Committee £15,333 b) Band 2 - Chair of: •Planning Applications Committee •Licensing Sub-Committee £4,500	a) Chair of: •Licensing Committee •Planning and City Development Committee £9,000 b) Chair of: •Planning Applications Committee •Licensing Sub-Committee £4,500	a) Chair of Licensing Committee: £11,377 b) Chair of Planning Committee: £13,147	a) Chair of Planning Committee: £10,000 b) Chair of Regulatory Committee: £2,800
Regulatory Vice-Chairs	Band 2B - £8,482	X	X	X	Vice Chair of Regulatory Committee (Planning and Licensing): £4,590	X	a) Band 1 - Vice Chair of: •Licensing Committee •Planning Committee £2,368	X	a) Planning Committee Vice-Chair £9,700	a) Vice-Chair of Planning Committee: £1,650 b) Vice-Chair of Regulatory Committee: £1,200
Scrutiny Panel Chairs	a) Band 3A - Chair of Overview & Scrutiny Committee: £23,134 b) Band 2A - Chairs of other Scrutiny Committees: £15,421	Chair of Overview and Scrutiny Committee & Work Stream Chairs £8,442	a) Band 2 - Chair of Policy and Performance Scrutiny Committee: £12,475 b) Band 1a - Chairs of Scrutiny Committee: £3,255	Chair of Scrutiny Committees: £5,426	£10,200	a) Band 2b - Chair of Overview & Scutiny Committee: £24,547 b) Band 1c - Chair of Scutiny Commission: £9,064	a) Band 3 - Chair of Health and Scrutiny Committee £15,333	£8,160	a) Scrutiny Committee Chair - £13,147	a) Chair of Policy & Performance Review Board (*Scrutiny equivalent): £5,100
Scrutiny Panel Members	X	X	X	X	X	X	X	X	X	X
Chief Whip	Band 2B - £16,965	£8,437	Band 2 - £5,423	£10,848	£10,200	Band 2a - £15,674	X	£5,500	X	X
Chief Whip of the Opposition	Band 1B - £8,482	£4,223	X	£5,426	£4,590	Band 1a - £3,005	X	£5,000	X	X
Mayor	£16,965	£17,788	£6,644	£16,275	£10,200	Band 2b - £24,547	X	X	£11,377	X
Deputy Mayor	£4,238	£5,876	£136	£1,625	X	Band 1c - £9,064	X	X	£3,074	X

Key:
 "X" - indicates no Special Allowance is specified for that role. That is not to say the role does not exist
 -Labour majority Council
 -Conservative majority Council
 -Liberal Democrat majority Council
 Please note: Banding appears to be varied between local authorities. Banding has been added to the table where it has been specified by the local authorities

key differences are highlighted in red

This page is intentionally left blank

Report for: Standards Committee, 14th October 2019

Title: Review of Ethical Standards

Report

Authorised by: Bernie Ryan, Assistant Director of Corporate Governance and Monitoring Officer

Lead Officer: **Gina Clarke, Principal Lawyer (Employment, Education & Corporate)** gina.clarke@haringey.gov.uk
X5656

Ward(s) affected: N/A

Report for Key/

Non Key Decision: Non key

1. Describe the issue under consideration

This report proposes changes to the Council's Constitution in accordance with recommendations made by the national Committee on Standards in Public Life in its report on Local Government Ethical Standards.

2. Cabinet Member Introduction

N/A

3. Recommendations

3.1. That the Committee recommend full Council:

- a) Note the best practice points and recommendations in the report on Local Government Ethical Standards from the Committee on Standards in Public Life (Appendix 3).
- b) Agree the following amended versions of the Constitution:
 - (i) Part 5 Section A – Members' Code of Conduct – pt 1 (Appendix 1).
 - (ii) Part 5 Section A – Members' Code of Conduct – pt 2 – Process for handling complaints (Appendix 2).

The proposed amendments are summarised and explained at paragraphs 4.1 to 4.29 below.

4. Reasons for decision

- 4.1. Many of the best practice points contained in the report on Local Government Ethical Standards (“the Report”) are already in place at the Council and so do not require any action.
- 4.2. The points requiring action are outlined below, with reasons. All seek to improve ethical standards and transparency.

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

- 4.3. The Report stated that most allegations of breaches of local authority codes of conduct related to allegations of bullying and harassment. Accordingly, it was considered important to ensure such matters were covered effectively. By offering clear definitions and examples it will be easier to adjudicate with consistency on whether or not the code has been breached.
- 4.4. The Council’s existing Code of Conduct already prohibits bullying but does not go into the level of detail recommended in the Report. Accordingly, changes are proposed. The proposed definitions and examples are taken from the Report on Local Government Ethical Standards.

Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

- 4.5. The Report noted that compliance with standards investigations is an important aspect of ethical conduct. It is important for members to show appropriate respect for the process and that the process is not subject to disruption or abuse that wastes public money and time. Accordingly, it was considered appropriate to include these obligations within codes of conduct.
- 4.6. The Council’s existing Code of Conduct already contains a similar provision requiring members to co-operate fully and honestly with any scrutiny appropriate to their office. However, it is proposed to amend this to explicitly include any formal standards investigations. There is not currently an express prohibition on trivial or malicious allegations are it is proposed to amend the Code of Conduct to include this.

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

- 4.7. The Report observed that some local authorities had adopted a minimal code of conduct that were not adapted to the needs and context of the organisation. Regular reviews would help to ensure codes of conduct remain relevant and effective.

- 4.8. The Council's existing Code of Conduct already contains many of the recommendations made in the report and has been regularly reviewed. The most recent amendments were made on 24 July 2017. In line with the Report, it will be reviewed annually in the future and views will be sought as appropriate.

An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

- 4.9. The Report noted that codes of conduct are central to upholding high standards in public life. Therefore, they must not be inaccessible on a local authority's website or as an annex to an authority's constitution.
- 4.10. The Council's Code of Conduct is currently accessible on the Council's website but provided as part of the Constitution. Accordingly, officers will ensure the Code of Conduct can be easily located on the website without having to first refer to the Constitution as a whole.

Local authorities should update their gifts and hospitality register at least once per quarter.

- 4.11. The Report stated that the accessibility and timeliness of local authority members updating their registers of interests varies widely. Some registers were not updated for long periods. This is undesirable because independent oversight and inspection is important to maintaining high ethical standards and local authorities should facilitate this by ensuring registers are accessible and up to date.
- 4.12. At the Council, Members' registers of gifts and hospitality are currently updated every 3-6 months. Members are sent their existing registers and asked to review them and communicate any changes. In the future, this will be done at least once every 3 months and the relevant page on the Council's website will be amended to make it clear that this is the case.
- 4.13. The Report also recommends that the Government require (by way of an updated model code of conduct) local authorities to record gifts and hospitality received by members over a value of £50, or totalling £100 over a year from a single source. This is to provide consistency with the £50 threshold for registering donations during election campaigns (by virtue of section 71A and schedule 2A paragraph 4 of the Representation of the People Act 1983). At the Council, the threshold for recording gifts and hospitality was set at £25 following full Council's consideration of a recommendation of the Standards Committee on 24th July 2017.

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

- 4.14. The Report noted that openness and transparency are important safeguards to holding those in public office to account. Accordingly, decisions on formal

investigations should be published and include sufficient information to enable the decision to be understood.

- 4.15. At present, decision notices are published on the website. However, it is recommended that the Council's Process for Handling Complaints be amended to specify what the decision notice should include and explicitly require publication on the Council's website.

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

- 4.16. The Report noted the importance and varied nature of the role of monitoring officer. It also recognised the potential for a conflict of interest given that the monitoring officer has a professional relationship with members, providing procedural and legal advice to enable them to pursue their objectives. Accordingly, it is considered important for there to be procedures in place to address any conflicts of interest.

- 4.17. Steps are already taken at the Council to address any conflicts of interest. However, it is proposed that the Council's Process for Handling Complaints be amended to make it clear that any potential conflicts of interest should be raised at an early stage and to give examples of the steps that may be taken to address them. For example, in addition to the above suggestion in the report, it may be appropriate for the deputy monitoring officer to undertake the investigation.

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

- 4.18. The Report notes that some local authorities have set up separate bodies without offering sufficient clarity as to their involvement. It notes the importance of separate bodies practising ongoing assurance, oversight and transparency, in-keeping with the local authority's own governance principles.

- 4.19. The Council's existing separate bodies, namely Homes for Haringey and the Alexandra Park and Palace Charitable trust, already publish their reports and associated papers. This will continue to be the case and will be done for any further separate bodies that are set up.

- 4.20. The Council currently includes the separate bodies in its statement of accounts, but does not refer to them within the annual governance statement. Therefore, they will be included within the annual governance statement in the future.

Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

- 4.21. The Report recognises the importance of a healthy organisational culture, characterised by the timely, fair and accurate identification by senior leadership

of opportunities for development and occasions for discipline of those who are in danger of breaching the rules. It also recognised the important role to be played by political parties in showing leadership and maintaining an ethical culture.

- 4.22. The Report states that the informal resolution of emerging issues is ideal and senior officers should work with group leaders and whips to this end. However, naturally, where there is a serious issue or formal complaint, the formal standards processes should be followed with the necessary checks and transparency.
- 4.23. These recommendations are already in place at the Council and will continue to be implemented in the future, to support the other, formal changes to the Code of Conduct and Process for Handling Complaints.

Local authorities should have access to at least two Independent Persons. A legal indemnity should be provided to Independent Persons if their views or advice are disclosed. An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

- 4.24. The Council is required to appoint at least one Independent Person as part of its arrangements for dealing with allegations of a breach of the Code of Conduct by virtue of section 28(7) of the Localism Act 2011.
- 4.25. The Report noted that local authorities use Independent Persons in different ways. Some authorities will, in any given case, have one Independent Person offer a view to members or complainants, and another to offer a view to the local authority, so as not to be in a position where they may be forced to prejudge the merit of an allegation. Other authorities will consult with one Independent Person on whether to undertake a formal investigation, and another to advise on that investigation.
- 4.26. The Council currently has two Independent Persons and will continue to look to have at least two in the future. Therefore, no changes are proposed in this regard.
- 4.27. The Report highlights that the view of Independent Persons have recently been disclosed pursuant to the Freedom of Information Act 2000. It expresses concern that an Independent Person may not automatically enjoy an indemnity if a member or member of the public were to take legal action against them, in the way that an officer or member would. Accordingly, it recommends that local authorities should take steps to provide an indemnity to Independent Persons.
- 4.28. Officers have confirmed with the Council's insurer that Independent Persons would be covered by the existing policy in place. Therefore, no further action is proposed on this point.
- 4.29. The Report states that Independent Persons should be seen primarily as impartial advisors to local authorities on code of conduct allegations. It notes that many monitoring officers appreciate the impartial view they can offer but that not all local authorities make good use of their Independent Person. Accordingly, the Report recommends that local authorities do so, as set out above.

4.30. In practice, an Independent Person is already consulted on such matters at the Council. However, it is proposed to amend the Process for Handling Complaints to formalise this important role.

5. Alternative options considered

5.1. It would be open to the Committee to do nothing. However, this is not recommended.

5.2. This is because it is important that the Council acts in accordance with best practice when it comes to ethical governance. The proposed amendments will provide clarity and ensure the Council's ethical governance processes are transparent, readily understood by members, officers and the public, and thereby promote confidence in the Council.

6. Background information

6.1. Standards for England (formerly the Standards Board) was previously responsible for drawing up an England-wide code of conduct for councillors, registering pecuniary interests and dealing with allegations of breaches of the code of conduct. This included imposing sanctions on councillors, which could include suspending them from office.

6.2. Changes were made by the Localism Act 2011 and took effect in April 2012. Standards for England was abolished and local authorities were required to adopt local codes of conduct based on the seven 'Nolan principles' of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Allegations were to be investigated locally but the power to suspend councillors for breaches of the code of conduct was removed.

6.3. Following these changes, the Standards Committee considered the legislative changes and options in 2011 and 2012, and the Council decided to maintain many of the provisions from the former England-wide code of conduct on 21st May 2012. The code of conduct has since been reviewed but the changes have been comparatively minor.

6.4. The Report has been published in 2019 following a wide-ranging consultation. The review covered all local authorities in England. 319 written submissions were received from a range of local authorities, stakeholder organisations, officers, councillors and members of the public. Two roundtable seminars were held, one with monitoring officers, clerks and independent persons, and one with academics and think tanks. 30 individual stakeholder meetings were held and five local authorities were visited.

6.5. The Report made recommendations for local authorities, as outlined in this report. It also made recommendations to other bodies such as the Government and the Local Government Association. These include giving local authorities the power to suspend members without allowances for up to 6 months (which would require legislation) and creating a national model code of conduct for local authorities. Such recommendations have not yet been implemented. However,

the position will be monitored by officers to ensure the Council's code of conduct remains up to date.

7. Contribution to strategic outcomes

- 7.1. The Council's Constitution supports the governance of the Council and its decision-making, thereby assisting the Council to meet its strategic outcomes.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 8.1. Any training needs that may rise will be contained within the Democratic Services budget

Procurement

- 8.2. None.

Legal

- 8.3. By virtue of section 27 of the Localism Act 2011, the Council is required to promote and maintain high standards of conduct by members and co-opted members and to adopt a code dealing with the conduct that is expected of members and co-opted members when they are acting in that capacity.
- 8.4. By virtue of section 28 of the Localism Act 2011, a code of conduct must be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 8.5. The Council may revise its existing code of conduct under section 28(5) of the Localism Act 2011.
- 8.6. The Council's Code of Conduct and Process for handling complaints form part of the Constitution. Only full Council may make changes to the Constitution by virtue of Part Three Section B – Responsibility for functions: Full Council and Non-Executive Bodies, section 1, paragraph 1(a).
- 8.7. There have not yet been any legislative changes associated with the report on Local Government Ethical Standards from the Committee on Standards in Public Life. However, the Report recommended that associated legislative changes be made in the future. This will be monitored to ensure the Council's Code of Conduct and Process for handling complaints remain up to date.
- 8.8. Legal comments are included in the body of the report where appropriate.

Equality

- 8.9. No equalities directly arise from this report.

9. Use of Appendices

- 9.1. Appendix 1: Part 5 Section A – Members’ Code of Conduct – pt 1.
- 9.2. Appendix 2: Part 5 Section A – Members’ Code of Conduct – pt 2 – Process for handling complaints.
- 9.3. Appendix 3: Report on Local Government Ethical Standards from the Committee on Standards in Public Life.

10. Local Government (Access to Information) Act 1985

- 10.1. The Council’s Constitution, which can be found at:
<https://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CIId=873&MIId=7972&info=1&MD=Constitution>
- 10.2. Report for the Standards Committee, 20th December 2011: The Localism Act 2011 – The Amended Standards Regime, which can be found at:
<https://www.minutes.haringey.gov.uk/documents/s24540/2011%2012%2020%20Agenda%20itemReport%20to%20Update%20Standards%20Committee%20Localism%20Act.pdf>
- 10.3. Report for the Standards Committee, 22nd March 2012: Ethical framework, which can be found at:
<https://www.minutes.haringey.gov.uk/documents/s25661/Signed%20report%20The%20Ethical%20Framework%20220312.pdf>
- 10.4. Report for Full Council, 21st May 2012: Ethical Framework, which can be found at:
https://www.minutes.haringey.gov.uk/documents/s26243/The%20Ethical%20Framework%20report%20_signed%20report.pdf
- 10.5. Minutes of the Standards Committee Meeting, 6th July 2017: Proposed Changes to the Council’s Constitution, which can be found here:
<http://www.minutes.haringey.gov.uk/documents/g8198/Printed%20minutes%2006th-Jul-2017%2019.00%20Standards%20Committee.pdf?T=1>
- 10.6. Report for Full Council, 24th July 2017: Constitutional Changes, which can be found at:
<http://www.minutes.haringey.gov.uk/documents/s95118/Standards%20report%20to%20Full%20Council%20Constitution%20changes%20-%2024%20July%202017.pdf>

Part Five, Section A

Members' Code of Conduct

MEMBERS' CODE OF CONDUCT

Explanatory Note

This Code of Conduct, is adopted under powers contained in the Localism Act 2011 (“the 2011 Act”), and contributes towards the discharge of the Council’s duty under the 2011 Act to promote and maintain high standards of conduct by elected and co-opted members of Haringey Council. It is consistent with the principles of public life which are prescribed in the 2011 Act and which are included in the Code at paragraphs 1.1 - 1.7 below.

The 2011 Act requires the Council’s Monitoring Officer to establish and maintain a register of interests of the members and co-opted members of the Council. It is a legal requirement that members must notify the Monitoring Officer of all their disclosable pecuniary interests within 28 days of becoming a member. Disclosable pecuniary interests are the member’s interests, those of the member’s spouse or civil partner, or person the member is living with as spouse or as if they were civil partners, and falling within categories specified in Regulations by the Secretary of State as set out at Appendix A. The Register of Members’ Interests will be available for inspection by the public at all reasonable hours and will be published on the Council’s website.

The 2011 Act has created a number of criminal offences for failure to comply with requirements relating to disclosable pecuniary interests. A summary of the offences is attached at Appendix B.

In addition to disclosable pecuniary interests personal interests as specified in the Code must be notified to the Monitoring Officer and declared at meetings if prejudicial in the manner described in the Code.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

Part 1: **GENERAL PROVISIONS**

1. **The General Principles**

1.1 **Selflessness**

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

1.2 **Integrity**

Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

1.3 **Objectivity**

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

1.4 **Accountability**

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, ~~and~~ They should co-operate fully and honestly with any scrutiny appropriate to their particular office, including any formal standards investigations.

1.5 **Openness**

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

1.6 **Honesty**

Members should not place themselves in situations where their honesty may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

1.7 **Leadership**

Members should promote and support these principles by Leadership, and by example, and should act in a way that secures or preserves public confidence.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

2. Application of the Code

- 2.1 This Code applies to you as a member of Haringey Council.
- 2.2 In your capacity as a member you should at all times adhere to the general principles set out at paragraphs 1.1 – 1.7 above.
- 2.3 It is your responsibility to comply with the provisions of this Code.
- 2.4 In this Code "meeting" means any meeting of
- (a) the Council; or
 - (b) the executive of the Council; or
 - (c) any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" means an elected member and a co-opted member

"co-opted member" means a person who is not an elected member of the Council but who has been appointed to a committee or sub-committee of the Council or represents the Council on a joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

- 2.5 You must comply with this Code whenever you are acting in your capacity as a member
- 2.6 This Code regards you as acting in your capacity as a member when you
- (a) conduct the business of your authority (which in this Code includes the business of the office to which you are elected or appointed); or
 - (b) act as a representative of your authority; or
 - (c) claim to act or give the impression you are acting as a representative of your authority.
- 2.7 This Code does not have effect in relation to your conduct other than where you are acting in your capacity as a member.
- 2.8 Where you act as a representative of your authority
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

conflicts with any other lawful obligations to which that other body may be subject.

2.9 “Relevant authority” as referred to in paragraph 2.8(a) above is as for the time being defined in section 43 Localism Act 2011 and currently means –

- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Common Council of the City of London in its capacity as a local authority,
- (f) the Council of the Isles of Scilly,
- (g) the London Fire and Emergency Planning Authority,
- (h) a metropolitan county fire and rescue authority, or
- (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of the Act applies.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

3. General Obligations

3.1 You must treat others with respect.

3.2 You must not

(a) do anything which may cause your authority to breach any of its equality duties;

(b) bully or harass any person;

(i) bullying may be characterised as: offensive, intimidating, malicious or insulting behavior; or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure someone;

(ii) harassment may be characterised as: unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual;

(iii) examples of bullying or harassment include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities

(c) intimidate or attempt to intimidate any person who is or is likely to be

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

PART FIVE – CODES AND PROTOCOLS

Section A– Member Code of Conduct

in relation to an allegation that a member (including yourself) has failed to comply with this Members' Code of Conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority;
or

- (e) make trivial or malicious allegations against any other person, including another member.

3.3 You must not

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Council; or

- (b) prevent another person from gaining access to information to which that person is entitled by law.

3.4 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute

3.5 You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

3.6 You must when using or authorising the use by others of the resources of your authority

- (a) act in accordance with your authority's reasonable requirements;

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (b) ensure that such resources are not used improperly for political purposes (including party political purposes);
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 3.7 When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- (a) the Council's Chief Finance Officer; or
 - (b) the Council's Monitoring Officer,
- where that officer is acting pursuant to his/her statutory duties.
- 3.8 You must give reasons for all decisions you make in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

PART 2: MEMBERS INTERESTS

4. Disclosable Pecuniary Interests

4.1 You have a disclosable pecuniary interest in any matter to be considered or being considered by your authority if it is of a description set out at Appendix A and either:

- (a) it is an interest of yours, or
- (b) it is an interest of
 - (i) your spouse or civil partner
 - (ii) a person with whom you are living as husband and wife, or
 - (iii) a person with whom you are living as if you were civil partners

and you are aware that that other person has the interest.

4.2 You must comply with the statutory requirements to register, disclose and withdraw from participating and voting in respect of any matter in which you have a disclosable pecuniary interest

5. Personal Interests

5.1 You have a personal interest in any matter to be considered or being considered by your authority where your interest is not a disclosable pecuniary interest in that matter and either

- (a) the matter relates to or is likely to affect
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - (iii) the interests of a person from whom you have received a gift or hospitality with an estimated value of at least £25 or

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (b) a decision in relation to that matter might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

5.2 For the purpose of Paragraph 5.1(b) a “relevant person” is

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in Paragraph 5.1(a)(i) and (ii) above of which such persons are members or in a position of general control or management.

5.3 “Family member” as referred to in paragraph 5.2(a) above is for the time being defined as –

A spouse, partner, parent, parent in law, son, daughter, step son, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and partner means a member of a couple who live together.

6. **Prejudicial Interests**

6.1 Where you have a **personal interest** in any matter to be considered or being considered by your authority you also have a prejudicial interest in that matter where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest and where that matter

- (a) affects your financial position or the financial position of a person or body described in Paragraph 5 above, or
- (b) relates to the determining of any approval, consent, licence, permission, or registration in relation to you or any person or body described in Paragraph 5 above.

6.2 A personal interest in any matter to be considered or being considered by your authority is not a prejudicial interest where that matter relates to the functions of your authority in respect of

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members;
- (vi) setting council tax or a precept under the Local Government Finance Act 1992

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

PART 3: REGISTRATION OF MEMBERS' INTERESTS

7. Notification and Registration of Members' Interests

- 7.1 You must, within 28 days of adoption of this code or of becoming a member notify the Monitoring Officer of any disclosable pecuniary interest, or personal interest as set out in Paragraph 5 (1)(a) above, which you have, and the Monitoring Officer shall, subject to Paragraph 8 (Sensitive Interests) below, enter the interest(s) notified in the Council's Register of Members' Interests maintained under the Localism Act 2011.
- 7.2 You must, within 28 days of becoming aware of any new interest or change to any interest registered under Paragraph 7.1 above, register details of that new interest or change by providing written notification to the Monitoring Officer who shall, subject to Paragraph 8 (Sensitive Interests) enter the interests notified in the Register of Members' Interests.
- 7.3 You must observe the notification provisions relating to disclosable pecuniary interests which arise at meetings or when a member is acting alone which are set out at Paragraphs 9.4 and 9.6 respectively.

Registration of Gifts and Hospitality

- 7.4 You should record in your Register of Interests any gifts or hospitality you are offered in your role as a Member or co-opted member of the Council with an estimated value of at least £25. You should record any such gifts or hospitality within 28 days of their being offered and in any event review and update your declaration form once per quarter.

8. Sensitive Interests

- 8.1 Where you have an interest (whether or not a disclosable pecuniary interest) and the nature of it is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you or a person connected with you being subject to violence and intimidation if the interest is entered in the Register of Members' Interests then copies of the register available for inspection and any published version of the register must not include details of the interest but may state that you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011.
- 8.2 If Paragraph 8.1 above refers to the entry of the interest in the Register of Members' Interests that provision is to be read as requiring you to disclose not the interest but merely the fact that the you have a disclosable pecuniary interest in the matter concerned.

PART FIVE – CODES AND PROTOCOLS

Section A– Member Code of Conduct

8.3 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under Paragraph 8.1 above is no longer sensitive information, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

PART 4: DISCLOSURE OF MEMBERS' INTERESTS AND EFFECT UPON PARTICIPATION AT MEETINGS

9. Disclosure of Interests

- 9.1 Subject to paragraphs 9.3 to 9.6 below, where you have a disclosable pecuniary interest or a prejudicial interest in any matter being considered by your authority and you are present at a meeting of the authority or of any committee, sub-committee, joint committee, or joint sub-committee of the authority at which the matter is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered in the Register of Members' Interests or for which you have made a pending notification.
- 9.2 Where you have a personal interest in any matter being considered by your authority which is not a disclosable pecuniary interest nor a prejudicial interest and you are present at a meeting of the authority or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, at which the matter is considered, you are under no obligation to make a disclosure to the meeting but you may do so if you wish.
- 9.3 Paragraphs 9.1 - 9.2 above only apply where you are aware or ought reasonably to be aware of the existence of the interest.
- 9.4 Where you have disclosed a disclosable pecuniary interest pursuant to Paragraph 9.1 above, and that interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- 9.5 Where you have an interest in any matter to be considered or being considered by your authority which would be disclosable by virtue of Paragraph 9.1 but by virtue of Paragraph 9 (Sensitive Interests) details of the interest are not registered in the Council's published Register of Members' Interests, at a meeting at which you are present you must disclose the fact that you have a disclosable interest in the matter concerned but details of that interest need not be disclosed.
- 9.6 If a function of the Council may be discharged by **a member acting alone** and you have a disclosable pecuniary interest or a prejudicial interest in any matter to be dealt with or being dealt with in the course of discharging that function:
- (a) if the interest is a **disclosable pecuniary interest** and is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days

PART FIVE – CODES AND PROTOCOLS

Section A– Member Code of Conduct

beginning with the date upon which you first became aware
of having the interest in relation to the matter;

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

- (b) you must not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

10. Effect of Disclosable Pecuniary Interest or Prejudicial Interest on participation at meetings

10.1 Subject to Paragraph 10.3, if you are present at a meeting and you have a **disclosable pecuniary interest or a prejudicial interest** in any matter to be considered, or being considered at the meeting;

- (a) You may not participate, or participate further, in any discussion of the matter at the meeting, or
- (b) participate in any vote, or further vote, taken on the matter at the meeting, and
- (c) You must withdraw from the room or chamber where the meeting considering the matter is being held,

unless you have obtained a dispensation from your authority's Standards Committee.

10.2 Subject to Paragraph 10.3, if you are present at a meeting and you have a **disclosable pecuniary interest or a prejudicial interest** in any matter to be considered, or being considered at the meeting;

- (a) You may not exercise executive functions in relation to that matter, or
- (b) seek improperly to influence a decision about that matter.

10.3 Where you have a **prejudicial interest** in any matter to be considered or being considered at a meeting of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

Appendix A

Disclosable Pecuniary Interests

In the extract from the Regulations* below, 'M' means the member and 'relevant person' means the member, the member's spouse or civil partner or a person with whom the member is living with as spouse or as if they were civil partners.

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

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 specify the interests above as disclosable pecuniary interests for the purposes of Chapter 7 of Part 1 of the Localism Act 2011.

The Regulations provide the following definitions of terms used in the specification of disclosable pecuniary interests:

“the Act” means the Localism Act 2011;

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

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

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

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

“M” means a member of a relevant authority.

