

## TANDRIDGE DISTRICT COUNCIL

### STANDARDS COMMITTEE

Minutes and report to Council of the virtual meeting of the Committee held on the 15 March 2021 at 7.30pm.

**PRESENT:** Councillors Pursehouse (Chair), Caulcott, Parker and N.White

**ALSO PRESENT:** Councillors Allen, Lockwood, Mills and Mundy Mr. Shaun Mundy (Independent Person)

#### 296. APPOINTMENT OF VICE CHAIR

This item was added to the agenda following the resignation of ex-Councillor Milton (the previous Vice-Chair) earlier in the day.

**RESOLVED** – that Councillor Caulcott be appointed Vice-Chair of the Committee for the remainder of the Municipal Year.

#### 297. MINUTES OF THE MEETING HELD ON THE 11TH JANUARY 2021

These were confirmed as a correct record.

#### 298. MEMBER CODE OF CONDUCT

As recommended by the Committee for Standards in Public Life, the Local Government Association had produced an updated model code of conduct for councillors following an extensive consultation exercise. The Council's Standards Committee had participated in that consultation process following consideration of the matter at its 21<sup>st</sup> July 2020 meeting.

The key areas of difference between the Council's current Code of Conduct and the new Model Code were:

- (i) the introduction of a new section on bullying and harassment, including a definition of the terms;
- (ii) increased content relating to equalities and diversity;
- (iii) a requirement to declare any gifts and hospitality which are offered and declined;
- (iv) a requirement to disclose, and not take part in any discussion or vote on a matter where a Councillor has an interest which directly relates to their financial interest or wellbeing (and is not a Disclosable Pecuniary Interest) e.g. something that affects the financial interest or wellbeing of a friend, relative or close associate;
- (v) the new Code is set out as a personal commitment for Councillors to sign up to (rather than 'Dos and Don'ts' as per the current version) and includes guidance.

Officers had facilitated meetings with Tandridge councillors and parish council chairs to review the new model code. At both meetings, there was general support for Tandridge to adopt the code in its entirety. The Committee was therefore invited to recommend such adoption to Council and for the constitution to be amended accordingly.

**COUNCIL DECISION**

*(subject to ratification by Council)*

**RECOMMENDED** – that

- A. the Local Government Association’s New Model Code of Conduct, as shown at Appendix A to these minutes, be adopted; and
- B. authority be delegated to the Head of Legal and Monitoring Officer to make any consequential amendments required to the Constitution.

## **299. ARRANGEMENTS FOR HANDLING COMPLAINTS ON COUNCILLOR CONDUCT AND INDEPENDENT PERSON PROTOCOL**

The Committee considered proposed amendments to the current arrangements for dealing with standards complaints, informed by practice in other councils and recommendations by the Committee for Standards in Public Life. The revisions were intended to clarify the process and increase its transparency and effectiveness. The main changes were:

- clarification of the involvement of the Independent Person throughout the process;
- addition of estimated timescales for completion of each stage (subject to provision of information by third parties);
- addition of criteria to be used when assessing whether or not to refer a complaint to investigation;
- additional detail about the approach to be taken by the Hearings Panel;
- a new process for the appointment of members to the Hearings Panel, which aims to ensure that all Panels comprise members who have no conflicts of interest regarding the complaint and have been appropriately briefed;
- clarification on the nature of complaints which may be referred to the Hearings Panel.

A suggested protocol for the Independent Person, which sought to increase understanding of the role, was also presented. Arising from the debate, the Monitoring Officer agreed to document a process for recruiting the Independent Person.

**RESOLVED** – that the revised arrangements for dealing with standards complaints, as attached at Appendix A to the report (subject to non-material drafting changes circulated prior to the meeting) be approved

**COUNCIL DECISION***(subject to ratification by Council)*

**RECOMMENDED** – that the Protocol for the Independent Person, as attached at Appendix B to these minutes, be adopted as part of the Constitution.

**300. MEMBER OFFICER PROTOCOL**

The current protocol had been adopted in February 2019 and had recently been reviewed following consultation with a cross-party group of Members. The Committee considered proposed revisions to the protocol in light of that review. These sought to clarify the mutual responsibilities of Members and Officers and set out how each should work effectively with each other (e.g. regarding decision-making, giving information and advice and responses to enquiries).

Regarding section 6 of the protocol (access to officers and information) the question of whether Members should be given timescales for officer responses to their enquiries was discussed. It was suggested that, while the nature of Member enquiries could vary significantly, officers might reasonably be expected to acknowledge an enquiry within 48 hours and, at the same time, state an estimated timescale for the substantive response. It was not considered appropriate to agree such an amendment without consulting the Executive Leadership Team (ELT). Instead, the Committee was content for matter to be discussed with ELT in due course, with a view to a further report being submitted to a future meeting. In the meantime, the Committee wished to endorse the revisions to the protocol as presented.

