
Chapter 7 – Ethical Governance

Part 1 – Article 9 – The Standards Committee

1. Standards Committee

- 1.1 The Council is required by Part 3 of the Local Government Act 2000 to establish a Standards Committee.

2. Composition

- 2.1 The Standards Committee must comprise Councillors (only one of whom may be a Member of the Cabinet) and at least 25% must be independent co-opted Members. Beyond this requirement the Council has considerable discretion over the composition of the Standards Committee. Council has resolved that the Standards Committee shall comprise of 6 Councillors (only one being a Member of the Cabinet) and 6 independent co-opted Members.
- 2.2 The appointment of Councillors to the Standards Committee is not required to be proportional to the strength of party groups but, by convention, the seats are appointed as if they were subject to proportionality.
- 2.3 The independent co-opted Members will be appointed for a 4-year term of office (or to fill the balance of a 4-year term left on the departure of an independent co-opted Member) and must not have been a Member or an Officer of the Council in the previous 5 years.
- 2.4 In addition, the Council may co-opt to the Standards Committee an independent co-opted Member of the Standards Committee of another local authority, either for a fixed term or in respect of any particular matter. All co-opted independent Members have full voting rights on the Committee and Sub-Committees.
- 2.5 The Chair of the Standards Committee and of any Sub-Committee shall be selected from the independent co-opted Members and shall have a casting vote in the event of a vote being tied.
- 2.6 In order for a meeting of the Standards Committee or a Sub-Committee to be quorate, there must be at least three Members present, including at least one independent co-opted Member and one Councillor.

3. Role and function

- 3.1 The role and function of the Standards Committee and its Sub-Committees are set out in Part 2 of this Chapter.

Part 2 (a) – The Standards Committee – composition and terms of reference

1. The Standards Committee

1.	STANDARDS COMMITTEE	
Appointed by:	Number of Elected Members:	
The Council, in accordance with section 53 of the Local Government Act 2000, and Regulations made thereunder. Appointment of independent and elected Members shall be approved by full Council	6 independent Members 6 elected Members (only one of whom may be a Cabinet Member) The Executive Leader / Mayor may not be a Member of the Committee	
Chair and Vice-Chair appointed by:	Political Proportionality:	
1. The Chair will be an independent Member and shall be elected by the Committee. 2. There will be one Deputy Chair, who shall be elected by the Committee from the independent Membership of the Committee. 3. The independent Deputy-Chair shall deputise for the independent Chair in his or her absence.	Rules of political proportionality do not apply. Substitutes: Substitutes are permitted for the Standards Committee. Frequency: At least quarterly. Venue: As set out in the approved Calendar of Meetings.	
Quorum:	Co-opted Members to be appointed by Council:	
At least 3 Members of the Committee including at least one independent Member and one elected Member.	At least 50% of Members of the Standards Committee are required by this Constitution to be independent Members	
Terms of Reference		
1.1 The Standards Committee will have the following roles and functions:		
<ul style="list-style-type: none"> (a) promoting and maintaining high standards of conduct by Councillors, Co-Opted Members (b) assisting Councillors and co-opted Members to observe the Members' Code of Conduct (c) advising the Council on the adoption or revision of the Members' Code of Conduct (d) monitoring the operation of the Members' Code of Conduct (e) advising, training or arranging to train Councillors, or Co-Opted Members on matters relating to the Members' Code of Conduct (f) assessing and reviewing and determining complaints about Members of the Council and co-opted Members (g) granting dispensation to Councillors, or Co-Opted Members from requirements relating to interests set out in the Members' Code of Conduct 		

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| <p>(h) granting exemptions for politically restricted posts</p> <p>(i) monitoring and advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council</p> |
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2. Composition and Terms of Reference of Standards Sub-Committees

1.	INITIAL ASSESSMENT SUB-COMMITTEE	
Appointed by:	The Council, for the purposes of section 57A of the Local Government Act 2000.	Number of Elected Members: 4 Members appointed by the Monitoring Officer from a panel comprising all Members of the Standards Committee. The Sub-Committee shall include 2 independent Members and 2 elected Members.
Chair and Vice-Chair appointed by:	The Chair will be an independent Member and shall be elected by the Sub-Committee at each meeting.	Political Proportionality: Rules of political proportionality do not apply. Substitutes: None. Frequency: As and when required. Venue: To be determined by the Monitoring Officer.
Quorum:	At least 3 Members including at least two independent Members	Co-opted Members to be appointed by Council: At least 2 independent Members must sit on the Sub-Committee.
Terms of Reference		
<p>1.1 To assess initially all written complaints received by the Council's Monitoring Officer on the appropriate complaints form for such purposes or such written complaints submitted by a letter/e-mail/fax setting out all relevant information required on the appropriate complaints form.</p> <p>Note: The Standards (Initial Assessment) Sub-Committee will only have jurisdiction to consider written allegations that an elected or co-opted Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct for Members.</p> <p>2.2 To determine one of the following courses of action in respect of the allegation:</p> <p>(a) To decide that no action should be taken in respect of the allegation</p> <p>To ask for additional information from the complainant on the allegation before concluding the initial assessment</p> <p>If the allegation is likely to be substantiated and it is in the public interest to warrant Council funds being spent on a local investigation, to refer the allegation to the Council's Monitoring Officer for investigation, or with an instruction that he/she arranges training, conciliation or such other appropriate</p>		

action as might be permitted by the relevant legislation;

If the matter is of a serious nature (for example, the potential sanction(s) available might not be sufficient for the Standards (Hearings) Sub-Committee to deal with), to refer the allegation to the Standards for England for investigation; or

Where the allegation is in respect of a person who is no longer a Member of the Council, but is a member of another relevant authority (as defined in section 49(6) of the Local Government Act 2000), to refer the allegation to the Monitoring Officer of that other authority.

To authorise the Monitoring Officer is authorised to take all reasonable steps to implement the Sub-Committee's decision(s) with reasons, and to notify the complainant and Subject Member of that decision.

2.	REVIEW SUB-COMMITTEE	
Appointed by: The Council, for the purposes of section 57B of the Local Government Act 2000.	Number of Elected Members: 4 Members appointed by the Monitoring Officer from a panel comprising all Members of the Standards Committee. The Sub-Committee shall include 2 independent Members, 2 elected Members.	
Chair and Vice-Chair appointed by: The Chair will be an independent Member and shall be elected by the Sub-Committee at each meeting.	Political Proportionality: Rules of political proportionality do not apply. Substitutes: None. Frequency: As and when required. Venue: To be determined by the Monitoring Officer.	
Quorum: At least 3 Members including at least two independent Members	Co-opted Members to be appointed by Council: At least 2 independent Members must sit upon the Sub-Committee.	
Terms of Reference		
2.1	Upon the request of a person who has made an allegation that a Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct, to review a decision of the Standards (Initial Assessment) Sub-Committee that no action is taken in respect of that allegation.	
2.2	To take any of the decisions as set out in paragraph 2.2 of the terms of reference of the Standards (Initial Assessment) Sub-Committee.	

3.	CONSIDERATION, PRE- HEARING AND HEARINGS SUB-COMMITTEE	
Appointed by: The Council, for the purposes of sections 57A and 66 of the Local Government Act 2000.	Number of Elected Members: 4 Members appointed by the Monitoring Officer from a panel comprising all Members of the Standards Committee. The Sub-Committee shall include 2 independent Members, 2 elected Members.	
Chair and Vice-Chair appointed by: The Chair will be an independent Member and shall be elected by the Sub-Committee at each meeting.	Political Proportionality: Rules of political proportionality do not apply. Substitutes: None. Frequency: As and when required. Venue: To be determined by the Monitoring Officer.	
Quorum: At least 3 Members including at least two independent Members	Co-opted Members to be appointed by Council: At least 2 independent Members must sit upon the Sub-Committee.	
Terms of Reference		
<p>3.1 Consideration of investigation reports prepared by or on behalf of the Monitoring Officer following a referral by the Assessment Sub-Committee on an initial assessment or following a referral by the Review Sub-Committee and determine:</p> <ul style="list-style-type: none"> (a) That it accepts the Monitoring Officer's finding of no failure (a finding of acceptance) to comply with the code of conduct (b) That the matter should be considered at a Hearing of the Standards Committee Consideration, Pre-hearing and Hearing Sub-Committee (c) That the matter should be referred to the First Tier Tribunal for determination <p>3.2 After making a finding of acceptance, the Consideration, Pre-Hearing and Hearing Sub-Committee shall give written notice to the subject Member and complainant as required by Regulations.</p> <p>3.3 At the request of the Monitoring Officer and Chair of the Standards Committee to hold a Pre Hearing to:</p> <ul style="list-style-type: none"> (a) Identify whether the subject Member disagrees with any of the findings of fact in the investigation report (b) Identify whether those disagreements are likely to be relevant to any matter the Hearing needs to decide (c) Identify whether evidence about those disagreements will need to be heard during the Hearing 		

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- (d) Decide whether there are any parts of the Hearing that are likely to be held in private
- (e) Decide whether any parts of the investigation report or other documents should be withheld from the public prior to the Hearing, on the grounds that they contain “exempt” material
- 3.4 To conduct the Hearing of an allegation that a subject Member or Co-opted Member is in breach of the Code of Conduct in accordance with the law and Standards for England Guidance.
- 3.5 Following a Hearing, make one of the following findings:
- (a) That the subject Member has not failed to comply with the Code of Conduct
- (b) That the Subject Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters considered at the Hearing
- (c) That the subject Member has failed to comply with the Code of Conduct and that a sanction should be imposed
- 3.6 If the Sub-Committee makes a finding under paragraph 3.5(c) it shall impose any one of or any combination of sanctions that are available to a Standards Committee by law and outlined in the Procedure for a Hearing.
- 3.7 As soon as reasonably practicable, after making a finding under paragraph 3.5, it shall provide written notice of the finding and the reasons for it to the subject Member / complainant, the Standards for England and the Standards Committee of any other authority concerned.

Part 2 (b) – Thurrock Council Local Assessment Protocol

1. Introduction

- 1.1 This protocol has been developed to inform complainants and Members of the procedure involved in managing the Local Assessment function of Thurrock Council's Standards Committee.

2. The Complaint

- 2.1 The complaint form may be found on the internet but if a complainant telephones the Monitoring Officer, a complaint form can be sent out in the post and returned to the Monitoring Officer.
- 2.2 A mailbox address has been created, which is: standardscommittee@thurrock.gov.uk. This will be checked daily to monitor any complaints received.

3. Acknowledging the Complaint

- 3.1 The Monitoring Officer will acknowledge receipt of the complaint to the complainant within 7 working days.
- 3.2 The Monitoring Officer has the discretion as to whether to notify the Member subject to the complaint. Generally the Monitoring Officer will notify the Member subject to the complaint unless there are exceptional reasons for not notifying the Member. In considering whether to notify the Member that a complaint has been made regarding their conduct, the Monitoring Officer must have regard to section 63 of the Local Government Act 2000 and paragraph 12 of the Standards Committee (England) Regulations 2008 and ensure the legal power exists to make the disclosure.

4. Arranging the Assessment Sub-Committee

- 4.1 The Assessment Sub-Committee is scheduled to meet once a month and will meet if there is any business to be conducted. However, there will be occasions when a Sub-Committee will be out of time and a further Committee may need to be scheduled.