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

“member” includes a co-opted member;

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

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

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

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

PART FIVE – CODES AND PROTOCOLS
Section A– Member Code of Conduct

Appendix B

Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of becoming aware of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting
- As an executive member discharging a function alone, takes steps or further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member)

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

PART 5, SECTION A
 PROTOCOL – COMPLAINTS AGAINST MEMBERS

Arrangements for dealing with allegations that a member or co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct

1. Introduction

- 1.1 These arrangements set out how an allegation may be made that an elected member or a co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.
- 1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the member or co-opted member against whom an allegation has been made. These arrangements fulfil the Council's statutory obligations.
- 1.3 In these Arrangements a number of terms are used which have the following meanings:

Member	An elected Councillor
Co-opted Member	A person who is not an elected member of the Council but has been appointed to a committee or sub-committee of the Council.
Monitoring Officer	A officer of the Council designated under section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its members and officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a register of interests of members and co-opted members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Localism Act 2011, whose views are sought and taken into account before decisions upon allegations against members are taken and who may be consulted by a member who is the subject of allegations or the Council, generally.

Standards Committee	A committee of members responsible for promoting and maintaining high standards of member conduct within the Council.
Assessment Sub-Committee	A Sub-Committee of Standards Committee established to decide whether allegations against members are worthy of being investigated.
Hearing Sub-Committee	A Sub-Committee of Standards Committee established to conduct hearings into allegations against members and to determine such allegations following a hearing.

2. The Members' Code of Conduct

2.1 The Council has adopted a Members' Code of Conduct which is available for inspection on the Council's website and on request from the Monitoring Officer.

3. The Independent Person

3.1 Pursuant to Section 28 of the Localism Act 2011, the Council shall appoint an Independent Person. The person appointed shall have responded to a public advertisement for the vacancy and submitted an application for the post. The appointment of the successful applicant shall be approved by a majority of the members of the Council.

3.2 The views of ~~the an~~ Independent Person shall be sought and taken into account by:

- (i) the Monitoring Officer when deciding whether to undertake a formal investigation on an allegation.
- (ii) the Hearing Sub-Committee before it makes its decision on an allegation which it has decided to investigate.

3.3 The views of ~~the an~~ Independent Person may be sought:

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (i) by the Standards Committee/Assessment Sub-Committee/Hearing Sub-Committee or by the Monitoring Officer/Investigating Officer in relation to an allegation in circumstances not within paragraph 3.2, above.
- (ii) by a member or co-opted member of the Council if that person's behaviour is the subject of an allegation.

4. Making an allegation

- 4.1 An allegation that a member or a co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct should be made in writing, wherever possible, using the Complaint Form on the Council's website to:

Bernie Ryan
Monitoring Officer
Haringey Council
7th Floor
Alexandra House
10 Station Road
London
N22 7TR

Tel: 0208 489 3974

or email:

bernie.ryan@haringey.gov.uk

- 4.2 It is important that a person making an allegation provides his/her name and a contact address or email address, so that the Council can acknowledge receipt of the allegation and keep the person informed of its progress. The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests.
- 4.3 The Council does not normally investigate anonymous allegations unless there is a clear public interest in doing so.
- 4.4 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 4.5 The Monitoring officer will inform the councillor against whom an allegation has been made and will give the details of the complaint and remedy sought to them. In exceptional circumstances the Monitoring Officer has the discretion not to inform the Councillor if, in his opinion,

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

to do so would risk an investigation being frustrated or prejudiced in some other way.

5. Assessment of an allegation

5.1 The Monitoring Officer will review every allegation received and **may** **will** consult ~~the~~ **an** Independent Person before taking a decision as to whether or not it merits reference to the Assessment Sub-Committee of the Standards Committee.

5.2 If the Monitoring Officer requires additional information in order to reach a decision, he/she may revert to the person making the allegation for such information and may request information from the member against whom the complaint is directed. If the person making the allegation fails to provide the additional information requested the allegation may be dismissed by the Monitoring Officer pursuant to paragraph 5.3 (c), below.

5.3 The Monitoring Officer will use a number of criteria for assessing complaints, and **may will** consult with ~~the~~ **an** Independent Person and if necessary the appropriate party group whips and party leaders. The decision whether to investigate a complaint will be a proportionate response to the issues raised and likely outcomes. The Monitoring Officer may determine that an allegation does not merit any further action, where:

- (a) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example it relates to a member's private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service, or
- (b) It is about someone who is no longer a member or a co-opted member of the Council, or
- (c) There is insufficient evidence upon which to investigate and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently, or
- (d) The same or a similar allegation has been investigated and determined, or
- (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Member's Code of Conduct, or
- (f) The Monitoring Officer facilitates an informal resolution without the need for a formal investigation. This may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the Council. If the Monitoring Officer considers an offer of informal resolution is

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Standards Committee for determination, or

(g) the complainant is considered to be vexatious.

5.4 If the complaint is dealt with under 5.3 above, the Monitoring Officer will promptly notify the complainant and the member of the outcome, giving reasons for the decision. Except as provided for in Paragraph 5.3 above, the Monitoring Officer shall refer all allegations to the Assessment Sub-Committee for consideration.

5.5 The Assessment Sub-Committee shall determine whether the allegation:

(a) merits no further investigation and is dismissed, or

(b) merits further investigation.

5.6 The Assessment Sub-Committee will take into account the view of the Independent Person as provided to the Monitoring Officer under 5.1 and/or 5.3 above. It may determine that an allegation merits no further investigation for whatever reasons it thinks fit, but it may have regard to the criteria set out in Paragraph 5.3 above and to the following additional criteria:

(a) The allegation is not considered sufficiently serious to warrant investigation, or

(b) The allegation appears to be motivated by malice or is 'tit-for-tat', or

(c) The allegation appears to be politically motivated, or

(d) The matter about which the allegation is made took place more than three months prior to receipt of the allegation unless there are exceptional circumstances or it is otherwise appropriate to investigate.

5.7 Where the Assessment Sub-Committee considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation.

5.8 The decision as to whether or not an allegation should be investigated will normally be taken within thirty clear working days from receipt. The Monitoring Officer will inform the person making the allegation of that decision and if the allegation is to be investigated, an indication of the timescale for the investigation. The Monitoring Officer will keep the person informed if the initial timetable changes substantially,

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

6. The Investigation

- 6.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator.
- 6.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 6.3 The Monitoring Officer/Investigating Officer will normally write to the member against whom the complaint is made and provide him/her with a copy of the complaint and ask the member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview. Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the papers given to the member. Where disclosure of details of the allegation to the member might prejudice the investigation, the Monitoring Officer/Investigating Officer may delay notifying the member until the investigation has progressed sufficiently.
- 6.4 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer will produce a draft report and may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the member concerned, to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.
- 6.5 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, the Investigating Officer will send his/her final report (the Investigation Report) to the Monitoring Officer for the latter's consideration prior to onward transmission to the Hearing Sub-Committee where appropriate. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

6.6 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, and, where appropriate, having sought to achieve an informal resolution pursuant to paragraph 8.1 below, the Monitoring Officer shall submit the Investigation Report to the Hearing Sub-Committee and ~~the an~~ Independent Person.

7. Where the Monitoring Officer/Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct.

7.1 In these circumstances the Monitoring Officer will refer the matter to the Standards Committee. When the Standards Committee receives an Investigation report which recommends that there is no evidence of failure to comply with the Members' Code of Conduct, the Committee may:

- (a) accept the recommendation resolve that no further action is required and dismiss the allegation, or
- (b) remit the report to the Monitoring Officer for further consideration, or
- (b) remit the complaint to the Hearing Sub-Committee to conduct a hearing for the consideration of the allegation and the Investigation Report and determine the allegation.

7.2 Prior to making a determination under Paragraph 7.1 above, the Standards Committee shall seek and shall take into account the views of ~~the an~~ Independent Person.

8. Where the Monitoring Officer/Investigating Officer concludes that there is evidence of failure to comply with the Code of Conduct.

8.1 Where an Investigation Report concludes that there is evidence of failure to comply with the Code of Conduct the Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult ~~the an~~ Independent Person and the person making the allegation and seek to agree what the person considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee which will note the outcome but take no further action.

8.2 If the Monitoring Officer considers that an informal resolution is not appropriate, or the member concerned is not prepared to undertake

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

any proposed remedial action, such as giving an apology, then the Monitoring Officer will submit the Investigation Report to the Hearing Sub-Committee to conduct a hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.

9. The Pre Hearing Process and Hearing

9.1 In advance of the Hearing the Monitoring Officer (and/or his nominees) will:

- (a) agree a date for the hearing with all the relevant parties;
- (b) provide a timetable for the member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
- (c) establish whether the member will be represented or accompanied at the hearing;
- (d) establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;
- (e) provide information about the procedure to be used at the hearing;
- (f) establish whether the member disagrees with any of the findings of fact in the Investigation Report;
- (g) establish whether the Investigating Officer intends to call any witnesses.

9.2 Wherever possible hearings conducted by the Hearing Sub-Committee shall take place within three calendar months of the referral to the Hearing Sub-Committee.

9.3 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Standards Committee.

9.4 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Members' Code of Conduct.

9.5 If a member fails to attend the hearing, the Hearing Sub-Committee may decide to proceed in the member's absence and make a determination, or to adjourn the hearing to a later date

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- 9.6 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising Appendix A to these arrangements.
- 9.7 The Hearing Sub-Committee, having sought and taken into account the views of ~~the~~ an Independent Person may conclude:
- (a) that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or
 - (b) that the member did fail to comply with the Members' Code of Conduct.
- 9.8 In the event of a finding under Paragraph 9.7 (b) above, the Chair will inform the member of this finding and the Hearing Sub-Committee will then consider what action, if any, it should take as a result of the member's failure to comply with the Members' Code of Conduct. In doing this, the Hearing Sub-Committee will give the member an opportunity to make representations to the Sub-Committee as to whether any action should be taken and what form any action should take and will seek and take into account the views of ~~the~~ an Independent Person. It will then decide what action, if any, to take in respect of the matter.

10. Action which may be taken where a member has failed to comply with the Code of Conduct

- 10.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Hearing Sub-Committee may:
- (a) Publish its findings in respect of the member's conduct;
 - (b) Report its findings to Council for information;
 - (c) Issue the member with a formal censure or be reprimanded, a report of which may be submitted to Council
 - (d) Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - (e) Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (f) Instruct the Monitoring Officer to arrange training for the member;
- (g) Recommend to Council or Cabinet (as appropriate) that the member be removed from outside appointments to which he/she has been appointed or nominated by the Council/Cabinet
- (h) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- (i) Exclude the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.
- (j) Take no further action
- (k) Any other appropriate sanction which may be available to the Sub-Committee.

10.2 The Hearing Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

10.3 At the end of the hearing, the Chair shall state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any action which the Sub-Committee has resolved to take.

10.4 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chair of the Hearing Sub-Committee, ~~and send a copy to the person making the allegation; to the member concerned; make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.~~

10.5 The decision notice shall include a brief statement of facts, the provision of the Code of Conduct engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

10.6 As soon as reasonably practicable, the decision will be communicated as follows:

- (a) a copy of the decision notice will be sent to the person making the allegation and to the member concerned.
- (b) the decision notice will be made available for public inspection at the Council's offices and on the Council's website.
- (c) the decision will be reported to the next convenient meeting of the Council.

11. Appeals

11.1 There is no right of appeal for either the person making the allegation or for the member against whom the allegation is made, against a decision of the Monitoring Officer or of the Standards Committee/Assessment Sub-Committee/Hearing Sub-Committee

11.2 If a person making the allegation considers that the Council has failed to deal with an allegation properly, he/she may make a complaint to the Local Government Ombudsman.

12. Conflicts of Interest

12.1 No member or officer of the Council will participate at any stage of this protocol if he or she has a conflict of interest in the matter.

12.2 Any member or officer with a potential conflict of interest must disclose it to the Monitoring Officer/Investigating Officer as soon as reasonably practicable.

12.3 The Monitoring Officer/Investigating Officer shall consider the appropriate steps to be taken in the event of a potential conflict of interest and may consult an Independent Person. Where appropriate, the deputy monitoring officer or a monitoring officer from a different authority may undertake the investigation.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Appendix A

Hearing Procedure

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Hearing Sub-Committee and advised to the parties

1. The Chair shall facilitate introductions and explain the procedure for the hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to present his/her Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
3. The Member against whom the allegation has been made or his/her representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
5. Members of the Sub-Committee may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
6. The Member against whom the allegation has been made or his/her representative may present his/her case and call witnesses as required.
7. The Monitoring Officer/Investigating Officer may question the Member and any witnesses
8. Members of the Sub-Committee may question the Member and any witnesses.
9. The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
10. The Member or his/her representative may sum up his/her case and make a closing speech.
11. The Chair shall invite the parties to withdraw to enable the Sub-Committee to deliberate upon the allegation. Prior to reaching a determination the

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Sub-Committee shall seek and take into account the views of ~~the~~ an Independent Person.

12. The parties shall be invited to return and the Chair shall announce the Sub-Committee's decision in the following terms:-

- (a) The Sub-Committee has determined that the Member has failed to comply with the Code of Conduct, or
- (b) The Sub-Committee has determined that the Member has not failed to comply with the Code of Conduct and the allegation is dismissed.

The Sub-Committee will give reasons for its decision.

13. If the Sub-Committee has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.

14. The Chair shall invite the parties to withdraw to enable the Sub-Committee to deliberate upon what action if any should be taken. Prior to reaching a determination the Sub-Committee shall seek and take into account the views of ~~the~~ an Independent Person.

15. In addition to any action upon the current matter, the Sub-Committee shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.

16. The parties shall be invited to return and the Chair shall announce the Sub-Committee's decision

17. A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.

This page is intentionally left blank

Local Government Ethical Standards

**A Review by the
Committee on
Standards in Public Life**

**Committee on
Standards in
Public Life**

January 2019





Local Government Ethical Standards

Committee on Standards in Public Life

Chair: Lord Evans of Weardale KCB DL

January 2019





The Seven Principles of Public Life

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

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.



Dear Prime Minister,

I am pleased to present the 20th report of the Committee on Standards in Public Life, on the subject of ethical standards in local government.

The Committee has had a long-standing interest in local government, which was the subject of its third report, and which it has considered a number of times since then. This review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.

Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence.

It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.

Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of



appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public.

A number of these recommendations involve legislative change which we believe the government should implement. We have also identified 'best practice' for local authorities, which represents a benchmark for ethical practice which we expect that any authority can and should implement.

It is clear to us that local government in England has the willingness and capacity to uphold the highest standards of conduct; our recommendations and best practice will enable them to do so.

I commend the report to you.

Lord Evans of Weardale
Chair, Committee on Standards in Public Life





Contents

Executive summary	10
List of recommendations	14
List of best practice	18
Introduction	20
Chapter 1: Overview of standards	22
Chapter 2: Codes of conduct and interests	30
Chapter 3: Investigations and safeguards	52
Chapter 4: Sanctions	65
Chapter 5: Town and parish councils	75
Chapter 6: Supporting officers	81
Chapter 7: Councils' corporate arrangements	86
Chapter 8: Leadership and culture	95
Conclusion	102
Appendix 1: About the Committee on Standards in Public Life	103
Appendix 2: Methodology	104



Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government



Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



Number	Recommendation	Responsible body
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



Introduction

The Committee on Standards in Public Life (the Committee) was established in 1994 by the then Prime Minister, and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles.¹

The Committee has had a long-standing interest in local government, which was the subject of its third report in 1997, and which it has considered on a number of occasions since then. Since we last reviewed standards arrangements in local government, the Committee has maintained a watching brief, and has received regular correspondence relating to local government. Our other recent reviews have also received evidence relevant to the maintenance of standards in local government. This review was not prompted, however, by any specific allegations of misconduct or council failure, but rather to review the effectiveness of the current arrangements for standards in local government, particularly in light of the changes made by the Localism Act 2011.

The terms of reference for our review were to:

1. Examine the structures, processes and practices in local government in England for:

- a. Maintaining codes of conduct for local councillors
- b. Investigating alleged breaches fairly and with due process
- c. Enforcing codes and imposing sanctions for misconduct
- d. Declaring interests and managing conflicts of interest
- e. Whistleblowing

2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government

3. Make any recommendations for how they can be improved

4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

¹ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>



Our review covered all local authorities in England, of which there are 353 principal authorities, with 18,111 councillors in 2013, and an estimated 10,000 parish councils in England, with around 80,000 parish councillors. We did not take evidence relating to Combined Authorities, metro mayors, or the Mayor of London and so do not address these areas of local government in this report.

The Committee's remit does not extend to the devolved administrations of the UK, and so our review does not cover local government standards outside England, although we have considered the role, remit, and work of the standards bodies in Scotland, Wales, and Northern Ireland for comparative purposes.

As part of this review, we received 319 written submissions to our consultation, from a range of local authorities, representative bodies, stakeholder organisations, officers, councillors, and members of the public. We held two roundtable seminars; one with Monitoring Officers, clerks and Independent Persons, and one with academics and think tanks. We held 30 individual stakeholder meetings. We also visited five local authorities across different regions of England and tiers of local government speaking to councillors, officers, county associations, Independent Persons, and representatives from town and parish councils.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and specific groups of public office holders. Our best practice for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We intend to review the implementation of our best practice in 2020.

The Committee wishes to thank all those who gave evidence to the review, including those local authorities who hosted a visit by the Committee, and in particular Jonathan Gooden of Wilkin Chapman LLP for his support and advice throughout.



Chapter 1: Overview of standards

Is there a standards problem in local government?

The evidence we have received does not reveal a widespread standards problem within local government. Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct.

However, there is clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. We have also heard evidence of persistent or repeated misconduct by a minority of councillors.

This misconduct occurs at both principal authority level and at parish or town council level. Our evidence suggests, however, a high volume of complaints arising from a small number of town and parish councils (we refer to both as 'parish councils' for clarity). Under the current arrangements, where principal authorities are responsible for investigating and deciding on allegations of misconduct at parish level, these complaints can take up a disproportionate amount of officer time and are likely to be more difficult to address than complaints at principal authority level.

There is currently no requirement for principal authorities or town and parish councils to collect or report data on the volume of formal complaints they receive, but evidence we received indicates that the number varies widely between local authorities.

We received evidence that for parish councils, around 60% of councils had had no complaints, or only one complaint since the Localism Act 2011 came into force, and

around 10% had had four or more complaints. Of councils that had received complaints, 83% said complaints had been made about disrespectful behaviour, 63% about bullying and 31% about disruptive behaviour.²

Throughout this review, we have evaluated the system for upholding high ethical standards in local government as it currently works in practice, to see how far it reflects the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Across the 353 principal authorities in England, where responsibility for ethical standards rests with each individual authority, there is a variety of practice. But there are some common concerns.

At a time of rapid change in local government, not least in response to austerity measures, decision-making in local authorities is getting tougher and more complex. Increased freedoms to work with partners from a variety of sectors runs the risk of putting governance under strain. The importance of ensuring selflessness and integrity by reporting conflicts of interest and eradicating undue influence, in a system which is becoming less transparent and less accountable, is more important than ever. A lack of regulation only heightens the risk of things going badly wrong.

The political landscape is also changing. As we explore in chapter 4, party group discipline is an important ingredient in addressing misconduct, but in some councils the increase in independent members and groups causes additional concerns. The public expect their local representatives to be open and transparent, but it is clear that the increased use of social media has to be handled with

2 Hoey Ainscough Associates survey for Society of Local Council Clerks, based on 801 responses from Clerks across England and Wales



care and where necessary properly monitored and checked. Many councils told us of ways in which they were trying to address this, often after having had multiple complaints.

The pressures increase to conduct political debate and decision-making at pace, and there can be frustration with formal procedures to handle complaints which are judged to be too cumbersome, bureaucratic or lengthy. Informality has its place, but must be balanced by the safeguard of formal due process, especially for more serious matters. We heard from councillors how important it is for them to have proper procedures, with an appropriate level of independence and objectivity, to protect them from political mischief or worse.

Local authorities are clearly aware of these issues and are tackling them. But officers need appropriate support, especially those officers in parish councils who often work alone. They are developing best practice and understand what works, and they are working together across professional networks to share their experiences. Councillors themselves have confidence in the system and confidence in themselves to ensure high standards. But throughout this review we heard for the need for greater consistency in codes of conduct and for greater enforceable sanctions for serious and repeated breaches.

Such concerns and risks suggest that the current arrangements should be clarified and strengthened to ensure a robust, effective, and comprehensive system. We set out in this report how we believe local government can be supported to achieve this.

The current system

The current system has a number of checks and balances built in to safeguard against poor ethical standards and protect against impropriety.

Each principal authority operates within its constitution. This creates a governance framework to ensure good administration and decision-making which includes, for example, the separation of the duties of officers and members, accountability to full council, and scrutiny and audit processes. These arrangements are overseen by the officers of the council, and particularly by the three senior statutory officers: the Head of Paid Service (Chief Executive), the Chief Finance Officer (sometimes referred to as the Section 151 Officer) and the Monitoring Officer. The leader of the council and other key members also have an important leadership role to play.

Under section 27 of the Localism Act 2011 each local authority must adopt a code of conduct against which councillors' conduct may be assessed. This code, when viewed as a whole, should reflect the Seven Principles of Public Life. A local authority must also make appropriate provision for councillors to register pecuniary and non-pecuniary interests. Any allegations of misconduct are usually considered in the first instance by the Monitoring Officer, a statutory officer of the council who has responsibility for standards and governance (or by their deputy). If the Monitoring Officer considers that there needs to be a formal investigation, this may be undertaken by the Monitoring Officer themselves, a deputy, or by an external investigator.

As a check on the impartiality of the decision-making process, the council must seek and take into account the view of an Independent Person (appointed by the council) before a decision is made on an alleged breach that has been subject to a formal investigation. A decision can be made by the Monitoring Officer, but many councils maintain a standards committee to make decisions on allegations or to review decisions taken by the Monitoring Officer. The authority may impose



a sanction - which cannot include suspension or disqualification - but may be an apology, training, censure, or withdrawal of certain facilities or access to council buildings. There are, however, no means of enforcing sanctions where it requires positive action by the councillor, for example, an apology or training.

Outside the formal standards procedures in a principal authority, party discipline can also be brought to bear. Most councillors will be members of a political group, and also often a national political party. A political group may follow its own procedures to advise members about their behaviour, remove councillors from committees, suspend them from the group, or remove them from positions to which they have been appointed by the group. A national political party may also follow its own procedures and suspend or expel a councillor from the party. These processes may be undertaken in consultation with the Monitoring Officer or other senior officers, or under the group or party's own initiative.

Within the statutory framework, principal authorities have discretion to develop their own standards procedures according to their own needs and resources. For example, some authorities give a more significant role to their Monitoring Officer and only involve a standards committee or Independent Person in the case of a formal investigation, others make extensive use of party discipline to resolve standards issues informally, and some authorities involve Independent Persons and standards committee members in a range of activities aimed at upholding ethical conduct and ethical decision-making within the authority. This means that authorities' standards arrangements, whilst they have commonalities, can in practice be implemented very differently. We discuss these different approaches throughout this report.



Developments leading to the current framework for local government ethical standards

Much of the framework for local government standards which has been in place since 1997 has been a direct or indirect result of the Committee's recommendations.

Since we first considered local government standards in 1997, the sector has moved from a largely unregulated standards regime to a highly centralised system under the Standards Board, which was subsequently reformed in the mid-2000s and finally abolished in 2012, giving way to the highly devolved system which is currently in place.

1997 The Committee's third report, *Standards of Conduct in Local Government in England, Scotland and Wales* (1997), made a range of recommendations to improve ethical standards in local government. These included a requirement for local authorities to adopt a code of conduct based on general principles, the creation of public registers of interests, and rules on councillors declaring both pecuniary and non-pecuniary interests and withdrawing from discussion or voting where appropriate. Codes of conduct would be enforced by local standards committees with powers to suspend councillors, with tribunals in England, Wales, and Scotland to hear appeals.

1998 The Committee's recommendations were considered in detail by the incoming government in *Modernising local government: a new ethical framework* (1998), published by what was then the Department for Environment, Transport, and the Regions. The response, though agreeing with a number of recommendations, went well beyond what the Committee recommended, and proposed the creation of the Standards Board for England, which would investigate and adjudicate on all complaints about councillors except for those which were trivial or technical. The government held that leaving determination to local standards committees "[...] risks that allegations are not handled with that degree of objectivity or fairness" that the government considered an essential principle of the system.³ The Secretary of State issued a model code of conduct, containing provisions which were required to be included in local codes of conduct, and the Standards Board for England advised councils at the time not to include additional provisions in their codes.

³ Department for Environment, Transport and the Regions (1998), *Modernising local government: a new ethical framework*



2005 In the Committee's 10th report, *Getting the balance right* (2005), the Committee accepted that the standards framework had improved since 1997. However, it criticised the centralised method for handling complaints and argued that, both on proportionality grounds and in order to embed an ethical culture in individual local authorities, the framework should move to locally-based arrangements for all but the most serious cases. It argued for substantial reform of, but not the abolition of, the Standards Board.

2007 Responding to the Committee's 10th report, the government agreed that the Standards Board should become a more strategic regulator, and accepted that there were benefits "[...] in moving towards the promotion of more locally-based decision making in conduct issues, which would encourage local ownership of standards within local authorities". The Standards Board became 'Standards for England' and its role and relationship to local standards committees was altered accordingly by the Local Government and Public Involvement in Health Act 2007, with local authorities given the power to determine all but the most serious allegations. The Standards Committee (England) Regulations 2008 gave standards committees the ability to suspend councillors for up to six months following the finding of a breach.



2010 In 2010, the coalition government proposed significant reform of the local government standards regime, centred on the abolition of Standards for England, which ministers described as “[...] bureaucratic standards arrangements...which so often led to petty or politically motivated complaints”.⁴ The government proposed devolving responsibility for standards to individual local authorities, though without the ability to suspend or disqualify councillors. The initial proposals did not require councils to adopt a code of conduct, nor to have an independent check on deciding breaches.

The Committee welcomed responsibility for standards being held at a local level, noting that this was what it had originally recommended in 1997. However, the then Chair of the Committee, Sir Christopher Kelly KCB, expressed concerns that “[...] the proposals go well beyond the abolition of Standards for England. They involve the abolition of the national code of conduct for local authority members and remove the obligation on local authorities to maintain standards committees, chaired by independent people, to monitor standards and sanction aberrant behaviour. In future it appears that the only way of sanctioning poor behaviour between elections will be the criminal law or appeals to the ombudsman where someone’s interests are directly affected by a decision.”⁵

In response, the government included in the Localism Act 2011 a requirement for councils to adopt a code of conduct which, when viewed as a whole, was: consistent with the Seven Principles of Public Life; required the views of an Independent Person to be sought and taken into account when deciding on breaches of the code of conduct; and put a requirement for pecuniary interests to be registered and declared on the face of the Bill, which passed into law in November 2011.

4 Letter from Bob Neill MP to all local authority leaders, 28 June 2012, Available online at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5657/2169997.pdf

5 “Public confidence in local government standards is at risk”, Committee on Standards in Public Life Press Notice, 14 September 2010



Responsibility for standards

Whilst we consider each element of the standards process within this report, we have also considered the system as a whole; in particular, the question of where responsibility for standards in local government should lie – whether locally or with a national, centralised body. Any system needs to be able to support and protect councillors, officers, and members of the public.

There are clear benefits to local authorities having responsibility for ethical standards.

First, ownership of ethical standards – local responsibility for ethical standards ensures that the application and implementation of the Seven Principles of Public Life in local government is fully ‘owned’ by the sector. Ethical standards should not be seen as something that can be outsourced to another organisation; a highly centralised system for codes of conduct, investigations and sanctions risks implying that maintaining an ethical culture is somebody else’s responsibility. The evidence we received strongly indicates that local authorities want to keep responsibility for setting standards, based on the Seven Principles, and maintaining an ethical culture in their own authorities; and want to be given the tools and resources to do so.

Second, flexibility – our evidence suggests that flexibility is a major strength of the current standards arrangements. Local government involves working in close proximity. A system which is overly formal, as a centralised system would tend to be, can actually inhibit high ethical standards as it precludes light-touch, informal action to address potential issues at an early stage, and to resolve them in a way which takes account of the culture and needs of the authority and its existing working relationships.