**COUNCIL DECISION***(subject to ratification by Council)*

**RECOMMENDED** – that the proposed changes to the protocol for Member / Officer relations, as attached at Appendix C to these minutes, be adopted.

**301. MEMBER INDUCTION 2021 AND MEMBER DEVELOPMENT 2021/22**

Suggested programmes for new Member induction and ongoing Member development were presented.

It was intended to run the new Member induction programme over a longer period following the May 2021 elections with a broad range of subject matters. Current Councillors would also be encouraged to attend sessions so that all Members have the most up to date understanding of the topics.

The on-going Member development plan comprised departmental briefings and e-learning modules, including an 'introduction to how councils work' which newly elected Members would be expected to complete during the first committee cycle of 2021/22.

Where possible, training would be provided internally. However, £5,000 had been transferred from the staff training budget to fund external trainers for Members when required. A similar provision would be sought as part of the budget process for 2022/23 to enable ongoing funding for Member development.

It was confirmed that, in accordance with the Committee's decision at its previous meeting, all training undertaken by Councillors from April 2021 would be uploaded onto their profile page on the website. It was acknowledged that Group Leaders had a key role to play in encouraging as many Members as possible to participate in the development programme. Member engagement with the development programme was considered a vital prerequisite for Councillors being able to fulfil their roles effectively.

***RESOLVED*** – that

- A. the new Member induction programme, as attached at Appendix A to the report, be agreed;
- B. the Member development programme, as attached at Appendix B to the report, be agreed.

Rising 8.11 pm

## **Local Government Association Model Councillor Code of Conduct 2020**

### **Purpose of the Code of Conduct**

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

### **General principles of councillor conduct**

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

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

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

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

In undertaking my role:

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

### **Application of the Code of Conduct**

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

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor

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

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

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of councillor conduct**

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

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

## **General Conduct**

### **1. Respect**

#### **As a councillor:**

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

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

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

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

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

## **2. Bullying, harassment and discrimination**

### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

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

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

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

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

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

### **3. Impartiality of officers of the council**

**As a councillor:**

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

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

### **4. Confidentiality and access to information**

**As a councillor:**

- 4.1 I do not disclose information:**

**a. given to me in confidence by anyone**

**b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**

**i. I have received the consent of a person authorised to give it;**

**ii. I am required by law to do so;**

**iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**

**iv. the disclosure is:**

**1. reasonable and in the public interest; and**

**2. made in good faith and in compliance with the reasonable requirements of the local authority; and**

**3. I have consulted the Monitoring Officer prior to its release.**



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

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

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

## **5. Disrepute**

**As a councillor:**

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

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

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

## **6. Use of position**

**As a councillor:**

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

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

## **7. Use of local authority resources and facilities**

### **As a councillor:**

**7.1 I do not misuse council resources.**

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

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

Examples include:

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

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

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

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

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

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

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

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

## **9 Interests**

### **As a councillor:**

#### **9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

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

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

**Annex 1** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10 Gifts and hospitality**

### **As a councillor:**

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

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

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

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

## Annex 1 - Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it Disclosure of Other Registerable Interests
6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in

any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosure of Non-Registerable Interests**

7. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter affects your financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

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

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.  Any unpaid directorship.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council.  'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licences</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital

	of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class
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\* 'director' includes a member of the committee of management of an industrial and provident society.

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

### **Table 2: Other Registrable Interests**

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)



**APPENDIX B****APPENDIX B****PROTOCOL FOR THE INDEPENDENT PERSON****INTRODUCTION**

1. The purpose of this Protocol is to set out the principal ways in which the Council, the Monitoring Officer and the Independent Person will interact in relation to the assessment of an allegation that a Member of the District Council or a Member of Parish Council within the District, has failed to comply with the Council's Code of Conduct.
2. Any reference in this Protocol to the Independent Person applies to however many Independent Persons the Council has and Independent Persons could also include an Independent Person from a neighbouring authority.
3. The Localism Act 2011 requires the Council to appoint at least one Independent Person to assist the Monitoring Officer, as a consultee, during the pre-investigation, investigation, pre-hearing and hearing process.
4. The Council has appointed one Independent Person to act in this role. If required, the Council can request for an Independent Person appointed by another Surrey Authority to act as their Independent Persons.
5. The role of the Independent Person is set down in legislation (section 28(7) of the Localism Act 2011) - 'Arrangements put in place by the Council must include provision for the appointment by the authority of at least one independent person, whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and in any other such circumstances it considers appropriate'.
6. The Independent Person will be considered an office-holder of the Council in accordance with the duty under s28(7) of the Localism Act 2011 and will therefore be entitled to be covered by the Council's indemnity insurance provided they act reasonably and within the terms of this Protocol.
7. The Council has adopted a Code of Conduct for Members and has agreed arrangements for dealing with any allegation that a Member of the District Council or a Member of Parish Council within the District, has failed to comply with the Council's Code of Conduct.