5. Pre-assessment Reports and Enquiries

- 5.1 The Monitoring Officer, or his/her nominated Officer, is to prepare a short summary of the complaint for the Assessment Sub-Committee. This may include the following, depending on the complexity of the complaint:
- (a) Whether the complaint is within jurisdiction
 - (b) Which paragraphs of the Code are alleged to have been breached
 - (c) A summary of key aspects if the complaint is lengthy or complex
 - (d) Any further information that the Officer has obtained to assist the Assessment Sub-Committee, which may include:
 - (i) copy of declaration of acceptance
 - (ii) minutes of meetings
 - (iii) copy of register of interest
 - (iv) information from Companies House or Land Registry
 - (v) other easily obtainable documents
 - (e) Further clarification obtained by contacting the complainant

6. Initial Tests by the Assessment Sub-Committee

- 6.1 Before the formal assessment of the complaint is undertaken, there are three tests to be considered:
- (a) Is the complaint against one of more named Members of the Council?
 - (b) Was the named Member in office at the time of the alleged offence and was the Code of Conduct in force at the time?
 - (c) Would the complaint, if proven, be a breach of the Code of Conduct under which the Member was operating at the time of the alleged misconduct?
- 6.2 If the complaint fails one or more of these tests, the complaint cannot be investigated as a breach of the Code of Conduct and the complainant must be notified accordingly.

7. Assessment Criteria

- 7.1 The Assessment sub-Committee will consider the complaint and in doing so may consider any or all of the following criteria:
- (a) Has the complainant submitted enough information to satisfy the Assessment sub-Committee that the complaint should be referred for investigation or other action?
 - (b) Is the complaint about someone who is no longer a Member of the Council but is a Member of another authority? If so, is it pertinent to refer the matter to the Monitoring Officer of that authority?
 - (c) Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct and has the complaint already been subject to an investigation?
 - (d) Is the complaint about something that happened so long ago that there would be little benefit in taking action now?
 - (e) Is the complaint too trivial to warrant further action?
 - (f) Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?
- 7.2 These criteria are not exhaustive, as the Standards Committee will review the assessment criteria on a regular basis.

8. Initial Assessment Decisions

- 8.1 The Assessment Sub-Committee must reach one of three decisions:
- (a) Referral of a complaint to the Monitoring Officer
 - (b) Referral of a complaint to the Standards for England
 - (c) No action to be taken
- 8.2 The assessment should place within 20 working days and must keep to this timescale where possible.

Referral to the Monitoring Officer

- 8.3 The Monitoring Officer must write to all relevant parties notifying them of the decision. If at the time of the notification, a person has been appointed to conduct the investigation, this information may be released if considered appropriate. The notification should contain information about the nature of the allegation and what decision was reached, but it must not explain why a decision has been made. Furthermore, if the Assessment Sub-Committee

consider it to be in the public interest or likely to prejudice an investigation if the Member subject to the complaint was to receive a summary of the complaint, it may decide not to release that information upon receipt of advice from the Monitoring Officer. However, the Assessment sub-Committee may decide to refer to the Monitoring Officer for other action. Please refer to paragraph 10 below for further details.

Referral to the Standards for England

- 8.4 The notification process for referral to the Standards for England is the same procedure as for a referral to the Monitoring Officer. There will be instances where the local Assessment Sub-Committee feels unable to conduct the matter locally, such as in the following examples:
- (a) Seriously complex or sensitive
 - (b) Large number of Members involved
 - (c) Substantial governance dysfunction within the Council
 - (d) Relates to long term systematic Member/Officer bullying
- 8.5 The list is not exhaustive and the Monitoring Officer will give guidance to the Assessment Sub-Committee as to whether the Standards Board for England would be likely to accept such referral.
- 8.6 If the Standards for England decline to investigate, the matter will be referred back to the Assessment Sub-Committee, which must consider the complaint within an average of further 20 working days from the date of the referral back from the Standards for England.

Decision to Take No Further Action

- 8.7 Assessment sub-Committee can decide to take no action for the following reasons:
- (a) Complaint not sufficiently serious
 - (b) Length of time that has elapsed
- 8.8 The decision must have had regard to the assessment criteria. The complainant must be notified of the right to appeal. It should be explained they must write to the Standards Committee setting out the reasons why they are seeking a review.

9. Notification Requirements

- 9.1 The decision of the Assessment Sub-Committee should be conveyed within 30 working days from the date of the initial assessment.

10. Referral for Other Action

- 10.1 A referral for other action may be appropriate where it is not considered good governance to undertake an investigation. The suitability of this course of action will be dependent on the nature of the complaint.
- 10.2 Examples where this may be appropriate are as follows:
- (a) Where the Member has a poor understanding of the Code of Conduct
 - (b) A number of Members failed to comply with the same paragraph
 - (c) Officers gave incorrect advice
 - (d) Inadequate protocols

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- 10.3 This list is not exhaustive and the Assessment Sub-Committee may take the advice from the Monitoring Officer before reaching a decision as the decision to take other action closes the possibility of a full investigation.
- 10.4 In order to ensure co-operation from all parties, the Assessment Sub-Committee should seek written confirmation of the agreement to co-operate. This should set out the following:
- (a) what is being proposed
 - (b) why it is being proposed
 - (c) why they should co-operate
 - (d) what the Standards Committee hopes to achieve
- 10.5 Examples of alternative action include the following:
- (a) arranging for the Member to attend training
 - (b) arranging for the Member and complainant to have mediation
 - (c) instigating changes to protocols and procedures
- 10.6 The type of other action will be dependent on the nature of the complaint.

11. Review of No Further Action

- 11.1 The complainant must write to the Standards Committee setting out the reasons why they would like a review of the decision of the Assessment Sub-Committee. This may be reasonable in view of the following:
- (a) Not enough emphasis has been give to a particular aspect of the complaint
 - (b) There has been a failure to follow the published assessment criteria
 - (c) There has been an error in procedures
- 11.2 This list is not exhaustive as the complainant may have other reasons. The review must be completed within three months of receiving the request but it is recommended to take place within 30 working days. The Member subject to the complaint must be notified.
- 11.3 Members of the Assessment Sub-Committee must not take part in the review.
- 11.4 The Review Sub-Committee must use the same assessment criteria and has the same options available as to what decision to make.
- 11.5 The decision should be sent out within 7 working days of having been taken.

12. Access to Meetings and Decision Making

- 12.1 Initial assessment and review meetings are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.
- 12.2 Therefore, these meetings are closed meetings and not open to the press or public. The Rules do require a written summary to be produced (excepting in circumstances detailed above as to when the Member subject to the complaint is not deemed entitled to have a summary pending an investigation). This summary must contain three elements:
- (a) the main points considered
 - (b) the conclusions on the complaint

- (c) the reasons for the conclusion

13. Withdrawing Complaints

- 13.1 Once a complaint has been made, if a complainant changes their mind and seeks to withdraw the complaint, it is a decision of the Assessment Sub-Committee as to whether it agrees to the complaint being withdrawn.
- 13.2 There are three criteria that must be considered before reaching a decision to allow the complaint to be withdrawn:
- (a) Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
 - (b) Is the complaint such, that action can be taken on it without the need to involve the complainant?
 - (c) Is there an underlying reason for the request to withdraw the complaint?
- 13.3 The Assessment Sub-Committee does not have to agree to allow the complainant to withdraw the complaint.

14. Multiple Complaints

- 14.1 Where several complaints are received regarding the same matter, the Assessment Sub-Committee may consider these complaints at the same meeting and there may be one pre-assessment report dealing with all the issues in a concise and clear format.

15. The Protocol in General

- 15.1 Any queries on the protocol or its application should initially be referred to the Monitoring Officer.

16. Procedure for Cases Referred for Investigation to the Monitoring Officer

- 16.1 When an allegation is referred to the Monitoring Officer for investigation, he/she will within five working days, unless otherwise directed by the Assessment Sub-Committee or the Ethical Standards Officer inform the Member who is the subject of the allegation ("the Subject Member"), the person who made the allegation ("the Complainant"), and the standards Committee of any other authority concerned, that the matter has been referred for investigation and who will carry out the investigation.
- 16.2 Members should note that until this time the Monitoring Officer has no authority to discuss the summary of the complaint with the subject Member. Group leaders may be informed at this stage.
- 16.3 Unless the Assessment Sub-Committee or Ethical Standards Officer have directed that it would be contrary to the public interest or prejudicial to the investigation, the Monitoring Officer will at the same time provide the subject Member with a written summary of the allegation.
- 16.4 The Monitoring Officer will appoint an Investigating Officer who may be an Officer of the Council, or an external person. The Investigating Officer may appoint persons to assist him/her in the conduct of the investigation, and may obtain such professional advice as may be necessary.
- 16.5 In carrying out the investigation, the Investigating Officer shall have regard to any relevant guidance issued by the Standards for England, and shall comply with any relevant direction given by the Standards for England.
- 16.6 The Investigating Officer may make such inquiries as he/she thinks necessary or expedient for the purposes of conducting the investigation, and may require any person to give such information or explanation as the Investigating Officer thinks necessary. The Investigating

Officer may require any relevant authority concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation, and to provide reasonable access to such documents in the possession of that authority as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.

- 16.7 Statements will be prepared and agreed with each person interviewed during an investigation. The subject Member may be accompanied by a professional representative or advisor, a political colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative. Interviews will be tape recorded with the agreement of the subject Member.
- 16.8 The Investigating Officer will try to complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required.
- 16.9 Where during the investigation, as a result of new evidence or information, the Investigating Officer forms an opinion that the matter is materially more serious or materially less serious than may have seemed apparent to the Assessment Sub-Committee, when it made its decision to refer the matter for investigation, he/she shall refer the matter to the Assessment Sub-Committee who shall consider the matter as if it were a new allegation.
- 16.10 If the Subject Member has died, is seriously ill or has resigned from the authority concerned, and the Investigating Officer is of the opinion that it is no longer appropriate to continue with the investigation, he/she shall refer the matter to the Assessment Sub-Committee
- 16.11 The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the subject Member and complainant for comment, and will indicate that it does not necessarily represent the Investigating Officer's final finding.
- 16.12 The Investigating Officer's final report will include a statement of his/her finding. This will be either that there has been a failure to comply with the code of conduct ("a finding of failure"), or that there has not been a failure to comply with the code of conduct ("a finding of no failure"). A copy of the report will be sent to the subject Member and referred to the Standards Committee Consideration, Pre- Hearing and Hearing Sub-Committee.

17. Consideration stage

- 17.1 When the Standards Consideration, Pre-Hearing and Hearing Sub-Committee considers the report of the Investigating Officer, it shall make one of the following findings:
- (a) That it accepts the finding of no failure ("a finding of acceptance")
 - (b) That the matter should be considered at a Hearing by a Consideration, Pre-Hearing and Hearing Sub- Committee of the Standards Committee, or
 - (c) That the matter should be referred to the First Tier Tribunal for determination (but only if it has determined that the action it could take against the subject Member would be insufficient were a finding of failure to be made, and the President or Deputy President of the First Tier Tribunal has agreed to accept the referral)
- 17.2 Where there is a finding of acceptance, written notice of that finding shall be given to those involved, and published as required by the relevant Regulations, unless the subject Member requests otherwise.
- 17.3 Where the Consideration, Pre-Hearing and Hearing Sub-Committee decides to hold a hearing, this shall be conducted in accordance with the Committee's Pre-hearing and Hearing Procedures.
- 17.4 If the investigation report finds that there has been a failure to comply with the Code a hearing must take place – unless the Standards Consideration, Pre-Hearing and Hearing Sub-

Committee decides that the matter should be referred to the First Tier Tribunal for determination.