Third, reduction in vexatious complaints – the evidence we have seen also suggests that the vexatious and politically-motivated complaints that existed under the centralised regime, prior to 2011, and about which we expressed concern in 2005, have significantly reduced.

We have carefully considered the arguments in favour of a centralised body responsible for overseeing standards in local government, as is the case for example in the devolved administrations of the UK.

The obvious benefit would be that it would improve consistency of standards across England. We have considered in particular the argument that members of the public in one area of the country will have the same expectations of the standards upheld by local councillors as members of the public in another area of the country. We suggest, however, that it is possible in general to enhance consistency without centralisation.

We have also considered how increased centralisation may make the process of setting codes, and investigating and deciding upon standards breaches, more independent and objective. It is important that there is independent input and oversight in any standards system, not least to provide councillors with support and adequate protection from unwarranted politically motivated allegations or unfair treatment, and to maintain the confidence of the public. The evidence we received suggests that it is possible to strengthen independent safeguards – through strengthening the role of independent members on standards committees and the Independent Person – within a framework of local responsibility for maintaining standards.



Overall, we do not favour a return to a centralised system and recommend that responsibility for ethical standards should remain with local authorities. While consistency and an independent element are important aspects of the standards framework, the recommendations we make throughout this report would enhance the consistency of standards across England and increase the independence of the relevant processes, whilst retaining local authorities' ownership of ethical standards and the flexibility this allows.



Chapter 2: Codes of conduct and interests

Clear, relevant, and proportionate codes of conduct are central to maintaining ethical standards in public life. Codes of conduct were identified by the Committee as one of the essential ‘strands’ in maintaining ethical standards in public life in its first report in 1995, at a time when many public sector organisations did not have them.

Codes of conduct play an important role in maintaining ethical standards in an organisation. They are not an alternative to values and principles, but they make clear how those values and principles should be put into practice. They enable people to be held to account for their actions by setting out clear expectations about how they should behave.

As we stated in our 2013 report, *Standards Matter*:

Organisations need their ethical principles to be elaborated in codes which contextualise and expand on their practical implications. Holders of public office can then be clear what is expected of them, particularly in grey areas where the application of principles may not be self-evident.⁶

Currently, local authorities have a statutory duty to adopt a code of conduct which, when viewed as a whole, is consistent with the Seven Principles of Public Life, and which includes provisions for registering and declaring pecuniary and non-pecuniary interests.

The intention was not that the Seven Principles could be treated as if a self-contained code, but instead that the principles should be used to underpin a well-drafted, practical and locally-relevant guide to behaviour.

As part of our evidence-gathering, we reviewed a sample of 20 principal authority codes of conduct. We have also drawn on the evidence received through our public consultation, visits and roundtables.

Variation, consistency, and clarity

There is considerable variation in local authority codes of conduct. Some of this is straightforward variation in structure and wording, but there is also considerable variation in length, breadth, clarity and detail.

We heard evidence that variation between codes, even where the codes do not differ in quality, is problematic. It creates confusion among councillors who are simultaneously serving in councils at multiple tiers of local government (for example, on both a parish and a district council, known as ‘dual-hatting’), particularly when requirements for declaring and registering interests are different. It also creates confusion among members of the public over what is required of different councillors in different areas and tiers of local government.

6 Committee on Standards in Public Life, *Standards Matter* (Cm 8519, January 2013), 4.4



The main problem I have experienced as Monitoring Officer...is the lack of consistency across codes... In district council areas, as Monitoring Officer, you have oversight of both district and parish council complaints. Each council can have their own version of the code (meeting the minimum provisions under the Localism Act 2011). It makes life difficult for councillors who are 'twin' or 'triple' hatters having to abide by different codes, and potentially inconsistent in the advice you can provide on each different version of a code.⁷

Monitoring Officer, North Hertfordshire District Council

In light of these problems, it is of little surprise that some councils have taken voluntary steps to agree mutual codes of conduct. For example, all of the principal authorities in Worcestershire have agreed a 'pan-Worcestershire' code. This also meant that common training could take place across authorities.⁸

In order to ensure a consistency of standards and expectations of both councillors and the public (and not least because we have a lot of dual-hatted members), the eight principal authorities co-operated in advance of the new regime to create a 'pan-Worcestershire' Code of Conduct which was adopted by all eight, and we understand a majority of town and parish councils in the county as well.⁹

Worcestershire County Council

In Ashford, a 'Kent model' code of conduct and arrangements for dealing with complaints were developed based on the previous national code as this was considered preferable to ensure consistency, continuity and clearly defined expectations.¹⁰

Ashford Borough Council

The issue of parish councils' codes of conduct is closely related; we discuss this in detail in chapter 5.

Model code of conduct

A model code of conduct would create consistency across England, and reflect the common expectations of the public regardless of geography or tier. It would also reduce the potential for confusion among dual-hatted or triple-hatted councillors. As we discuss below, areas such as gifts and hospitality, social media use, and bullying and harassment have all increased in salience, and are not regularly reflected in local authority codes of conduct. All local authorities need to take account of these areas, and a model code of conduct would help to ensure that they do so.

Whilst the principle of localism is set to facilitate greater local determination on practices best suited to each authority, this may result in inconsistencies of rigour in application of cases from one authority to another...we recommend that model codes of conduct be developed for use by authorities.¹¹

INLOGOV, University of Birmingham

7 Written evidence 22 (Jeanette Thompson)

8 Written evidence 173 (Worcestershire County Council)

9 Written evidence 173 (Worcestershire County Council)

10 Written evidence 138 (Ashford Borough Council)

11 Written evidence 160 (INLOGOV)



We recognise that there are benefits to councils being able to amend their own codes. For example, a council may provide more detail on appropriate use of social media, relationships with officers, or conduct during council meetings, depending on its own culture and the specific issues it may face. Local authorities can also revise their codes of conduct where they find them difficult to apply in practice, and to learn from best practice elsewhere. A mandatory code set by central government would be unlikely to be updated regularly or amended in light of learning experiences.

A council having final ownership of its code of conduct solidifies the ownership of ethical standards within an authority. There are benefits to a conversation within a council of what high ethical standards would look like in their own context. For example, Uttlesford District Council told us during our visit that the process of rewriting their code and standards process played a positive role in setting an effective ethical culture and making councillors aware of the behaviour expected of them.¹² A mandatory national code would take away ‘ownership’ of ethical standards from local authorities, since those standards would be set centrally, from outside of local government. The Committee commented on the national code in place before 2000 that it had become something which was “[...] done to local authorities; rather than done with them”.¹³ We would not want to return to such a state of affairs.

We therefore consider that there should be a national model code of conduct, but that this should not be mandatory, and should be able to be adapted by individual authorities.

The existing model codes available to local councils compare unfavourably to bespoke

codes, with little detail on important areas such as social media use and bullying and harassment. Therefore, a new model code would be needed. The updated model code should be drafted by the Local Government Association, given their significant leadership role in the sector, in consultation with representative bodies of councillors and officers of all tiers of local government. The Ministry of Housing, Communities and Local Government should ensure that they are given the necessary resources and support to undertake this work.

Recommendation 1: The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

Bullying and harassment

The evidence received by the Committee suggests that most allegations of code breaches relate to bullying and harassment. This is an area of ethical standards that is much better recognised since the Committee last undertook a review of local government.

Our code of conduct sampling found that most codes of conduct do not cover this behaviour effectively. Whilst most codes sampled had a specific prohibition on bullying and specifically prohibited intimidation in respect of any allegations of wrongdoing, only two out of twenty codes sampled included specific behaviours that would amount to bullying, and five had only a broad provision such as ‘showing respect for others’. Given that the Nolan Principles are not a code of conduct, and so are not prohibitory in character, codes

¹² Uttlesford District Council Standards Committee, Visit to Uttlesford District Council, 10 September 2018

¹³ Committee on Standards in Public Life (2005), *Getting the balance right*, Cm 6407, 3.10



which do not elaborate on them will lack these provisions, although we consider that such prohibitions rightly fall under the Nolan principle of leadership.

Example of a bullying provision

Extract from Newcastle City Council code of conduct¹⁴

You must not bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.

(Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.)

Bullying and harassment can have a significant impact on the wellbeing of officers and councillors who are subject to it. Such behaviour is not acceptable in the workplace, particularly from public office-holders with responsibilities to show leadership.

It is also a broader standards issue, given that individuals subject to bullying or harassment

may be pressured to make decisions or act in ways which are not in the public interest. As such, it is important that bullying and harassment are dealt with effectively, and that a local authority's code of conduct makes provisions to address these matters.

Broader standards failure arising from bullying

In several high-profile cases of standards failures in local government, bullying behaviour which was not challenged or addressed enabled other, more serious misconduct to take place, including the failure of scrutiny and governance structures or financial misconduct.

The Gowling WLG report into Sandwell Metropolitan Borough Council in 2016 considered allegations of a councillor improperly influencing the sale and purchase of council property and attempting to gain favours for their family members.

The report found that the councillor at the centre of allegations of financial impropriety had bullied and coerced a senior housing officer over a long period.

Senior officers did not take steps to prevent the bullying from taking place, which the report stated “[...] left a vulnerable employee horribly exposed to undue pressure, and, more corrosively, perpetuated the culture within the department of ignoring governance”.¹⁵

¹⁴ Newcastle City Council Code of Conduct. Available at: https://www.newcastle.gov.uk/sites/default/files/wwwfileroot/your-council-and-democracy/how-council-works/standards-issues/part_5_2a_-_members_code_of_conduct.pdf

¹⁵ Gowling WLG (2016) *Report to the Chief Executive, Assistant Chief Executive, Monitoring Officer and Chief Financial Officer of Sandwell Metropolitan Borough Council*. Available online at: http://www.sandwell.gov.uk/downloads/file/24029/gowling_wlg_report



The Committee heard from Monitoring Officers and independent investigators that the broad 'respect' provision upon which many councils rely is not suitable for dealing with allegations of bullying and harassment. Broad provisions are difficult to adjudicate on with consistency, particularly in the absence of additional, more detailed guidelines of what the provision entails. They also tend to give rise to further disputes over whether behaviour is captured by that provision.

Whilst there is no statutory definition of bullying, the Advisory, Conciliation and Arbitration Service (Acas) have codified a helpful definition: "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient".¹⁶

Examples of bullying behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities¹⁷

¹⁶ Advisory, Conciliation and Arbitration Service (Acas), *Bullying and harassment in the workplace: a guide for managers and employers*. Available online at: <http://www.acas.org.uk/media/pdf/c/j/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>

¹⁷ Advisory, Conciliation and Arbitration Service (Acas), *Bullying and harassment in the workplace: a guide for managers and employers*. Available online at: <http://www.acas.org.uk/media/pdf/c/j/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>



Harassment is defined in the Equality Act 2010 as “unwanted conduct related to a relevant protected characteristic”, which has the purpose or effect of violating an individual’s dignity or “creating an intimidating, hostile, degrading, humiliating or offensive environment” for that individual”.¹⁸

These definitions make clear that bullying and harassment are instances of serious misconduct. By their nature they are likely to be persistent behaviour, rather than one-off instances. A councillor should not be considered to be bullying or harassing an officer or another councillor simply by making persistent enquiries or requests for information, nor by saying something that the individual concerned simply dislikes or with which they disagree strongly. Genuine instances of bullying and harassment will fall outside the limits of legitimate free expression; but equally accusations of such behaviour should not be used as an attempt to restrict legitimate inquiries or free expression. We discuss the enhanced protection that is afforded to political expression and the appropriate limits of free speech by councillors in more detail below.

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

Half of the codes sampled by the Committee made reference to a separate protocol on councillor-officer relations. Whilst many of these protocols focussed on the duties of

officers, particularly in respect of impartiality requirements, we did see protocols laid out reasonable expectations of a good working relationship, which provides better support to the maintenance of a good ethical culture. The requirements of protocols can be enforced through the formal standards process where councils include a specific requirement to act in accordance with the protocol in the main code of conduct.

Intimidation of councillors

During our review, we received evidence relating to the intimidation of councillors, which we undertook to collect as a result of representations received from the local government sector during our 2017 review, *Intimidation in Public Life*.¹⁹

The evidence we received suggests that intimidation of councillors is less widespread than intimidation of Parliamentary candidates and MPs, but, when it does occur, often takes similar forms and is equally severe and distressing. In line with our 2017 findings, it is particularly likely to affect high-profile women in local government.

Instances of councillors being attacked and harassed, notably on social media, is an increasing trend and a very serious issue. There is anecdotal evidence from across the country that female leaders and councillors are subject to more abuse than their male counterparts.²⁰

Local Government Association

Although they do not otherwise fall within the scope of our review, we also heard concerning evidence of intimidation of Police and Crime Commissioners.

¹⁸ Equality Act 2010, section 26

¹⁹ Committee on Standards in Public Life (2017), *Intimidation in Public Life*, Cm 9543

²⁰ Written evidence 170 (Local Government Association)



On a Sunday afternoon at my home address I was visited by a person who over many years has been a serial complainer about the police and my office. The person is believed to have mental health issues and refused for some time to say who she was or what she wanted. The visit was distressing to my wife and daughter.

My intimidation all related to the release of my home address, with people calling unannounced, one of the three above had an injunction against him.²¹

Association of Police and Crime Commissioners

Given the generally similar pattern of evidence we received in relation to intimidation by social media, we consider that our 2017 recommendations, where implemented, should help to address the intimidation of local councillors.

One aspect in which the intimidation of councillors is distinct from that of MPs and Parliamentary candidates is in relation to home addresses. Unlike MPs and candidates, councillors' addresses are often public, for example, on a council website or on a register of interests. The nature of local democracy means that those who are likely to engage in intimidation of a councillor are likely to live nearby. We heard of cases of councillors being confronted in public whilst in a private capacity, for example, whilst with their family or shopping. Whilst this may not always be intimidatory as such, we heard that councillors are highly aware that they have a high profile in their immediate local area, and so the fear of physical intimidation is much greater. The fact that individuals' home addresses are public

can also make any threats made through electronic means, such as social media, more distressing.

We therefore welcome the government's commitment to bring forward secondary legislation to implement our 2017 recommendation that the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper should be removed.

In *Intimidation in Public Life*, we recommended that Monitoring Officers draw councillors' attention to the sensitive interest provisions in the Localism Act 2011, that permit the non-disclosure of details in the register of interests where the member and Monitoring Officer agree that their disclosure could lead to violence or intimidation.²² We received evidence, however, that often these provisions would only be invoked after a councillor had experienced intimidation or harassment, in which case their address was already publicly available.

Given the experience of intimidation by too many in public life, we do not believe it is justifiable to require any candidate standing for or taking public office to make their home address public, whether on a ballot paper or a register of interests. The general principle should be that an individual's home address should be kept confidential and not disclosed publicly or beyond the necessary officials without the individual's consent.

Some authorities have a blanket policy that home addresses will be recorded on the register of interests but omitted from the published version.

21 Written evidence 307 (Association of Police and Crime Commissioners)

22 Committee on Standards in Public Life (2017), *Intimidation in Public Life*, Cm 9543, 62



Example of local authority policy on home addresses

In accordance with the arrangements for the placing of Register of Interests on the City Council's website agreed by the Standards Committee details of members' home addresses will be omitted from the version placed on the website.²³

City of Westminster, *Guidance note to members on Register of Interests.*

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to make clear that the 'land' category does not require a councillor to register their home address.

Recommendation 2: The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

Scope of the code of conduct

At the moment, codes of conduct can only apply to local councillors when they are acting in their capacity as a councillor.²⁴ This means that in practice a councillor cannot breach a code of conduct by, or be sanctioned for, objectionable behaviour in a private context (for example, the way they conduct themselves in a private dispute with a neighbour).

Numerous complaints are made about councillors' conduct on social media or at events, which in some cases are well-founded. However, if the councillor is not acting in their official capacity then Monitoring Officers are limited in their ability to deal with such conduct. This undermines the public confidence in the standards regime as the public expect higher standards of conduct from their elected representatives.²⁵

Lawyers in Local Government

Our evidence suggests that the current narrow scope of the code of conduct makes it difficult to effectively deal with some instances of poor behaviour, particularly in relation to social media use.

The question of public and private capacity raises significant questions about the privileges and responsibilities of representatives. Democratic representatives need to have their right to free speech and expression protected and not unduly restricted; but equally the public interest demands that they meet certain responsibilities in that role.

²³ City of Westminster, *Guidance note to members on Register of Interests*. Available online at: <https://www.westminster.gov.uk/register-members-interests>

²⁴ Localism Act 2011, section 27(2): "...a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority *when they are acting in that capacity*"

²⁵ Written evidence 228 (Lawyers in Local Government)



Some public sector codes of conduct cover behaviour which could purport to be in a personal capacity, but which would inevitably bear on the individual's public role. For example, government ministers are prohibited from acting as patrons of certain organisations or nominating individuals for awards, even if this would purport to be in their personal capacity.²⁶

This suggests to us that the question is not whether behaviour in a personal capacity can impact on an individual's public role, but when it does so.

We took evidence from the standards bodies in Northern Ireland, Scotland and Wales in order to consider their approaches to this issue.

The devolved standards bodies take one of two approaches: either restricting the scope of the code to apply only when a councillor is acting in an official capacity (Scotland), or allowing that a councillor may engage in behaviour in a purely private capacity, which is serious enough to bring their office or authority into disrepute (Wales and Northern Ireland).

In Scotland, the code of conduct only applies to councillors where a member of the public would reasonably consider that the member was acting in their capacity as a councillor. Factors such as whether the behaviour took place on council property, or through a social media account identifying the individual as a councillor, would be taken into account in deciding whether the code of conduct applied. Even if the councillor behaved in a seriously inappropriate way, the code would not apply if there was no suggestion that they were acting as a councillor when they did so.

In Northern Ireland, four provisions of the code of conduct explicitly apply to councillors in all circumstances, not just when they are carrying out their role as a councillor, including a provision not to bring the office of councillor into disrepute.

In Wales, the code of conduct applies both when a councillor is acting in their official capacity (including if they claim to act or give the impression that they are acting in that capacity), and when a councillor behaves in a way that could "[...] reasonably be regarded as bringing [their] office or [their] authority into disrepute".²⁷ This includes any time a councillor attempts to use their position to gain advantages (or to avoid disadvantages) for themselves or others, or misuses their local authority's resources. The Welsh Ombudsman has also issued guidance of the application of the code of conduct to social media use.

Public Service Ombudsman for Wales social media guidance

"If you refer to yourself as councillor, the code will apply to you. This applies in conversation, in writing, or in your use of electronic media. There has been a significant rise in complaints to me concerning the use of Facebook, blogs and Twitter. If you refer to your role as councillor in any way or comments you make are clearly related to your role then the code will apply to any comments you make there. Even if you do not refer to your role as councillor, your comments may have the effect of bringing your office or authority into disrepute and could therefore breach paragraph 6(1)(a) of the code."²⁸

26 Ministerial Code, paras 7.13, 7.18

27 The Local Authorities (Model Code of Conduct) (Wales) Order 2008, Schedule, section 2(c)

28 Public Service Ombudsman for Wales (2016), *The Code of Conduct for members of local authorities in Wales: Guidance from the Public Services Ombudsman for Wales*. Available online at: <https://www.ombudsman.wales/wp-content/uploads/2018/03/Code-of-Conduct-CC-CBC-NPA-August-2016.pdf>



The widespread use of social media presents a particular challenge to determining whether a code of conduct applies to instances of behaviour. In line with the guidance provided in Wales, it is clear to us that when a social media account identifies the individual as a councillor or an individual makes comments related to their role as a councillor, then the code of conduct applies. This would be the case even if the individual posts a 'disclaimer' to suggest that the account is a personal one.

However, a number of recent cases also suggest to us that high standards are expected of public office holders in their use of social media, even when this purports to be in a personal capacity. What is relevant is not just whether an individual is acting in a official capacity or a personal capacity, but also whether the behaviour itself is in public or in private. Restrictions on what an individual may do or say in public are different in kind from restrictions on an individual's private life.

There is a need to balance the rights and responsibilities of democratic representatives. The sort of public behaviour that is relevant to a public office and its code of conduct therefore depends on the scope and nature of the public role in question: the requirements for civil servants will rightly be different to the requirements for teachers, for example. Roles representing the public, such as MPs or councillors, have particular privileges that need to be protected, but also need to acknowledge a greater responsibility, given the scope and public visibility of the role.

Inevitably, councillors carry their council 'label' to some extent in their public behaviour. What counts as relevant public behaviour for the purpose of the councillor code of conduct should therefore be drawn more broadly.

An individual's private life – that is, private behaviour in a personal capacity – should rightly remain out of scope. This includes, for example, what is said in private conversations (where those conversations are not in an official capacity), private disputes and personal relationships. But those in high-profile representative roles, including councillors, should consider that their behaviour in public is rightly under public scrutiny and should adhere to the Seven Principles of Public Life. This includes any comments or statements in print, and those made whilst speaking in public or on publicly accessible social media sites.

This does not, however, mean that councillors should be censured just because an individual dislikes or disagrees with what they say; standards in public life do not extend to adjudicating on matters of political debate. Controversial issues must be able to be raised in the public sphere, and councillors should have their right to form and hold opinions respected. ECHR Article 10 rights to freedom of expression must be respected by councils when adjudicating on potential misconduct, taking into account the enhanced protection afforded to political expression.



Article 10: Rights to freedom of expression

Article 10 of the European Convention on Human Rights states that “everyone has the right to freedom of expression”, although this right is not absolute, and is subject to “such formalities, conditions, restrictions and penalties as are prescribed by law and are necessary in a democratic society...for the protection of the rights and interests of others”.²⁹

The *High Court, in Heesom v Public Service Ombudsman for Wales*,³⁰ considered the application of Article 10 to local councillors, taking into account judgments by the European Court of Human Rights.

It found that “Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated.”

It added that politicians, including councillors, have “enhanced protection as to what they say in the political arena” but by the same token are “expected and required to have thicker skins and have more tolerance to comment than ordinary citizens”.

A councillor’s Article 10 rights extend to “all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others” but do not extend to “gratuitous personal comments”.

We do not consider that the approach taken by Wales and Northern Ireland, in extending the code of conduct to any behaviour that is sufficiently serious as to bring the office of councillor or the council into disrepute, could easily be replicated in England. Broad provisions are likely to create disputes about what falls within their scope, particularly when there is not a central authoritative body to rule on those provisions and disseminate previous cases.

We therefore propose that, given their significant representative role, there should be a rebuttable presumption that a councillor’s behaviour in public is in an official capacity. An individual’s behaviour in private, in a personal capacity, should remain outside the scope of the code.

Recommendation 3: Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

Purporting to act as a member or a representative

The 2007 model code for local government stated that its scope included not just when a councillor was “conducting the business of the authority”, but also if a councillor was to “act, claim to act or give the impression you are acting as a representative of your authority”.³¹ The Localism Act 2011 does not include this qualification. As a result, some cases where

29 European Court of Human Rights and Council of Europe, European Convention on Human Rights, Article 10

30 *Heesom v Public Service Ombudsman for Wales* [2014] EWHC 1504 (Admin)

31 The Local Authorities (Model Code of Conduct) Order 2007



an individual is improperly purporting to act as a councillor do not fall within the scope of the code, even though the councillor in question would clearly be misusing their office. For example, a councillor may threaten to cause someone a detriment by implying they would do so through their influence as a councillor.

The issue [of public and private capacity] needs to be looked at more in the round, including serious matters which do not lead to a criminal conviction or where a councillor, though not acting as a councillor, has purported to misuse his or her office through threats of the ‘don’t you know who I am’ variety.³²

Hoey Ainscough Associates

*MC v Standards Committee of LB Richmond*³³ drew a distinction between a member purporting to act as a member and purporting to act as a representative of the local authority, stating that one would not necessarily imply the other. Both of these seem to us to be sufficient conditions for the code of conduct to apply to an individual. Given this established case law, any change to the current legislation governing codes of conduct should include both conditions.

Recommendation 4: Section 27(2) of the Localism Act 2011 should be amended to state that a local authority’s code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

Compliance with standards processes

Complying with standards investigations, and not seeking to misuse the standards process, is an important aspect of ethical conduct. This is for three reasons. First, there is a strong public interest in an effective standards process that is not subject to disruption or abuse. Secondly, councillors should seek to maintain an ethical culture in their authority, and showing appropriate respect for the process contributes to this. Thirdly, non-compliance and misuse wastes public money and the time of officers.

Councillors should not seek to disrupt standards investigations by, for example, not responding to requests for information, clarification or comment in a timely way, or refusing to confirm their attendance at a standards hearing. Nor should councillors seek to misuse the standards process, for example, by making allegations against another councillor for the purposes of political gain.

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

Writing codes of conduct

The Committee has previously outlined criteria for an effective code of conduct:

- seen as relevant every day and not exceptional
- proportionate – giving enough detail to guide actions without being so elaborate that people lose sight of the underlying principle

³² Written evidence 212 (Hoey Ainscough Associates)

³³ *MC v Standards Committee of LB Richmond* [2011] UKUT 232 (AAC) (14 June 2011)



- adapted to the needs and context of each organisation
- clear about the consequences of not complying with the code, both for the individual and others
- wherever possible, framed positively³⁴

We have seen evidence that some councils have adopted a minimal code of conduct which amounts to a restatement of the Seven Principles of Public Life. We were concerned to note that DCLG's illustrative code would fall into this category.³⁵ The Seven Principles of Public Life are not a code of conduct: codes of conduct specify what the principles demand in a specific context in order to guide behaviour. Using principles, rather than rules, in a code of conduct can also lead to protracted arguments about what sort of behaviour falls under a particular principle in the absence of specific guidance.

In terms of codes, as an investigator I encounter a variety of codes. They tend to fall into some broad families, ranging from those authorities that adopted the previous statutory code almost unchanged at one end to the extreme other end of the spectrum, which is only the Nolan Principles. That is the whole code. We have great difficulty in working with 'Nolan-only' codes.³⁶

**Jonathan Goolden,
Wilkin Chapman LLP**

Drawing up a code is an important process for an authority: it involves the members of that authority considering what the Seven Principles of Public Life demand in their own context.

A failure to create or adopt a substantive code means that the potential benefits of devolved standards are not being realised.

Many authorities have not yet revisited their codes in the light of learning experiences.³⁷

**Jonathan Goolden,
Wilkin Chapman LLP**

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

Codes of conduct should be written in plain English and be accessible for councillors and members of the public. They cannot be written to cover every eventuality, and attempts to do so may actually make codes less effective. They should therefore not be 'legalistic' in tone, or overly technical in style.

A code of conduct is not a values or vision statement for an organisation. It therefore needs to state clearly what is required of councillors rather than an aspiration or aim. Often this will mean phrasing requirements in terms of what councillors 'must not' do.

The requirements should also be enforceable: codes should not include provisions such as 'councillors must be aware of...'.³⁷

34 Committee on Standards in Public Life, *Standards Matter* (Cm 8519, January 2013), 4.9

35 DCLG (2016), *Illustrative Text for Local Government Code of Conduct*. Available online at: <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

36 Jonathan Goolden, Roundtable, 18 April 2018

37 Jonathan Goolden, Roundtable, 18 April 2018



Where detailed provisions or guidance are required (for example, guidance about social media, or guidance on officer-member relations) these should ideally be kept in a separate document.

Codes of conduct are central to upholding high standards in public life. They should not be inaccessible on a local authority's website, or as an annex to an authority's constitution.

Example of a clear code of conduct

Extract from Plymouth City Council code of conduct³⁸

Disrepute

Councillors must not act in a manner which could be seen to bring the council or the role of councillor into disrepute.

Misuse of position

Councillors must not try to use their position improperly to gain an advantage or disadvantage for themselves or others.