**ROLE OF INDEPENDENT PERSON**

8. The purpose of the Independent Person's role is to enable the public to have confidence in how the District Council deals with allegations of misconduct.
9. In carrying out the role, the Independent Person will ensure s/he will be available for consultation at various points in the arrangements for dealing with complaints concerning District Councillors and or Parish Councillors.
10. If the Independent Person has or has had a personal relationship with the complainant or the Member who is the subject of the complaint, they should advise the Monitoring Officer at the earliest opportunity and the Monitoring Officer will consider making a request to use the services of an Independent Person from another authority.

11. The Monitoring Officer function (including the Deputy Monitoring Officer) will review every complaint received and may, at their discretion, consult the Independent Person. If it is the initial view of the Monitoring Officer function that the complaint would not amount to a breach of the Member Code of Conduct and the Monitoring Officer will not progress the matter further.
12. Where an initial fact-finding investigation has been undertaken, a report will be submitted by the Investigator (usually the Deputy Monitoring Officer) to the Monitoring Officer. The Monitoring Officer, having consulted with the Independent Person, will consider and decide whether there is evidence of a failure to comply with the Code of Conduct and, if so, what action should be taken.
13. The Independent Person shall provide an objective and impartial opinion which the Monitoring Officer will consider in making the decision.
14. The Monitoring Officer, having consulted the Independent Person may consider resolution of the complaint by one of the following means:
  - the Member accepting that his/her conduct was unacceptable and offering an apology or other remedial action to the Council
  - referring the matter to the Member's Group Leader
  - the Member being required to attend training
  - the member being required to meet with the Monitoring Officer and/or other Chief Officers
  - such other action as is considered appropriate by the Monitoring Officer and Independent Person
15. Where a complaint is the subject of a Hearings Panel, the Independent Person must attend. After all the evidence has been presented the Committee will seek the views of the Independent Person before determining whether the Member breached the Code of Conduct. The Independent Person does not take part in the decision-making process of the Committee nor do they vote upon whether the complaint is upheld.
16. The Hearings Panel will seek the views of the Independent Person upon any sanction to be imposed.
17. Where the Independent Person is not available to deal with a particular matter or where the Independent Person has a potential conflict of interest, the Council shall appoint another Independent Person who shall act in the particular matter. Such Independent Person may be an Independent Person appointed by another Authority to act as their Independent Person.

#### **RELATIONSHIP WITH THE STANDARDS COMMITTEE**

18. The Monitoring Officer is the principal advisor to the Standards Committee supported by the Deputy Monitoring Officer(s) and Officers within Democratic Services.
19. The Independent Person is not a member of the Standards Committee and therefore is not part of the formal business of the meeting and cannot vote on any matters put to the meeting.

20. The Independent Person shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend the Committee as an observer.

#### **RIGHT OF ACCESS TO DOCUMENTATION**

21. The Independent Person shall have a right of access to such files and other documents as are necessary to fulfil their duties and obligations as set out in this protocol, their role description and the arrangements adopted from time to time by the Council for dealing with standards complaints. The Independent Person shall not have a right to undertake a roving commission. Normally access to files and other documents will be through the Monitoring Officer, Deputy Monitoring Officer or other officer appointed on their behalf.

#### **DUTY TO DECLARE INTEREST**

22. The Independent Person shall promptly disclose in writing any actual or potential conflict of interest that they may have in a matter which has been referred to them.

#### **REGISTER OF MEMBERS' INTERESTS AND THE SEVEN PRINCIPLES OF PUBLIC LIFE**

23. The Independent Person is not a Member, so they are not required to notify and register any interests in the Register of Members' interests. The Independent Person is however required to abide by the Seven Principles of Public Life ('the Nolan Principles').

#### **PROTECTING THE INDEPENDENCE OF THE INDEPENDENT PERSON**

24. No Member or Officer shall do anything which does or is likely to compromise the independence of the Independent Person or to otherwise inappropriately interfere in the discharge of the Independent Person's lawful duties.