18. Pre-hearing and Hearing Procedure

Interpretation

18.1 The following words will be interpreted as set out below:

- (a) 'Subject Member' means the Member of the Authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
- (b) 'Investigating Officer' means the Monitoring Officer or Ethical Standards Officer and includes their nominated representative.
- (c) 'The Matter' is the subject matter of the investigator's report.
- (d) 'Committee' also refers to a Sub-Committee.
- (e) 'Legal Adviser' means the Officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified Officer of the authority, or someone appointed for this purpose from outside the Authority, or someone delegated by the Monitoring Officer to so advise. The Legal Officer may not be the Investigating Officer.
- (f) 'The Committee Support Officer' means an Officer of the authority responsible for supporting the Standards Committee discharge of its functions and recording the decisions of the Standards Committee.
- (g) 'The Chair' refers to the person presiding at the Hearing.

Pre-Hearing Stage

18.2 The Pre-Hearing process is to be carried out in writing unless the case is very complicated and the Chair of the Standards Committee and Legal Adviser agree that a Consideration, Pre-Hearing and Hearing Sub-Committee should be organised.

18.3 A Consideration, Pre-Hearing and Hearing Sub-Committee shall be convened in accordance with the terms of reference in Part 2(a) of this Chapter, and with a composition in accordance with those terms of reference.

18.4 The Subject Member will be asked for a written response to the Investigating Officer report within 15 working days and shall state whether he/she:

- (a) disagrees with any of the findings of fact in the report, giving the reasons for any disagreement
- (b) wishes to detail other evidence relevant to the complaint
- (c) wishes to be legally represented or by any other person
- (d) wishes to give evidence to the Sub-Committee, either orally or in writing
- (e) confirm if any party has specific needs (e.g. access requirements)
- (f) confirm they are attending the Hearing
- (g) wishes to call relevant witnesses to give evidence to the Sub-Committee (and to outline that evidence)
- (h) wishes any part of the Hearing to be held in private

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- (i) wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the public
 - (j) wishes to outline any representations to be taken into account if the Subject Member is found to be in breach
- 18.5 The Subject Member shall be informed that if, at the meeting of the Sub-Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Sub-Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.
- 18.6 The Investigating Officer shall be invited to comment on the Subject Member's response within 10 working days of receipt, and shall state whether or not he/she:
- (a) wishes to call relevant witnesses to give evidence or submit written or other evidence to the Sub-Committee
 - (b) wishes any part of the Hearing to be held in private
 - (c) wishes any part of the report or other relevant documents to be withheld from the public
- 18.7 Witnesses may only give evidence with the express approval of the Chair of the Sub Committee.
- 18.8 The Subject Member and the Investigating Officer are entitled to request the Chair's approval for the attendance of such witnesses as either considers to be necessary. However, in consultation with the Monitoring Officer, the Chair may limit the witnesses to be called, if he/she believes the number requested for the relevant party is unreasonable or that the relevant witnesses will be repeating the evidence of other witnesses to be called, or else not likely to provide such relevant evidence that will assist the Sub-Committee to reach its decision.
- 18.9 The Chair may request the attendance of any additional witnesses whose evidence he/she considers would assist the Sub-Committee to reach its decision.
- 18.10 The Monitoring Officer or the Legal Adviser (who must not be the Investigating Officer), in consultation with the Chair of the Sub Committee, will write to the Subject Member and the Investigating Officer to:
- (i) confirm a date, time and place for the Hearing, which must be within three months from the date on which the Investigating Officer's report was completed and not less than fourteen working days after the report was sent to the Subject Member
 - (ii) confirm the main facts of the case that are agreed
 - (iii) confirm the main facts that are not agreed
 - (iv) provide copies of any written evidence to the relevant parties
 - (v) confirm which witnesses will be called by the parties
 - (vi) provide the parties with copies of the proposed procedure for the
- 18.11 The Monitoring Officer or the Legal Adviser will also specify which parts of the proceedings, if any, may be considered in private. The Monitoring Officer will also write to update the complainant.

Consideration, Pre-hearing and Hearing Sub-Committee – Procedure for hearing

- 18.12 The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such variation is necessary in the interests of fairness.

Representation

- 18.13 The Subject Member may be legally represented, or with the permission of the Sub-Committee, by another person. It is the responsibility of the Subject Member to arrange for their own representation.

Legal Advice

- 18.14 The Sub-Committee may take legal or procedural advice from its Legal Adviser (who may be the Monitoring Officer, provided the Monitoring Officer is not also the Investigating Officer) at any time during the Hearing or during the Sub-Committee's deliberations. The substance of any advice given to the Sub-Committee will be shared with the Subject Member and Investigating Officer if they are present at the Hearing.

Introductions and Setting the Scene

- 18.15 At the start of the Hearing, the Chair shall introduce each of the Members of the Sub-Committee, the Subject Member (if present), the Investigating Officer (if present), and the Legal Adviser, and shall then explain the procedure, which the Sub-Committee will follow.

Preliminary Procedural Issues

- 18.16 The Sub-Committee shall deal with the following preliminary procedural matters:
- (a) Disclosures of interest
 - The Chair shall ask Members of the Sub-Committee to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.
 - (b) Quorum
 - The Chair shall confirm that the Sub-Committee is quorate.
 - (c) Exclusion of Press and Public
 - The Chair shall ask the Subject Member, the Investigating Officer and the Legal Adviser to the Sub-Committee whether they wish to ask the Sub-Committee to exclude the press or public from all or any part of the Hearing. If any of them so request, the Chair shall ask them to put forward reasons for so doing and ask for responses from the others and the Sub-Committee shall then determine whether to exclude the press and public from all or any part of the Hearing.
 - (d) Hearing procedure
 - The Chair shall confirm that all present know the procedure which the Sub-Committee will follow in determining the matter.
 - (e) If the Subject Member is not present at the start of the hearing:
 - The Chair will ask the Legal Adviser whether the Subject Member has indicated his/her intention not to attend the hearing
 - The Sub-Committee shall then consider any reasons which the Subject Member has provided for not attending the hearing

- If it is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Sub-Committee shall decide whether to consider the matter and make a determination in the absence of the Subject Member, or to adjourn the hearing to another date

Making Findings of Fact

- 18.17 After the preliminary procedures, the Sub-Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.
- 18.18 If there is disagreement, the Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Sub-Committee, witnesses can be called to give relevant evidence. The Subject Member and the Sub-Committee Members may ask questions of the Investigating Officer or any witness.
- 18.19 The Subject Member or his/her representative will then present the evidence which is relevant to the facts in dispute. With the permission of the Sub-Committee, witnesses can be called to give relevant evidence. The Investigating Officer and the Sub-Committee Members may ask questions of the Subject Member or any witnesses.
- 18.20 At any time, the Sub-Committee may question any of the people involved or any witnesses, and may allow the Investigating Officer to challenge any evidence put forward by witnesses called by the Subject Member.
- 18.21 If the Subject Member disagrees with most of the facts, the Investigating Officer will make representations on all the relevant facts, instead of discussing each fact individually.
- 18.22 If the Subject Member disagrees with any relevant fact in the report without having given prior notice, he or she must give good reasons for not mentioning it before the hearing. After considering the Subject Member's explanation, the Sub-Committee may continue with the hearing, relying on the information in the report; may allow the Subject Member to make representations about the issue and invite the Investigating Officer to respond and call witnesses as necessary, or may postpone the hearing to arrange for appropriate witnesses to be present.
- 18.23 The Sub-Committee will consider in private all the evidence which has been heard or received as written evidence first, to establish its findings of fact.
- 18.24 On their return, the Chair will announce the Sub-Committee's findings of fact.
- 18.25 At any stage in the consideration of the matter, the Sub-Committee may return to ask further questions of the Investigating Officer or the Subject Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

Did the Subject Member Fail to Follow the Code of Conduct?

- 18.26 The Sub-Committee will then consider whether, based on the facts it has found, the subject Member has failed to follow the Code.
- 18.27 The Subject Member will be invited to give relevant reasons why the Sub-Committee should decide that they have not failed to follow the Code.
- 18.28 The Sub-Committee will then consider any verbal or written representations from the Investigating Officer.
- 18.29 The Sub-Committee may, at any time, question anyone involved on any point they raise on their representations.

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- 18.30 The Subject Member will then be invited to make any final relevant points.
- 18.31 The Sub-Committee will consider in private the representations.
- 18.32 On their return, the Chair will announce the Sub-Committee's decision as to whether the Subject Member has failed to follow the Code.

If the Subject Member has not Failed to Follow the Code of Conduct

- 18.33 If the Sub-Committee decides that the subject Member has not failed to follow the Code, the Committee can move on to consider whether it should make any recommendations to the Authority.

If the Subject Member has Failed to Follow the Code of Conduct

- 18.34 If the Sub-Committee concludes that the Subject Member has failed to comply with the Code of Conduct, the Sub-Committee will consider any verbal or written representations from the Investigating Officer and the Subject Member as to:
- (i) Whether the Sub-Committee should apply a sanction
 - (ii) What form any sanction should take
- 18.35 The Sub-Committee may ask questions of the Subject Member and the Investigating Officer and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 18.36 The Sub-Committee shall then consider in private whether to impose a sanction on the Subject Member, and, if so, what sanction to impose and when that sanction should take effect.
- 18.37 The sanctions open to the Sub-Committee are:
- (a) censure (to express formal disapproval or formally rebuke the actions and/or behaviour) of the Subject Member (suitable for investigations relating to persons who are no longer Members of the authority);
 - (b) restriction for a period not exceeding six months of the Subject Member's access to the premises of the authority or use of the resources of the authority, provided that those restrictions are reasonable and proportionate to the nature of the breach and do not unduly restrict the person's ability to perform the functions of a Member;
 - (c) partial suspension of the Subject Member for a period not exceeding six months;
 - (d) suspension of the Subject Member for a period not exceeding six months;
 - (e) require the Subject Member to submit a written apology in a form specified by the Sub-Committee;
 - (f) require the Subject Member to undertake such training as the Sub-Committee specifies;
 - (g) partial suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member submits a written apology in a form specified by the Sub-Committee;
 - (h) partial suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Sub-Committee specifies;
 - (i) suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has submitted a written apology in a form specified by the Sub-Committee;

- (j) suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Sub-Committee specifies;
 - (k) any combination of the above sanctions.
- 18.38 Any sanction imposed by the Sub-Committee shall commence immediately unless the Sub-Committee directs that a sanction shall commence on another date within six months from the imposition of the sanction.
- 18.39 In deciding to impose a sanction, the Sub-Committee shall consider all the relevant circumstances and shall have regard to any relevant guidance issued by the Standards Board.
- 18.40 If the Sub-Committee has determined that the action which it could itself take (if there were a finding that there had been a failure to follow the provisions of the Code) would be insufficient then it may decide to refer the matter to the First Tier Tribunal for determination. The reference itself can be made only if the President or Deputy President has agreed to accept it.
- 18.41 The Chair will announce the decision of the Sub-Committee. Written notice of the findings of the Sub-Committee will be given as soon as it is reasonably practicable to the Subject Member, the Standards Board, the Standards Committee of any other authority concerned, any parish Council concerned, and any person who made an allegation that gave rise to the investigation. Public notices shall be given in accordance with the Regulations.
- 18.42 Where the Sub-Committee determines that the Subject Member has failed to comply with the Code of Conduct, the Chair shall inform the Subject Member of the right to seek permission to appeal against the Sub-Committee's findings or any sanction imposed by sending a notice in writing to:

The First-tier Tribunal (Local Government Standards in England)

Tribunal Service
York House
31-36 York Place
Leeds
West Yorkshire
LS1 2ED

19. Recommendations to the Authority

- 19.1 The Sub-Committee may consider making recommendations with a view to promoting higher standards of conduct among Members.