Use of council resources

When councillors use the council's resources or let other people use them, they must follow any reasonable rules set by the council and make sure that resources are not used improperly for political purposes (including party political purposes).

Advice of Monitoring Officer and Responsible Finance Officer

Councillors must consider any advice given by the Monitoring Officer or Responsible Finance Officer when taking decisions.

Giving reasons for decisions

Councillors must give reasons when required to by the law or by any council procedures.

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

Councillors' interests

The Nolan principle of integrity is based upon protecting the public interest. Where there is undue influence on a public office-holder, including through conflicts of interest, this can lead to decisions which are not made in the public interest.

Integrity: Holders of public office must avoid placing themselves under 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.

A system for managing conflicts of interest should distinguish between the requirements for *registering* interests and *declaring or managing interests*. Not all interests that are registered would necessarily present a conflict such that they would need to be managed. Equally, a councillor may have a very specific conflict of interest in relation to a matter, which it would be disproportionate to register given the improbability of that conflict arising in the future.

38 Available online at: <https://www.plymouth.gov.uk/sites/default/files/Code%20of%20Conduct%20and%20Rules%20of%20Debate.pdf>



The purpose of a register of interests is to make transparent an individual's financial and non-financial interests and relationships that are the most likely to lead to a potential conflict. This includes for example, paid employment, significant investments, trusteeships, and directorships. This enables an individual to be held to account for the way in which they manage these interests where necessary.

An interest needs to be managed only where it is reasonable to suppose that an individual's participation in a discussion or decision could be unduly influenced by a particular relationship or personal interest.

How an interest should be managed depends on three factors: the degree of involvement of the individual in the decision or discussion; how directly related the interest or relationship is to the decision or discussion in question; and how significant the interest or relationship is to the individual. Where these factors are minor, then simply declaring the interest may be sufficient. Where the factors are significant, an individual should recuse themselves from the discussion and decision; and should leave the room in the most serious cases.

Where the arrangements necessary to manage an interest or relationship prevent the individual properly from discharging their role (for example, if restrictive arrangements would very regularly have to be put in place), then either the interest should be disposed of or the role relinquished.

The Disclosable Pecuniary Interests (DPI) arrangements

The evidence we have received is that the current Disclosable Pecuniary Interests (DPI) arrangements are not working: the requirements for declaring and managing interests are too narrow; they are unclear both to councillors and the public; and they do not require the registration of important interests such as unpaid directorships and gifts and hospitality.

Strengthening and clarifying the system for declaring and managing interests is all the more important in light of increasingly complex decision-making in local government. To ensure and to demonstrate openly that the principle of integrity is being upheld, it is important to have comprehensive and robust arrangements in place for managing potential conflicts of interest.

We appreciate that the DPI requirements as set down in the Localism Act 2011 and in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 are drafted in such a way that a breach of those requirements constitutes a criminal offence. However, as we explain in chapter 4, we have concluded that the criminal offences in the Localism Act 2011 are not fit for purpose and we recommend that they should be repealed. Our conclusions and recommendations in this section therefore do not take these offences into account.



Registering interests

The requirements for a register of interests should be based on the principle we lay out above, that the purpose of a register is to make transparent those interests and relationships which would be most likely to lead to a conflict of interest.

Currently, local authorities are required by law only to make arrangements for registering and declaring pecuniary interests of a councillor and their spouse or partner.

The current list contains manifest omissions such as hospitality deriving from a councillor's position, unpaid employment (including directorships), interest in land outside of a council's area, pecuniary interests of close family members who are not spouses, and memberships of lobby or campaign groups.³⁹

Cornerstone Barristers

We received evidence from a number of legal practitioners and local authorities to suggest that the current list of interests required to be registered is drawn too narrowly.

The narrow requirements of the current law are partly a result of the DPI regime not distinguishing between requirements for registering interests on the one hand, and for declaring and managing interests on the other, which we address below.

Pecuniary interests

Currently, councillors must register their and their spouse or partner's pecuniary interests within the following categories:

- employment, office, trade, profession or vocation carried on for profit or gain
- sponsorship towards election expenses or expenses incurred in carrying out duties as a member
- contracts between the authority and the individual, or a body in which the individual has a beneficial interest
- land in the local authority's area
- securities where the firm has land or a place of business in the local authority's area, and the holding is worth more than £25,000 or the individual holds more than 1% of share capital
- licences to occupy land in the local authority
- corporate tenancies where the landlord is the local authority

Based on the evidence we received, the current list of pecuniary interests required to be registered is satisfactory.

Non-pecuniary interests

Local authorities are not required by law to include specific non-pecuniary interests on their register of interests, although many do so. The Committee's sampling of codes of conduct found most codes had a provision on registering and declaring non-pecuniary interests, although there was some variation in what was required. Four codes out of twenty had no provisions relating to non-pecuniary interests. Some had a broad provision of

39 Written evidence 281 (Cornerstone Barristers)



declaring when a matter might affect a councillor more than the majority of people in the affected area. One authority required councillors only to declare if they were a member of a trade union. Most opted for a form of words that included any management roles in a charity, a body of a ‘public nature’, or an organisation seeking to influence opinion or public policy. Some codes created a category of personal interests or other interests (some of which pecuniary) which, whilst not registrable, should be declared under certain circumstances.

Where councils only comply with the disclosable pecuniary interest requirements and a code of conduct that does little more than comply with the Nolan Principles, it was felt that the regime was too light touch to maintain public confidence.⁴⁰

Mid Sussex District Council

The purpose of a register is to make transparent those interests and relationships which would be most likely to lead to a conflict of interest. Based on this principle, two additional categories of interests should be required to be included in a local authority’s register of interests. First, relevant commercial interests of a councillor and their spouse or partner which may be unpaid – for example, an unpaid directorship (even if non-executive). Secondly, relevant non-pecuniary interests of a councillor and their spouse or partner such as trusteeships or membership of organisations that seek to influence opinion or public policy.

As members increasingly become involved in voluntary and third sector bodies, the issue of conflicts is more prominent and it is not a matter in respect of which there is adequate provision in the code of conduct [...] although there are some provisions within the Localism Act in relation to predetermination it is not considered that it is adequately dealt with in the ethics context beyond DPs.⁴¹

London Borough of Croydon

At a local level, it is perhaps even more likely that non-pecuniary interests – for example, being an unpaid trustee of a local sports club – would lead to a conflict of interest than a councillor’s ordinary paid employment. As the Monitoring Officer of Camden Council stated in evidence to us: “[...] we expect that the public would consider that a member who was a long-serving unpaid trustee of a charity may not be able to consider a potential grant award by the council to the charity entirely fairly and objectively”.⁴²

As we explain in more detail below, the test for whether a councillor should have to register an interest should nevertheless be separate from the test for whether a councillor should have to withdraw from a discussion or vote. Under our recommendations, even if a councillor would have to register an interest for the sake of transparency, they would not have to withdraw from a discussion or vote unless there was a conflict of interest, based on the ‘objective test’ in recommendation 7 below.

40 Written evidence 50 (Mid Sussex District Council)

41 Written evidence 166 (London Borough of Croydon)

42 Written evidence 151 (Andrew Maughan, Camden Council)



Recommendation 5: The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.

Gifts and hospitality

Currently, there is no legal requirement for local authorities to maintain a gifts and hospitality register, nor for individual councillors to register or declare gifts and hospitality they receive as part of their role.

Most codes sampled by the Committee required councillors to register gifts and hospitality in some way. Six out of twenty of the codes sampled had no provision for this. Among codes providing for a gifts and hospitality register, there was variation in the value threshold, which was variously set at £25, £50, or £100. Gifts and hospitality were also treated in a number of different ways: some codes established a straightforward register, some stated that gifts or hospitality were an 'other interest' which should be registered alongside non-pecuniary interests, and others defined the giver of a gift or hospitality over a certain value effectively as an 'associate' of the councillor, whose interest should be declared if a matter would affect them.

In London, we found £79,000 had been spent by more than 200 developers, lobbyists and others involved in the property industry on 723 lunches, dinners and all-expenses paid trips for 105 councillors.⁴³

Transparency International UK

The Committee has seen evidence that the accessibility and timeliness of local authorities' registers of interest varies widely. Many are reported in a non-standard format, and some registers are not updated for long periods. Independent oversight and inspection is important to maintaining high ethical standards, and local authorities should facilitate this by ensuring that their registers are accessible to those who would wish to inspect them.

We are also concerned about the use of high thresholds for reporting gifts and hospitality even where registers exist. An individual threshold of £100 could allow a councillor to accept significant gifts and hospitality from a single source on multiple occasions, without needing to register the fact that they have done so. £50 is the registration threshold for gifts or donations during election campaigns, which would then provide a consistent declaration threshold both during and outside election periods.⁴⁴

Recommendation 6: Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

⁴³ Written evidence 315 (Transparency International UK)

⁴⁴ Available online at: http://www.electoralcommission.org.uk/_data/assets/pdf_file/0005/141773/ca-part-3-locals-ew.pdf, 20



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

We are aware of helpful guidance from the Cabinet Office for civil servants on the broader principles surrounding gifts and hospitality. They propose three principles that should guide whether an individual should accept gifts or hospitality:

Cabinet Office principles for accepting gifts or hospitality

- Purpose – acceptance should be in the interests of departments and should further government objectives.
- Proportionality – hospitality should not be over-frequent or over-generous. Accepting hospitality frequently from the same organisation may lead to an impression that the organisation is gaining influence. Similarly, hospitality should not seem lavish or disproportionate to the nature of the relationship with the provider.
- (Avoidance of) conflict of interest – officials should consider the provider's relationship with the department, whether it is bidding for work or grants or being investigated or criticised, and whether it is appropriate to accept an offer from a taxpayer-funded organisation.⁴⁵

The principles of proportionality and avoiding conflicts of interest are particularly important to safeguard the principle of integrity.

The Committee has considered the issue of gifts and hospitality offered by lobbyists in particular, in its report *Strengthening transparency around lobbying*. We concluded that public officer holders accepting significant gifts and hospitality “[...] risks creating a conflict of interest by placing them under an obligation to a third party, which may affect them in their work including when they take decisions, which is relevant to the Nolan principle of integrity”.⁴⁶

In February 2018, it was reported in the press that the chairman of Westminster City Council planning committee received gifts and hospitality 514 times in three years, worth at least at a total of £13,000. The councillor subsequently stood down following an internal inquiry.

The evidence we have received suggests that acceptance of gifts and hospitality is of most concern when it comes to planning. Planning is an area of decision-making where a small number of councillors can have a significant impact on the financial interests of specific individuals or firms. Councillors involved in planning decisions should therefore generally not accept over-frequent or over-generous hospitality and should always ensure that acceptance of such hospitality does not constitute a conflict of interest.

45 Cabinet Office (2010), *Guidance on civil servants receiving hospitality*. Available online at: <https://www.gov.uk/government/publications/guidance-on-civil-servants-receiving-hospitality>

46 Committee on Standards in Public Life (2013), *Strengthening transparency around lobbying*, 3.18



Partner and family interests

Under the DPI arrangements, any relevant pecuniary interests of a councillor's spouse or partner are considered as a DPI of the councillor.

We heard concerns during the review that the DPI arrangements infringe on the privacy of a councillor's spouse or partner. We recognise these concerns, though note that, where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

Under the Localism Act 2011, however, councils are not required to register spouse or partner interests separately from those of the councillor, although many do so. The DCLG guidance on DPIs states that: "[...] for the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is your disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner."⁴⁷

Declaring and managing interests

The evidence we received suggests that the DPI requirements for declaring and managing interests are currently unclear. The current wording in the Localism Act 2011 requires that a councillor must not participate in a discussion or vote in a matter (or take any further steps in relation to it) where they are present at a meeting and they have "[...] a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting". The test of having a 'disclosable

pecuniary interest *in* any matter' is ambiguous, as strictly speaking under the Act a councillor's DPI is the employment, land, or investment (for example) itself. The Act does not specify how closely related an interest must be to the matter under consideration to count as an interest 'in' that matter. Recent case law has not settled this issue decisively, which means that there is little authoritative guidance for councillors or those who advise them.

Despite the regulations and DCLG guidance, there is still a dispute regarding what would be a Disclosable Pecuniary Interest – for example, in situations where the interest is the subject of the meeting or affected by the decision – such as in planning applications. This can make declarations of interests problematic.⁴⁸

North Hertfordshire District Council

The fundamental problem is in the wording of the Localism Act which requires members to declare interests (and not participate at meetings) when they have a DPI 'in any matter to be considered at a meeting'. Under the former regime, the situation was much clearer as an interest arose where where a matter under consideration 'relates to or is likely to affect' the interest, thus creating a nexus between the item of business and the incidence of interest. This nexus is absent from the Localism Act regime and it creates significant uncertainty as to when a DPI exists in certain situations.⁴⁹

Ashford Borough Council

⁴⁷ Department for Communities and Local Government (2013), Openness and transparency on personal interests: A guide for councillors

⁴⁸ Written evidence 22 (North Hertfordshire District Council)

⁴⁹ Written evidence 138 (Ashford Borough Council)



The current declaration and withdrawal requirements are also too narrow. Currently, a councillor would not need to declare an interest or recuse themselves where a close family member was affected by a decision, nor a close associate (whether a personal friend or a business associate). This should be addressed by a more demanding test for declaring and managing interests, separately to registration requirements.

We have seen that the standards arrangements in Scotland, Wales and Northern Ireland usually rely upon an 'objective test' for determining whether an interest needs actively to be managed (for example, the individual recusing themselves).

Tests for actively managing interests in the devolved codes

Scotland

"Whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor."⁵⁰

Wales

"[...] if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest."⁵¹

Northern Ireland

"An interest will be considered significant where you anticipate that a decision on the matter might reasonably be expected to benefit or disadvantage yourself to a greater extent than a other council constituents."⁵²

(Councillors must also declare any registered interest in a matter under consideration.)

We propose the introduction of an objective test, in line with practice in Wales and Scotland, for whether a councillor should recuse themselves from a discussion or vote. We heard from the Standards Commission for Scotland and the Public Service Ombudsman for Wales that this test works well in practice. We note that a practical division between the requirements for registering interests and managing interests, with an objective test for the latter, is in line with the categories of personal and prejudicial interests under the

50 Scotland Code of Conduct for Councillors, para 5.3

51 The Local Authorities (Model Code of Conduct) (Wales) Order 2008, Schedule, section 12

52 Northern Ireland Local Government Code of Conduct for Councillors, para 6.3



Local Government Act 2000. We heard that officers and councillors generally considered these to be clearer and easier to understand than the DPI arrangements.

In line with the principles we set out for declaring and managing interests above, councillors should declare an interest where an interest in their register relates to a matter they are due to discuss or decide upon, but they do not need to recuse themselves unless the objective test is met.

We note that section 25 of the Localism Act 2011, which draws a firm distinction between predisposition and predetermination, is relevant to the participation of councillors in certain decisions or votes. A councillor should not be considered to have a significant interest in a matter, and therefore have to withdraw from a discussion or vote, just by virtue of having previously expressed a prior view, even a strong view, on the matter in question. This includes if they are, for example, a member of a relevant campaigning group for that purpose.

Recommendation 7: Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision-making in relation to that matter”.

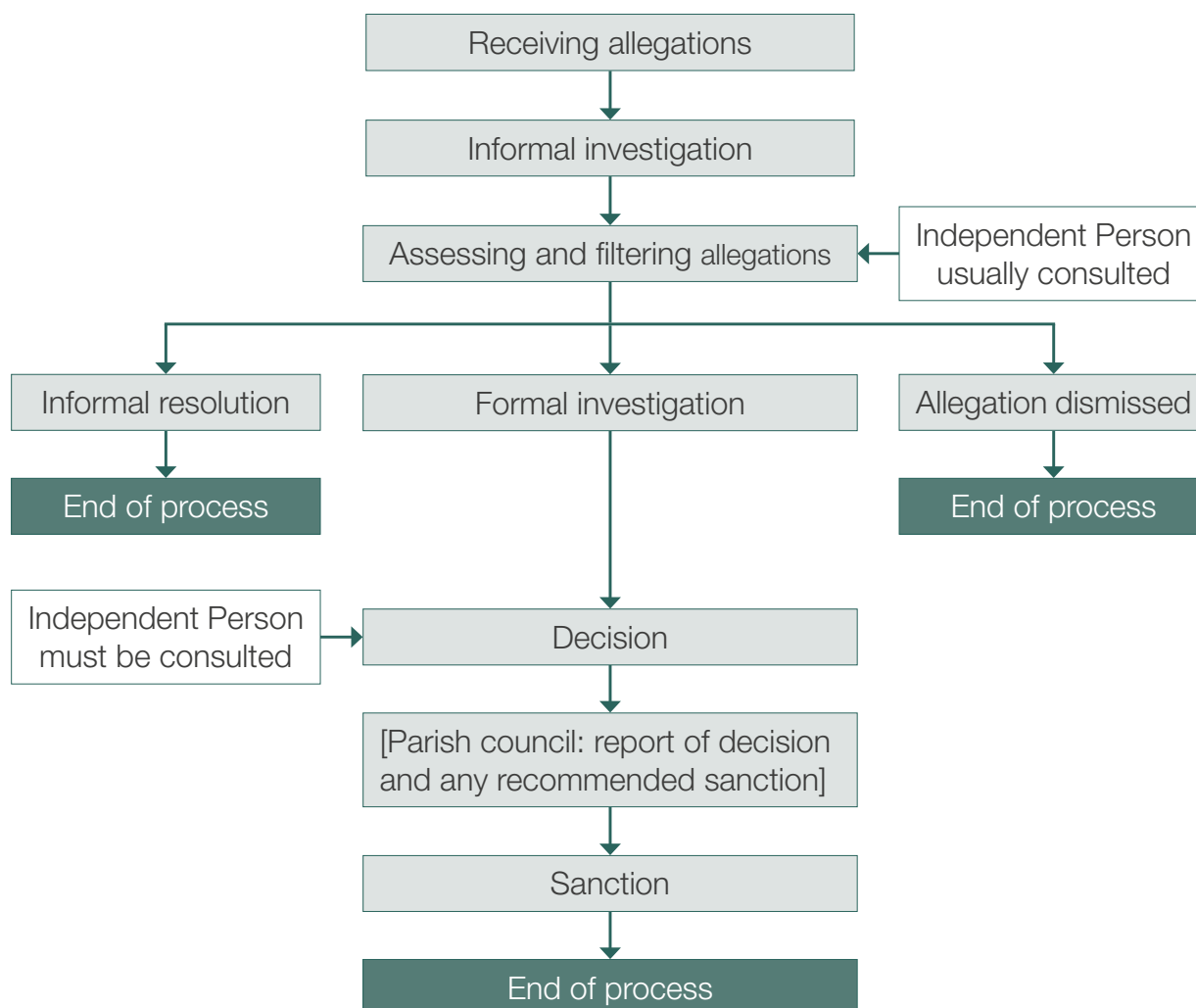


Chapter 3: Investigations and safeguards

Investigations

An authority must have an effective, fair, impartial, and transparent complaints and investigation procedure, in which both councillors and the public can have confidence. Sanctions should be imposed in a consistent way, and only where there is a genuine breach.

The current investigation process





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

An investigation process needs to be proportionate and fair. The process must have an independent element as a check on the impartiality of decision-making. The more significant the sanctions that can be imposed, the more robust the independent element needs to be in order to safeguard the fairness of the process. At the moment, this element is primarily fulfilled by the Independent Person. Whilst the Monitoring Officer has the power under current legislation to investigate and make decisions on allegations, many principal authorities have standards committees to decide on allegations and impose sanctions.

Filtering complaints

The Monitoring Officer usually filters complaints about councillor conduct and judges if the complaints are trivial or vexatious, or whether they should proceed to a full investigation. Usually this filtering is based on the judgment of the officer, often against a formal policy, though the Monitoring Officer may seek the advice of an independent person or members of a standards committee when they do so.

The standards bodies in Scotland, Wales and Northern Ireland all make use of a 'public interest' test when filtering complaints. These tests set clear expectations to those making complaints and ensure consistency of approach. The tests do not necessarily need to be detailed. For example, the Northern Ireland Local Government Commissioner for Standards provides a simple two-stage test, which asks whether they 'can' investigate the complaint, and whether they 'should'.

Northern Ireland Local Government Commissioner for Standards public interest test

1 'CAN' we investigate your complaint?

- Is the person you are complaining about a councillor?
- Did the conduct occur within the last six months?
- Is the conduct something that is covered by the code?

2 'SHOULD' we investigate your complaint?

- Is there evidence which supports the complaint?
- Is the conduct something which it is possible to investigate?
- Would an investigation be proportionate and in the public interest?⁵³

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

Safeguards

A certain level of independent oversight is crucial to any standards arrangement. The inclusion of an independent element in the process of deciding on code breaches is important to ensure that the process is fair and impartial, and that councillors are protected against politically-motivated, malicious or unfounded allegations of misconduct.

53 Available online at: <https://nipso.org.uk/nilgcs/making-a-complaint/how-we-deal-with-your-complaint/>



In the current local government standards system, this element is provided by the Independent Person. We believe that this safeguard should be strengthened and clarified. Other safeguards should also be put in place to ensure the fairness of the process, by enabling independent members of standards committees to vote, and a provision for councillors to appeal a decision to suspend them following the finding of a breach.

Our councillors feel safe with the standards committee because they know any allegation will be dealt with fairly and impartially. As group whips, we know that if something goes through the process it will have the confidence of our members.⁵⁴
Cllr Dan Cohen, Leeds City Council

Independent Persons

The role of the Independent Person has become a distinctive office in its own right. The provisions in the Localism Act 2011 give councils considerable flexibility over what sort of person performs the role (with only the criteria for 'independence' specified) and how the role is performed, subject to the requirement that their views must be able to be sought by members and complainants and that their views must to be sought and taken into account before deciding on an allegation that has been subject to a formal investigation.

We have met some exceptional Independent Persons in the course of our review, who give their time and expertise to maintain high standards in local authorities. We have been impressed by the diligence and commitment of those we have met. The role is often unpaid or subject to a nominal payment or honorarium.

The Independent Person has no formal powers, and whilst their views must be 'taken into account', they do not have a decisive say on the outcome of an investigation. As such, the nature and effectiveness of the role in any individual instance depends both upon the appointee and the attitude of the local authority.

The title 'Independent Person' creates a false impression with the public, who believe that I have real decision-making powers. In reality I have no powers at all, the role is wholly advisory and weak [...]⁵⁵
Richard Stow, Independent Person

We have seen a number of different approaches taken by local authorities and by the office-holders themselves towards the Independent Person rules. Some are simply consulted as required over email by a Monitoring Officer, or attend standards committees in an observer capacity; others play an active role in reviewing an authority's code or processes, offering training to councillors or even forming an authority-wide ethics panel to advise on all aspects of ethical practice and decision-making.

Regardless of the approach taken, it is clear that a positive relationship with the local authority's Monitoring Officer is crucial to being able to perform the role effectively. This relationship involves a mutual recognition of roles: on the one hand, recognising that the Monitoring Officer has specific responsibility and accountability for the standards process in an authority, and on the other that the Independent Person can bring a valuable external and impartial perspective that can assure and enhance the fairness of the process.

54 Cllr Dan Cohen, Visit to Leeds City Council, Tuesday 18 September 2018

55 Written evidence 209 (Richard Stow)



We do agree that the Independent Persons provide a valuable objective voice in the standards process. It is incredibly useful for the Monitoring Officer to have this support and advice from an external perspective, and it offers a great opportunity for local residents to bring a wide variety of experience and expertise to the process.⁵⁶

London Borough of Sutton

Local authorities use Independent Persons in different ways, and we have seen evidence of a range of good practice. Many authorities will appoint two or more Independent Persons. Some authorities will, in any given case, have one Independent Person offer a view to members or complainants, and another to offer a view to the local authority, so as not to be in a position where they may be forced to prejudge the merit of an allegation. Other authorities will consult with one Independent Person on whether to undertake a formal investigation, and another to advise on that investigation. Many local authorities consult an Independent Person at all points of the process, including when filtering complaints.

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

We heard that many Monitoring Officers appreciate the impartial view that the Independent Person can offer, both to improve the quality of decision-making itself and as a visible check on the process to reassure councillors and complainants that their decisions are made fairly. We have also heard evidence, however, of councils failing to make

good use of their Independent Person, and of an antagonistic or dismissive attitude towards their role.

The evidence we received suggests that the Independent Person role needs to be clarified, strengthened, and better supported.

The years since the passage of the Localism Act have seen a more defined role for the Independent Person emerge. This role should now be formalised. In our view, an Independent Person needs not just to be independent according to the requirements of the Localism Act 2011 but should also show an ability to:

- offer authoritative and impartial advice
- maintain independence in a politically sensitive environment
- gain the confidence of councillors, officers, and the public
- make decisions on an impartial basis, grounded in the evidence
- work constructively with the local authority and senior officers

The Independent Person should be seen primarily as an impartial advisor to the council on code of conduct matters. They should provide a view on code of conduct allegations based on the evidence before them, and whilst being aware of the political context, should be politically neutral. Local authorities should make use of their perspective and expertise when reviewing their code of conduct and processes. Their advice should also be able to be sought from subject members and members of the public, in line with the requirements of the Localism Act.

56 Written evidence 311 (London Borough of Sutton)



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

The role should also be strengthened. Security of tenure is important in order to protect Independent Persons from being removed from their role for unpopular advice or recommendations. Equally, however, restricted tenure can ensure that the Independent Person's judgment and independence is not compromised by a long period of involvement in a single authority.

There is a tendency to recruit IPs on a four-year basis and that is eminently sensible; it makes it less possible for IPs to be accused of becoming too close to council members. I think it is important to ensure that IPs are seen as remaining independent and continuing to reach their own conclusions on issues where their views are sought.⁵⁷

**Dr Peter Bebbington,
Independent Person**

We therefore recommend that Independent Persons should be appointed for a fixed term of two years, with the option of a single re-appointment. The terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory.

Recommendation 8: The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

Currently, there is no requirement for the Independent Person's view on a case to be formally recorded, for example, in a formal decision issued by the Monitoring Officer or a standards committee. Whilst there may be reasons that the decision-maker ultimately reaches a different view from the Independent Person, the safeguard that they provide would be stronger if their view was always made transparent.

Although the law requires them to give views on matters under investigation and for the council to have regard to those views, in practice they are often invisible from the process to an outsider – the public whom they are meant to represent. It is not clear to us where their views are published so that the public can have confidence that the council has had regard to them and that the process has been independently verified.⁵⁸

Hoey Ainscough Associates

Recommendation 9: The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.

⁵⁷ Dr Peter Bebbington, Roundtable, 18 April 2018

⁵⁸ Written evidence 212 (Hoey Ainscough Associates)



Were councils to be given the ability to suspend councillors, as we recommend in chapter 4, more safeguards would need to be put in place to ensure that this sanction is imposed fairly and that councillors are properly protected from potential misuse of the standards process. We suggest that the Independent Person would have to confirm that, in their view, a breach of the code had taken place, and that they agree that suspension would be proportionate, in order for the local authority to impose suspension for that breach.

Recommendation 10: A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.

We have noted recent First Tier Tribunal cases⁵⁹ which have found that it will often be, on balance, in the public interest to disclose the view or advice of the Independent Person under the Freedom of Information Act 2000. As above, we support the Independent Person's advice being made public, which could enhance openness and accountability. However, we are concerned that Independent Persons would not automatically enjoy indemnity if a councillor or member of the public were to take legal action against them, in the same way that a member or officer of an authority would. Local authorities should take steps to provide legal indemnity to Independent Persons if their views are disclosed, and the government should confirm this through secondary legislation if needed.

Recommendation 11: Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.

We have seen the benefits of strong networks among Monitoring Officers and senior officers, in order to share best practice, undertake professional development, and learn from each other's experiences. We would support the creation of a network of Independent Persons, which, despite the potential benefits it could offer, is currently lacking at present.