#### **MISCELLANEOUS**

25. The Monitoring Officer will ensure that the Independent Person is kept up to date with changes to the Code of Conduct, procedures for handling allegations, in legislation, national guidance and/or good practice.
26. A further role of the Independent Person arises from the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended). By amending regulations in 2015, there is a prescribed statutory process for disciplining or dismissing an authority's Head of Paid Service, Monitoring Officer or Chief Finance Officer. A decision to discipline or dismiss must be taken by Full Council which must consider, amongst other things, advice, views or recommendations from an independent panel. That panel must include at least two Independent Persons appointed under Section 28(7) of the Localism Act 2011 by the Council or by another local authority
27. The Independent Person together with the Monitoring Officer will meet at least once a year to discuss Member behaviour in a general context.
28. This Protocol will be kept under review by the Monitoring Officer and amended where necessary, considering legislation, guidance, good practice etc.

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## PROTOCOL FOR MEMBER/ OFFICER RELATIONS

(February 2019 Draft February 2021)

### 1. Introduction

- 1.1 This protocol sets out the roles and responsibilities of elected Councillors ('Members') and Council Officers ('Officers') to ensure clarity when carrying out their respective duties.
- 1.2 The overriding principle is for Members and Officers to recognise and respect each other's roles and responsibilities. An ethos of mutual respect, trust and courtesy should underpin relations and be reflected in both in-house and public capacities. Neither Members nor Officers should conduct relations in such a way as to bring the Council into disrepute.
- 1.3 Both Members and Officers are required to observe the 7 'Nolan principles of public life' in their dealings with each other, namely:
- selflessness
  - integrity
  - objectivity
  - accountability
  - openness
  - honesty
  - leadership
- These principles form the basis of the Members' Code of Conduct and are explained in **Annex 'A'**.
- 1.3 This Protocol should be read and understood alongside relevant legislation, the Members' Code of Conduct, *the Officers' Code of Conduct and the Whistleblowing Policy and Guidance*. If any questions arise from this Protocol, advice should be sought from the ~~Chief Executive or~~ Monitoring Officer.
- 1.4 *Given the variety and complexity of relations, this Protocol does not seek to be comprehensive but instead addresses some of the situations which most commonly arise. It is expected that the approach it suggests can be adapted to any situation.*

### 2. Respective roles of elected Members and Officers

- 2.1 As the Council operates a committee system of governance (as opposed to an executive model) decisions cannot be made by individual Members. Decisions must be made in accordance with the Council's Scheme of Delegation (Part E of the Constitution). Specific matters are reserved for determination by Full Council and certain committees; other matters are delegated to Officers. However, upon delegating a matter to an Officer, a committee can require certain Members (e.g. the chair and vice-chair) to be consulted. ~~It is important that any dealings between Members and Officers, both written and oral, should observe professional standards of courtesy.~~

- 2.2 *Councillors and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct.* The respective roles of Members and Officers can be summarised as follows:
- 2.2.1 ~~Councillors and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct.~~ Councillors are responsible to *all* of the electorate and serve only so long as their term of office lasts.
- 2.2.2 Officers are appointed to serve the Council as a whole and not any political group; their job is to give advice to Councillors and to the authority and to carry out the authority's work under the direction and control of the Council and relevant committees. Officers are employed by the Council and are accountable to it.
- 2.3 Mutual respect between Councillors and Officers is essential to good local government *and an important part of that is an understanding of their respective roles and responsibilities.*
- 2.4 Councillors have four main areas of responsibility:
- (i) determining the policies of the authority and giving it political leadership;
  - (ii) monitoring and reviewing performance in implementing policies and delivering services;
  - (iii) representing the authority externally; and
  - (iv) acting as advocates on behalf of ~~their residents~~ *and local stakeholders.*
- 2.5 ~~Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to all Councillors. It is not the role of Councillors to control the day-to-day management of the authority's services. They should not seek to give instructions to Officers other than in accordance with the terms of reference of their committee.~~ *The principal focus of member decision making is to determine the Council's strategic policies and plans. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that Members sitting in a regulatory capacity will take decisions which affect the rights of individuals and businesses, for example in relation to development management and licensing matters, to which specific codes of practice apply.*
- 2.6 Chairs and Vice-Chairs of committees have additional responsibilities. Although they may have different relationships and more regular contact, these Councillors must still respect the impartiality of Officers, must not ask them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.
- 2.7 Members should not seek to give instructions to Officers other than in accordance with the terms of reference of their Committee. *Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.*
- 2.8 *At some meetings a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chairman and Vice-Chairs or Group Leaders. In these circumstances it is the Officer, not the Member, who takes the action and is accountable for it. A Member has no legal power to take decisions, neither should he/ she apply inappropriate pressure on the Officer.*
- 2.9 All Councillors have the same rights and obligations in their relationship with Officers and should be treated equally.