20. Performance indicators

- 20.1 The Investigating Officer will seek to complete reports within 6 months of the Assessment Sub Committee
- 20.2 Hearings will be held within 3 months of completion of the investigation

Part 3 – Members' Code of Conduct

Section 1 – General provisions

Introduction and interpretation

1. (1) This Code applies to you as a Member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—
“meeting” means any meeting of—
 - (a) the authority;
 - (b) the executive of the authority;
 - (c) any of the authority’s or its executive’s Committees, sub-Committees, joint Committees, joint sub-Committees, or area Committees;“Member” includes a co-opted Member and an appointed Member.
- (5) In relation to a parish Council, references to an authority’s monitoring Officer and an authority’s standards Committee shall be read, respectively, as references to the monitoring Officer and the standards Committee of the district Council or unitary county Council which has functions in relation to the parish Council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever 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, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) 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 conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3.
 - (1) You must treat others with respect.
 - (2) You must not—
 - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
 - (b) bully any person;
 - (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, in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's 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.
 - (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police Officer.
4. 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 authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

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6. You—
- (a) 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; and
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance Officer; or
 - (b) your authority's monitoring Officer,
- where that Officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Section 2 – Interests

Personal interests

8. (1) You have a personal interest in any business of your authority where either—
- (a) it 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) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class

- of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business 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—
- (i) (in the case of authorities with electoral divisions or wards) other Council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other Council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other Council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (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;
 - (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 sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you

need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of Members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business 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 judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (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; and

- (vi) setting Council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to Overview and Scrutiny Committees

11. You also have a prejudicial interest in any business before an Overview and Scrutiny Committee of your authority (or of a sub-Committee of such a Committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's Committees, sub-Committees, joint Committees or joint sub-Committees; and
 - (b) at the time the decision was made or action was taken, you were a Member of the executive, Committee, sub-Committee, joint Committee or joint sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12 (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards Committee;
 - (b) you must not exercise Executive Functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business 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 representation, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Section 3 – Registration of Members' Interests

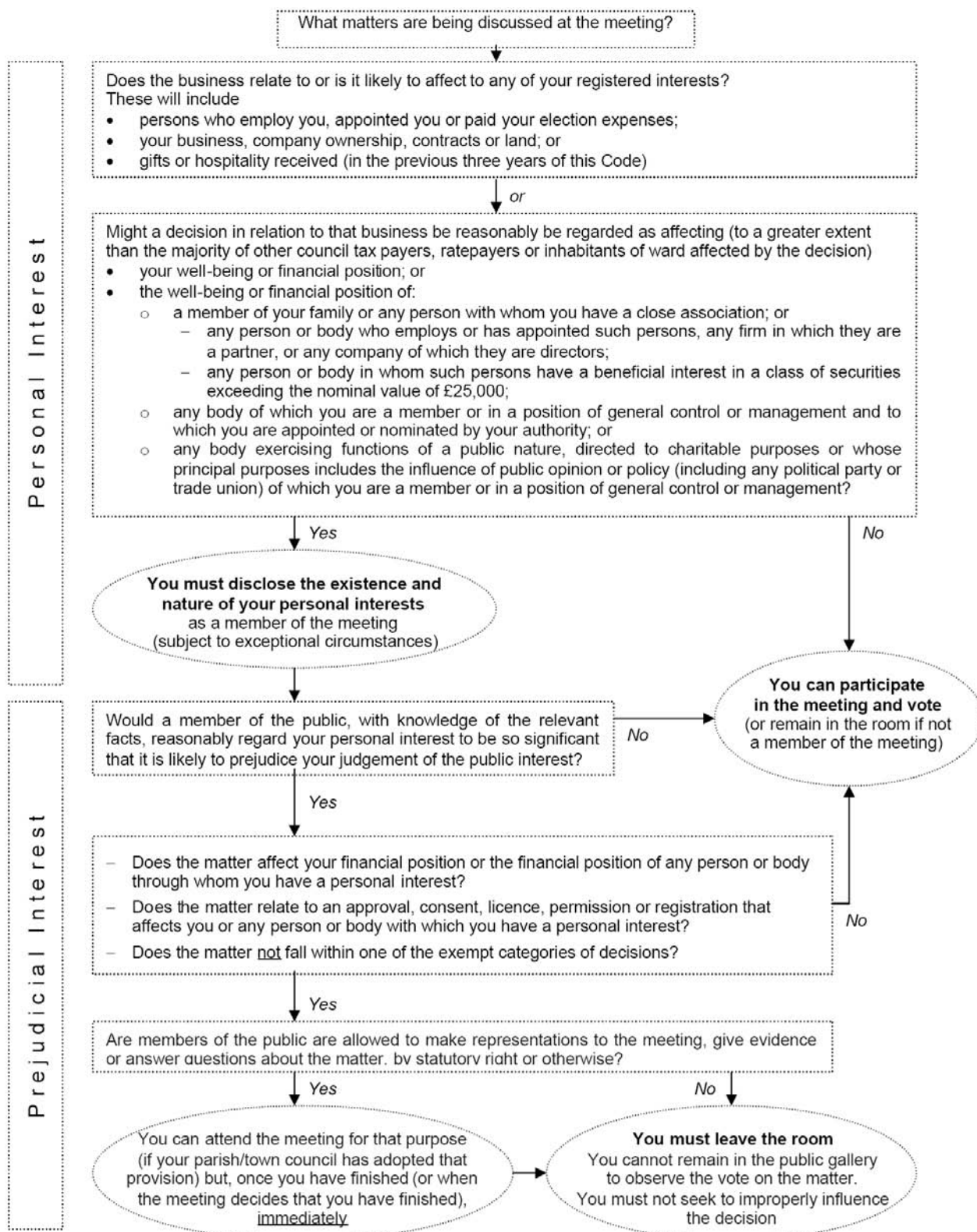
13. (1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),
- register in your authority's register of Members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring Officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1),

register details of that new personal interest or change by providing written notification to your authority's monitoring Officer.

Sensitive information

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring Officer asking that the information be included in your authority's register of Members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF (Non-Overview and Scrutiny Meetings)



PART 4 - Officers' Code of Conduct

1. Introduction

- 1.1 The public is entitled to expect the highest standards of conduct from all Officers of Thurrock Council, who must act at all times in accordance with that trust.
- 1.2 This code therefore aims to describe what is and isn't acceptable behaviour so that standards are maintained. In particular, all Council employees are required to adhere to the seven 'principles of public life' identified by the Nolan Committee and endorsed by the Committee on Standards in Public Life:

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.
- 1.3 Where employees show particular commitment to upholding these standards they should receive due recognition and praise from their manager. Where they show a disregard for them, appropriate corrective or punitive action should be taken.
- 1.4 Employees are also required to act in accordance with the Council's scheme of delegation, legislation, the constitution and all relevant codes, protocols and standing orders; they should be familiar with and abide by Thurrock's policies and procedures.
- 1.5 Employees are expected to undertake all compulsory training and relevant training related to their roles and responsibilities.
- 1.6 This Code of Conduct is not an exhaustive list as it is impossible to provide a definitive list of what is or is not acceptable behaviour.
- 1.7 The following sections of this code describe how the above principles can be demonstrated by Council employees during their day-to-day work, and how they can be enforced by management.
- 1.8 If there are any doubts or queries about what is acceptable conduct, or about anything else in this Code, employees should raise them with their manager.

2. Scope

- 2.1 This code applies to all employees of Thurrock Council; workers engaged at the Council as part of a strategic partnership agreement; interim and agency workers. It does not apply to schools unless they have specifically chosen to adopt it.

3. Protocol for Reporting Concerns

- 3.1 Employees are expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate manager, any significant shortcomings in the provision of an agreed service, or any impropriety, fraud or breach of procedure.
- 3.2 The Authority has a Whistleblowing Policy and Procedure which also enables staff to report confidentially any improper behaviour or action taken by an officer or manager.
- 3.3 Staff must not treat another officer of the authority less favourably than others because they have, intend to, or are suspected of doing anything in relation to reporting inappropriate behaviour.

4. Attendance and Timekeeping

- 4.1 Employees are expected to adhere to their contractual hours. They are required to know and comply with start and finish times (or adhere to flexible working arrangements, including Home Working) and operate time recording as required.
- 4.2 If employees are unable to attend work for any reason they must adhere to the procedure for reporting absence as detailed in the Managing Sickness Absence Policy. Employees on sickness absence must not undertake any other work, or carry out activities that could hinder their return to work, without prior authorisation from their Head of Service.
- 4.3 Employees are expected to adhere to the requirements of the Managing Sickness Absence Procedure and to attend occupational health appointments as required.

5. Appearance and Personal Hygiene

- 5.1 The manner in which employees present themselves at work directly affects the Council's image, colleagues and the service. Employees' appearance should reflect this responsibility and emphasise their respect for the people they work with and the service they are providing.
- 5.2 Managers will determine the appropriateness of their employees' appearance in relation to local service requirements. If employees are unsure about the appropriateness of their appearance they should seek the advice of their manager. Staff are required to:
- comply with any uniform or dress code requirements
 - be clean, tidy, and presentable and maintain personal hygiene at all times
 - refrain from dressing in any way which could intimidate, cause offence or cause embarrassment to others, and which could undermine the image and reputation of the Council
 - always wear uniform or protective clothing if these have been issued, or made
 - available for particular tasks, and make sure that they are clean and in a good state of repair;
 - always have regard for the health and safety implications of what they wear e.g. the need for safe footwear, the risk of dangling jewellery or long fingernails;
 - dress in a way which is appropriate to the work they have to do.
- 5.3 In relation to appearance, the Council is happy for employees to follow the traditions of their ethnic /cultural /religious background where this is safe, healthy and appropriate to the job.

6. Integrity

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- 6.1 Employees must behave with honesty and integrity at all times and refrain from pursuing personal matters or private business/voluntary sector interests during their working hours.
 - 6.2 Employees are expected to behave politely and reasonably to colleagues and to members of the public and to conduct themselves in a manner that reflects well on the Council. Unreasonable language, acts of violence, threatening behaviour or verbal abuse to colleagues, managers, service users, the public or elected members will not be tolerated.
 - 6.3 Employees must perform their duties to the best of their ability, and understand that carelessness, negligence and lack of attention to service requirements is not acceptable.
 - 6.4 Employees must comply with reasonable management instructions and work priorities.
 - 6.5 Employees must not deceive the Council by withholding information, giving false information, or destroying, damaging or altering any records or documents without prior authorisation.
 - 6.6 Employees who are in debt to Thurrock Council e.g. those who have council tax arrears, are required to disclose details of their debt to their manager. Employees are required to adhere to any agreements reached for the repayment of such debts.

7. Disclosure of Information

- 7.1 Employees should, whenever appropriate, adopt an 'open government' approach by sharing information about how they do their work and how the Council operates.
- 7.2 It should be noted that the law requires that certain types of information should be available to elected members, auditors, government departments, service users and the public. Employees must not prevent others from gaining access to such information.
- 7.3 Employees should check, with their manager, what sort of information can and cannot be given openly and without specific authority.

8. Confidentiality

- 8.1 Employees must treat all information about employees, customers and service users with the utmost confidentiality and in accordance with the Data Protection Act 1998. This information must not be passed to anyone who is not authorised to receive it unless proper authority has been sought and granted.
- 8.2 Employees must take all reasonable steps to protect and safeguard confidential documents, particularly if they need to be taken outside the usual workplace.
- 8.3 Employees must not communicate directly with the media about their work, or matters concerning the Council, unless specifically authorised to do so by a chief officer.
- 8.4 Employees must seek the agreement of the appropriate Head of Service before any information concerning tendering/procurement or best value exercises is released.

9. Use of Council Property

- 9.1 Council property should only be used for Council business and according to instructions. It must not be misused in any way that could undermine public confidence.
- 9.2 Employees should only remove Council property from Council premises if they are authorised to do so in accordance with any local procedure in operation, e.g. seeking prior permission, logging items out, signing for them.
- 9.3 Council property must be safeguarded while it is in employees' care, with any theft, loss or damage reported immediately.