59 Bennis v ICO & Stratford [2018] UKFTT 2017_0220 (GRC)



Strengthening and clarifying the role of the Independent Person

Current role	Proposed role
No role specification	Clarified role specification
No requirements for term	Fixed-term appointment, renewable once
Required only to be consulted by the authority on an allegation subject to a formal investigation	Best practice also includes being consulted on allegations the MO is minded to dismiss, and on whether to undertake a formal investigation
No formal powers	Must agree with the finding of a breach and that suspension is proportionate for a councillor to be suspended
No disclosure requirements	The view of the IP is recorded in any formal decision notice or minutes
No legal protection	Legal indemnity provided by local authority

Standards committees

Under the Localism Act 2011, local authorities are not required to have standards committees to adjudicate on breaches and decide upon sanctions, but a large number of authorities in England choose to do so.

Local authorities should maintain a standards committee. A standards committee can play a role in deciding on allegations and sanctions, or in monitoring standards issues in the local authority and reporting back to full council, or a combination of these.

We have come across a range of different ways in which standards committees operate as part of our review. Leeds City Council produce a valuable annual report to council from the standards committee. Cornwall Council include representatives from town and parish councils and a town clerk, in addition to independent members and members of the principal authority. The Independent Persons who observe the Uttlesford District Council

standards committee have also led training workshops and the redrafting of the code of conduct. Each of these, in their own way, harness the knowledge and observations of the standards committee to elevate issues or significant trends to the notice of the council.

Under the current legislative framework, a standards committee may be advisory (only advising the council as a whole on what action to take, and unable by itself to exercise any of the council's formal powers) or decision-making (having the council's formal powers to decide on allegations and to impose sanctions where a breach is found delegated to it). If the standards committee is a decision-making committee, it is permitted to have independent members (members who are not councillors) appointed to it, but those members are not allowed to vote. Advisory standards committees may have voting independent members. Under the current legislation, Independent Persons in an authority cannot also be members of its standards committee.⁶⁰

⁶⁰ Localism Act 2011, sections 27(4) and 28(8)



A number of respondents to our consultation considered that the system would be strengthened by allowing independent members of decision-making standards committees to vote. We suggest that the current requirements for an Independent Person, with the necessary amendments, should apply to such members (that the individual is not a member, not otherwise co-opted on to a committee of the authority, not an officer in the authority or a dependent parish within the last five years, nor a relative or close friend of such an individual).

The Member Conduct Committee at Wychavon is broadly happy with the existing processes and structures, but feels that it was a retrograde step to remove the voting rights of independent members, who are a cornerstone of an objective conduct committee. The committee would also suggest that the ability to invite parish council representatives to take part in investigations should be restored.⁶¹

Wychavon Borough Council

We have also seen evidence of the advantages of including parish representatives on standards committees, who under the current arrangements, could not be voting members unless on an advisory committee. Including parish representatives on a principal authority standards committee can build a more effective relationship between their respective councils and enable the committee to take the perspective and views of the parish into account.

Recommendation 12: Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.

Even where a local authority includes independent members on a standards committee, they would still be required to retain an Independent Person. In line with our best practice above, although the independent members of standards committee would enhance the independence of a formal decision-making process on an allegation, an Independent Person would still be required to advise subject members on allegations and advise the Monitoring Officer on allegations they are minded to dismiss and on whether to undertake a formal investigation.

Appeals and escalation

A means of appeal is an important aspect of natural justice, and as a safeguard for councillors to ensure that the standards process operates fairly and impartially. Whilst the Local Government and Social Care Ombudsman (who we refer to as the “Local Government Ombudsman”) can consider complaints about the investigation and decision process followed by a local authority where there is evidence of injustice, there is currently no means of appeal against the finding of a breach by a local authority within the local government standards system.

A formal appeal system would be disproportionate in relation to the most commonly imposed sanctions, such as censure or training. However, we recommend

⁶¹ Written evidence 211 (Peter Purnell)



in chapter 4 the introduction of a power to suspend councillors for up to six months. As an aspect of natural justice, such a sanction would require a right of appeal.

The lack of a right of appeal (either by the complainant/subject member) is often criticised.⁶²

Lawyers in Local Government

We have considered a range of options for how a right of appeal could be included within the local government standards arrangements, including internal appeals within a principal authority. However, we consider that an appeals process should ideally be independent. As we set out in chapter 1, we do not believe that a new, external standards body should be created, and so consider that giving a role for appeals to the Local Government Ombudsman would be the most appropriate way to enable an independent, external appeal process.

If these more serious sanctions were available to standards committees, we accept that this could require some kind of external/independent appeal process to be available to the member complained about. This could be organised through the LGA or regional associations such as London councils, and need not require a return to the much criticised national statutory arrangements of the Standards Board, although some additional resource would be required. An alternative would be for the Ombudsman to consider or hear appeals if they met a certain threshold, as we understand the Welsh LGO does in their role.⁶³

London Borough of Sutton

Currently, the Local Government Ombudsman can investigate a local authority's decision-making process in undertaking a standards investigation or imposing a sanction on grounds of maladministration where there is some evidence of injustice, for example, if there is an unreasonable delay or evidence of a conflict of interest. This avenue is open both to complainants and to subject councillors. The Ombudsman could then recommend a remedy to the local authority (though this is not legally enforceable). The Local Government Ombudsman stated in evidence to us that it has investigated the standards process in a local authority in a small number of cases, usually recommending a remedy of re-running a standards investigation.⁶⁴ This is an under-appreciated safeguard within the current system.

Common issues with local authority standards processes considered by the Local Government Ombudsman⁶⁵

- unreasonable delays in councils taking action to investigate a complaint
- councils failing to take into account relevant information in reaching its decision
- councils not following their own procedures in investigating the complaint (e.g. not involving an independent person) or not having proper procedures in place

The Ombudsman cannot, however, adjudicate on the substantive question of whether a breach actually took place and what the appropriate sanction would be, as this lies outside their remit.

62 Written evidence 228 (Lawyers in Local Government)

63 Written evidence 311 (London Borough of Sutton)

64 Written evidence 126 (Local Government and Social Care Ombudsman)

65 Written evidence 126 (Local Government and Social Care Ombudsman)



Our powers enable us to investigate the council's handling of the complaint, and where there is evidence of injustice, we will be able to make recommendations for how the issues can be remedied. However, we cannot consider the substantive issues that form the complaint itself and do not provide a right of appeal against a council's decision whether there has been a breach of standards of conduct.⁶⁶

Local Government Ombudsman

The Local Government Ombudsman indicated in evidence to us that they considered that adjudicating on substantive standards issues would complement their existing work. Given that standards failings are often linked to broader institutional issues, giving the Ombudsman a greater role in considering ethical standards issues could improve their oversight of the sector as a whole.

In order to provide a genuine appeal function, the Ombudsman's decision would need to be legally binding on the local authority – rather than a non-binding recommendation, which is the formal status of the Ombudsman's decisions on cases of maladministration. This would likely require a separate legislative basis. We note that the Public Service Ombudsman for Wales also has a separate legislative basis for their investigations into breaches of the code of conduct to their broader ombudsman role.

In order to ensure that the appeal function would be used proportionately, we consider that it should only be available for councillors who have had a sanction of suspension imposed. The right of appeal should be time-limited, and the Ombudsman should issue

a decision within a specified, reasonable timeframe. The Ombudsman should be able to apply their own public interest test in deciding whether to investigate a case on appeal by a councillor. Complainants should not be permitted to appeal against a finding, but, as now, could complain to the Ombudsman on grounds of maladministration if they consider that the process followed was flawed; if, for example, there was evidence that was provided that was not taken into account.

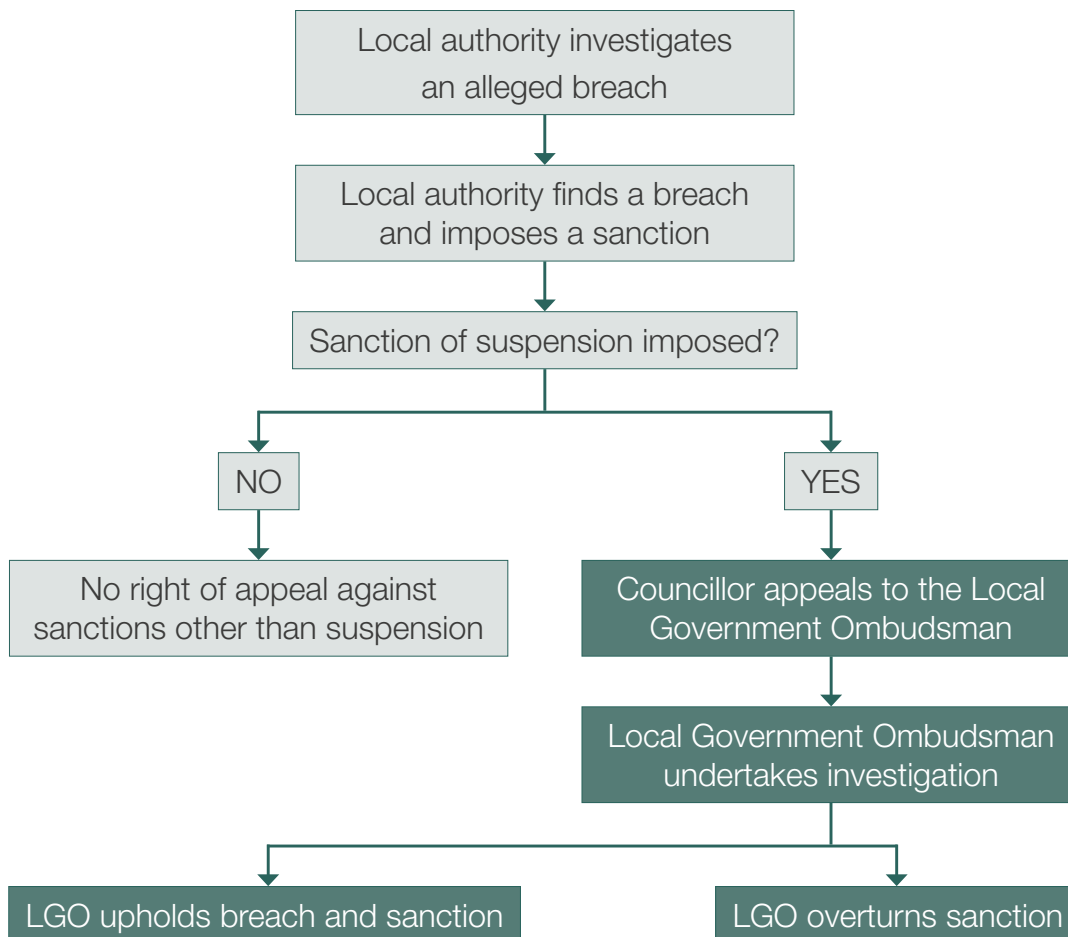
Whilst the Ombudsman's remit does not extend to town and parish councils, under the Localism Act, sanctions can only be imposed on parish councillors following the finding of breach and a recommended sanction by the principal authority, which we recommend below should become a binding decision by the principal authority. We therefore consider that parish councillors who are subject to a suspension should be able to appeal to the Local Government Ombudsman as the decision is taken by a principal authority, who already fall within the Ombudsman's remit.

The role of the Local Government Ombudsman would then be similar, on the one hand, to the role performed by the Adjudication Panel for Wales, which hears appeals of decisions by local standards committees; and on the other, to the Public Service Ombudsman for Wales and the Northern Ireland Public Services Ombudsman who have a combined local government standards and local government ombudsman role. A role limited to appeals against a decision to impose a period of suspension would mean that local authorities would retain primary responsibility for local standards and would avoid the creation of a centralised standards body.

66 Written evidence 126 (Local Government and Social Care Ombudsman)



Proposed appeals process





Recommendation 13: Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.

The Nolan principle of openness demands that councils should be taking decisions, including decisions on standards issues, in an open way. The experience of the Committee is that whilst transparency does not automatically increase public trust in a process, it is nevertheless essential to enabling public scrutiny and accountability.

Recommendation 14: The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

We have seen examples of both good and bad practice in how open councils' standards processes are. The best examples involved a single, easily accessible page on an authority's website explaining in straightforward terms how a member of the public can make a complaint under the code of conduct, what their complaint needs to include, the process for handling complaints, and the expected timescales for investigations and decisions. That page would also include links to recent decisions on allegations that came before the standards committee.

Promoting openness and transparency

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.

Openness and transparency are important secondary safeguards, to ensure that the process can be scrutinised by other councillors and by the public. We heard evidence that many councils do not publish data and decisions on standards issues in a regular or open way. Councils should be free to make their own arrangements for whether they maintain a public list of pending investigations. However, councils should be recording allegations and complaints they receive, even if they do not result in an investigation, and should certainly publish decisions on formal investigations.

Recommendation 15: The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.



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

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

Avoiding legalisation

It is vital to get the balance right between the privileges and responsibilities of democratic representatives. Whilst councillors have a responsibility to uphold high standards, in particular by upholding their council's code of conduct, it would be concerning if they could easily be made subject to an expensive legal process, which could then make the standards system open to misuse. The standards arrangements in England should therefore remain based on 'lay justice', where the requirements and processes are sufficiently clear and straightforward so that no councillor subject to an investigation would be disadvantaged by lacking formal legal representation.

Updating and clarifying the Localism Act 2011 to address the practical problems of interpretation that have come to light in recent years – particularly regarding conflicts of interests – would help in this regard, as would a greater role for the Local Government Ombudsman, by allowing councillors to appeal a sanction of suspension without having to resort to the civil courts for review or remedy.

More broadly, the focus should remain on individual local authorities maintaining high standards in their own councils. Councils need not be tied up with long-running standards investigations; they should put in place strong filtering mechanisms to make sure that only allegations with real merit begin a formal process of investigation. Likewise, use of the most serious sanctions should remain rare. For those subject to an investigation or sanctions process, councils should also provide clear, plain English guidance on how the process works and councillors' responsibilities within it.



Chapter 4: Sanctions

Any system designed to uphold standards of ethical behaviour needs to include ways to address and redress behaviour which falls seriously and/or repeatedly short of what is expected. Under the current arrangements when a councillor has been found to have broken the code of conduct there is no requirement to comply with remedial action. Whilst it is recognised that early, informal resolution of minor misdemeanours can be the most effective, the evidence we received demonstrated overwhelmingly that this lack of enforcement authority is a weakness in the system which may also deter genuine concerns being raised. The questions remain, however, as to what sanctions are appropriate and proportionate, and who should enforce them.

Throughout this review it has become clear that ethical principles must be embedded in organisational culture through training and leadership, and codes of conduct should guide the behaviour of individuals by spelling out what those principles require. When misconduct does occur, however, sanctions play an important role in maintaining standards.

Sanctions are also needed to give credibility to an ethical culture, so that the culture is not engaged with cynically or lightly. As one academic commentator on local government standards has pointed out, “[...] although there is a tension between ‘rules-based’ and ‘cultural’ strategies it does not follow that they are mutually exclusive. Rather, the challenge is to find the balance between a system that supports self-motivation and trust whilst still being credible in the face of examples of persistent misconduct and cynical motivation.”⁶⁷

As we have stated previously, “[...] people need to see poor behaviour punished as well as good behaviour rewarded, although it is, of course, better for people to internalise the principles behind the right behaviour, and to want to do the right thing, than to do so only because of the fear of getting caught and punished.”⁶⁸

The purpose of sanctions

Sanctions serve four purposes in a standards framework: motivating observance of standards arrangements, deterring damaging behaviour, preventing further wrongdoing, and maintaining public confidence.

Sanctions help to ensure that individuals engage with an ethical standards regime. Our predecessor Committee noted in its first report that “[...] unless obligations are routinely and firmly enforced, a culture of slackness can develop with the danger that in due course this could lead on to tolerance of corruption”.⁶⁹ In this review we heard of a small but significant number of individual councillors who appeared to have no respect for a standards regime without cost or consequence and whose continued poor behaviour demonstrated their ‘opting out’.

Punitive sanctions can act as a deterrent to behaviour which is seriously damaging to the public interest. Sometimes a lapse in good conduct can be a genuine oversight, often due to lack of understanding or awareness, and any sanction should be appropriate and proportionate. But the more damaging behaviour requires a greater deterrent, particularly where it brings local democracy into disrepute or otherwise harms the public good.

67 Stephen Greasley (2007) “Maintaining ethical cultures: Self-regulation in English local government”, *Local Government Studies*, 33:3, 451-464

68 Committee on Standards in Public Life (2013), *Standards Matter*, Cm 8519, 4.25

69 Committee on Standards in Public Life (1995), *Standards in Public Life*, Cm 2850-I, para 97



Some sanctions are needed to prevent further wrongdoing where a breach occurs. These sanctions will typically involve curtailing or restricting an individual's activity in relation to council business, especially where the form of the breach suggests that a repeat offence is likely, or where council business would be inhibited by an individual's continued involvement.

The credibility of any standards regime is undermined without the option to resort to sanction when needed. Sanctions help to maintain public confidence that something can be done when things go badly wrong. When used correctly, the application of appropriate sanctions give reassurance that the expectations of the public of high standards of conduct are being observed, and that wrongdoing is taken seriously. Public confidence will, however, only be maintained if sanctions are sufficient to deter and prevent further wrongdoing, and are imposed fairly and in a timely way.

The current sanctions arrangements

The Localism Act 2011 removed the ability for councillors to be suspended or disqualified (except for the statutory disqualification requirements which we discuss below). As a result, councils have become increasingly creative in their approach to using sanctions. Sanctions used by local authorities include censure, apology and training, as well as the removal from committee responsibilities by a party and in some cases, the withdrawal of access to facilities and resources (for example laptops or unescorted building passes). However, sanctions which ban members from council premises usually require cross-party support and are typically only considered appropriate in response to threatening behaviour such as bullying council officers.

The evidence we received suggests that the lack of serious sanctions, such as suspension:

- prevents local authorities from enforcing lower level sanctions, such as training or apology. When councillors refuse to apologise or to undergo training, the only route open to councils is to publicise the breach and the refusal.
- damages the public credibility of the standards system. Members of the public who make code of conduct complaints but do not see a significant outcome even where a breach is found would be justifiably frustrated that the standards system is not dealing with misconduct in a robust or effective way.
- makes the cost and resources of undertaking an investigation disproportionate in relation to sanctions available. We have heard evidence that Monitoring Officers resist undertaking standards investigations where possible, due to the significant cost, where a likely sanction may only be censure or training. We have also heard some evidence that members of the public do not make formal complaints as they do not consider the effort worthwhile given the limited outcomes available.
- gives local authorities no effective means of containing reputational damage or preventing recurrence, for example, in the case of disclosure of confidential information or bullying of officials. We heard that the lack of effective sanctions is deeply frustrating for officers and councillors who want to maintain the effective running of a council and to maintain high standards of conduct.



The removal of the powers previously open to local authorities to suspend a councillor and the broader sanctions open to Standards for England has removed the teeth of the standards regime, particularly in relation to repeat offenders. This undermines public confidence in the standards regime, particularly in the eyes of complainants who may be left with the belief that a councillor found guilty of a breach has 'got away with it'.⁷⁰

Tonbridge and Malling Borough Council

We do have good processes in place, but rarely use them due to the expense and time taken knowing that there is no significant sanction available at the end of the process to address serious issues. Councils simply cannot afford to enter into potentially long and costly processes unless it is clearly in the public interest. Time and money are key factors when they really should not be. As such, no-one achieves real satisfaction under the current standards regime.⁷¹

Taunton Deane Borough Council

It is the almost universal view of every council we have worked with that the limited range of sanctions available to councils is completely unsuitable for the worst cases and for serial misconduct.⁷²

Hoey Ainscough Associates

Press reports show continuing instances of bullying, insulting, offensive and inappropriate behaviour towards fellow members, public and officers. Even when action is taken, in the worst cases, the limited sanctions that can be imposed are ignored or even seen as a 'badge of honour'... reports have historically shown how, if unchecked at the outset, a corrosive and demoralizing culture can quickly take hold.⁷³

David Prince CBE

Some councillors view low-level sanctions such as censure as a 'badge of honour', to indicate that they do not cooperate with the 'established' process, and may often not cooperate with sanctions in order to cause disruption to a local authority and the individuals within it.

Party group discipline

Political groups, where they exist, make use of their own internal disciplinary processes. These processes are used, for example, to enforce whipping, but also in response to breaches of ethical standards. The evidence we received suggested that these processes are used partly to fill the gap left by the lack of formal sanctions available to principal authorities.

70 Written evidence 24 (Tonbridge and Malling Borough Council)

71 Written evidence 131 (Taunton Deane Borough Council)

72 Written evidence 212 (Hoey Ainscough Associates)

73 Written evidence 31 (David Prince CBE)



In many places party discipline has effectively filled the void left by the council's lack of formal powers but in our experience this is patchy and too subject to political calculation, such as the effect on balance of power within an authority so cannot be relied upon to be consistent across the country.⁷⁴

Hoey Ainscough Associates

A political group is a group of any two or more councillors in a principal authority who formally notify the Monitoring Officer that they wish to be considered as a political group. Members of a political group do not have to be members of the same political party, though most councils will include groups from the main national political parties. The relative strength of numbers in political groups will determine the administration and opposition in a council.

Political groups will often undertake a whipping function, so that the group votes consistently on particular proposals (though this is not permitted in functions such as planning and licensing). They will exercise party discipline, both to enforce whipping and group rules, but also in response to poor behaviour by councillors.

The greatest sanctions appear to be informal sanctions issued by groups and leaders, in terms of, for example, removal from committees, other bodies, posts, and of the whip. Our strong view is that while in many cases political groups have acted on such bases, a standards framework that is reliant on the decisions of those groups to effect proportionate sanctions is not an effective one.⁷⁵

**Andrew Maughan, Monitoring Officer,
Camden Council**

Under the legislation which governs council committees, the council allocates seats on committees to political groups in proportion to the relative sizes of the political groups within the council as a whole. The council is required to put the wishes of a political group into effect as far as possible when allocating individual councillors to committees from within that group. This means that in practice, political group leaders decide on committee appointments (although the wishes of a majority of group members would in theory take precedence). This is a significant power of patronage that can be used as part of a disciplinary process by parties. Groups may also remove individuals from other posts to which they have been nominated by their group; and a majority party may also take away portfolios or other special responsibilities.

We heard from political parties that the threat of suspension or expulsion from a group in particular can be an effective deterrent at the level of political group within a council.

Whilst political groups have a formal legal definition, in practice they are organised differently in different authorities. Some will be highly organised with a hierarchy of a leader, deputy leader and group whips, will have group discussions on a large number of matters that come before council, and enforce whipping through party discipline. Others will have a group leader also acting as a group whip, and may take a lighter-touch approach to group discussions or whipping. Independent groups, for example, are very likely to take a light-touch approach to whipping, or, indeed, may have independence from a whip as the central rationale for the group.

Party discipline can play a positive role in upholding ethical standards within a local authority. We heard that senior officers may

74 Written evidence 212 (Hoey Ainscough Associates)

75 Written evidence 151 (Andrew Maughan, Camden Council)



often make an informal approach to political group leaders if they have concerns over the behaviour of a member of that group. Internal party discipline, or even simply advice from a group leader, can be a useful means of moderating individuals' behaviour without needing to resort to the formal standards process. However, we also heard of instances where an approach to a political group was considered a serious step, and that the Monitoring Officer, if they had any concerns about the behaviour of a councillor, would speak to that individual on a one-to-one basis.

Sometimes, however, cases of alleged misconduct may go to a political group leader or even the national leader of a political party instead of being reported to the Monitoring Officer at a local authority.

Examples of political party disciplinary process used as an alternative to the formal standards process

In July 2018, a Greenwich councillor was suspended by their political group, as a result of their being charged with fraud following investigation by the council and referral to the police. The councillor was also removed from appointments made by their party group.

In Nuneaton, a political group leader wrote to the leader of a national political party in July 2018, to seek party discipline for councillors of that party for alleged abuse during a council meeting.

While party discipline can therefore have a positive role to play within local government, it also has drawbacks. Party discipline cannot apply to councillors who are not a

member of a political group. This means that party discipline cannot be used in relation to independent councillors, including those who might previously have been expelled from a party group. Political groups seldom exist in parishes, and so cannot address misconduct at parish level.

Party discipline may mean that political factors are taken into account over the public interest. When an authority is dominated by a single party or there is a very slim majority held by a party, that party may have an interest in downplaying or minimising standards breaches, rather than addressing them. It may also inhibit scrutiny and openness more generally where this may cause embarrassment to the party group.

Party discipline processes can run concurrently with, and in some cases preempt, the outcome of a formal standards investigation. We saw evidence that political parties have taken steps to enable swift discipline by group leaders or whips at a local level in serious cases. But this will tend to lack transparency, without formal announcements of measures taken or open investigative processes, particularly when political parties are under pressure to respond quickly.

There used to be a fairly clunky process of bringing a report to the group for the group to take action. We've revised that to take account of the way that news can spread so rapidly, and given group leaders the power to make a decision there and then for a time limited period along with the whip.⁷⁶

**Cllr Rory Love, Chairman,
Conservative Councillors' Association**

⁷⁶ Cllr Rory Love, Individual oral evidence, Wednesday 27 June 2018



We also sought evidence during our review on the role of national political parties. Whilst national political parties will often have their own code of conduct, their involvement in allegations of misconduct will tend to be on a case-by-case basis, with less of a formal system for escalating and managing complaints. Party representatives we spoke to said that, understandably, the national party would involve itself only in serious cases or where it had an interest for particular reasons. Inevitably, the involvement of a national party is more likely when reputational issues are at stake, for example, during the selection of candidates at election time.

During the recent elections, we had no hesitation in suspending candidates from the Conservative whip even before the election day as a message to say “if you have the privilege of representing our party, there are standards we expect of you”.⁷⁷

**Cllr Rory Love, Chairman,
Conservative Councillors’ Association**

There is a particular focus [on standards] just before the point of election, which I think will remain the case. That’s when the party has the most influence, that’s when those conversations take place.⁷⁸

**Cllr Simon Henig CBE, Chair,
Association of Labour Councillors**

We have therefore concluded that political parties cannot play the central role in sanctions and upholding standards within an authority. Political group discipline is, essentially, an internal matter. This means it will never have the levels of transparency, consistency and

the relevant checks on impartiality that should characterise a fair and effective standards process. Whilst we have come across examples of positive joint working across political groups, and very effective relationships between officers and political groups, the party disciplinary process is still subject to political imperatives, even in authorities with otherwise very effective standards arrangements. In addition, political groups rarely operate at parish council level, and so party discipline cannot effectively address misconduct at parish level.

If, as our evidence suggests, the current high levels of involvement of parties in the standards process is due to a lack of formal sanctions, the reintroduction of a power of suspension may lead to a diminished role for political parties. Even if this were the case, political parties would still have an important role to play, which we consider further in chapter 8.

The sanction of the ‘ballot box’

We have considered the case that, beyond censure or training, the most appropriate sanction for councillors is the ‘ballot box’, namely, the possibility that they could be voted out at a local election as a result of misconduct. We conclude that the ‘sanction of the ballot box’ is insufficient, both in principle and in practice.

Relying upon the electorate to address poor member conduct at the ballot box is insufficient. The current regime needs to specifically include greater powers for local authorities to robustly address poor member conduct.⁷⁹

**Sandwell Metropolitan Borough
Council**

⁷⁷ Cllr Rory Love, Individual oral evidence, Wednesday 27 June 2018

⁷⁸ Cllr Simon Henig CBE, Individual oral evidence, Wednesday 18 July 2018

⁷⁹ Written evidence 239 (Sandwell Metropolitan Borough Council)



In cases where really serious misconduct happens, and the perpetrator is not discouraged by adverse publicity, there is a significant gap between how the current system can deal with such cases and any criminal sanction, criminal sanctions always being a final resort. The argument that the ultimate arbiter of behaviour is the public at the ballot box does not fully answer this issue.⁸⁰

Wycombe District Council

It is of course accepted that the democratic election of councillors must be respected. Following this, some would argue that (barring disqualification set out in law) only the public who conferred that mandate through an election can take it away by means of another election. It is argued that this is appropriate because only the public can be the proper judge of the suitability of a councillor to represent them which they only have the proper authority to do in an election or re-election.