- 2.10 ~~The role of Officers is to give advice and information to Members and to implement the Council's policies.~~ Certain Officers, e.g. *the Chief Executive*, the Section 151 Officer and the Monitoring Officer have responsibilities in law over and above their obligations to the authority and to individual Councillors. *The Chief Executive has statutory responsibility, as head of paid service, for ensuring the proper organisation and management of the Council's staff and has overall responsibility for the direction and management of all Officers. The Monitoring Officer, which is also a statutory role, is responsible for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.*
- 2.11 Councillors must respect these obligations and Officers' impartiality, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging these responsibilities. *Councillors must not do anything to compromise Officers' impartiality, eg by insisting that an Officer change his/ her professional advice to Members.*
- 2.12 While there should be a close working relationship between a committee chair and the relevant director and other senior Officers, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question Officers' abilities to deal impartially with other Members, individuals or organisations.
- 2.13 Officers are accountable to their line manager, not to individual Members, and while Officers should always seek to assist a Member they must not exceed ~~their levels~~ *the bounds of authority they have been given by their managers.*

~~The distinct roles of Councillors and Officers necessarily impose limitations upon behaviour, for example:~~

- ~~(i) close personal relationships between Councillors and Officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others than a particular Councillor or Officer may secure advantageous treatment;~~
- ~~(ii) there are limits to the matters on which Councillors may seek the advice of Officers, both in relation to personal matters and party-political issues;~~
- ~~(iii) relationships with individual Members or party groups should not be such as to create public suspicion that an Officer favours that Councillor or group above others. Officer attendance and advice to political groups is covered in more detail under section 7.~~

### **3. Mutual expectations between Members and Officers**

#### **3.1 *Members can expect from Officers:***

- (i) a commitment to the authority as a whole, and not to any political group or individual Councillor;
- (ii) a working partnership;
- (iii) an understanding of and support for respective roles, workloads and pressures;

- (iv) timely response to enquiries and complaints in accordance with agreed standards;
- (v) professional advice, not influenced by political views or preference;
- (vi) regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to Councillors' needs, having regard to any individual responsibilities they have and positions they hold;
- (vii) an ~~appreciation~~ *awareness of and sensitivity to* the political environment in which they are working;
- (viii) respect, dignity and courtesy;
- (ix) training and development in order to carry out their roles effectively;
- (x) integrity, mutual support and appropriate confidentiality;
- (xi) not to have personal issues raised with them by Officers outside the agreed procedures;
- (xii) compliance with the relevant code of conduct;
- (xiii) support for the role of Councillors as the local representatives of the Authority.

### 3.2 Officers can expect from Members:

- (i) a working partnership;
- (ii) an understanding of and support for respective roles, workloads and pressures;
- (iii) an understanding and knowledge of the local area and a willingness to share this with Officers;
- (iv) political leadership and direction;
- (v) respect, dignity and courtesy;
- (vi) integrity, mutual support and appropriate confidentiality;
- (vii) not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of Officers in determining what are reasonable requests, having regard to the power relationship between Councillors and Officers and the potential vulnerability of Officers, particularly at junior levels;
- (viii) Councillors will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- (ix) compliance with the relevant code of conduct.



3.3 *Practical implications of some of the principles set out in paras 3.1 and 3.2 above are set out below:*

3.3.1 *While Councillors should always act in the public interest, there is nothing preventing them, as politicians, from expressing the values and aspirations of the Group to which they belong.*

3.3.2 *Councillors and Officers should be courteous to each other at all times even if they disagree strongly with their respective views. Councillors and Officers should not shout or raise their voice in an aggressive or rude manner and should not undermine respect for the other at Council meetings, or in any other forum in which they participate in their capacity as a Member or Council employee, including social media.*

3.3.3 *A Member shall not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively in meetings held in public. While of course it is legitimate for Councillors to express well-founded concern constructively about the way in which a service is run or policy is being implemented by Officers, ~~Councillors should avoid undermining, or making detrimental remarks about, individual named Officers at meetings, or in any public forum, including on social media~~ a personal attack by a Member on an Officer, or on staff generally, at a formal or informal Member meeting will never be acceptable, nor will a personal attack by an Officer on a Member. This would be damaging both to effective working relationships and to the public respect for the Council. In general, staff are unable to defend themselves against criticism in a public forum. **Attacking an Officer's conduct in public can constitute bullying, as will undue pressure brought by either Officers or Councillors in private.***

3.3.4 *Councillors and Officers should respect each other's non-working time. While many Officers are willing to be contacted by Members at home outside normal working hours (and vice versa), this step should only be taken in cases of genuine importance **or** urgency or by prior arrangement.*

3.3.5 *Officers will do their best to give timely responses to Members' enquiries. However, Officers have many pressures on their time and should not have unreasonable requests placed on them. Their work priorities are set and managed by Directors. Councillors should not demand urgent responses to correspondence / calls unless the subject matter is deemed by the Officer to be urgent. If a matter requires urgent attention, Councillors should contact in the first instance either the Officer's manager or a member of the Executive Leadership Team (ELT).*