- 9.4 Employees must adhere to the Information Security Policy and other policies covering the standards expected of computer users. Some examples of misuse are:
- installing or downloading unauthorised software, including screensavers;
 - attaching any item or equipment without authorisation from ICT;
 - surfing the internet for prolonged periods of time for non-work related items;
 - accessing internet sites which could bring the Council into disrepute – this could lead to both disciplinary and criminal action.
- 9.5 Staff must not make frequent or lengthy private telephone calls using either Council or private telephones. It is recognised that sometimes it is necessary to make occasional private telephone calls at work, but it is expected that this should normally be in exceptional situations.

10. Use of Financial Resources

- 10.1 This covers anyone with access to, or responsibility for, the Council's finances, and includes responsibilities such as the authorisation of payments to staff (timesheets, overtime, allowances etc); the award for contracts for equipment and services and the payment of benefits.
- 10.2 Officers must ensure that they use the public funds entrusted to them in a responsible and lawful manner. They must strive to ensure value for money to the local community and avoid legal challenge to the Council.
- 10.3 Employees must be conversant with the Council's financial regulations and financial standing orders. They must ensure that the financial procedures and practices for which they are responsible conform to the Council's regulations and are secure against theft and fraud.

11. Corruption and Proceeds of Crime

- 11.1 It is a criminal offence for an officer to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour.
- 11.2 If an allegation is made, it is for the officer to demonstrate that any such reward was not corruptly obtained
- 11.3 Officers must not show favouritism or give preferential treatment to friends, partners or relations in the allocation of Council services or benefits.
- 11.4 Officers must report to the Head of Legal Services any dealings they become aware of where they suspect that the money involved may have been acquired through illegal practices, whether or not that money relates to a client's funds or those of any contractor or third-party with whom the Council may be involved.

12. Criminal Convictions and misconduct outside work

- 12.1 When applying to work at Thurrock Council prospective employees must declare any criminal convictions they have which are not exempt from the Rehabilitation of Offenders Act. See the Recruitment Procedure for further details.
- 12.2 If an individual is arrested or convicted of a criminal offence while employed at the Council this may or may not have a bearing on their employment status, depending on the nature and circumstances of the incident and the type of work they do.
- 12.3 Employees must notify their manager or Human Resources of any criminal action being taken against them, regardless of whether the alleged act took place during or outside working hours.
- 12.4 Employees must notify their manager or Human Resources if their conduct or activities outside work:

- may make them unsuitable for the job they are employed to do;
- is of such a nature to cause potential damage to Thurrock Council's reputation;
- could put other employees, service users or the community, at risk.

13. Recruitment and other employment issues

- 13.1 Officers involved in recruitment must ensure that appointments are made on the basis of merit.
- 13.2 In order to avoid any possible accusation of bias, an officer must not be involved in making an appointment if they are related to, or have a close personal relationship with an applicant, in accordance with the Employment Rules in the Authority's Constitution.
- 13.3 Recruiting officers should be solely concerned with selecting the applicant who can best serve the Council. Political or personal preferences should not influence an officers' judgement. Officers must not canvass the support of colleagues for the appointment of a candidate, and should resist any attempt by others to canvass themselves.
- 13.4 Similarly, an officer must not be involved in decisions relating to discipline, promotion or pay adjustments which affect someone with whom they have a close personal relationship.

14. Hospitality

- 14.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council at a particular event.
- 14.2 Offers to attend purely social or sporting functions must be accepted only when they are for the benefit of the Council or in connection with a civic or courtesy visit.
- 14.3 All gifts and hospitality offered, whether accepted or not, must be recorded in a register of gifts and hospitality. For officers at or above the level of team manager, a register is maintained by the monitoring officer. For all other officers a register is kept by the relevant Director.
- 14.5 When hospitality has to be declined, those making the offer must be courteously but firmly informed of the procedures and standards operating within the Council.
- 14.6 Employees must not solicit or accept personal gifts, other than ones of a token value such as pens and diaries. Any firm or individual who wishes to make a gesture of goodwill to the Council or its officers should be redirected to the Mayor's Charity Fund.
- 14.7 When receiving authorised gifts or hospitality employees must be particularly sensitive to timing in relation to any decisions which the Authority may be taking in connection with those providing the gift or hospitality. Hospitality which may compromise an officer's impartiality or have the perception of doing so must be declined.
- 14.8 Acceptance of hospitality at conferences and courses is acceptable where (i) it is clear that the hospitality is corporate rather than personal, (ii) the employee's manager gives consent in advance and (iii) the employee's manager is satisfied that any purchasing decisions are not compromised.
- 14.9 Where authorised visits are required to inspect equipment, meet with prospective service providers etc, officers must ensure that Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 14.10 Subsistence expenditure may be claimed in accordance with Council limits (see Travel & Subsistence Policy) when an officer is required to work away from their normal place of work or home at meal times.

- 14.11 These rates may only be exceeded with the prior approval of the Chief Finance Officer or the Chief Executive. In the case of approved overnight stays, reasonable accommodation expenses will be paid by the Authority.

15. Sponsorship

- 15.1 Where an outside organisation wishes to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 15.2 Where the Council wishes to sponsor an event or service neither an officer nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest.
- 15.3 Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, officers must ensure that impartial advice is given and that there is no conflict of interest.

16. Political Neutrality

- 16.1 You serve the Authority as a whole. It follows you must serve all Members and not just those of the Majority Group, and must ensure that the individual rights of all Members are respected.
- 16.2 Staff may be required to advise Political Groups. They must do so in ways which do not compromise their political neutrality. Information communicated to a member of staff by a Political Group in confidence should not be communicated to other Political Groups.
- 16.3 Staff must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.
- 16.4 Staff must not use their workplace to promote/further personal political issues.
- 16.5 Staff must not raise personal matters concerning their employment directly with councillors or make claims or allegations about other employees directly with councillors.
- 16.6 Employees must be aware of the political restrictions imposed by the Local Government and Housing Act 1989 on certain posts, and how the Council's constitution might affect their work. More information on this is in the Council's Constitution.
- 16.7 The Council has a Code on member/employee relationships for which staff who regularly come into contact with members should familiarise themselves with.

17. Other Employment

- 17.1 The Authority encourages voluntary work, public duties and activities in support of local community groups, and officer involvement in these areas is welcomed.
- 17.2 However, conditions of service require officers to obtain written consent from their manager before undertaking additional work with other employers. Employees may not:
- undertake such work if it conflicts with the Council's interests;
 - use Council equipment, property or contacts in any such work;
 - do any private work during your working hours with Thurrock Council;
 - undertake any private commitments or activities which may bring the Council into disrepute.
- 17.3 Any goods or services of value which are produced as a result of an individual's employment with Thurrock will remain the property of the Council.

- 17.4 Employees may not make private gain from any work which may be associated with their employment with Thurrock without authorisation from their service head, in consultation with the Council's legal adviser.

18. Conflicts of Interest

- 18.1 Officers at or above the level of team manager must provide written notification of any personal and financial interests which could bring them into conflict with the Council's interests. This should be submitted to the Council's monitoring officer annually, within 28 days of becoming aware of any new personal or financial interest or change to any personal or financial interest. The monitoring officer maintains a register for this purpose.
- 18.2 All other officers must declare to their director any personal or financial interest which could bring them into conflict with the Council's interests either when they become aware of such interests but, in any event, within 28 days of becoming aware.
- 18.3 Officers are regarded as having a personal interest in a matter if it affects the wellbeing or financial position of themselves, their relatives or their friends more than it would affect other people in Thurrock. Such an interest may be either financial or non-financial, examples being:
- acting as a school governor within Thurrock;
 - membership or involvement with an organisation receiving grant aid from Thurrock Council;
 - membership or involvement with an organisation or pressure group which may seek to influence the Council's policies;
 - any financial interests which could conflict with the Council's interests
 - membership of any organisation not open to the public without formal membership and with a commitment of allegiance which has secrecy about rules of membership or conduct;
 - membership of any organisation which is involved with the Council in any formal way such as through any decision making process;
 - involvement with a corporate body involved in commercial dealings with the Council.
- 18.4 Any disclosure of interest will be recorded by the employee's manager and reviewed by their Head of Service at least annually.
- 18.5 Officers who are present at a meeting of the Council, such as a cabinet or committee meeting, when a matter in which they have a conflict of interest arises, should declare their interest and leave the meeting, unless the members specifically ask the employee to stay.
- 18.6 Any manager who receives a declaration of interest from an officer should seek advice from one of the following senior managers if they are at all uncertain about what action they should take:
- Chief Executive
 - Corporate Director
 - Chief Finance Officer
 - Monitoring Officer
 - Head of Human Resources
 - Head of Audit

19. Officers and Members

- 19.1 Mutual respect between colleagues is essential to good local government. Close personal familiarity between colleagues can damage working relationships and prove embarrassing to others and must therefore be avoided.

- 19.2 Close personal relationships between officers working together or between elected members and officers may cause a perception of bias or favouritism. To avoid this problem, officers must declare to their manager:
- any close personal relationship with another officer in the same section or area of work;
 - any close personal relationship with an elected member.
- 19.3 It is not possible to define exactly the range of relationships that would be considered as close or personal. Examples, however, would include a family or sexual relationship and/or regular social contact such as holidays or evening meals together.
- 19.4 The Council has adopted a protocol for member/officer relations, which can be found at Chapter 7, Part 5 of the Council's Constitution. Officers who have regular contact with members should read and understand this protocol.

20. The Local Community and Service users

- 20.1 Employees must ensure that service users and people in Council care are:
- given a courteous and efficient service in line with Council policies and standards;
 - not put at risk;
 - not used as a means for private gain for officers or others by, for example, the soliciting or accepting of bribes.

21. Contractors

- 21.1 Any relationship of a business or private nature with external contractors, or potential contractors, must be made known to the appropriate manager. Orders and contracts must be awarded on merit in accordance with the Council's Financial and Contracts Rules and Best Value and no special favour must be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community must be discriminated against.
- 21.2 If you engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with the contractors, you must declare that relationship at the earliest opportunity to your manager.

22. Separation of roles during tendering

- 22.1 If you are involved in the tendering process and are dealing with contractors you must be clear about the separation of client and contractor roles within the Authority. Senior officers who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 22.2 If you are employed in contractor or client units you must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 22.3 If you are privy to confidential matters on tenders or costs for either internal or external contractors you must not disclose those matters to any unauthorised party or organisation.
- 22.4 If you are contemplating a management buyout you must, as soon as you have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- 22.5 You must ensure that no special favour is shown to current or recent former officers or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or managerial capacity.

23. Equality Issues

- 23.1 All staff have a duty to ensure that policies relating to equality issues, as agreed by the Council, are complied with in addition to the requirements of the law. All members of the local community, service users and colleagues have a right to be treated with respect, fairness and equality. The Council's Equal Opportunities Policy and Procedure provides further information.

24. Health and Safety

- 24.1 The Council has a legal duty of care for the health, safety and welfare of its employees. In addition all employees must take reasonable steps to protect their own health and safety and that of other people who may be affected by their actions or omissions at work. If employees are not sure what the safety procedures are or where to get protective clothing and equipment, they should talk to their manager, their service safety coordinator, or the corporate health and safety team. Further, detailed information can be found in the Council's Health and Safety Policy.

25. Smoking, Alcohol and Drugs

- 25.1 Employees must adhere to the Council's Smoke Free Policy. This policy covers all Council work, e.g. in clients' homes, rest and common areas and Council vehicles. The Council provides assistance and support in giving up smoking. Please contact Human Resources for more information.
- 25.2 Employees must not present themselves for work under the effects of, or recovering from alcohol, drugs or other substances, whether prescribed or otherwise. They should consult their manager if they feel that they, or a colleague, are unable to perform their duties for this reason.