Whilst the public will of course judge standards in public life at election time to some extent, the process of choosing a representative is based on wider political issues. As the Committee stated in 2013, “[...] decisions about who to vote for are made on the basis of a number of considerations. It would be undesirable for the electorate to have to set aside the opportunity to express their wider political views at election time simply to express a view on a standards issue.”⁸¹ Indeed, voting in elections is often drawn on party lines rather than the overall suitability of an individual candidate.

Public expectations of elected representatives continue to increase not diminish. High ethical standards should be demonstrably observed in practice throughout a term in office. Much harm can be done to individual wellbeing, the democratic process, and council business if misconduct goes unchecked for up to four years.

Public participation ends at the ballot box. There must be more to ensure local governance commits to fulfil the expectations of their electorate where possible [...].⁸²

Cllr David Gaye

It is also the case that a large number of seats in parish and town councils, and occasionally at principal authority level in more sparsely populated areas, are uncontested. In such circumstances the public are not choosing to exercise their judgment, and as a result there is no opportunity for electoral accountability to influence ethical standards.

The argument that the ballot box will decide is a moot point when over 50% of the town and parish councils in Cornwall do not have elections and these local councillors are returned unopposed.⁸³

Cornwall Council

Democratic representation carries both privileges and responsibilities. The significance of that mandate, and the rights and powers that it gives to councillors, also means that a councillor is rightfully subject to the Seven Principles of Public Life and the obligations

80 Written evidence 186 (Wycombe District Council)

81 Committee on Standards in Public Life, *Standards Matter* (2013), Cm 8519, 4.18

82 Written evidence 302 (Cllr David Gaye)

83 Written evidence 147 (Cornwall Council)



under the council's code of conduct. Councillors' conduct should reflect the importance of their elected role and their need to act in the public interest. A standards regime that prevents a councillor from carrying out their role for a period, for example by suspension, does not undermine a councillor's electoral mandate. Rather it underlines the significance of the role and the expectations of high ethical standards that come with elected office.

Sanctions in the devolved standards bodies

The sanctions available to the devolved standards bodies in Wales, Scotland and Northern Ireland, which were also available to the Adjudication Panel in England before its abolition, are suspension for up to one year and disqualification for up to five years.

The devolved standards bodies have used the most serious sanctions available to them sparingly. In 2017/18, the Standards Commission for Scotland has only once suspended a councillor for more than six months (although a number of cases involved a councillor who stood down, where the Commission indicated it would have imposed suspension if it were available).⁸⁴

In 2016/17, the Northern Ireland Local Government Commissioner for Standards disqualified one councillor for three years, and suspended one councillor for three months.⁸⁵

In 2016/17, the Adjudication Panel for Wales suspended four councillors, all for fewer than six months.⁸⁶ However, it should be noted that almost 20% of references and appeals to the Adjudication Panel since 2012 have resulted in disqualification.

Stronger sanctions

We have concluded that stronger sanctions should be made available to local authorities.

We have not seen compelling evidence for introducing a power of disqualification. We consider that there is very strong reason to introduce a power of suspension, but this should only be for a period of up to six months. The evidence we received suggested that the suspension of allowances would form an important aspect of this sanction.

We would expect that such a power would be used rarely. Suspension should be used only in the case of the most serious breaches, such as serious cases of bullying and harassment, or significant breaches of the rules on declaring financial interests; or else in the case of repeated breaches or repeated non-compliance with lower level sanctions.

The sanctions that could be made available to local authorities depend upon the investigative processes and safeguards available to meet the requirements of due process. The more significant the sanction, the more important it is that the process ensures impartial application of sanctions. The evidence we have received suggests that the power to disqualify or suspend a councillor without allowances for longer than six months would likely require a formal independent tribunal arrangement in order to comply with a councillor's ECHR Article 6 right to a fair trial. We do not consider that such arrangements could be put in place without the introduction of a central standards body, which we reject for the reasons discussed in chapter 1.

84 Written evidence 106 (Standards Commission for Scotland)

85 Northern Ireland Local Government Commissioner for Standards (2017), *Annual Report 2016-17*. Available online at: <https://nipso.org.uk/site/wp-content/uploads/2017/12/NILGCS-Report-2016-17.pdf>

86 Adjudication Panel for Wales Register of Tribunals. Available online at: <http://apw.gov.wales/about/register-of-tribunals/?lang=en>



Recommendation 16: Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

Legislation giving effect to this should ensure that non-attendance at council meetings during a period of suspension should be disregarded for the purposes of section 85 of the Local Government Act 1972, which provides that a councillor ceases to be a member of the local authority if they fail to attend council meetings for six consecutive months.

Giving legal certainty to councils

At the moment, councils who impose sanctions at the most serious end of the current range – premises bans and withdrawal of facilities – are doing so without a clear basis in statute or case law. The relevant case law on sanctions has expressly identified training, censure, or publicising the breach as within a council's power, but does not limit the available sanctions to only these. We have heard expert views on both sides of the argument as to whether measures such as premises bans are likely to be *ultra vires* or could be considered as tantamount to suspension; councils are therefore accepting a certain measure of legal risk in using these sanctions. The government should make clear what local authorities' powers are in this area, and put them beyond doubt in legislation if necessary.

As we have seen, sanctions serve a number of purposes in a standards framework, one of which is the prevention of further wrongdoing. Sanctions such as premises bans and withdrawal of facilities may be useful for this purpose, as part of a range of available sanctions.

Recommendation 17: The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.

Criminal offences in the Localism Act 2011

The provisions in the Localism Act make it a criminal offence for a councillor to fail to comply with their duties to register or declare Disclosable Pecuniary Interests (DPI), participate in a discussion or vote in a matter in which they have a DPI, or take any further steps in relation to such a matter. The maximum penalty is a level 5 fine and disqualification as a councillor for up to five years. It is important to acknowledge the seriousness of such a matter and to continue to support the need for serious sanctions for non-compliance in these circumstances. However, the evidence we have received suggests overwhelmingly that resorting to the criminal law is not the most appropriate way to handle such misdemeanours.

The making of certain breaches a criminal offence does not seem to have worked as such matters have to be referred to the police who, from my experience, are not geared up to the local government world and do not (understandably) see such matters as a high priority to them...matters can take a long time and often end up being handed back to the council to deal with in any case.⁸⁷

Taunton Deane Borough Council

87 Written evidence 131 (Taunton Deane Borough Council)



The current arrangements are disproportionate. Failure to register or manage interests is a breach of the Seven Principles and damaging to the public interest, but it would usually be remedied by the application of internal sanctions. To potentially criminalise a public office-holder for what is essentially a code of conduct matter is inappropriate. It sets a high bar for the standard of proof and is a costly process for the public purse. It is also, inevitably, a long process which can be disproportionately stressful. We have heard evidence which suggests that the police are wary of the potential for politically motivated allegations and the highly sensitive nature of investigations to which they may not be able to allocate sufficient resources when budgets are constrained. We also heard of a number of instances where the police have not pursued cases referred to them.

Recommendation 18: The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

Disqualification of councillors

The criteria for disqualification of councillors are currently relatively limited. In the case of a councillor being convicted of a criminal offence, they would only be disqualified if they are imprisoned for three months or more.

Current law on the disqualification of councillors

Under section 80 of the Local Government Act 1972, a person is disqualified from standing as a candidate or being a member of a local authority, if they:

- are subject to bankruptcy orders
- are imprisoned for three months or more on conviction of a criminal offence (without the option of a fine)
- are found personally guilty of corrupt or illegal practice in an election

They are also disqualified if they:

- are employed by the local authority
- are employed by a company which is under the control of the local authority
- are employed under the direction of various local authority committees, boards or the Greater London Authority
- are a teacher in a school maintained by the local authority

The Ministry for Housing, Communities and Local Government have committed to bringing forward legislation to add to the existing criteria for disqualification, following a public consultation in September 2017. The additional conditions will include being listed on the sex offenders register, receiving a Criminal Behaviour Order under section 22 of the Anti-social Behaviour, Crime and Policing Act 2014, and receiving a civil injunction under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014. We support these changes, which will better reflect the expectations of the public.



Chapter 5:

Town and parish councils

Local government is made up of a number of tiers, of which town and parish councils are the most local. Their functions vary but may include: maintaining local amenities such as parks, cemeteries, and memorials; responding to planning consultations undertaken by principal authorities; producing neighbourhood development plans; and making grants or undertaking other activities to benefit their local communities. In recent years, however, many parish councils have undertaken a broader range of roles that traditionally were performed by principal authorities, such as economic regeneration and transport services.⁸⁸

While the vast majority of people who serve on town and parish councils do so for the benefit of their community and in doing so observe the Seven Principles of Public Life, the Committee received evidence suggesting that poor behaviour and serious misconduct by some councillors is creating significant disruption in those communities. The evidence also suggests that this misconduct can create an increased workload for the relevant principal authority.

Our predecessor Committees have excluded town and parish councils from their reviews into local government standards; we have chosen to focus on them because the number and nature of concerns shared with the Committee by those who work in and with parish councils was sufficient for us to question whether the present arrangements provide for good governance and meet the needs of the public.

Autonomy and accountability of parish and town councils

The oversight regime for parish councils is light-touch, in view of their comparatively lower budgets and limited remit compared to principal authorities.

There is, however, significant variation in the budgets of town and parish councils. A number of small parish councils have budgets of less than £25,000; but some may have budgets exceeding £1 million.

Parish councils with a precept of less than £25,000 are exempted from the need to have an annual assurance review or to appoint an external auditor to prepare their accounts. They are, however, required to comply with the government's Transparency Code for exempt authorities, and must appoint an auditor if an elector has an objection to the accounts.

Parish councils, unlike principal authorities, do not fall within the remit of the Local Government Ombudsman no matter their size or budget, so they are not subject to investigations or rulings on grounds of maladministration. This means that the stakes in some councils at this level are very high where there are either serious or persistent standards issues. Our view is that the current system does not take this potential risk into account.

Under the Localism Act 2011, much of the responsibility for standards in town and parish councils belongs to their principal

⁸⁸ Local Government Chronicle (2016), *Power to the people*. Available online at: <https://www.nalc.gov.uk/library/news-stories/2437-lgc-supplement-2016/file>



authority. We have seen a variety of models for how parishes relate to a principal authority in relation to standards. In many cases, the Monitoring Officer is the main point of communication, and communicates mainly with the clerk. Some councils maintain joint standards committees, with town and parish councillors sitting alongside councillors from the principal authority to discuss issues from both the principal authority and the parish councils, though parish council representatives cannot vote if the committee is a decision-making committee of the principal authority. We have also seen an important role played by county associations of local councils, who can maintain links with the principal authority through the senior officers and in some cases provide mediation and support on standards issues at the parish level.

One of the things we do in the CALC is provide an advisory service and someone to investigate what's gone on and someone to go along to listen to grievances.⁸⁹

Cornwall Association of Local Councils

When it comes to the day-to-day relationship with principal authorities, some parishes will see the principal authority as a point of support or advice on standards issues; some are heavily dependent on the principal authority to provide legal advice and to deal with governance or behavioural problems; but some have an antagonistic relationship with the principal authority and do not respect its formal remit in respect of ethical standards. As with the standards process within a council, the role of the Monitoring Officer is crucial in maintaining a positive and effective relationship with dependent parishes. We have also seen

the benefits of a strong relationship between senior officers (particularly the Monitoring Officer) and the county association of local councils.

We recognise the need to balance the autonomy of parish councils with accountability. The oversight of parish councils must be proportionate in relation to their comparatively limited budget and remit. Our view is that for the majority of parish councils, the current balance works well, although to address the standards issues which in a minority of councils have undermined good governance, we recommend changes below in the formal relationship between parish councils and principal authorities in relation to standards.

How effectively parish councils use their autonomy over their own governance is highly dependent on the skills, experience and support of the parish clerk. Clerks are sometimes the only employees of the council and also the repository of significant amounts of information, advice and guidance for councillors in undertaking parish business. Where the relationship between the councillors and their clerk is positive there is little need for additional accountability or support in the system.

However, we received evidence of substantial difficulties experienced where clerks are either inexperienced, untrained or feel isolated, particularly if they are the subject of poor behaviour on the part of councillors. Ongoing education and training of clerks would provide: confidence to some clerks on the scope and limits of their role; a network of peers who can provide advice and support when new situations arise that are challenging for a single clerk working alone; and a level of consistency and accountability to councillors, auditors

89 Sarah Mason, County Executive Officer, Cornwall Association of Local Councils, Visit to Cornwall Council, Monday 24 September 2018



and the public about the services a clerk can be expected to provide. There is, therefore, a significant need for clerks to be formally qualified (for example, through qualifications run by the Society for Local Council Clerks). Such qualifications need not be costly for parish councils.⁹⁰

Recommendation 19: Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.

Misconduct in parish councils

Analysis of survey responses from over 800 parish clerks, undertaken by Hoey Ainscough Associates on behalf of the Society of Local Council Clerks, suggests that 15% of parish councils experience serious behavioural issues such as bullying and disrespect towards other councillors or the clerk, and 5% of parish councils experience these issues to an extent that they are unable to carry out some or all of their proper functions.

We regularly come across cases of serious bullying and disrespect towards officers and fellow councillors, threatening and intimidating behaviour towards staff, obsessive behaviour and deliberate flouting of the need to declare interests. While such behaviour is very much in the minority it can seriously damage the reputation of an authority, as well as causing huge amounts of stress and effectively gumming up the workings of a council. This is particularly true at parish council level.⁹¹

Hoey Ainscough Associates

We heard of a number of individual cases of serious bullying or other unacceptable behaviour, particularly directed towards local council clerks, leading to high turnover of staff.

The impact often includes serious ill health, loss of employment, loss of confidence and a long-term detriment to their personal and professional lives. The parish sector experiences a high turnover of staff each year. In some areas of the country this can be up to 20-30% of clerks and a large element of this can be attributed to the underlying behaviour issues. We are aware of cases where the issues are long standing and repeated year on year, with multiple cycles of behavioural issues, loss of personnel and recruitment taking place.⁹²

Society of Local Council Clerks

The evidence we received suggests that reintroducing a power of suspension for local authorities, which would be applicable to parish councillors, may address some of these problems. Although many parish councillors are not paid, a suspension of six months would nevertheless remove them from decisions and communications for all meetings during that period. It would also send a strong message to the individual member and the community. We discuss sanctions in more detail in chapter 4.

The evidence we received also suggested that difficulties persist in resolving standards matters where clerks are not well supported by the parish council to formally make and resolve complaints, or to prevent behaviour from recurring. Parish councils should take corporate responsibility when allegations of a councillor

90 The basic level qualification offered by the Society of Local Council Clerks costs less than £120, and SLCC offer bursaries for clerks who work for parish councils with a very low precept

91 Written evidence 212 (Hoey Ainscough Associates)

92 Written evidence 197 (Society of Local Council Clerks)



bullying an employee are received. For example, where behaviour that is in breach of a code is observed by councillors or reported by a clerk, the parish council should lodge a formal standards complaint corporately or in the name of the chair. A clerk should not have to do so themselves. In addition to providing necessary support to the clerk in such circumstances, such measures signify to individual councillors that disruptive behaviour is not ignored or accepted by the council generally.

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

Of the monitoring officers who responded to the SLCC 11% were unable to commit resources to supporting parish councils with behaviour issues with a further 49% only becoming involved when there is a complaint.⁹³

Society of Local Council Clerks

We have heard that dealing with standards issues in parish councils can be onerous for Monitoring Officers in principal authorities. Monitoring Officers reported to us that they could spend a high proportion of their working time on standards issues in parish councils, and that many of the cases that they had to deal with related to long-standing disputes or tensions, and so are not quickly resolved. We have heard a small number of concerning reports that Monitoring Officers have decided to decline to provide advice or accept

complaints received about or from parish councils about standards issues at the parish tier, citing insufficient resources and support for their work with parishes. Giving principal authorities the ability to deal more effectively with misconduct within parish councils should address to an extent the underlying problem of recurring standards issues, which we discuss below. Beyond this, Monitoring Officers need to be given the resources within their principal authority to allow them to carry out their duties in respect of parish councils as well as their own authority, and to be supported by senior management in doing so.

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

Investigations and sanctions in town and parish councils

Under the Localism Act, a parish council may comply with the duty to adopt a code of conduct by adopting the code of its principal authority, or by adopting its own code.

The evidence we have received is that the variation in parish codes within a principal authority area is an additional burden on that principal authority when advising, investigating and adjudicating on code breaches.

For example, Cornwall Council is a unitary authority that oversees 213 parish councils, all of which, in theory, could have their own

93 Written evidence 197 (Society of Local Council Clerks)



individual code of conduct, on which Cornwall Council could be required to adjudicate. Through working with the Cornwall Association of Local Councils, Cornwall Council agreed a single code with all the parish councils.⁹⁴

Without the support of CALC in Cornwall, we could have ended up with 214 different codes across the county, and this would have created problems with training, which is delivered by Cornwall Council, and interpreting the code which falls to Cornwall Council to administer.⁹⁵

Cornwall Council

Only a principal authority has the power to undertake a formal investigation and decision on an alleged breach of a parish council's code under section 28(6) of the Localism Act.

We have concluded that it is anomalous that parish councils have the autonomy to adopt a code of conduct of their choosing, but do not have the authority to investigate and enforce that code.

We do not consider that parishes should be given the power to undertake a formal investigation on a breach of the code of conduct. Our evidence suggests that parish councils do not wish to take on this responsibility, and that they do not have the resources and structures necessarily to do so on a fair and impartial basis.

There is a need to balance the autonomy of parishes, with a recognition that ultimately the principal authority must be responsible for investigating breaches. We acknowledge the benefits of a councils being able to amend

their own code, which we discuss in chapter 2. Given this burden on principal authorities, however, and the confusion that often arises in the case of dual-hatted councillors, we consider on balance that the costs of giving parish councils the option to adopt their own code of conduct outweigh the benefits.

Recommendation 20: Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.

Following *Taylor v Honiton Town Council*,⁹⁶ a parish council cannot substitute its own decision on an allegation for that of the principal authority. If it imposes a sanction on the councillor, it may only impose the sanction recommended by the principal authority. Whilst Taylor did not address the question directly, the evidence we have received from practitioners is that a parish council is not bound to implement a sanction even if that is recommended by the principal authority.

The Wychavon Committee feels that only having the power to make recommendations to parish councils regarding breaches of the code of conduct often leaves complainants feeling that there is little merit in bringing forward any complaint, especially when coupled with the current regime's stipulation that investigations cannot be pursued if a councillor leaves office.⁹⁷

Wychavon Borough Council

⁹⁴ Written evidence 206 (Cornwall Association of Local Councils)

⁹⁵ Written evidence 147 (Cornwall Council)

⁹⁶ *Taylor v Honiton Town Council and East Devon District Council* [2016] EWHC 3307 (Admin)

⁹⁷ Written evidence 78 (Wychavon Borough Council)



Accordingly, parish councils may disregard the sanction recommended by a principal authority. This may sometimes be due to an antagonistic relationship with the principal authority, or pressure from particular parish councillors not to implement the recommendation. This already prevents the effective holding to account of some parish councillors for misconduct. If, as we recommend, local authorities were given a power of suspension, under the current law a parish council could effectively ignore a decision to suspend one of its members. We therefore consider that any sanction imposed on a parish councillor following the finding of a breach should be determined by the parish's principal authority, which will require a change to section 28 of the Localism Act 2011.

Recommendation 21: Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

We have heard concerns that the judgement in *R (Harvey) v Ledbury Town Council*,⁹⁸ which was delivered during our review, prevents parish councils from taking action in the case of bullying. The principle that sanctions could not be applied to councillors outside of the formal investigation and decision process, involving an Independent Person, by a principal authority, is a straightforward application of the earlier judgment in *Taylor v Honiton Town Council*.⁹⁹ The evidence we have received is that this principle is the right approach: a parish council would not typically have the

resources to undertake a formal standards investigation; and sanctions should only be imposed following a fair and impartial process, as we discuss in chapter 3.

However, this does not suggest that there is no action that parish councils may take if an employee is being bullied. The evidence we have received from practitioners is that earlier case law has established that a parish council as a corporate body is vicariously liable for actions by an individual councillor which would involve an implied breach of their contractual obligations as an employer, including an implied obligation to provide a reasonable congenial working environment.¹⁰⁰ We understand that councils may therefore legally take proportionate, protective steps to safeguard employees if they are experiencing bullying or other unacceptable behaviour, for example, requiring that a particular councillor does not contact directly that named member of staff. However, for sanctions to be imposed, which are by nature punitive, then a formal complaint must be made, with an investigation undertaken by the principal authority.

98 *R (Harvey) v Ledbury Town Council* [2018] EWHC 1151 (Admin)

99 *Taylor v Honiton Town Council and East Devon District Council* [2016] EWHC 3307 (Admin)

100 See *Moore v Bude-Stratton Town Council* [2000] EAT 313_99_2703, which was affirmed in *Heesom v Public Service Ombudsman for Wales* [2014] EWHC 1504 (Admin), 82



Chapter 6: Supporting officers

Role of the Monitoring Officer

The Monitoring Officer is one of the three statutory officers in local government, alongside the Head of Paid Service (Chief Executive or Chief Officer) and the Chief Finance Officer (often referred to as the Section 151 Officer).

The three statutory officers need to work together. They are not separate. I have always had a practice of ensuring I held regular statutory officer meetings where we specifically talked about those things where one of us might want to intervene.¹⁰¹

Max Caller CBE

The post of Monitoring Officer is set out in statute in section 5 of the Local Government and Housing Act 1989. The original statutory role was to report to the council on any proposal, decision or omission by the council which is likely to give rise to a contravention of law or to maladministration. Given the legal aspect of the role, the Monitoring Officer is often the head of legal services in an authority. More recently, the role is often (but not always) combined with oversight of democratic services (the team of officers who prepare and co-ordinate agendas and papers for committee and council meetings).

The Local Government Act 2000 provided for a greater role for the Monitoring Officer on ethical standards.¹⁰² Guidance issued by the

then-Department for Environment, Transport and the Regions summed up its approach, following the passage of the Local Government Act 2000:

The monitoring officer will have a key role in promoting and maintaining high standards of conduct within a local authority, in particular through provision of support to the local authority's standards committee.¹⁰³

The Monitoring Officer (or their deputy) remains the lynchpin of the arrangements for upholding ethical standards in an authority.

We are aware of a perception that the role of the Monitoring Officer is becoming more difficult.

A survey of 111 Monitoring Officers, carried out by Local Government Lawyer, identified that the increasing complexity of local government decision-making, especially commercial decision-making and outsourcing, was a particular challenge in the role, especially where there is an imperative to drive forward projects and decisions. 38% of those surveyed said that the role had become more risky in 'a significant way', and 48% said that it was moderately riskier than in the past.¹⁰⁴

¹⁰¹ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

¹⁰² For example, in sections 59, 60, 66 of the Local Government Act 2000

¹⁰³ Department for the Environment, Transport and the Regions (2000), *New council constitutions: guidance to English Authorities* (reissued by DCLG, 2006). Available online at:

<http://webarchive.nationalarchives.gov.uk/20120920053721/http://www.communities.gov.uk/documents/localgovernment/pdf/155181.pdf>

¹⁰⁴ Local Government Lawyer (2018), *Monitoring Officers Report*. Available online at:

<http://www.localgovernmentlawyer.co.uk/monitoringofficers/?page=1>



The Monitoring Officer role is particularly varied and includes quite disparate aspects. A Monitoring Officer who also oversees a department of the council will have a role in senior management, and will be responsible for large teams. They will offer formal legal advice; but they will also act as a mediator and adviser in relation to standards issues. Some of the most significant difficulties for Monitoring Officers include the inherent potential for conflict when simultaneously:

- acting as a source of advice and guidance for members and officers (and parish councils for which they are the Monitoring Officer)
- assessing complaints in the first instance after it is received by a council
- obtaining and weighing advice from Independent Persons
- overseeing and managing investigations to determine whether serious breaches of the code of conduct have occurred, either personally or by seeking outside expertise and handling the consequential report and conveying it to members

The role involves a broad set of skills, and is broader than a chief legal adviser role. It is through the appropriate application of these skills and knowledge (including by developing a network of peers with whom Monitoring Officers can seek reassurance and check the consistency and fairness of their approach), that we have seen these competing pressures can be dealt with effectively.

The role of the Monitoring Officer in relation to ethical standards is no different to that in relation to their other statutory responsibilities. Dealing with complaints in relation to Members should not expose the Monitoring Officer to any greater risk of conflict. However, many have arrangements in place so that they do not advise the Standards Committee in relation to a complaint where they have been the investigating officer, etc.¹⁰⁵

Lawyers in Local Government

More nuanced but even far more serious complications can arise where the Monitoring Officer is overseeing an investigation into a senior member of the local authority, particularly a portfolio-holder. There is a potential conflict of interest, given the professional relationship between the Monitoring Officer and Cabinet members, in providing procedural and legal advice to enable them to pursue their objectives. In this case, the Monitoring Officer should be robustly supported and protected by the Chief Executive. Any investigation, even if outsourced to an independent investigator, should be overseen and managed ideally by the Monitoring Officer from a different authority, or failing that by a deputy, with the Monitoring Officer kept at arm's-length.

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

¹⁰⁵ Written evidence 228 (Lawyers in Local Government)



Whilst the location of the Monitoring Officer in the organisational hierarchy may vary, depending on the nature and functions of the individual authority, we have heard that effective governance relies on a strong working relationship between the three statutory officers (Chief Executive, Section 151 Officer, and Monitoring Officer). In particular, a Monitoring Officer needs to be able raise issues of concern to the Chief Executive, and be able to rely on the support of the Chief Executive in making difficult decisions, to know that they will not be undermined. We have seen that the confidence and support of the Chief Executive is crucial to ensuring the Monitoring Officer has the ability to uphold standards in a council, and can engage authoritatively with individual members.

We accept that the role of the Monitoring Officer is a difficult one to navigate, given the tensions that may be involved in advising on and addressing misconduct, alongside offering legal advice to achieve the council and administration's corporate objectives. We have concluded, however, that it is not unique in these tensions. The role can be made coherent and manageable, with the support of other statutory officers.

Standing of statutory officers

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons.¹⁰⁶ The previous protections applied in respect of any disciplinary action taken against a statutory officer, not just dismissal, and required the action to be recommended by a Designated Independent Person.

A few respondents to the consultation referenced the political pressure that Monitoring Officers come under to achieve particular outcomes and that this can place them in a conflicted as well as vulnerable position. The statutory protections for Monitoring Officers should be re-visited. LLG strongly supports this assertion.¹⁰⁷

Lawyers in Local Government

We have received a range of evidence on the implications of the changed environment for senior officers. We have heard of cases where Monitoring Officers have been put under undue pressure or forced to resign because of unwelcome advice or decisions, and heard that a diminished standing of senior officers has hampered their ability to give objective advice especially when this may not be welcome. On the other hand, we have heard that the current environment ensures that authorities are genuinely led by elected members, and that officers do not have too dominant a role in a local authority, which confuses the lines of accountability.

On balance, we consider that the disciplinary protections for statutory officers should be enhanced, by extending those protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

Recommendation 22: The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

¹⁰⁶ Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881)

¹⁰⁷ Written evidence 228 (Lawyers in Local Government)



Training of officers

We also heard during the review of the danger of councillors or officers perceiving necessary processes and procedures in local government as arbitrary or bureaucratic. When councillors do not appreciate the rationale for the decision-making processes – that exist in order to ensure objectivity, integrity, openness, and accountability – that can lead to undue pressure on officers to ‘bend the rules’, and implement the wishes of the administration regardless of the proper processes.