3.3.6 *Councillors should not send emails to multiple Officers and Members regarding the same issue. Instead, they should only copy in relevant ward members and Group Leaders when relevant and utilise one point of contact for Officers where possible.*

#### **4. Member decision making**

4.1 *Officers have a duty to provide information, advice and recommendations to elected Members. Such information, etc, can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.*

- 4.2 *Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant Officers.*
- 4.3 *It is important that all Members, in exercising their functions as a Councillor, take appropriate legal, financial and professional officer advice, particularly about contractual matters.*
- 4.4 *Councillors have the ability to agree or reject proposals placed before them by Officers, irrespective of the advice or recommendations made by Officers, so long as they generally act in good faith and exercise reasonableness in decision-making and specifically:*
- *take into account relevant and dismiss irrelevant matters; and*
  - *do not come to a conclusion that no reasonable authority would come to.*
- 4.5 *Officers must therefore be able to report to Councillors as they see fit and without any political pressure.*

## **5. Relationships between Members and Officers**

- 5.1 The distinct roles of Councillors and Officers necessarily impose limitations upon behaviour. Close personal relationships between Councillors and Officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or Officer may secure advantageous treatment.
- 5.2 *Members and Officers should immediately (no later than three working days) inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.*
- 5.3 *It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. For example, a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.*

## **6. Access to Officers and information**

- Support to resolve constituents' issues and queries
- 6.1 ~~The customer services team leaders have been designated~~ *Arrangements have been made to provide support for Members in resolving any enquiries they may have or putting them in touch with the relevant Officer. Members should use the following channels as the first point of contact **if they don't already know to whom to direct their enquiry** for casework enquiries on behalf of constituents or requests for purely factual information:*
- *All Council services except for Planning:  
e-mail [csteamleaders@tandridge.gov.uk](mailto:csteamleaders@tandridge.gov.uk) or call **01883 732948***
  - *Planning: email [planning\\_applications@tandridge.gov.uk](mailto:planning_applications@tandridge.gov.uk)*

- 6.2 Officers will endeavour to resolve Members' enquiries or complaints as quickly as possible. Where, for whatever reason, an enquiry cannot be answered straight away, the responsible Officer should keep the Member informed of the likely timeline or explain why it is not possible or practicable to meet the request. *Officers will use out of office messages on email and voicemail to enable Members to redirect enquiries in their absence, as appropriate.*

~~It is generally a more effective use of time for Members wishing to meet with Officers to make an appointment in advance, indicating the broad nature of the matter they wish to discuss, rather than simply to come to the offices without notice.~~

*Requests for information*

~~Councillors should be provided with adequate written information about services or functions upon which they may be called upon to make or scrutinise decisions, or which affect their residents. Members are encouraged to make use of existing sources of information wherever possible and to bear in mind the impact on the effective use of resources of making excessive or repeated requests.~~

- 6.3 *Every Member of each Committee and sub-committee has a right to inspect documents about the business of that committee or sub-committee.*
- 6.4 ~~In addition,~~ Any Councillor may ask the relevant Officer *members of ELT* for factual information about a service, *information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members.* These requests will be met where the Councillor has a legal right to the information *under the common law and is known as the 'Need to Know'.* *This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. A Councillor is likely to have a prima facie 'Need to Know' where they have a legitimate Ward problem and need access to the documents that are relevant to that specific problem.*
- 6.5 If that right arises under the Freedom of Information Act (FOIA) or the Environmental Impact Regulations (EIR), the Councillor shall not be required to make a formal FOI request. All such information should be provided within ten working days of the date of receipt of the request. In circumstances where this is not practical, the Officer shall contact the Councillor as soon as possible explaining why not and provide an alternative time scale
- 6.6 Where the information requested is such that it would be exempt from disclosure under the FOIA or the EIR, that information will be provided if the Councillor has a right to it under the access to information provisions contained in the Local Government Act 1972 or otherwise has a right to that information ~~under the common law on the basis that the information is necessary to enable the Councillor to carry out their role as an elected Member of a 'Need to Know'.~~
- 6.7 *Where a Councillor has a financial or personal interest in a matter, the Councillor will only be entitled to the same access as would be the case for a private individual. In these circumstances, the Councillor must make it clear that they are acting in their private capacity and not as a Councillor.*
- 6.8 *Access to information on the basis of a 'Need to Know' does not exist where the Councillor is considered to be "fishing" for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient.*