26. Breach of the Code

- 26.1 A breach of this code of conduct by an officer may be regarded as a disciplinary offence and will be handled under the Disciplinary Policy & Procedure.

27. Gross Misconduct

- 27.1 Gross misconduct includes any conduct which amounts to a fundamental breach of the contract of employment and which destroys the trust and confidence the Council has in the employee and makes any further working relationship impossible. If substantiated following an investigation and a disciplinary hearing the employee would normally be summarily dismissed from the Council's service. Summarily dismissed is dismissal without notice or prior warnings.

Gross misconduct could be a serious breach of one of the standards listed above and some examples of Gross misconduct may be:

- i. Serious insubordination to a member of management including refusing to carry out reasonable instructions
- ii. Theft, fraud and deliberate falsification of records, eg non attendance at day release, use of Council time for non-Council activities, falsification of overtime or expenses
- iii. Fighting, assault on another person or threats of physical violence
- iv. Serious incapability while on duty due to drugs, alcohol or any other intoxicant, furthermore, trafficking in or the distribution of drugs or the possession or consumption of non-prescribed drugs or alcohol;
- v. Abusive and/or indecent behaviour
- vi. Serious or consistent infringement of health and safety rules and instructions
- vii. Serious breach of confidentiality or trust (NB the appropriate use of the whistleblowing procedure would not be a serious breach of confidentiality)
- viii. Serious negligence or carelessness, which causes or might cause unacceptable loss, damage or injury
- ix. Discrimination, harassment or victimisation against another person on the grounds of a 'protected characteristic'.
- x. Bullying

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- xi. Failure to disclose changes to personal circumstances which affect an employee's capacity to carry out the requirements of their job
 - xii. Serious and deliberate contravention of the Council' Constitution
 - xiii. Behaviour which is likely to damage seriously the image and/or reputation of the Council, either inside or outside of work
 - xiv. Loss, damage, misuse of equipment, property, assets or funds, through wilfulness, negligence or
 - xv. Serious acts of dishonesty or abuse of position, such as improper use of an official position for private gain or the private gain of some other person, including soliciting or accepting bribes.
 - xvi. Conduct at work likely to seriously offend decency
 - xvii. Canvassing elected members of the Council for appointment, promotion or other personal advantage
 - xviii. Committing a criminal offence or undertaking criminal activity, whether at or outside work, which is incompatible with an individual's continued employment with the Council
 - xix. Serious breach of the Council's ICT User's Policy
 - xx. Wilful unauthorised disclosure of information which is treated as exempt, or confidential under the Local Government Act 1972 or which may not be disclosed under the Data Protection Act
 - xxi. Engaging in other work without prior management agreement during a period of sickness or unauthorised absence
 - xxii. Engaging in activities which are inconsistent with a reason for absence and/or prejudicial to recovery while on sick leave from the Council
 - xxiii. Maltreatment or serious failure to abide by practice standards in respect of people in the councils care or service users;

This list is neither exclusive nor exhaustive and there may be other offences of similar gravity which would also constitute gross misconduct. Therefore, the list can only be regarded as illustrative.

Part 5 – Protocol for Member / Officer Relations

1. Purpose of this Protocol

- 1.1 The aim of this protocol is to describe the relationships, roles and behaviours which should exist between elected Councillors (Members) and employees (Officers) in a modern, well run local Council. The protocol provides guidance on how the complementary, but very different roles of Officers and Members should work.
- 1.2 This protocol is not intended to be definitive and should be read alongside other relevant documents such as the national Code of Conduct for Members, the Code of Conduct for Officers, conditions of service and the whistle blowing procedures. These Codes have direct relevance to many of the issues covered in the Protocol. Copies of the Codes of Conduct can be found in Parts 3 and 4 of this Chapter of this Constitution. The Local Code of Practice for Councillors and Officers dealing with Planning Matters is also important and this too can be found in the Constitution (Chapter 5, Part 3(d)).
- 1.3 The protocol sets out the principles which should influence behaviour which both Members and Officers should comply with. The protocol has a serious objective which may have significant consequences for those who might choose not to follow these principles.
- 1.4 This protocol is adopted Council policy and all Members and Officers are expected to understand and follow its principles and the spirit of those principles. It also applies to co-opted Members and all employees of the Council, agency staff, volunteers and those individuals working with the Council as contractors.

2. Roles of Officers and Members

- 2.1 The primary role of both Members and Officers is to serve the public to the best of their abilities.
- 2.2 To do this most effectively, Members and Officers need to work together in a manner which combines their essential skills, knowledge and experience in a way which produces the best outcomes for individuals and communities and which is fair, sustainable and responsive.
- 2.3 Council Members provide a democratic mandate for the people of Thurrock and advocacy for individuals and communities. They are also responsible for policy making and the scrutiny of the Councils actions and those of public sector partners. Officers provide independent impartial professional advice and expertise and are required to conscientiously implement Council policy and decisions of Council and those matters properly delegated to them.
- 2.4 Whilst the roles of elected Members and Council Officers are complementary they are also distinct. Elected Members are responsible to the electorate for the period that they are elected. Employees are responsible to the Council as a whole but work under the direction of the Cabinet, the Council and its Committees.

3. Principles of Member Officer Relationships

- 3.1 The underlying principles which determine relationships between Members and Officers in Thurrock are:
 - (a) The commitment to the common aim of providing Thurrock residents with the best possible quality of life through the provision of excellent services, leadership and advocacy
 - (b) The acceptance of and overt demonstration of mutual courtesy and respect
 - (c) The awareness and acceptance of their different roles duties and responsibilities
 - (d) The acceptance for the need to ask for Officer advice and for that advice to be timely, accurate and impartial

- (e) The acceptance of the principles of fairness, consistency, transparency in the conduct of business
- (f) The need to comply with the laws and regulations relating to the conduct of Council business
- (g) The need to demonstrate ethical decision making and implementation
- (h) The need to avoid actual or perceived personal conflict of interest
- (i) The need to maintain appropriate confidentiality
- (j) A commitment to non adversarial working and dispute resolution

4. Expectations

4.1 Members and Officers can expect from each other:

- (a) Mutual respect and courtesy at all times. There will be no inappropriate or public criticism, intimidating or threatening behaviour of any kind.
- (b) A working partnership. There will be an understanding of and support for each others roles, workloads and pressures.
- (c) Appropriate relationships. Members and Officers will not use their relationship to advance their personal interests or those of others or to influence decisions improperly.

4.2 These obligations rest with both Members and Officers. In addition to these Members and Officers have specific roles as follows:

4.3 Members will

- (a) provide political leadership and direction
- (b) maintain appropriate confidentiality
- (c) comply with the Members' Code of Conduct
- (d) ensure that they take proper advice on the law, Code of Conduct, declaration of interests, procedure Rules in the Constitution, conflicts of interests and general propriety

4.4 Members will not

- (a) get involved in day to day management of staff or services
- (b) seek to give unreasonable advantage on individual cases or matters or seek to substitute their judgment for the professional judgment of an Officer
- (c) engage in personal criticism of Officers in a public meeting
- (d) use equipment or facilities or Officer support for any political purpose

4.5 Officers will

- (a) be responsible for the management of the authority and ensuring the implementation of agreed policy.
- (b) treat all Members with respect, fairness and impartiality
- (c) provide timely response to Member enquiries and complaints

- (d) seek to assist all Members in the conduct of their role as ward Member and various other roles within the Council
- (e) have awareness of and sensitivity to the political environment
- (f) give professional advice which is politically neutral
- (g) comply with the Officer Code of Conduct

4.6 Officers **will not**

- (a) form close relationships with a Member so as to call into question the Officer's political impartiality
- (b) raise personal issues (as a employee) with Members
- (c) withhold information that Members are entitled to have
- (d) allow their own personal or political opinions to interfere with their work

4.7 The above lists are not meant to be exhaustive and Members and Officers should seek advice from the Monitoring Officer if they have any queries about the provisions of the Protocol or their application in certain circumstances.

5. Personal Relationships

5.1 Members and Officers work together on a regular basis in meetings, Committees and less formal settings. It is inevitable that relationships will form and to ensure the principles of Member Officer relations are upheld, the following guidance applies.

5.2 If a friendship or closer relationship (including relatives/partners) exists or forms between any Member and any Officer, this needs to be addressed openly. Friendship is likely to be something closer than an acquaintance or work colleague and include some social interaction. In such situations:

- (a) Members should seek advice from the Monitoring Officer and, if in doubt, must declare their interest at formal and informal meetings.
- (b) Officers must raise the matter with their Head of Service or Director to discuss appropriate action and must make a declaration in the Register of Officers' Interests.

6. Appointment or Dismissal of Officers

6.1 Members will take no part in the appointment or dismissal of an Officer nor should they seek to influence in any way the appointment or dismissal of a particular person to a post other than the recruitment of the Chief Executive or Head of Paid Service, Directors, Monitoring Officer and Chief Finance Officer.

6.2 Members must not take part in the appointment or dismissal of the Chief Executive or Head of Paid Service, Directors, Monitoring Officer and Chief Finance Officer if they are in any way related to or associated with the person concerned.

7. Political Groups and Officers

7.1 A service or facility available to one political group should be available to all other political groups and an Officer providing that service should provide it equally and impartially. Such services may include briefings prior to meetings or discussions with a group on a particular topic. Where this type of arrangement occurs the following principles should be observed by Members and Officers:

- (a) Officer support extends only to the provision of information and advice on Council business. It does not include advice on party or personal matters. To this end, Officers should not be present at any part of a group meeting which discusses party political business
- (b) any advice given to one party group at such meetings should be made available to the other groups, prior to or at formal decision making meetings
- (c) the confidentiality of party group meetings should be respected
- (d) decisions taken at party group meetings are not formal decisions of the Council and should not be treated as such by Officers
- (e) party group meetings to which Officers are invited should only include Council Members

7.2 Where Officers have particular difficulties involving advice to party groups these should be raised with the Chief Executive.

8. Members' Enquiries

8.1 Members' enquiries may be made by any means. Officers will respond to Member's enquiries promptly and in any event within the corporate timescales for responding to queries. Directors are responsible for ensuring that Member enquiries are dealt with promptly and accurately in his or her Directorate.

8.2 Where an enquiry imposes a disproportionate burden on Officers' work, this should be explained and discussed with the Member concerned and senior management should agree an alternative deadline and/or response.

8.3 This Members' enquiry procedure supplements and does not replace Members' statutory and common law rights to information as set out below.

9. Councillor Access to documents and information

9.1 Information and documents should be made available on request by Officers to Members unless:

- (a) there is a clearly and properly justifiable reason for declining access, and
- (b) the Member in question cannot establish a legal right to the information or documentation

9.2 Members are entitled on a "need to know" basis to receive documents and information on request where it is clear that the Member concerned requires the documentation or information because of their position within the Council or by virtue of their Membership of a Committee or Sub-Committee.

9.3 However, if information is requested which is not readily available, or will require significant resources to produce, Officers are advised to seek guidance from their respective Director, before providing the information.

9.4 Access to information will not be granted if the information is prepared as part of a briefing or is in draft or is deliberative, for example, for the Cabinet or at the request of an opposition group.

9.5 In addition all Members of the Council have a separate statutory right to inspect documents relating to matters which are to be the subject of a decision by the Council, the Cabinet, a Cabinet Member or a Committee or Sub-Committee, provided that the documents are within the possession of the Council.

9.6 Members of the Council will only be entitled to receive such information and documents under their statutory right if it is not exempt or confidential in accordance with the provisions of the Access to Information legislation. However, they may nevertheless be entitled under their common law “need to know” rights.