Sometimes there is a denigration in the culture of an authority because the authority has been hollowed out. In that instance, there is no longer the core of individuals who know the rationale for the rules, rather than just the rules themselves.¹⁰⁸

Max Caller CBE

When officers do not appreciate the rationale for the governance processes, then they can be treated as a ‘rubber stamp’, circumvented, or simply not fully utilised, leading to a compromise in the quality of decision-making.

There is a need to remind people of why the systems of governance are there: why, for example, reports are taken in public.¹⁰⁹

Dame Stella Manzie DBE

Local authorities’ training on governance and process should therefore include an explanation of the rationale for the processes in place, and link specific procedures to their wider aim of ensuring ethical decision-making. Training and support in the governance and

corporate aspects of the statutory officer roles is particularly important, since we heard that there is not necessarily a standard training offer for the statutory aspects of senior officer roles. We discuss councillor induction training in greater detail in chapter 8.

Whistleblowing

The written evidence we received suggests that local authorities will generally have a whistleblowing policy in place.

Since the abolition of the Audit Commission, local government audit is undertaken externally by private companies. External auditors are listed as ‘prescribed persons’, those to whom certain disclosures in the public interest can be made that will attract employment protections under the Public Interest Disclosure Act 1998.

However, the evidence we received suggested that local authorities will not tend to specify a named contact or provide contact information within the external auditor. This would have the effect of deterring whistleblowers from contacting the auditor, or make it difficult to report a concern.

The perceived lack of independence of the current external regime for auditing local government, coupled with the absence of comprehensive information for the public, councillors, and officials as to who to contact in a private audit firm could deter individuals coming forward.¹¹⁰

Protect

108 Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

109 Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018

110 Written evidence 305 (Protect)



Recommendation 23: The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.

We therefore see benefits to councillors being listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998, to make it easier for individuals to make protected disclosures to a councillor.

Recommendation 24: Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.

Under the current whistleblowing law in the UK, councillors are not listed as a 'prescribed person', which means that the disclosure of information to them in the public interest must meet a higher standard in order to attract employment protections.

Whilst it is accepted that reporting concerns to councillors is not appropriate in all circumstances, there have from our experience been scenarios where concerns have not been dealt with at an internal level, and due to nuances of the individual situation, the most effective way of bringing about scrutiny of the concerns may be to inform elected local government councillors.¹¹¹

Protect

Under the current legislation, ordinary disclosure within a line management chain has a lower bar for attracting employment protection. Generally, an employee would therefore make a disclosure to their manager (for example), before making a 'wider disclosure'. However, we accept that there will be instances where a local government officer may feel able only to make a disclosure to a councillor, rather than another officer.

111 Written evidence 305 (Protect)



Chapter 7:

Councils' corporate arrangements

A more complex environment

A number of recent changes have created a more complex environment for local government which can impact on ethical standards.

Local Economic Partnerships (LEPs), which have access to up to £12 billion of funding via the Regional Growth Fund over five years, are one feature of this new environment. LEPs are partnerships between the private and public sectors. They usually cross local government boundaries, to reflect economic patterns rather than administrative functions. LEPs tend to be limited companies, but may also be voluntary partnerships that work through a specific local authority. LEPs are chaired by an individual drawn from the private sector and tend to have a majority private sector board. Funding was awarded to individual LEPs on the basis of the submission of strategic economic plans, and tends to be spent on areas such as transport or skills.

Councils may also embark on joint ventures – for example, partnering with a development company on a high-value housing project, or with an outsourcing firm to deliver back-office services. In such cases the council usually owns 50% of the company and is represented on its board.

Joint working and collaboration can improve outcomes by pooling resources and sharing knowledge. But partnerships also introduce complexity and mixed incentives that can create ethical risks.

The local government sector has also seen a significant change in the way councils are funded. Local government funding has moved from central block grant funding, towards locally-raised funds such as council tax precepts, business rates retention and fees.

Councils have been involved in high-value procurement for many years. However, this new funding environment has resulted in changes in the way that services are delivered, for example, by increased use of outsourcing. This may not always be a council's preferred mode of delivery and councils may feel forced to pursue a particular path in spite of the challenges in maintaining scrutiny, accountability, and high ethical standards.

The NAO has found that these changes have created an environment of financial uncertainty for local councils, who may find it difficult to match its revenue streams to cost pressures in discharging their statutory obligations.¹¹² The changes have therefore altered the imperatives for revenue generation, giving incentives for increasing the value of tax base from which council tax and business rates are raised, and for undertaking other revenue-generating activities, for example, by maintaining a commercial property portfolio.

¹¹² National Audit Office (2018), *Financial sustainability of local authorities*. Available online at: <https://www.nao.org.uk/report/financial-sustainability-of-local-authorities-2018/>



Resulting governance challenges

This complex environment – made up of partnerships, joint ventures, and other new entities – creates the potential for ethical risks. Ethical standards apply to how decisions are made, as much as to an individual's day-to-day conduct, and ethical decision-making is needed to ensure that councils act in the public interest.

In fact we often don't speak about it, all we talk about is people's conduct, whereas actually ethics comes into how decisions are made, how did you weigh this up against this, what constitutes fairness, what is the measure, what is the ethical basis for considering this or choosing this process.¹¹³

Barry Quirk CBE, Chief Executive, London Borough of Kensington and Chelsea

First, such complexity makes it difficult to identify who is accountable for particular decisions or outcomes. In turn, this can make it difficult for officers, councillors, and the public to hold local authorities and other sectoral bodies effectively to account. The *Municipal Journal*, reporting on a roundtable held jointly with the National Audit Office, quoted a participant who argued that “[...] governance has become impossible what with districts, counties, LEPs etc. What gets lost is the clarity of accountability.”¹¹⁴

Secondly, the complexity can create conflicts of interest. If a council officer or a councillor is a director of a limited company jointly-owned by the council, they will have fiduciary duties which have the potential to conflict with the interests of the council. Such conflicts may also

arise the other way around, when the council has to make decisions about a company in which it has a significant interest.

Thirdly, the growth in separate bodies – such as investment vehicles, joint ventures, and LEPs – can result in less transparency over decision-making. This is because the new bodies are not likely to be subject to the same reporting and transparency requirements and structures as the local authority itself, but are nonetheless carrying out functions crucial to the work of the authority. The need for proportionate commercial confidentiality adds a further dimension of complexity to this issue.

Responding to the new governance challenges

Setting up separate bodies

We have heard that local authorities setting up a separate body without sufficient clarity over the governance arrangements, can create a governance ‘illusion’, that because of its relative day-to-day independence the local authority is not responsible or accountable for its activities and propriety. To avoid this, attention needs to be paid to ethical governance at three key stages.

Individual members on outside bodies can be a problem; councillors' legitimacy comes from their election, and they need I think to import with them the ethical dimension that they have from being a councillor.¹¹⁵

Barry Quirk CBE, Chief Executive, London Borough of Kensington and Chelsea

¹¹³ Barry Quirk CBE, Individual oral evidence, Wednesday 19 September

¹¹⁴ “What next for care and health?”, *Municipal Journal*, 22 February 2018, 16

¹¹⁵ Barry Quirk CBE, Individual oral evidence, Wednesday 19 September 2018



First, local authorities may set up bodies with very different structures and functions, that will require different governance arrangements. However, it is important that at the earliest stage, the authority considers and makes decisions about:

- what the relationship will be between the body and the local authority
- what role the statutory officers will have in overseeing its activities and providing assurance on its governance
- how and when the body will report to full council
- what the relationship will be between the body and individual councillors
- how councillors will scrutinise the activities of the body, in particular if it will fall within the remit of the audit or scrutiny committee, and if not, how else scrutiny will happen

Secondly, additional consideration needs to be given to governance if councillors or officers are to be involved or appointed to the body, for example as observers or as board directors. Ideally, the body should be set up so that its interests are aligned with the council's policy aims, in order to minimise any potential conflicts of interest. Nevertheless, if councillors or officers are appointed to the body, they should receive briefing on their governance responsibilities, in particular their legal responsibility to discharge any fiduciary duties to the new body.

The local authority needs, in particular, to consider whether councillors' involvement on the board would constitute a conflict of interest that will need to be managed if the authority makes decisions about the body.

Councils need to put safeguards in place where they decide to involve a council representative in a decision-making position on an ALEO [arm's-length external organisation]. These include procedures for dealing with conflicts of interest, making training and advice available, and personal liability insurance to protect board members in their role.¹¹⁶

Audit Scotland, *Councils' use of arm's-length external organisations (ALEOs)*

Audit Scotland outlined the advantages and disadvantages of councillors sitting on separate bodies in their report, *Councils' use of arm's-length external organisations (ALEOs)*.

Potential advantages of council nominees as board directors or trustees

- can improve the relationship between the ALEO and the council
- can bring an insight into the council and its objectives and the broader community
- council representatives can gain valuable first-hand experience of service issues and different sectors

¹¹⁶ Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf



Potential disadvantages of council nominees as board directors or trustees

- can bring additional demands to their already diverse role
- representatives may lack the background, skills or understanding required of the role
- risk of conflict of interest between their role on the ALEO and their role on the council
- negative impact on council decision-making where councillors withdraw from committees owing to conflicts of interest
- exposure to legal risks and personal liability
- risk to continuity if councillors lose their position if not re-elected¹¹⁷

The disadvantages to councillors acting as directors or trustees for separate, council-owned or council-sponsored bodies suggests that this should not be considered a default option for local authority oversight of a separate body. Audit Scotland noted that, whilst they had not come across any cases of significant misconduct, appointing a member or officer in an observer or liaison capacity to the board of a body without a formal decision-making role could limit the potential for conflicts of interest.¹¹⁸

Council representatives can take a monitoring and liaison role as an alternative to taking a board position. This allows them to oversee and advise the ALEO without taking a decision-making role on the ALEO. Most of our sample group of councils had strengthened the role of such officers to give them greater seniority and influence. Their role involves managing the relationship between the council and the ALEO, and monitoring the performance of the ALEO and its compliance with its contracts or service agreements with the council.¹¹⁹

Audit Scotland, *Councils' use of arm's-length external organisations*

The code of conduct for councillors in Scotland includes a provision exempting councillors from the requirement to withdraw from a discussion where they have an interest, if that interest is by virtue of being appointed to a body which is 'established wholly or mainly for the purpose of providing services to the councillor's local authority' or which has 'entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority'. This exemption was put in place "[...] so that ALEOs can function with councillors as members. It also recognises that it is not practical for a councillor to always remove themselves from council discussions relating to the ALEO".¹²⁰ However, councillors may still not take part in any decision-making in relation to that body where it is in a quasi-judicial capacity, and ideally not in decisions relating to funding of that body.

117 Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf

118 Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf

119 Audit Scotland (2018), *Councils' use of arms-length external organisations (ALEOs)*. Available online at: http://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180518_councils_aleos.pdf

120 Standards Commission for Scotland (2016), *Advice for councillors on ALEOs*. Available online at: [http://www.standardscommissionscotland.org.uk/uploads/tiny/mce/160928%20Advice%20for%20Councillors%20on%20ALEOs\(FINAL\)%20.pdf](http://www.standardscommissionscotland.org.uk/uploads/tiny/mce/160928%20Advice%20for%20Councillors%20on%20ALEOs(FINAL)%20.pdf)



We accept that, in some circumstances, local authorities in England may be justified in granting a member a dispensation under section 33 of the Localism Act 2011 for decision-making regarding a separate body on which the member has a formal role. This is because the exact nature of any potential conflict will vary depending on the relationship between the authority and the body in question. Councillors should always declare their interest if they hold a position with a council-owned or council-sponsored body. However, in general, we suggest that local authorities consider councillors or officers having observer, rather than director, status on a relevant board so as to minimise potential conflicts of interest.

Thirdly, both the body and the local authority need to practice ongoing assurance, oversight, and transparency, and regularly review the governance procedures to ensure that they are still appropriate.

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

Local Enterprise Partnerships (LEPs)

Our evidence suggests that there can be a lack of transparency around Local Enterprise Partnerships (LEPs), and gaps in the processes within LEPs to manage potential conflicts of interest.

I've encountered ward members during my LEP board experience, which works well. But more support is needed for LEP panel members in terms of processes and accessibility.¹²¹

Nicola Greenan, Director, East Street Arts, and LEP board member

An internal government review of the National Assurance Framework, led by Mary Ney, a non-executive director of MHCLG, found problems with the governance arrangements for LEPs. Ney found, for example, that whilst LEPs will adopt a conflict of interest policy and maintain registers of interests, “[...] the content of policies and approach to publication varies considerably and is dependent on the overall cultural approach within the organisation”.¹²²

The report also identified a need to consider “[...] the position of public sector members on LEP boards in the context of the changing role of local authorities and their increased involvement in commercial enterprises and alternative delivery mechanisms. This is currently somewhat underdeveloped in terms of LEP governance implications”.¹²³ Ney recommended that “[...] the National Assurance Framework requires LEPs to include in their local statements how scenarios of potential conflicts of interest of local councillors, private sector and other board members will be managed whilst ensuring input from their areas of expertise in developing

¹²¹ Nicola Greenan, Visit to Leeds City Council, Tuesday 18 September 2018

¹²² Department of Communities and Local Government (2017), *Review of Local Enterprise Partnership governance and transparency*, 6.1

¹²³ Department of Communities and Local Government (2017), *Review of Local Enterprise Partnership governance and transparency*, 3.4



strategies and decision-making, without impacting on good governance".¹²⁴

We agree with Ney's conclusions and recommendations. We welcome MHCLG's commitment to implement in full the recommendations from the Ney review. We also welcome the department's commitment, in *Strengthened Local Enterprise Partnerships*, to improve scrutiny and peer review among LEPs.¹²⁵

Ethical standards and corporate failure

Our evidence suggests a strong link between failings in ethical standards and corporate failure by councils.

The most obvious way in which this can happen is through a culture of 'slackness', where low level breaches of ethical standards go unchallenged and unaddressed. This can then seep into the culture of an authority and allows for more significant wrongdoing to take place, which would have significant implications for the performance and reputation of the council.

However, in most cases the process is more complicated, and several factors are jointly present in order for serious corporate governance failings to take place. As part of our review, we examined reports from high-profile cases of corporate governance failure.

Tower Hamlets Borough Council (incidents between 2010-14, report by PWC Best Value inspection, 2014)¹²⁶

The Best Value report was commissioned by DCLG to consider four different areas where the council allegedly failed to provide 'best value': payment of grants; transfer of property; spending on publicity; and processes on entering into contracts. The report found problems within the local authority in respect of the first three strands.

The report noted a lack of transparency over reasoning for grant decisions, and an abrogation of governance and oversight by the relevant committee, who would discuss the detail of decisions rather than following and overseeing the overarching mechanisms and methodologies that the authority had put in place.

The report also concluded that there were potential conflicts of interests, as well as a lack of transparency and rigour in the reasoning of decisions to transfer property.

The inspectors found an ambiguity in the demarcation between official and political activity by officers.

The report concluded that there were inadequate governance arrangements, in particular a failure to follow declaration and conflict of interest requirements rigorously, and a failure of officers to follow through on resolutions relating to governance and oversight.

¹²⁴ Department of Communities and Local Government (2017), *Review of Local Enterprise Partnership governance and transparency*, 6.3

¹²⁵ Ministry of Housing, Communities and Local Government (2018), *Strengthened Local Enterprise Partnerships*

¹²⁶ PricewaterhouseCoopers LLP (2014), *Best value inspection of London Borough of Tower Hamlets*. Available online at: <https://www.gov.uk/government/publications/best-value-inspection-of-london-borough-of-tower-hamlets>



Doncaster Metropolitan Borough Council (incidents between 2005-09, report of the Audit Commission Corporate Governance Inspection, 2010)¹²⁷

The Audit Commission found in 2009 that Doncaster was a 'failing council'. Its governance failings at that time meant that it did not have the capacity to secure needed improvement in services. The Audit Commission identified three areas which were "[...] individually divisive and collectively fatal to good governance, each serving to compound and magnify the negative impacts of the others":

- the way the council operates to frustrate what the Mayor and Cabinet seek to do
- the lack of effective leadership shown by the Mayor and Cabinet
- the lack of leadership displayed by some chief officers, and the way they have all been unable to work effectively together to improve services

The commission concluded that councillors placed political objectives, in particular frustrating the work of the council leadership, above their public duties.

The inspection found that the scrutiny function in the council was not undertaking genuine scrutiny, but rather was acting as a parallel executive decision-making process, for example, in drawing up its own budget and policy rather than considering the proposals and decisions made by the Cabinet.

The 2009 IDeA ethical governance healthcheck found that individual councillor behaviours at Doncaster were "venomous, vicious, and vindictive".¹²⁸ The commission report likewise found evidence of bullying and intimidating behaviour, for example, "comments such as 'we have long memories' and 'we will get you' made to officers when, in the course of their professional duty, they have given advice which certain councillors are uncomfortable with or dislike".

The commission also found that officers were collectively unable to withstand pressure from some senior councillors, compromising their impartiality and leading to a loss of trust by other councillors. The report also suggested that the leadership style of the interim Chief Executive compromised the impartiality of officers; and that inexperienced leadership by the Mayor further weakened the governance of the council.

¹²⁷ Audit Commission (2010), *Doncaster Metropolitan Borough Council: Corporate Governance Inspection*. Available online at: <https://webarchive.nationalarchives.gov.uk/20121206054613/http://www.audit-commission.gov.uk/inspection-assessment/local-gov-inspection/reports/Pages/201004doncastermetropolitanboroughcouncilcorporategovernanceinspection.aspx>

¹²⁸ Cited in Audit Commission (2010), *Doncaster Metropolitan Borough Council: Corporate Governance Inspection*, para 34



Northamptonshire County Council (events taking place between 2015-17; report by Max Caller CBE, Best Value Inspector, 2018)¹²⁹

Whilst the problems faced by Northamptonshire Council were primarily financial, underlying these was a lack of scrutiny, both at an overall level and at the level of individual councillors being permitted to ask questions.

The inspection team said that they were “[...] struck by the number of councillors who told us that they had been refused information when they sought to ask questions”.

“Members told us that they had been informed that ‘you can only ask that at scrutiny meetings and not outside a meeting’ that ‘I need to get permission from the Cabinet member to discuss this with you’ or just not getting a response. Councillors told us that they felt if they asked difficult questions at Audit Committee or scrutiny meetings they would be replaced and there was some evidence to support this.”

The report also commented that “[...] there had been no attempt to review either successful or unsuccessful budget inclusions in past years to learn lessons as to why things went well or failed to be delivered”.

Based on these reports, and our broader evidence, we have identified three common threads in cases of corporate governance failings, all of which are linked to failures in upholding the Seven Principles of Public Life.

First, an unbalanced relationship between members and officers. This involves a breakdown in the structures of accountability and objectivity, which should allow officers to provide quality, impartial advice to the members who are ultimately accountable for the work of the council. When this is unbalanced, with either officers or members becoming over-dominant, or a blurring of the official and political, there is a risk that decisions are not made in the public interest.

What you see in cases of corporate failure is that the relationship between members and officers gets ‘bent’ – either with over-dominant councillors and weak officers, or indeed vice versa. A ‘member-led authority’ can become ‘member-dominant’.¹³⁰

Dame Stella Manzie DBE

Secondly, a lack of understanding and appreciation of governance processes and scrutiny. All the examples we describe above involve a lack of a proper scrutiny function, fundamental to the Nolan Principles of openness and accountability. Scrutiny, oversight, and audit processes can stagnate when there is a lack of appreciation of why they exist. Scrutiny should not be a process of rubber-stamping, but rather a probing of policy intent, assessment of financial viability, testing of assumptions, and weighing of evidence to ensure that decisions made, are made in the public interest. Local authorities should therefore not be afraid of the scrutiny function or treat it lightly, but should welcome opportunities to strengthen proposals and realise the benefits of bringing potential issues to light at an early stage.

¹²⁹ Max Caller CBE (2018), *Northamptonshire County Council Best Value Inspection*. Available online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/690731/Best_Value_Inspection_NCC.pdf

¹³⁰ Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018



If you don't maintain a culture, it doesn't happen by itself. You have to work on it, live it, you have to work on it with people who try and breach it (because they don't understand). A good ethical culture atrophies quite quickly.¹³¹

Max Caller CBE

Thirdly, a culture of fear or bullying. This was a strong theme of the cases we considered. When individuals are fearful of speaking up then poor behaviour goes unreported and can become part of an authority's culture. Similarly, when an individual is subject to bullying by another, this can result in undue pressure to act, or refrain from acting, in a way that is contrary to the public interest. A culture of fear or bullying is fundamentally a failure of leadership, whether leaders fail to tackle wrongdoing when it occurs or are themselves the ones who are doing the bullying.

Left unchecked, standards risks can be realised and become instances of corporate failure. The danger of corporate failure points to a need for councils to identify when standards and governance are at risk, and develop and maintain an ethical culture, to protect against those risks in their own authority.

131 Max Caller CBE, Individual oral evidence, Thursday 20 September 2018



Chapter 8: Leadership and culture

Leadership

Leadership is essential in embedding an ethical culture. We have considered throughout our review where, primarily, leadership comes from in local government – who sets the tone when it comes to ethics and standards. We have concluded that leadership is needed from a range of senior individuals, given the multi-faceted nature of local government and the distinctive remits of different roles.

Leadership is needed from a local authority's standards committee. Standards committees play a role not just in formally adjudicating on alleged breaches of the code of conduct, but by continuously reviewing ethical standards in the council, and drawing the authority's attention to areas where standards could be better upheld. Standards committees should see themselves as playing a leadership role in setting expectations of behaviour and continually holding the authority to account on standards issues.

The Chief Executive also plays an important role, especially among officers. Their leadership role includes modelling high standards of conduct, particularly those distinctive to officers in respect of political impartiality and objectivity. But the Chief Executive must also show leadership by empowering other senior officers – such as the Monitoring Officer – to carry out their role effectively. The Chief Executive is ultimately responsible for guarding the demarcation between officers and members, and needs to be clear about when members need to take a decision, and when officers should have the discretion to carry out their roles as they see fit.

If the Chief Executive is weak and senior officers are not backed up then they are stymied as there is nowhere else to go.¹³²

Dame Stella Manzie DBE

Leaders of political groups play a vital leadership role among councillors. Political group leaders set the tone for how new councillors will engage with each other, and set expectations for how councillors will engage with officers. Leader of political groups not only need to model high standards themselves, but should be quick to address poor behaviour when they see it. They should seek to mentor and advise councillors in their party on how to maintain standards of conduct, and be willing to use party discipline when necessary. The leader of the council plays an important role here: as the most visible group leader, they should model the highest standards of conduct and address any poor behaviour by portfolio-holders.

Where group leaders can appoint councillors to the standards committee, they should demonstrate leadership by appointing members who have the experience and commitment to fulfil that role effectively.

Last, there is a leadership role played by the chair of the council. When this post is occupied by a senior and respected member, they can play a role in setting the tone of full council meetings, and ensure that councillors – regardless of party group – are aware of the expectations for how they engage with each other and with officers. This is particularly important in order to provide support for councillors who are not members of a political group, which we discuss further below.

¹³² Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018



Turning around a culture

As part of our review, we took evidence from a number of experienced Chief Executives and Commissioners who have each turned around an unhealthy organisational culture in one or more local authorities.

This evidence, alongside our consideration of reports on corporate failures at specific authorities over the recent years, suggests that four measures are needed from senior leaders in order to turn around an unhealthy culture.

First, senior leadership modelling the expected behaviours and signalling from the first day how these behaviours look, sound and feel. This is particularly the case, as we have discussed above, in the early days of a new council or in the case of corporate renewal, once new senior officers or commissioners have been put in place. As well as modelling the expected behaviour, this element of installing and maintaining an ethical culture is about a present, visible and accessible leadership.

As a leader in a council in trouble I think you have to be absolutely clear what you expect, and model that behaviour every day.¹³³

**Max Caller CBE, Commissioner,
Northamptonshire County Council**

I meet every new starter and tell them “You are a fresh pair of eyes. Do call things out. You are a really valuable asset”, so you set that expectation to challenge and seek improvement really early on.¹³⁴

**Dawn French, Chief Executive,
Uttlesford District Council, Essex**

This demonstrated form of visible leadership can also straddle the member-officer divide, with meetings between new officers and council and group leaders to discuss standards being routine until the tone of the council is reset.

Secondly, an attentiveness to even small practices that do not match expected behaviour. Taking a ‘zero tolerance’ approach even to small breaches may be disproportionate when there is a healthy culture, but is necessary to embed the required behaviours when trying to reverse an unhealthy culture.

There have been standards issues in the authorities in which [I have worked], ranging from informality about the parking passes, to trying to keep information away from the opposition, to informality in granting licences, or to circumventing proper financial regulations. Even the lowest level of wrongdoing needs attention, through a private conversation, and when unaddressed can lead to more significant wrongdoing.¹³⁵

Dame Stella Manzie DBE

Thirdly, the timely, fair and accurate identification by senior leadership of opportunities for development and occasions for discipline of those who are in danger of breaching the rules. An effective leader turning around an unhealthy culture will identify the underlying motives of behaviour, to judge whether it is more appropriate privately to advise and correct an individual, or to discipline them.

¹³³ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

¹³⁴ Dawn French, Visit to Uttlesford District Council, Monday 10 September 2018

¹³⁵ Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018



Opportunities to develop individuals to build a more effective culture may change over time, and this is even more the case for a council experiencing a period of transition.

Fourthly, whilst there is clearly a role for interim appointments in order to provide transitional leadership, interim arrangements should not be overstretched, to allow new leaders to embed long-term changes to the organisation's culture.

When you have prolonged interim officers, that has a problem for the culture in the longer term. In the interim term, they [interim appointees] can never start to work on those sorts of things.¹³⁶

**Max Caller CBE, Commissioner,
Northamptonshire County Council**

The role of political groups

Whilst political parties can form only part of the system, and are not a substitute either for effective senior officers, or for the formal standards process, they nevertheless have an important role to play in showing leadership and maintaining an ethical culture.

All the political parties need to get a lot more organised and coherent about standards in local authorities. That would still be important even if local authorities had the power to sanction councillors.¹³⁷

Dame Stella Manzie DBE

The role of party groups in maintaining an ethical culture can be conceptualised in two ways. The first is a 'parallel' model, where the activities of political groups are undertaken in parallel alongside activities of the local

authority, for example, parallel disciplinary processes, training, and so on. The second is a 'layered' model, where political groups play a distinct role that sits between direct advice from officers on the one hand and formal processes undertaken by the local authority on the other.

We see risks in local authorities adopting a 'parallel' model. In practice, parallel processes will mean either that political groups are not used and engaged with effectively, which neglects opportunities for informal training and resolution; or that the effective standards training and discipline become, in time, delegated to political groups, which lacks the necessary checks, independence, and transparency. Such a model also tends to depend heavily on individual post-holders, which means that the authority may face standards risks if there is a change either in political leadership or in those occupying senior officer posts.

Rather, local authorities should see political groups as a semi-formal institution in the 'layered' model. We heard that group whips will often see mentoring new councillors and supporting existing councillors as an important part of their role. When it comes to training, local authorities should value and utilise the informal mentoring and support within political groups that can complement the formal training offered by the local authority and advice from officers. Senior officers should regularly engage with group whips and group members to understand the training needs of members and to ensure that the right expectations are set for how councillors act in the chamber, on committees, with officers, and on outside bodies.