- 6.9 *Some material (for example if commercially sensitive) may be redacted from information that is disclosed.*
- 6.10 *There will also be a range of documents which, because of their nature, are not accessible by Councillors (such as the personal records of an individual). Early drafts of Committee reports/ briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.*
- 6.11 *All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and **to familiarise** themselves with their obligations under the Act accordingly. Officers or Members who require advice or assistance in relation to their duties under the Data Protection Act 1998 should take advice from the Monitoring Officer.*
- 6.12 *Councillors and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, unless required by law to do so.*
- 6.13 *Where information is requested on behalf of a third party, it will only be provided if:*  
 a) *It is in the public domain and*  
 b) *It is not barred by the Data Protection Act from being given.*
- 6.14 *Information given to a Member must only be used for the purpose for which it was requested.*
- 6.15 *Group Leaders and Councillors who receive advice from Officers marked as confidential must ensure that, if such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances.*
- 6.16 *Whilst the term 'Council document' is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Councillor of one political group will not have a 'Need to Know' and therefore, a right to inspect, a document which forms part of the internal workings of another political group.*
- 6.17 *Disputes as to the validity of a Councillor's request to see a document on a 'Need to Know' basis will be determined by the Monitoring Officer. Officers should seek his/ her advice if in any doubt about the reasonableness of a Member's request.*
- 6.18 *A Councillor should seek advice from the Monitoring Officer in circumstances where he/ she wishes to have access to documents or information:*  
 a) *Where to do so is likely to be in breach of the Data Protection Act or*  
 b) *Where the subject matter is one in which he/ she has a personal or prejudicial interest as defined in the Member's Code of Conduct*

~~Written information supplied to a Councillor regarding the implications of current Council policies or containing statistical information about Council services shall also be copied to the relevant committee chair and other Members of that committee but without making reference to the individual Councillor who requested that information.~~

- 6.19 *Any request from a Councillor which is marked confidential will be treated in confidence by Officers and will not be made known to any other Councillor or political group. Officers are also under a duty not to relate any information disclosed privately by a Councillor(s) (eg during part II discussions at Committee, informal briefings, private conversations or Group meetings) to another Councillor, Officer or person not already privy to that information.*
- 6.20 Members are encouraged to make use of existing sources of information wherever possible and to bear in mind the impact on the effective use of resources of making excessive or repeated requests.
- 6.21 *To ensure compliance with General Data Protection Regulations (GDPR), Councillors will only use their Tandridge Council email address for communications on matters relating to their role as Councillors.*

Budget preparation

- 6.22 *As part of the budgetary process, Officers may be called upon to give advice on budgetary proposals wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the 'normal' rights that any member has to seek advice 'in confidence' from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Members. It is appropriate, and indeed, in certain circumstances necessary, if a proposed course of action is considered imprudent as a matter of professional judgement, that Officers should advise the Members of the Authority that this is so.*

Committee Briefings

- 6.23 In order for Committee Chairs and/or Vice Chairs to discharge their responsibilities, those Members will be briefed by ELT officers on service issues, proposals and policy development. Chief ELT Officers may, from time to time, nominate other Officers to attend these meetings. These informal meetings may be on a one-off or regular basis, in accordance with the requirements of the Councillors concerned.
- 6.24 Opposition groups may also have nominated Committee leads and if those leads so request, the relevant *members of ELT officers* will make themselves available to brief them on service issues on Committee papers once the agenda has been published.

Reports and briefings for Political Groups

- 6.25 The Leader of the Council, or Leader of any other group represented on the Council, may request the Chief Executive or the relevant ~~Executive Leadership Team (ELT)~~ member, or other designated officer to prepare reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information (e.g. relating to casework or personal details of applicants for services).
- 6.26 If the officer considers that the cost of providing the information under this paragraph is unreasonable, or if the request is unreasonable in other respects, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the ~~political~~ groups.

- 6.27 The Leader of the Council or Leader of any other groups may ask the Chief Executive or relevant ELT Member, or other designated Officers, to give or arrange a private and confidential briefing for the group. Senior Officers may properly be called upon to support and contribute to such deliberations by groups but must at all times maintain political neutrality. All Officers must, in their dealings with groups and individual Councillors, treat them in a fair and even-handed manner.
- 6.28 Any briefing offered to or requested by a group will be offered to any other groups. Where possible, such briefings should be to all or a combination of groups.
- 6.29 Officers' *advice and* reports to a ~~political~~ groups will be limited to a statement of material facts *relating to matters of Council business* and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications and advice should not include making recommendations to a ~~political~~ group. *The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings when matters of party business are to be discussed.*
- 6.30 The content of ~~these~~ informal briefing sessions shall remain confidential as between Officers and the ~~political~~ group concerned.
- 6.31 *Where Officers provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.*
- 6.32 *Special care needs to be exercised whenever Officers are involved in providing information to a group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Member Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may decline to attend and/or give advice to such meetings.*

#### Meetings with officers

- 6.33 It is generally a more effective use of time for Members wishing to meet with Officers to make an appointment in advance, indicating the broad nature of the matter they wish to discuss, rather than simply to come to the offices without notice.