9.7 More details of Members’ rights of access to information can be found in the Access to Information Procedure Rules in Chapter 8 of the Constitution.

10. Confidentiality

10.1 Any Council information provided to a Member must only be used by the Member for the purposes for which it was provided, that is in connection with the proper performance of the Member’s duties as Councillor.

10.2 Members must not divulge confidential information to anyone unless the reason for its disclosure falls within the limited categories set out in paragraph 4(a) of the Members’ Code of Conduct. The Council requires Members to take appropriate legal advice from the Monitoring Officer, before disclosing information that they believe or ought reasonably to believe was given to them in confidence.

10.3 A Member may be referred to the Council’s Standards Committee for breach of the Code if he or she discloses confidential information without justification under the Code and without legal advice. If Officers breach confidentiality then they may face disciplinary action.

11. Media Relations and Publicity

11.1 The provision of information by the Council to the media (or directly to the public) is governed by the Local Government Act 1986, and the Code of Practice on Local Authority Publicity, and in particular:

- (a) must have the principal purpose of explaining or commenting upon the Council’s policy
- (b) must not include material whose main effect is party political (i.e. designed to affect public support for a political party)
- (c) must relate to a function of the Council, and
- (d) must not contain material which is disparaging of parties or members of parties.

11.2 The Council’s Media Protocol was revised in 2009. The Protocol is based on the Code of Recommended Practice on Local Authority Publicity, which is binding on all Members and Officers. The Corporate Communications team lead on all media and publicity events. The following principles are relevant to Member / Officer relations and the media:

- (a) Members and Officers will comply with the Council’s Media Protocol when speaking for or on behalf of the Council.
- (b) Members are free to speak to the media on any matter on behalf of a political party or as an individual but should make it clear in which capacity they are speaking in any statement made. This is particularly important when Members are representing other organisations.
- (c) Officers must also act in accordance with the Code of Conduct for Officers when speaking about the Council in public.

11.3 The Code of Practice on Local Authority Publicity requires particular care about publicity issued in an election period. This applies to any election or by-election affecting the area. At such times the Monitoring Officer will issue guidelines for Members and senior Officers.

Managing and Enhancing the Reputation of the Council

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- 11.4 The first principle of Member / Officer relations is the commitment to the common aim of providing Thurrock residents with the best possible quality of life through the provision of excellent services, leadership and advocacy. An essential element of providing leadership is inspiring and increasing the confidence of local people in the Council as an organisation, its services and its Members and Officers.
- 11.5 Members and Officers, therefore, must work in partnership and behave in a manner that does not diminish the reputation of the Council and thereby decrease public confidence in the organisation, its Members and Officers.

12. When Things Go Wrong: Dispute Resolution

- 12.1 The Council's experience is that Members and Officers work well together in the main. However, it is still necessary to have a clear process to deal with matters when they are not going well.
- 12.2 The key principle for dispute resolution is that both Members and Officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a manager.
- 12.3 When an informal resolution is not possible, the following processes will apply.

13. Complaints about Officers

- 13.1 Members should make any formal complaints about Officers to the relevant Director or the Chief Executive, copied to the Monitoring Officer. The matter will be investigated and the Member will be informed of its progress and outcome.
- 13.2 In appropriate cases, breaches of this Protocol may also constitute offences under the Code of Conduct for Officers and in such cases, disciplinary action may be taken.
- 13.3 Members must remember that the decision to take formal action against an Officer and the action taken is the sole responsibility of management. A Member's evidence will be considered but Members must:
- (a) respect the confidentiality of the investigation and disciplinary process
 - (b) not seek to improperly influence the action taken against an employee
 - (c) accept the management decision.

14. Complaints about Members

- 14.1 An Officer's complaint about a Member should be reported to the Chief Executive and copied to the Monitoring Officer and the Officer's Director. This is provided that the Officer does not wish to make a formal complaint to the Council's Standards Committee.
- 14.2 The Monitoring Officer will, where necessary, investigate the complaint and report the outcome to the Chief Executive, the Member, the Officer and Officer's Director. In appropriate cases, the Monitoring Officer or the Chief Executive will notify the relevant political group leader of the complaint and his or her findings.
- 14.3 The Monitoring Officer and the Chief Executive will seek to resolve the issues with solutions that are mutually acceptable to the Member and Officer. If this is not possible then the Monitoring Officer or the Chief Executive will recommend necessary actions.
- 14.4 If the Monitoring Officer finds that in breaching the terms of this protocol the Member has also breached the Code of Conduct for Members then a referral may be made to the Council's Standards Committee.

15. Interaction with the Members' Code of Conduct and the Whistleblowing Policy

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- 15.1 A complaint against a Member may disclose evidence of a breach of the Code of Conduct. The Protocol's aim is, in part, to provide guidance and resolve disputes informally and thereby dispense with the need to resort to Code of Conduct complaints to the Standards Committee. A Member or an Officer is under no obligation to take part in the process under this Protocol. The use of the dispute resolution procedure in this Protocol does not prohibit an Officer from making a complaint under the Code of Conduct about the same matter, if the matter has not been resolved under the Protocol.
- 15.2 Equally, Officers and Members are not prevented by this Protocol from using the Council's Whistleblowing Policy, particularly for matters involving potential fraud, deception or other criminality.

16. Monitoring and Review

- 16.1 The Protocol will be monitored and reviewed by the Council's Standards Committee on an annual basis.

Part 6 – Politically Restricted Posts

1. Introduction

- 1.1 This guidance/procedural note applies to employees who occupy or are appointed to politically restricted posts and sets out the application process for exemption from or inclusion on the lists of politically restricted posts maintained by the Council, and the process of appeal for a direction on whether a post is politically sensitive.
- 1.2 The main provisions regarding politically restricted posts are set out in Part I of the Local Government and Housing Act 1989 (the LGHA 1989). The law aims at ensuring the political impartiality of local government staff.
- 1.3 The effect of including a Council employee on the list of politically restricted posts, debars that individual from having any active political role either in or outside the workplace, in particular:
- (a) standing for candidature for public elected office, unless the employee resigns prior to announcing his/her candidature in accordance with paragraph 4 below
 - (b) acting as an election agent or sub-agent for any candidate for election
 - (c) holding office in a political party
 - (d) canvassing at elections (not restricted to the Borough of Thurrock)
 - (e) speaking or writing publicly (other than in an official capacity) with the intention of affecting public support for a political party (does not include the display of a poster or other document at the postholder's home or in their car or other personal possessions)
- 1.4 The cumulative effect of these restrictions is to limit the incumbents of politically restricted posts to bare Membership of political parties, with no active participation within the party permitted.

2. Categories of politically restricted posts requiring political neutrality

- 2.1 The Council is required to maintain an up to date list of its politically restricted posts which fall into five categories of local government Officer. The list is open to public inspection:
- (a) first category - posts individually identified in the legislation
 - (b) second category - posts defined by their relationship to others
 - (c) third category - posts where the remuneration level is equivalent to or above the equivalent of spinal column point 44 on the NJC for Local Government Services Scales
 - (d) fourth category – posts, where the remuneration level is below the equivalent of spinal column point 44 on the NJC for Local Government Services Scales, but where the duties of the post have certain characteristics described in the legislation
 - (e) fifth category - posts to which duties have been delegated under the Scheme of Delegations to Officers
- 2.2 The third, fourth and fifth categories of posts have to be included in lists prepared and maintained by the Council. There is no requirement to keep a list of those posts deemed to be politically restricted by virtue of the first category that do not also fall within the remit of the fourth category.
- 2.3 In practical terms, the best way for the Council to maintain clarity in respect of politically restricted posts is to annotate a full staff list to show those posts restricted by virtue of the first

to fifth categories. Some posts will have more than one annotation, some will have one only and many will have none. The benefit of a list of this type is that it greatly facilitates the role of the Standards Committee in the adjudication process.

- 2.4 Secretarial, clerical and support staff, even if they report to the Chief Executive or to Directors, are not regarded as Chief or deputy Chief Officers for the purposes of political restriction. They may however, be deemed to be in politically restricted posts if their duties fall within the fourth category referred to in the table below.

First category - posts individually identified in the legislation - Section 2(1) LGHA 1989
These Postholders are politically restricted without rights of exemption:
(a) The Head of Paid Service - Council's designated post - Chief Executive
(b) Chief Finance Officer (Section 151 Officer) Officer - Council's designated post - Director of Finance and Corporate Governance
(c) Monitoring Officer - Council's designated post - Head of Legal Services
Second category - posts defined by their relationship to others
Non-Statutory Chief Officer/Directors
(a) an employee for whom the Head of Paid Service / Chief Executive is directly responsible
(b) an employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, the Head of Paid Service / Chief Executive and/or the Council, or any Committee or Sub-Committee of the Council
Deputy Chief Officer/Directors
An employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, one or more of Statutory Officers or non-Statutory Officers
Third category - posts where the remuneration level is equivalent to or above the espinal column point 44 on the NJC for Local Government Services Scales - Sections 2(2)(a) and (b) LGHA 1989
Equivalent to or above NJC SPC 44 (£36,838 as at 1 April 2008 for a full time post)
Remuneration is a wider term than 'salary level' and will include other variable elements of pay (aside from regional weightings) such as 'acting up'/overtime/shift bonus and performance-related pay elements. Cars and other fringe benefits in kind are not intended to be included. For staff in receipt of salary protection, the actual protected salary will trigger political restriction and not the salary/grade of the substantive post.
The ultimate test whether an individual post is in fact politically sensitive will depend on the nature of the duties the post regularly undertakes.
Postholders may apply to the Committee to be exempted from the list, on the grounds that one or more of the tests referred to in section 2(3) LGHA 1989, do not apply to their post.

Fourth category – posts, whose annual rate of remuneration is less than the equivalent of NJC SP 44 but whose duties have certain characteristics described in the legislation (politically sensitive posts) - Sections 2(2)(c) and (3)(a) and (b) LGHA 1989
<p>Less than NJC SPC 44 (£36,838 as at 1 April 2008 for a full time post)</p> <p>A post becomes politically sensitive, where either of the tests referred to in (a) and/or (b) below are satisfied.</p> <p>Postholders can appeal to the Committee for a direction as to whether the post is politically sensitive.</p>
<p>(a) gives advice on a regular basis to the authority themselves, to any Committee or Sub-Committee of the authority or to any Joint Committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any Committee of that executive, or to any Member of that executive who is also a Member of the authority</p>
<p>(b) speaks on behalf of the Council on a regular basis to journalists or broadcasters</p>
Fifth category - posts to which duties have been delegated - Section 2(2)(c) LGHA 1989
<p>Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the Council in a list maintained in accordance with section 100G(2) of the Local Government Act 1972</p> <p>This inclusion ensures that a person who is in a post not normally politically restricted, but who, for the time being, is exercising powers normally exercised by the holder of a politically restricted post, is regarded as being in a politically restricted post for the duration of the delegation. The list need not include any delegations made for under six months.</p> <p>Postholders referred to in the Scheme of Delegations to Officers are politically restricted without rights of exemption.</p>

3. Terms and Conditions of Employment

- 3.1 Section 1(5) LGHA 1989 states that 'the terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.'

4. Employees standing for election

- 4.1 Notwithstanding the period of notice referred to in contracts of employment, prior to announcing their candidature for election as a Member of the House of Commons, the European Parliament, the Scottish Parliament, Welsh Assembly or any Local Authority (excluding parish/town Councils), holders of politically restricted posts must, by notice in writing, addressed to their Manager and the Head of Paid Service / Chief Executive, resign with immediate effect. It is left to the discretion of the Head of Paid Service / Chief Executive whether or not to reinstate an employee who resigns his/her post, and then consequently fights and loses an election.