With respect to disciplinary processes, ideally the Monitoring Officer or deputy should

¹³⁶ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018

¹³⁷ Dame Stella Manzie DBE, Individual oral evidence, Monday 20 August 2018



seek early, informal resolution of emerging issues with members. If, for whatever reason, it is considered that a direct approach is inadvisable or the issue is politically sensitive, senior officers should seek to work with group leaders and whips in order to address the issue of a member's conduct. Where there is a formal complaint, or the issue is a serious one, the formal standards processes should be followed, with the necessary checks and transparency.

There is a balance here, and it is about degrees; I know there are times when it's right to go through a formal process in the council with the greater transparency that brings. But there are also times when any sanction would fail if it went through that process. But actually the person probably has gone further than they should have done, it's up against that fine line of the Seven Principles and what they need is a stern warning. It's better sometimes to have that reflected on during 30 days' suspension from their group rather than go through a formal process that finds that there is insufficient evidence.¹³⁸

**Cllr Rory Love, Chairman,
Conservative Councillors' Association**

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

We heard evidence of the difficulties presented by new political groups, or independent members who sit outside the formal group structures. New political groups will not always enable the mentoring of new councillors, to

set expectations of behaviour, or for officers to draw on long-standing working relationships with group leaders. In the case of councillors who sit outside group structures, party discipline and the use of informal approaches to deal with potential misconduct are not possible. As a result, we heard that, generally, political groups can maintain ethical standards more effectively in an authority when they tend to be larger and better resourced. This points to a need for officers to provide greater support and ensure a full induction process for councillors who lack the support of an established political group.

Building an ethical culture

The aim of a standards system is ultimately to build an ethical culture: to embed high standards throughout an organisation, so that it becomes an integral part of how the organisation works as a whole, and how each individual person goes about their role within it. Having a system which effectively investigates complaints which is punitive where necessary is important; what is more important is a system which enables good behaviour.

An ethical culture starts with tone. A civil tone when conducting politics is the basic starting point for a healthy ethical culture. This is true both for the relationship between councillors and officers, and the relationship between different councillors. A common aim of elected members and those supporting them is to work for the benefit of the community they all serve. This provides a solid basis for an ethical culture. Of course, such civility does not mean that individual members or officers should not feel free to challenge or pursue inquiries, but concerns can be expressed in such a way as to be constructive and civil in tone.

Secondly, a local authority needs to set clear expectations of behaviour, as well as its

¹³⁸ Cllr Rory Love, Individual oral evidence, Wednesday 27 June 2018



underlying rationale, namely to enable the local authority to perform its functions in a way which is in the public interest. This behaviour needs to be modelled by senior leaders and the expectations of behaviour need to be followed through in advice from officers and group leaders, and any party discipline or sanctions process. The expected behaviour of councillors needs to be set out at an early stage in induction and training programmes.

Our evidence from local authorities suggests that induction for councillors at the earliest stage is crucial to ensuring high standards of conduct. Councils we visited that had not previously arranged training or left it until the dynamics of the groups were set after a new term, were now putting plans in place to ensure that training could occur at an earlier stage in subsequent terms. Councils who perceived they had an effective ethical culture attributed this to early and effective induction of councillors with clear messages from senior leadership about attendance.

To be successful, induction training should not be dry or compliance-focussed, but should set out the rationale for high standards in public life, and should be scenario-based so that councillors can engage with concrete examples and see the relevance of standards to different areas of activity in which they might be involved.

The evidence we received suggests that such training, even where offered, may not always be taken up by councillors. We therefore suggest that a stronger role should be played by political groups and national political parties to ensure that councillors attend relevant training on ethical standards where this is offered by their local authority.

Recommendation 25: Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.

We have considered whether any particular voting pattern – electing councillors every four years, in halves, or in thirds – makes it easier to induct councillors or to preserve an ethical culture. We have concluded that each pattern has advantages and drawbacks in preserving an ethical culture, given the trade-off between regularity of turnover, and the proportion of councillors who are potentially replaced at each election. There is no ‘optimal’ pattern; what matters more is early induction by the local authority.

Thirdly, an objective, impartial Monitoring Officer, who enjoys the confidence of members and of senior officers, is essential. It is important that councillors of all parties know that they can approach the Monitoring Officer in confidence for authoritative and impartial advice.

Fourthly, an ethical culture is an open culture. A local authority should take an open approach to its decision-making, with a presumption that reports and decisions should be public unless there are clear and lawful reasons that the information should be withheld.

When scrutiny is seen as an unnecessary evil and that is what the culture is, it is difficult to know whether decisions are being made properly.¹³⁹

**Max Caller CBE, Commissioner,
Northamptonshire County Council**



We have been concerned by reports of councils relying unnecessarily on commercial confidentiality as a reason to withhold information, and of using informal working groups or pre-meetings in order to hold discussion out of the view of the public, in full cabinet or full council. As the House of Commons Communities and Local Government Committee concluded in relation to commercial information held by local authorities, “[...]we cannot see a justification for withholding such information from councillors [...] councils should be reminded that there should always be an assumption of transparency whenever possible, and that councillors scrutinising services need access to all financial and performance information held by the authority”.¹⁴⁰

High quality and engaged local journalism can help to maintain standards by bringing to light council’s decisions and councillors’ behaviour. We heard in Camden Council, for example, that maintaining an ethical culture was helped by a highly engaged civic community and strong local press, due to the expectation that behaviour and decisions would be publicly reported.

In Camden, we have a very active local press. There is not much that we do that doesn’t get reported. That is probably one (amongst a number) of the positive drivers towards high standards among councillors – what our councillors do and how they behave matters as it is noticed and reported on.¹⁴¹

**Andrew Maughan, Monitoring Officer,
Camden Council**

We are aware, however, that there is a decline of public interest journalism undertaken by the local press in many areas of the country. In some areas of the UK, public-interest journalism is undertaken privately by bloggers, but the quality of such journalism can vary significantly. This suggests to us that local government as a sector cannot rely on public interest journalism to provide the requisite transparency in decision-making; rather local authorities must have the right processes and attitudes in their own organisation to enable external scrutiny of behaviour and decisions.

The role of public-interest journalism is ‘telling people things they didn’t know’. It includes both an investigative aspect and encouraging public engagement with local democracy.¹⁴²

Darryl Chamberlain, editor, 853 blog

The scrutiny function within a local authority is vital to ensure effective and ethical decision-making. An authority should welcome and support scrutiny, seeing it as an opportunity to improve the quality of decision-making by challenging assumptions, probing policy intent, and testing viability. An authority should ideally take a risk-based approach to scrutiny, submitting decisions which carry the greatest risk to the greatest degree of scrutiny. The definition of risk should be based on the risk to the public interest, in respect of the authority’s duties, not reputational risk to the organisation.

¹⁴⁰ House of Commons Communities and Local Government Committee (2017), *Effectiveness of local authority overview and scrutiny committees*, HC 369, para 41

¹⁴¹ Andrew Maughan, Visit to Camden Council, Monday 15 October 2018

¹⁴² Darryl Chamberlain, Individual oral evidence, Tuesday 4 September 2018



[In an unhealthy organisational culture], self regard takes over and leaders end up spending their time looking at risk registers about reputational damage, rather than what the risks to the public are.¹⁴³

**Barry Quirk CBE, Chief Executive,
Royal Borough of Kensington &
Chelsea**

Common law rights of councillors to know what is going on are well established in local government. It is not about regulations (although they are there), it is about making sure the culture says 'these people are elected and have entitlement to know and there are some rules about confidentiality'. They can't pursue cases where they have individual reasons for not being involved.¹⁴⁴

**Max Caller CBE, Commissioner,
Northamptonshire County Council**

Councils should be open to processes such as peer review, for example, as offered through the Local Government Association, in order to test the effectiveness of their culture and organisational and governance structures. Such reviews should also include consideration of the processes the authority has in place to maintain ethical standards.

Recommendation 26: Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.

In the first instance, officers and portfolio-holders need to take decisions in a way that are open to scrutiny by council members. Local government differs from central government in that officials are accountable to full council, not to the administration. Council officers therefore have a general obligation to provide information to councillors and to account for decisions to councillors. Officers should ensure that members are aware of their right to gain information and to ask questions, and the culture of the authority should reflect the accountability of officers and the administration to full council.

¹⁴³ Barry Quirk CBE, Individual oral evidence, Wednesday 19 September 2018

¹⁴⁴ Max Caller CBE, Individual oral evidence, Thursday 20 September 2018



Conclusion

High standards of conduct in local government are needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Throughout this review, we have seen and heard that both councillors and officers want to maintain the highest standards in their own authorities. The challenge is to maintain a system that serves the best instincts of councillors and officers, whilst guarding against corporate standards risks, and addressing the problem of a small minority of councillors who demonstrate unacceptable behaviour.

A robust system, which includes adequate codes of conduct, investigation mechanisms and safeguards, and – where necessary – punitive sanctions, is important. What is more important, however, is a system and culture that enables good behaviour.

Our recommendations represent a package of reforms to strengthen and clarify the existing framework for local government standards. Whilst many of our recommendations would require primary legislation – whose implementation would be subject to Parliamentary timetabling – we would expect that those recommendations only requiring secondary legislation or amendments to the Local Government Transparency Code could be implemented by government relatively quickly. The best practice we have identified is, in most cases, already operating in a number of local authorities. Taken as a whole, this best practice represents a benchmark that any local authority in England can and should implement in their own organisation. We intend to monitor the uptake of our best practice in 2020.

Ultimately, however, responsibility for ethical standards rests, and should remain, with local authorities. Senior councillors and officers must show leadership in order to build and maintain an ethical culture in their own authority.

We are confident that local government in England has the willingness and capacity to maintain the highest standards in public life; the recommendations and best practice we have outlined will enable them to do so.



Appendix 1: About the Committee on Standards in Public Life

The Committee on Standards in Public Life (the Committee) is an advisory non-departmental public body sponsored by the Cabinet Office. The chair and members are appointed by the Prime Minister.

The Committee was established in October 1994, by the then Prime Minister, with the following terms of reference: *“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.”*

The remit of the Committee excludes investigation of individual allegations of misconduct.

On 12 November 1997, the terms of reference were extended by the then Prime Minister: *“To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements.”*

The terms of reference were clarified following the Triennial Review of the Committee in 2013. The then Minister for the Cabinet Office confirmed that the Committee *“[...] should not inquire into matters relating to the devolved legislatures and governments except with the agreement of those bodies”, and that “the government understands the Committee’s remit to examine ‘standards of conduct of all holders of public office’ as encompassing all those involved in the delivery of public services, not solely those appointed or elected to public office”.*

The Committee is a standing committee. It can not only conduct inquiries into areas of concern about standards in public life, but can also revisit those areas and monitor whether and how well its recommendations have been put into effect.

Membership of the Committee, as of January 2019

Lord (Jonathan) Evans of Weardale KCB DL,
Chair

The Rt Hon Dame Margaret Beckett DBE MP
Simon Hart MP

Dr Jane Martin CBE

Dame Shirley Pearce DBE

Jane Ramsey

Monisha Shah

(leave of absence since October 2018)

The Rt Hon Lord (Andrew) Stunell OBE

Secretariat

The Committee is assisted by a Secretariat consisting of Lesley Bainsfair (Secretary to the Committee), Ally Foat (Senior Policy Advisor), Stuart Ramsay (Senior Policy Advisor), Nicola Richardson (Senior Policy Advisor) (from January 2019), Aaron Simons (Senior Policy Advisor) (from January 2019), Lesley Glanz (Executive Assistant) (from December 2018) and Amy Austin (Executive Assistant and Policy Advisor). Press support is provided by Maggie O’Boyle.

Professor Colin Copus acted as academic advisor to the Committee during the review.



Appendix 2: Methodology

The Committee used a range of methods as part of its evidence gathering for this review, including:

- a public consultation, which received 319 responses, published online alongside our review
- 30 individual stakeholder meetings
- desk research, including:
 - research on the legal framework for local government standards
 - analysis of a sample of 20 principal authority codes of conduct
 - analysis of reports of corporate failure
- roundtable seminars, with Monitoring Officers, clerks and Independent Persons; and academics and think tanks
- five visits to local authorities in England

Stakeholder meetings

The Committee held 30 meetings with individual stakeholders. These meetings were all held on the basis that the no note of the meeting would be published, and material from the meeting would only be quoted in our report with the permission of the individual concerned.

Name	Role and organisation
Marie Anderson	Northern Ireland Local Government Commissioner for Standards
Nick Bennett	Public Service Ombudsman for Wales
Clive Betts MP	Chair, House of Commons Housing, Communities and Local Government Committee
Max Caller CBE	Best Value Inspector, Northamptonshire County Council
Darryl Chamberlain	Editor, 853 blog
Kirsty Cole	Deputy Chief Executive, Newark and Sherwood District Council
Kevin Dunion OBE*	Convenor, Standards Commission for Scotland
Jonathan Goolden	Wilkin Chapman LLP
Justin Griggs	National Association of Local Councils



Name	Role and organisation
Cllr Liz Harvey	Councillor and subject of R (Harvey) v Ledbury Town Council
Cllr Simon Henig CBE	Chair, Association of Labour Councillors
Mayor Dave Hodgson	Chair, Association of Liberal Democrat Councillors
Lorna Johnston	Executive Director, Standards Commission for Scotland
Lord (Robert) Kerlake	Former Permanent Secretary, Department of Communities and Local Government
Michael King	Local Government Ombudsman
Cllr Rory Love	Chairman, Conservative Councillors' Association
Dame Stella Manzie DBE	Former Chief Executive, Birmingham City Council
Graeme McDonald	Chief Executive, Solace
Jacqui McKinlay	Chief Executive, Centre for Public Scrutiny
Diana Melville	Governance Advisor, CIPFA (The Chartered Institute of Public Finance and Accountancy)
Aileen Murphie and Abdool Kara	National Audit Office
Mark Norris	Local Government Association
Cllr Marianne Overton MBE	Local Government Association Vice Chair (Independent)
David Prince CBE	Former Chief Executive, Standards for England, and former member of CSPL
Dr Barry Quirk CBE	Chief Executive, Royal Borough of Kensington and Chelsea
Cllr David Simmonds CBE	Former Local Government Association Vice Chair (Conservative)
John Sinnott and Lauren Haslam	Chief Executive and Director of Law and Governance, Leicestershire County Council
Rishi Sunak MP	Minister for Local Government
Richard Vize	Former editor, Local Government Chronicle
Rob Whiteman	Chief Executive, CIPFA (The Chartered Institute of Public Finance and Accountancy)

* Presentation on the work of the Standards Commission for Scotland at the Committee's October 2018 meeting



Roundtable seminars

The Committee held two roundtable seminars as part of this review. The first took place on Wednesday 18 April 2018 in Birmingham, with Monitoring Officers, clerks, and Independent Persons, and was held on the basis that a non-attributed summary note of the seminar would be published following approval by attendees, but verbatim material from the seminar would only be quoted in our report with the permission of the individual concerned. The summary note was published on our website on 14 May 2018. The second took place on Tuesday 24 April 2018, with academics and think tanks, and was held on the basis that a transcript of the seminar would be published following approval by attendees. This was published on our website on 14 May 2018.

Monitoring Officers, Clerks, and Independent Persons roundtable Wednesday 18 April

Name	Organisation
Dr Peter Bebbington	Stratford-upon-Avon District Council
Lord (Paul) Bew	Committee on Standards in Public Life
Kate Charlton	Birmingham City Council
Tom Clark	Mid Sussex District Council
Professor Colin Copus	Local Governance Research Unit, Leicester Business School
Jonathan Goolden	Wilkin Chapman LLP
Philip Horsfield	Lawyers in Local Government
Simon Mansell MBE	Cornwall Council
Tim Martin	West Midlands Combined Authority
Dr Jane Martin CBE	Committee on Standards in Public Life
Sharn Matthews	Northampton Monitoring Officers Group
Megan McKibbin	Ministry of Housing, Communities and Local Government
Lis Moore	Society of Local Council Clerks
Dr Jonathan Rose	Department of Politics & Public Policy, De Montfort University
Richard Stow	Herefordshire County Council
Meera Tharmarajah	National Association of Local Councils
Jeanette Thompson	North Hertfordshire District Council



Academics and think tanks roundtable Tuesday 24 April 2018

Name	Organisation
Lord (Paul) Bew	Committee on Standards in Public Life
John Cade	INLOGOV, University of Birmingham
Professor Colin Copus	Local Governance Research Unit, Leicester Business School
Ellie Greenwood	Local Government Association
Paul Hoey	Hoey Ainscough Associates
Dr Jane Martin CBE	Committee on Standards in Public Life
Megan McKibbin	Ministry of Housing, Communities and Local Government
Jacqui McKinlay	Centre for Public Scrutiny
Mark Norris	Local Government Association
Dame Shirley Pearce DBE	Committee on Standards in Public Life
Jane Ramsey	Committee on Standards in Public Life
Rt Hon Lord (Andrew) Stunell OBE	Committee on Standards in Public Life
Brian Roberts	CIPFA (Chartered Institute for Public Finance and Accountancy)
Professor Tony Travers	London School of Economics and Political Science
Daniel Thornton	Institute for Government



Local authority visits

The Committee undertook visits to five principal authorities in England. The five local authorities were selected to ensure a representative range of geographies, tiers of local government, and political control. All five authorities had made written submissions to the Committee's consultation.

Local authority	Date	Meetings
Uttlesford District Council	10 September 2018	Standards committee; Chief Executive; Monitoring Officer; Independent Persons; parish council chair; Essex Association of Local Councils
Worcestershire County Council	11 September 2018	Standards committee; group leaders; Chief Executive; Monitoring Officer; Independent Person; independent members of standards committee
Leeds City Council	18 September 2018	Standards committee; Chief Executive; Deputy Monitoring Officer; Independent Person; Leader and Deputy Leader; Leader of the Opposition; group whips; community representative
Cornwall Council	24 September 2018	Standards committee; Chief Executive; Monitoring Officer and Deputy Monitoring Officer; Leader; Independent Persons; independent members of standards committee; Cornwall Association of Local Councils
Camden Council	15 October 2018	Monitoring Officer; Chief Executive; Administration Chief Whip; Leader of the Opposition; Independent Person*

*Follow-up telephone conversation

Committee on Standards in Public Life

Room GC.07, 1 Horse Guards Road, London SW1A 2HQ

Tel: 020 7271 2948

Email: public@public-standards.gov.uk

January 2019

Report for: Standards Committee 14th October 2019

Item number:

Title: Recruitment of Independent Members for Standards Committee and Staffing and Remuneration Committee

Report

authorised by: Bernie Ryan Assistant Director of Corporate Governance & Monitoring Officer

Lead Officer: Gina Clarke, Principal Lawyer (Employment, Education & Corporate) gina.clarke@harringeys.gov.uk

Ward(s) affected: N/A

Report for

Key/

Non-Key Decision: Non-Key Decision

1. Describe the issue under consideration

- 1.1 This report seeks approval to commence the recruitment of Independent Persons to support the Standards Committee in relation to allegations that members or co-opted members have failed to comply with the Member's Code of Conduct, and to be considered for appointment to the Staffing and Remuneration Committee when considering the dismissal of either the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

2. Cabinet Member Introduction

N/A

3. Recommendations

That the Standards Committee:

- a) Approve the commencement of the recruitment exercise for two Independent Persons.
- b) Propose the annual allowance for Independent Persons of £1,250 for the primary member and £250 for the secondary member (subject to Council approval).
- c) Propose that the Independent Persons appointed shall also be available to be considered for appointment to the relevant committee appointed by the Council (currently Staffing and Remuneration Committee) which is responsible for advising the Council on matters relating to the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer (subject to Council approval).

4. Reasons for decision

- 4.1 The Council has a legal duty to put in place arrangements for having an Independent Person in relation to allegations of breaches of the Code of

Conduct. It must also have in place arrangements for at least two Independent Persons to participate in recommendations in relation to the dismissal of statutory officers. The law requires that IPS appointed in relation to the Standards regime to be invited to participate in this process.



5. Alternative options considered

5.1 Under section 28(7) of the Localism Act 2011 the Council must appoint at least one Independent Person (IP) whose views are to be sought and taken into account by the Council before it makes its decisions on allegations about breaches of the Code of Conduct by Members or co-opted Members of the Council.

5.2 Under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the Council must also have in place arrangements for inviting IPS to be involved in making recommendations to Council before any decision to dismiss a statutory officer is made. Authorities must invite any IPS supporting the Standards Committee for this purpose although it is also possible to use IPS from other authorities for this purpose where the authority considers it appropriate.

6. Background information

6.1 The Independent Person is someone whose views are sought and taken into account by the Council before it makes a decision following an investigation into a breach of the Code of Conduct by a member. Their views can also be sought by the Council in circumstances other than these, and by a member or co-opted member who is the subject of a complaint of breach of the Code.

6.2 An IP must be appointed following an advertisement and application process and confirmation by full Council. These appointments must be made at the latest, by the May 2020 Annual Council Meeting.

6.3 The Council appointed two Independent Persons in July 2016 (a primary and a secondary/deputy IP) and although only the primary IP has been engaged in respect of these duties, it is considered good practice to have a secondary IP as a reserve, not least because of the additional duties for which the IPS may now be used.

6.4 The law provides that a person may not be an IP if he or she is a Member, a co-opted Member or an officer of the Council, or a relative of close friend thereof. It also provides that a person may not be appointed if they were a Member or co-opted Member at any time during the 5 years ending 30 June 2020. However, the law does not place any restriction in relation to the length of appointment of an IP. It has been the practice of the Council to appoint IPS for a term of four years. The incumbent primary IP has provided excellent independent support to the Standards Committee and the Monitoring Officer. However, her term expires on 30th June 2020.

6.5 It is proposed that following Standards Committee approval, the recruitment

process is commenced. It will involve an advertisement, application process, and interviews held by a panel of members drawn from the Standards Committee and the Monitoring Officer, which will recommend appointments to full Council.

6.6 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 provide that where a decision to dismiss any statutory officer is to be taken by full Council, before that decision is taken the Council must invite at least 2 IPS to be members of a panel to consider the matter, and take any recommendations from that panel into account before taking their final decision. The Staffing and Remuneration Committee has been given the role of being the panel for these purposes in the Constitution, IPS appointed to support the standards regime must be invited to sit on this panel. If there are none, or they are unable to participate, any independent persons appointed by another authority may be invited to participate. It is considered most appropriate to utilise the Council's own IPS appointed to support the standards regime for this purpose, and this role has added to their job description (Appendix 1)

6.7 The current primary IP is remunerated at a rate of £1,200 per year and the secondary IP at a rate of £250 per annum. Councils can also remunerate IPS that are invited to participate in recommendations relating to the dismissal of the statutory officers, however the remuneration must not exceed that paid to the IPS under the standards regime. Whilst the views of the IP are regularly sought and her attendance required at hearings relating to breaches of the Code, is it not clear whether the attendance of IPS will be required in relation to the dismissal of a statutory officer.

7. Contribution to strategic outcomes

7.1 Ensuring good governance within the Council and by councillors supports all strategic priorities.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 The finance comments, these will be contained within local democratic services budget as a way forward.

8.2 The comments of the Assistant Director of Corporate Governance are included in the body of this report.

8.3 No equalities implications arise directly from this report; however, the application and interview process will be carried out in line with the council's recruitment policies and will comply with the council's equalities duties.

9. Use of Appendices

Appendix 1 – Independent Person - Person Specification & Job Description

10. Local Government (Access to Information) Act 1985

Localism Act 2011 Part 1 Chapter 7

Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

This page is intentionally left blank

Independent Person Haringey Council Standards Committee and dismissal of Council Statutory Officers

Person specification and job description

Person Specification:

The successful candidate must have the following Essential skills and abilities:

- 1 . Good analytical, questioning and interpersonal skills
2. Able to observe confidentiality at all times
3. Experience of decision making skills involving sensitive issues
4. Objective, impartial, open minded with a high level of integrity
5. Political awareness but independent of any political party
6. Interested in local government
7. On the register of local government electors
8. Sufficient time to devote to the appointment

Desirable skills and abilities:

9. An understanding of the role of a Council and its Councillors
10. An understanding and interest in standards of conduct in public life
- 1 1. Experience of dealing with people and matters where conduct and actions must be of the highest standard
12. A commitment to the effective provision of public services

Job Description:

The successful candidate(s) will be required to:

1. Promote and maintain high standards of conduct by councillors and coopted members
2. Provide views to the Standards Committee before it takes a decision following an investigation about a breach of the Code of Conduct for Councillors, before a decision is made about the allegation;

Appendix 1 Recruitment of Independent Person

3. If requested, provide views to the Standards Committee and/or the Monitoring Officer about allegations where no investigation has taken place or before an investigation has been commenced;
4. If requested, provide views to a member or co-opted member of the authority whose behaviour is the subject of a complaint that they have breached the Code of Conduct;
5. Be considered for appointment to the Council's Committee (currently Staffing and Remuneration Committee) responsible for advising the Council on the dismissal of the Council's Head of Paid Service, Chief Finance Officer and Monitoring Officer.

To ensure your voice is truly independent, the law rules you out for this role if you are currently a member, co-opted member or employee of Haringey Council, or you are a relative or close friend of any such person. It also rules you out if you were a member or co-opted member of the authority in the previous 5 years prior to appointment.

Appendix 1 Recruitment of Independent Person

Independent Person - Haringey Council

Are you interested in promoting high ethical standards in Haringey Council?

Haringey Council has a statutory duty to promote and maintain high standards of conduct for your elected councillors and co-opted members. We take this responsibility seriously and have a Code of Conduct which sets out the key obligations which must be observed.

If an allegation is made that a member or co-opted member has failed to comply with the Code of Conduct we want someone who views can be sought (either by the Council Standards Committee, Monitoring Officer or the member concerned) before a decision is made about what to do. This Independent Person position is a requirement created by the Localism Act 2011.

In addition, new Regulations in 2015 require an Independent Person to be involved in making recommendations to the Council where the Council is considering dismissing its key Statutory Officers.

We are looking for applicants who:

- Can offer the profile and experience which the community would recognise and respect as bringing an independent and informed perspective to the consideration of complaints about member conduct
- Are familiar with ethical questions and the development and interpretation of codes of conduct
- Have good analytical and interpersonal skills
- Experience of decision making skills involving sensitive issues
- Are objective, impartial and have a high level of integrity
- Are independent of any political party.

To ensure your voice is truly independent, the law rules you out for this role if you are currently a member, co-opted member or employee of Haringey Council, or you are a relative or close friend of such a person. The law also rules you out if you have been a member, co-opted member or employee of Haringey Council in the 5 years prior to any appointment.

The post carries an allowance of £1250 per annum for the primary appointment with £250 for any deputy appointed. The appointments will be for 4 years.

Appendix 1 Recruitment of Independent Person

If you would like to have an informal discussion about this role, please contact Bernie Ryan, the Council's Assistant Director of Corporate Governance and Monitoring Officer of 020 8489 3974 or email: Bernie.Ryan@haringey.gov.uk.

An application form and information pack can be obtained on the Council's website at www.haringey.gov.uk or from Ayshe Simsek, Acting Democratic Services Manager on 020 8489 2920 or email: ayshe.simsek@haringey.gov.uk.

The closing date for applications is TBC

Interviews are to be held in the evening during the week commencing TBC

Report for: Standards Committee 14 October 2019

Title: Work Programme

Report authorised by : Bernie Ryan, Assistant Director Corporate Governance and Monitoring Officer

Lead Officer: Ayshe Simsek| 020 8489 2929 | ayshe.simsek@haringey.gov.uk

Ward(s) affected: N/A

**Report for Key/
Non Key Decision: Non-Key**

1. Describe the issue under consideration

- 1.1 Members to note current work programme and put forward any comments on suggested areas of work.

23rd January 2020.

1. Shortlisting applications for Independent Members
2. Draft report on Member's Allowance 2020/21
3. Report on Co-opted Members

2nd March 2020.

1. Recommendations for Members Allowance Scheme 2020/21
2. Council report on Independent members for Standards Committee 2020 - 2024

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is exempt

This page is intentionally left blank