#### 'News' items

- 6.34 When an event occurs in the District which has or will have a significant impact on the Council or Tandridge residents, the Chief Executive will ensure that the Leaders of all political groups and the relevant Ward Councillors are informed as soon as possible.

#### Preparation for Committee meetings

- 6.35 *Prior to Committee Meetings the appropriate Officers will meet with the Chair and Vice-Chairs (Agenda Run Through) to discuss matters on the agenda, to deal with anything necessary to ensure the smooth running of the meeting and to enable specific issues to be highlighted for which Officers and Members may need to prepare prior to the meeting.*

## 7. Ward Councillors

- 7.1 ~~ELT officers will ensure that ward Councillors are given information relevant to their ward on a regular basis. To enable them to carry out their ward role effectively, Members need to be fully and regularly informed about matters affecting their ward. Members of ELT must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.~~
- 7.2 *This requirement is particularly important:*
- a) *during the formative stages of policy development, where practicable;*
  - b) *following any specific incident in their ward;*
  - c) *in relation to significant or sensitive operational matters such as ongoing planning enforcement cases; proposed changes to services sited within their wards; and significant anti-social behaviour issues;*
  - d) ~~public consultation events affecting their wards~~ *whenever any form of public consultation exercise is undertaken.*
- 7.3 *Issues may affect a single ward. Where they have a wider impact, a number of local Ward Members will need to be kept informed.*
- 7.4 *Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward(s) affected should be invited to attend the meeting as a matter of course.*
- 7.5 *As a matter of courtesy, it is expected that Councillors involved in an issue in another Councillor's ward will speak with the relevant ward member(s) to inform them of their involvement.*

## 8. ~~If When Things Go Wrong~~

### Procedure for Officers

- 8.1 ~~It is important that any dealings between Members and Officers, both written and oral, should observe professional standards of courtesy. From time to time the relationship between Councillors and Officers may break down or become strained. Although Councillors have the right to criticise reports or the actions taken by Officers, they should always:~~
- ~~• seek to avoid personal attacks on Officers; and~~
  - ~~• ensure that criticism is constructive and well-founded.~~
- 8.2 *It will always be preferable to resolve matters informally. Should Officers wish to raise a concern about a Councillor's behaviour in relation to this Protocol, they can either escalate it to their line manager, the relevant ELT member or to the Chief Executive, as appropriate to the circumstances. Officers also have recourse to the Council's Whistleblowing Procedure or can refer the matter to the Head of Legal and Monitoring Officer if they consider that a Councillor has broken the Code of Conduct.*
- 8.3 *Having been notified of a concern in this way, the line manager, Chief Executive or ELT member will take appropriate action, including approaching the Councillor concerned, and raising the issue with the Group Leader (if applicable) or referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.*

- 8.4 *Group Leaders should promote a positive atmosphere of trust, respect and understanding between Councillors and Officers and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature a Group Leader will actively consider the complaint and seek to achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint.*

Procedure for Councillors

- 8.5 Where Councillors have concerns about the way in which a service or part of it is performing, as opposed to the conduct of a specific officer, the most appropriate course of action, if the concerns cannot be resolved informally, is for the Member to request the Committee charged with responsibility for that service to consider the matter, using the powers available under the constitution. Alternatively, where it is considered more appropriate, the Chief Executive may, with the agreement of the Chair of the Audit & Scrutiny Committee, refer the matter to that Committee for consideration.
- 8.6 In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an individual Officer, the matter should be raised with the appropriate ELT Member in the first instance. Where the Officer concerned is an ELT member, the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Head of Legal and Monitoring Officer. Where there is a prima facie case for a disciplinary investigation, this will be dealt with in accordance with the Council's disciplinary procedures contained in the staff conditions of service.
- 8.7 In recognising that this Protocol is a guideline document, minor breaches may not involve a sanction against the Member or Officer concerned. However, regular or more serious breaches may involve disciplinary action against the Officer through the Council's internal procedure or against the Member through the Standards Committee.

**9. Responsibility for this Protocol**

- 9.1 The Head of Legal and Monitoring Officer has overall responsibility for this Protocol and will periodically review how it is working.
- 9.2 *The Head of Legal and Monitoring Officer will report annually to the Standards Committee on matters relating to this Protocol.*



## Annex A

### The 7 Nolan principles of 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 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 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.

*\*In 1994, the government established a committee tasked with making recommendations to improve standards of behaviour in public life. The committee was chaired by Lord Nolan and its first report identified “the seven principles of public life” which have since come to be known as the “Nolan principles”.*

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