- 4.2 If standing for election, it is in the interests of those applying to the Committee for exemption from political restriction or appealing for a direction as to whether their post is politically sensitive, to ensure that they make an application for a Certificate of Opinion (Appendix A) and then to submit their application/appeal to the Standards Committee, at least two months before they intend to stand for election.

5. Standards Committee's role

- 5.1 The Standards Committee or a Sub-Committee of the Standards Committee will consider applications from employees for exemption from political restriction or appeals for a direction as to whether a post is politically sensitive, provided that the post is included in the list of politically restricted posts maintained by the Council or the Council proposes to specify the post as being politically restricted.
- 5.2 It is the post to which the exemption is granted, not the postholder (although in the majority of cases, the application will be made by a post holder who wants to carry out political activities).
- 5.3 If the Committee determines that the duties of the post do not fall within the remit of section 2(3) of the LGHA 1989, (refer to paragraph 2.4 above), the Committee will direct that, for a specified period, the post is not to be regarded as politically restricted and be removed from the list of politically restricted posts maintained by the Council.
- 5.4 The Committee may, on application from any person, review any post not included in the list of politically restricted posts. If the Committee considers that the duties of the post fall within section 2(3) of LGHA 1989 and that the post is not currently included in either the list of politically restricted posts or in the Scheme of Delegations to Officers, then the Committee may issue a directive that it be included in the list of politically restricted posts.
- 5.5 The Committee will give priority to any application for removal from the list of politically restricted posts by an employee who certifies that it is for the purpose of enabling him/her to be a candidate in a forthcoming election.
- 5.6 Subject to paragraph 6 below, the Standards Committee will give general advice, following consultation with the Head of Paid Service / Chief Executive, on the application of criteria for designation of a politically restricted post.
- 5.7 The Head of Paid Service / Chief Executive will provide the Committee with all the information the Committee may reasonably require, for the purpose of carrying out its functions in relation to politically restricted posts.

6. The Standards Committee's discretion

- 6.1 The only area over which the Committee has discretion is whether or not a post falls within the parameters set out in section 2(3) LGHA 1989. Otherwise, the Committee is entirely guided by legislation in determining whether applications for exemptions made to it should be granted – there is no scope for discretionary approvals, or for exemptions to be granted conditionally.

7. Section 2(3) of LGHA 1989 guidance

- 7.1 Although adjudication of matters arising as a result of differing interpretations of section 2(3) LGHA 1989 remains the prerogative of the Committee, the following guidance aims to assist the Committee in its decisions as to whether or not a post is politically restricted. The guidance is not binding on either the Council or the Committee and is intended to offer assistance in decision-making without fettering the discretion of either party.
- 7.2 Section 2(3) of LGHA 1989, states:

‘The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say –

- (a) giving advice on a regular basis to the authority themselves, to any Committee or Sub-Committee of the authority or to any Joint Committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any Committee of that executive, or to any Member of that executive who is also a Member of the authority;
- (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.'

7.3 There are several questions raised by the wording of section 2(3) LGHA 1989:

- (a) Is a 'post under a local authority' limited to a post held by an employee of the Council?
- (b) What do the words 'consist in or involve' imply?
- (c) What constitutes 'advice'?
- (d) What constitutes 'on a regular basis'?
- (e) Does advice have to be proffered to the whole authority, executive, Committee, Sub-Committee or Joint Committee or to any one Member of such a body?
- (f) Does speaking mean giving formal presentations or does it include answering telephone queries? Would distributing a written press release constitute speaking to journalists and broadcasters?

7.4 In interpreting the provisions of section 2(3) LGHA 1989, the following may be taken into account:

- (a) 'Post under a local authority' - in this context, may be taken to mean any post established by the Council, whether the incumbent is a permanent full or part time employee, a temporary employee, a person seconded to the Council from another body or a consultant under contract to the Council.
- (b) 'Consist in or involve' - in this context, may be taken to mean that either giving advice to the Council/Cabinet etc or speaking to the media, or both, constitute a recognised part of the postholder's activities.
- (c) 'Advice' - in this context, may be taken to mean information provided with the intention that it should influence:
 - (i) the policy adopted by the Council in respect of any matter properly before it;
 - (ii) any strategic decisions made by or on behalf of the Council.
- (d) 'Regular basis' - in this context, may be taken to mean that the activity to which it refers is:
 - (i) incorporated in the job profile for the post; or
 - (ii) undertaken as an expected part of the postholder's normal duties (example postholder is required to draft reports containing advice and/or recommendations; postholder is required to attend Committee meetings; postholder is required to speak at meetings);
- (iii) undertaken on more than an occasional basis, though not necessarily frequently.
- (e) 'The body to whom the advice is offered' - may in this context, consist of any number of Members from one upwards, as long as the Member or Members concerned, are acting in their official capacity as Members of the Council/Cabinet or any of its Committees, Sub-Committees or Joint Committees.

- (f) 'Speaking' - in this context, may be taken to mean the passing of any information, whether verbally or through the written word, to a journalist or broadcaster when it is reasonable to assume that the postholder knows that the information so provided is likely to be disseminated to the public at large.

8. Procedure to be followed by the Standards Committee

- 8.1 The Committee will hear applications for exemption or inclusion. The issue before the Committee is whether it is appropriate to list the post as politically restricted because of its sensitivity (refer to paragraph 2.4 above).
- 8.2 The Membership composition of the Committee will comprise three Standards Committee Members (1 Independent Member/Person: 2 Borough Councillors (politically balanced)). The Committee will be Chaired by the independent Member/Person.
- 8.3 The Access to Information Rules will apply. The Committee will be advised by the Monitoring Officer or nominee.
- 8.4 A brief report will be provided together with all relevant documentation e.g. postholder's application for exemption, job profile for the post, Certificate of Opinion etc, at least 14 working days' in advance of the Committee meeting.
- 8.5 The postholder will be entitled to attend the meeting of the Committee to make representations in support of their application and may be accompanied by an accredited trade union representative or work colleague. The postholder's representations will be heard first.
- 8.6 Legal Services will present the case on behalf of the Head of Paid Service / Chief Executive.
- 8.7 The Committee will retire to deliberate their decision and will notify the Head of Paid Service / Chief Executive of the Committee's decision within five days' of the meeting.
- 8.8 The Head of Paid Service / Chief Executive will make the terms of any direction for inclusion of a post in or exclusion of a post from the list of politically restricted posts known to the incumbent of that post. The Head of Paid Service / Chief Executive will comply with the direction.
- 8.9 The decision of the Sub-Committee is final. There is no right of appeal.

9. How to apply for an exemption

- 9.1 Incumbents of posts on the third category list (remuneration – related) (paragraph 2.4 above), may apply to the Committee to be exempted from the list on the grounds that one or more of the tests referred to in section 2(3) LGHA 1989 do not apply to their post.
- 9.2 All applications require a letter from the postholder addressed to the Head of Paid Service / Chief Executive. The application will state the title of the post, the basis upon which the post is currently deemed to be politically restricted and the reason why the applicant considers that political restriction is no longer appropriate. The application will be accompanied by a certified job profile of the post.
- 9.3 If the post is included in the third category list (remuneration – related) (paragraph 2.4 above), or the fourth category list (sensitive duties) (paragraph 2.4 above), Legal Services will issue a Certificate of Opinion signed by the Head of Paid Service / Chief Executive, as to whether or not, in the Head of Paid Service / Chief Executive's view, the duties of the post fall within section 2(3) LGHA 1989, for politically restricted posts. Legal Services may, on behalf of the Head of Paid Service / Chief Executive, state in writing the Council's view of the merits of the application.
- 9.4 The postholder's application will be presented to the Committee for a decision on whether the post should be exempted from political restriction.

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- 9.5 If the Committee determines that the duties of the post do not fall within the remit of section 2(3) of the LGHA 1989, (refer to paragraph 2.4 above), the Committee will direct that, for a specified period, the post will not be regarded as politically restricted and should be removed from the list of politically restricted posts maintained by the Council.
- 9.6 Legal Services will remove the post from the relevant politically restricted posts list and keep the post under review.
- 10. How to appeal for a direction as to whether the post is politically sensitive**
- 10.1 Incumbents of posts included in the fourth category list (sensitive duties posts) (paragraph 2.4 above), can appeal to the Committee for a direction as to whether the post is politically sensitive. The procedure detailed in paragraph 9 above will apply.
- 10.2 Appeals will be heard by Members of the Standards Committee not involved in the Committee's original decision to list the post as politically restricted because of its sensitivity.
- 11. Directions to include a post in the list of politically restricted posts**
- 11.1 An application may be made by any person to the Committee for a direction that a post be included in the list of politically restricted posts. This would apply in a case where the Council had not designated a post as politically restricted and may be unwilling to do so.
- 11.2 The procedure detailed in paragraph 9 above will apply. The Committee may only give a direction were it is determines that the post satisfies the test referred to in section 2(3) LGHA 1989 AND the post is neither referred to in the Scheme of Delegations to Officers nor listed as a politically restricted posts.
- 12. Applications from persons not yet in post**
- 12.1 The Committee will only consider applications for exemption from persons who have received formal job offers from the Council. Applications must be accompanied by a Certificate of Opinion. The Committee will not consider applications from persons who are only considering applying for a Council post, but who have not received a job offer.
- 13. New employee appointments**
- 13.1 Where new appointments are made to posts included in the third and fourth category lists (paragraph 2.4 above), the Council's letter of appointment must refer to the fact that the post is politically restricted. Similarly, if an existing post is liable to progress to, or above Grade J (market) via annual increment, the postholder must be made aware that the post will become politically restricted and of the action to be taken if they wish to apply to the Committee for an exemption.
- 14. Transferring exemptions to another local authority or post**
- 14.1 The LGHA 1989 requires an application for exemption to be made by the post holder in respect of a particular post and accompanied by a Certificate of Opinion relating to the duties of the post at the time of the application for exemption. An original exemption cannot therefore be transferred to another local authority or to another post.
- 15. Amendments to this Procedure**
- 15.1 The Standards Committee has granted the Head of Paid Service / Chief Executive, in consultation with the Chair of the Committee, delegated authority to amend this Procedure.

APPENDIX A - Politically Restricted Posts - Certificate Of Opinion

THURROCK BOROUGH COUNCIL

LOCAL GOVERNMENT AND HOUSING ACT 1989

Section 2(3) of the Local Government and Housing Act 1989 states that political restriction applies where the postholder:

- (a) gives advice on a regular basis to the authority themselves, to any Committee or Sub-Committee of the authority or to any Joint Committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any Committee of that executive, or to any Member of that executive who is also a Member of the authority;
- (b) speaks on behalf of the authority on a regular basis to journalists or broadcasters.

CHIEF EXECUTIVE'S STATEMENT

This is to certify that it is Thurrock Borough Council's opinion that the duties of the under mentioned post:

(*Please tick appropriate box)

do fall within section 2(3) of the Local Government and Housing Act 1989*

do not fall within section 2(3) of the Local Government and Housing Act 1989*

Post Title:

Full Name of Current Postholder :

Postholder's salary: £ Grade

Job Profile (please attach)

It is a requirement that the job profile contains adequate information. For filled posts, the information provided needs to show to what extent, over the past twelve months, the postholder has advised the General Assembly of the Council/Cabinet, its Committees or Sub-Committees, or Joint Committees or a Cabinet Member and/or spoken regularly for Thurrock Borough Council, to journalists and broadcasters.

For new posts, it will be necessary to state to what degree it is anticipated the postholder will be carrying out the duties as outlined above.

Chief Executive:

Name: Signature

Date: