



CONSTITUTION WORKING PARTY

Thursday, 23rd February, 2012

6.00 pm

Town Hall, Watford

Publication date: 15 February 2012

CONTACT

If you require further information or you would like a copy of this agenda in another format, e.g. large print, please contact Pat Thornton on 01923 278372 (Minicom available on 01923 278499).

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COMMITTEE MEMBERSHIP

Councillors J Aron, K Hastrick, S Johnson, C Leslie, M Mills, S Rackett and A Wylie

AGENDA

PART A - OPEN TO THE PUBLIC

1. ELECTION OF CHAIR

To elect a Chair for the remainder of the 2011/12 Municipal Year

2. APOLOGIES FOR ABSENCE

3. DISCLOSURE OF INTERESTS (IF ANY)

4. MINUTES

To sign the minutes of the meeting held on 30th March 2011

5. STANDARDS UNDER THE LOCALISM ACT 2011 (Pages 1 - 46)

Report of the Head of Legal & Property Services

6. SUGGESTED AMENDMENTS TO THE CONSTITUTION (Pages 47 - 76)

Report of the Head of Legal & Property Services

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PART A

Report to: Constitution Working Party
Date of meeting: 23 February 2012
Report of: Head of Legal and Property Services
Title: Standards under the Localism Act 2011

1.0 **SUMMARY**

1.1 The Localism Act received Royal Assent on 15 November 2011. Whilst not all the provisions in the Act in relation to standards have been brought into force, the government has indicated that it intends for the new regime to be in force from 1 July 2012, therefore it is timely to advise members of the provisions of the Act and to start to prepare for the new regime.

1.2 This report was considered by the Standards Committee on 12 January 2012 and incorporates the recommendations from that meeting.

1.3 It will be necessary to take a report to Annual Council in May to agree the new standards regime for Watford, to come into effect on 1 July 2012.

2.0 **RECOMMENDATIONS**

2.1 **Recommendation 1 –**

- a. **That the Council establish a Standards Committee comprising 5 elected members of the Council, and that Council agrees that the committee be not constituted on the lines of proportionality, with one seat for each of the opposition groups and 2 seats for the ruling group;**

Recommendation 2 -

- a. **That the Constitution Working Party considers the draft Code of Conduct attached as appendix 1 for adoption by the Council.**
- b. **That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Chair of Standards Committee, add to that draft Code provisions which she considers to be**

appropriate for the registration and disclosure of interests other than DPIs.

Recommendation 3 –

That the arrangements attached at appendix 2 be considered for adoption by Council. Such arrangements include the following: -

- a. That the Head of Legal and Property be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- b. That the Head of Legal and Property be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. She be instructed to seek resolution of complaints without formal investigation wherever practicable, and that she be given discretion to refer decisions on investigation to the Standards Committee where she feels that it is inappropriate for her to take the decision, and to report quarterly to Standards Committee on the discharge of this function;**
- c. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Head of Legal and Property be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;**
- d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Head of Legal and Property in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, she is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;**
- e. That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –**
 - Reporting its findings to Council for information;**
 - Recommending to the member’s Group Leader (or in the case of un-grouped members, recommend to**

Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

- **Recommending to the Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;**
- **Instructing the Head of Legal and Property to arrange training for the member;**
- **Removing from all outside appointments to which he/she has been appointed or nominated by the Council and recommending to the Mayor removal from all outside appointments to which he/she has been appointed by the Mayor;**
- **Withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or**
- **Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.**

Recommendation 4 –

- a. **That the Head of Legal and Property, in consultation with the Chair of Standards Committee, and with the advice of the Head of HR, be authorised to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the Standards Committee**
- b. **That the Head of Legal and Property advertise a vacancy of the appointment of 1 Independent Person and 2 Reserve Independent Persons**
- c. **That a Committee comprising four councillor representatives on the Standards Committee be set up to short-list and interview candidates, and to make a recommendation to Council for appointment.**
- d. **That an additional criteria be adopted for exclusion of candidates for the role of Independent Person. In that no candidate should have stood for election on the Council for the last 5 years**

Recommendation 5 –

- a. That the Head of Legal and Property prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council’s Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;**
- b. That the Head of Legal and Property ensure that all members are informed of their duty to register interests;**

Recommendation 6

The Head of Legal and Property be instructed to recommend to Council a Procedure Rule which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation

Recommendation 7

That Council delegate the power to grant dispensations –

- a. on Grounds set out in Paragraphs 11.3.1 and 11.3.4 of this report to the Head of Legal and Property with an appeal to Standards Committee, and**
- b. on Grounds 11.3.2, 11.3.3 and 11.3.5 to the Standards Committee, after consultation with the Independent Person.**

Contact Officer:

For further information on this report please contact: Carol Chen Head of
Legal and Property Services
telephone 01923 278350 email: carol.chen@watford.gov.uk

3.0 DETAILED PROPOSAL

3.1 1 The Localism Act 2011

The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of the majority of these changes is proposed to be 1st July 2012.

The Standards Board for England has ceased to exist from 31 January 2012, and it is therefore no longer possible to refer complaints to them. Any complaints that they were dealing with and were not concluded by the 31st have been transferred back to the originating council to conclude before 1 July. Fortunately for Watford we had no such complaints.

This report describes the changes and recommends the actions required for the Council to implement the new regime.

2 Duty to promote and maintain high standards of conduct

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

3 Standards Committee

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will be no requirement for a Standards Committee. However, there will still be a need to deal with standards issues and case-work, so that it is likely to remain convenient to have a Standards Committee, it will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –

3.1 The composition of the Committee will be governed by proportionality, unless Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply;

3.2 The current co-opted independent members will cease to hold office. The Act establishes for a new category of Independent Persons (see below) who must be consulted at various stages, but provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years. The new Independent Persons may be invited to attend meeting of the Standards Committee, but are unlikely to be co-opted onto the Committee;

Issue 1 – The Council must decide whether to set up a Standards Committee, and how it is to be composed. When this was considered by the Standards Committee it felt that Council should be encouraged to keep the Committee non proportional and allow all parties to have a seat. They suggested that it comprise 5 members, one member from each of the opposition groups and 2 members from the ruling group.

Recommendation 1 –

- a. That the Council establish a Standards Committee comprising 5 elected members of the Council, and that Council agrees that the committee be not constituted on the lines of proportionality, with one seat for each of the opposition groups and 2 seats for the ruling group;**

4 The Code of Conduct

The current ten General Principles and Model Code of Conduct will be repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted member's conduct when acting in that capacity. The Council's new Code of Conduct must, when viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs), these are expected to broadly equate to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not possible yet to draft Code provisions which reflect the definition of DPIs which will appear in regulations, but it is possible to give an indicative view of what the Council might consider that it might be appropriate to include in the Code in respect of the totality of all interests, including

DPIs, other pecuniary interests and non-pecuniary interests. The monitoring officer has been discussing the implications of the new regime with her counterparts in Hertfordshire and there is a consensus among the majority of the districts and the county that a standard code for Hertfordshire ought to be adopted. This would save confusion, particularly where members are dual hated, i.e they are members of both the district and county. Most of the Hertfordshire legal services now belong to the Public Law Partnership, a collaboration of legal teams in Herts, Essex and Suffolk, the Partnership has drafted a code for consideration which is attached as appendix 1.

The Act prohibits members with a DPI from participating in council business, and the Council can adopt a procedure rule requiring members to withdraw from the meeting room.

So the Council's new Code of Conduct will have to deal with the following matters –

- General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct; and
- Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the Code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate.

Issue 2 – The Council has to decide what it will include in its Code of Conduct

Recommendation 2 -

- a. **That the Constitution Working Party considers the draft Code of Conduct attached as appendix 1 for adoption by the Council.**
- b. **That, when the Disclosable Pecuniary Interests Regulations are published, the Head of Legal and Property, after consultation with the Chair of Standards Committee, add to that draft Code provisions which she considers to be appropriate for the registration and disclosure of interests other than DPIs.**

5 Dealing with Misconduct Complaints

5.1 “Arrangements”

The Act requires that the Council adopt “arrangements” for

dealing with complaints of breach of Code of Conduct, and such complaints can only be dealt with in accordance with such “arrangements”. So the “arrangements” must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct.

The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

5.2 Decision whether to investigate a complaint

In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. It is sensible to take advantage of the new flexibility to delegate to the Head of Legal and Property as Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where she feels that it would be inappropriate for her to take a decision on it, for example where she has previously advised the member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for her to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. If this function is delegated to the Head of Legal and Property, it is right that she should be accountable for its discharge. For this purpose, it would be appropriate that she make a quarterly report to Standards Committee, which would enable her to report on the number and nature of complaints received and draw to the Committee’s attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs.

5.3 “No Breach of Code” finding on investigation

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to Referrals Sub-Committee and the Sub-Committee take the decision to take no further action. In

practice, it would be reasonable to delegate this decision to the Head of Legal and Property as Monitoring Officer, but with the power to refer a matter to Standards Committee if she feels appropriate. It would be sensible if copies of all investigation reports were provided to the Independent Person to enable him/her to get an overview of current issues and pressures, and that the Monitoring Officer provide a summary report of each such investigation to Standards Committee for information.

5.4 “Breach of Code” finding on investigation

Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a local hearing. Sometimes the investigation report can cause a member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However, it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to summary report for information to the Standards Committee.

In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the Hearing Panel can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

5.5 Action in response to a Hearing finding of failure to comply with Code

The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited and must be directed to securing the continuing ability of the authority to continue to discharge its functions effectively, rather than “punishing” the member concerned. In practice, this might include the following –

5.5.1 Reporting its findings to Council for information;

- 5.5.2 Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 5.5.3 Recommending to the Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 5.5.4 Instructing the Monitoring Officer to arrange training for the member;
- 5.5.5 Removing from all outside appointments to which he/she has been appointed or nominated by the council or recommending to the Mayor removal from any outside appointment he/she has been appointed to by the Mayor.
- 5.5.6 Withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 5.5.7 Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

5.6 Appeals

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose. The Standards Committee felt that there ought to be an appeals mechanism in any agreed arrangements. It is suggested that any appeal would have to be heard by full council as there is no other body that could deal with it. Attached at appendix 2 is a draft of some suggested arrangements.

Issue 3 – The Council has to decide what “arrangements” it will adopt for dealing with standards complaints and for taking action where a member is found to have failed to comply with the Code of Conduct.

Recommendation 3 –

That the arrangements attached at appendix 2 be considered for adoption by Council. Such arrangements include the following:-

- a. That the Head of Legal and Property be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- b. That the Head of Legal and Property be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. She be instructed to seek resolution of complaints without formal investigation wherever practicable, and that she be given discretion to refer decisions on investigation to the Standards Committee where she feels that it is inappropriate for her to take the decision, and to report quarterly to Standards Committee on the discharge of this function;**
- c. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Head of Legal and Property be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;**
- d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Head of Legal and Property in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, she is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;**
- e. That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –**
 - Reporting its findings to Council for information;**
 - Recommending to the member’s Group Leader (or in the case of un-grouped members, recommend**

to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

- **Recommending to the Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;**
- **Instructing the Monitoring Officer to arrange training for the member;**
- **Removing from all outside appointments to which he/she has been appointed or nominated by the authority or recommending to the Mayor removal from any outside bodies he/she has been appointed to by the Mayor;**
- **Withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or**
- **Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.**

6 Independent Person(s)

The "arrangements" adopted by Council must include provision for the appointment by Council of at least one Independent Person.

6.1 "Independence"

The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council (not just of those present and voting).

A person is considered not to be "independent" if –

- 6.1.1 He/she is, or has been within the last 5 years, an elected or co-opted member or an officer of the Council;
- 6.1.2 He/she is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the Council (which would preclude any of the current co-opted independent members of Standards Committee from being

appointed as an Independent Person); or

- 6.1.3 He/she is a relative or close friend of a current elected or co-opted member or officer of the, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.

For this purpose, “relative” comprises –

- (a) the candidate’s spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate’s grandparent;
- (d) any person who is a lineal descendent of the candidate’s grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

The Standards Committee also wished to add as an additional criteria that the candidate had not stood for election on the Council for the last 5 years. The Working Party is asked to consider whether to recommend that this additional criteria be adopted.

6.2 Functions of the Independent Person

The functions of the Independent Person(s) are –

- They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- They may be consulted by the authority in respect of a standards complaint at any other stage; and
- They may be consulted by a member or co-opted member of the Council against whom a complaint has been made.

This causes some problems, as it would be inappropriate for

an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

6.3 How many Independent Persons?

The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person, provided that a couple of reserve candidates are retained and can be activated at short notice, without the need for re-advertisement, in the event that the Independent Person is no longer able to discharge the function.

6.4 Remuneration

As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

In comparison to the current role of independent members of the Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee and Hearings Panels, but not to be a formal member of the Committee or Panel (he/she could be co-opted as a non-voting member but cannot chair as the Chair must exercise a second or casting vote). He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of dispensations. However, it would be appropriate to undertake a proper review of the function before setting the remuneration.

Issue 4 – How many Independent Persons are required?

Recommendation 4 –

- a. That the Head of Legal and Property, in consultation with the Chair of Standards Committee, and with the advice of the Head of HR, be authorised to set the initial**

allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the Standards Committee

- b. That the Head of Legal and Property advertise a vacancy of the appointment of 1 Independent Person and 2 Reserve Independent Persons**
- c. That a Committee comprising the 4 councillor members of Standards Committee be set up to short-list and interview candidates, and to make a recommendation to Council for appointment.**

7 The Register of Members' Interests

7.1 The register of members' interests

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website.

At present we do not know what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current prejudicial interests. The intention was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.

The provisions of the Act in respect of the Code of Conduct require the council's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

7.2 Registration on election or co-option

Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member.

In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the Code of Conduct.

There is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, but it is likely that members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register.

Issue 5 – Preparation of the Registers

Recommendation 5 –

- a. That the Head of Legal and Property prepare and maintain a new register of members interests to comply with the requirements of the Act and of the Council’s Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;**
- b. That the Head of Legal and Property ensure that all members are informed of their duty to register interests;**

8 Disclosure of Interests and Withdrawal from Meetings

As set out above, DPIs are broadly equivalent to prejudicial interests, but with important differences. So –

- 8.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.
- 8.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a “pending notification”). So, members of the public attending the meeting will in future need to read the register of members’ interests, as registered interests will no longer be disclosed at the meeting.
- 8.3 Where the member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.

8.4 If a member has a DPI in any matter, he/she must not –

8.4.1 Participate in any discussion of the matter at the meeting. The Act does not define “discussion”, but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct; or

8.4.2 Participate in any vote on the matter,

unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

8.5 Failure to comply with the requirements (paragraphs 8.2, 8.3 or 8.4) becomes a criminal offence, rather than leading to sanctions;

8.6 The Council’s Code of Conduct must make “appropriate” provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of Code of Conduct but not a criminal offence.

8.7 The requirement to withdraw from the meeting room can be covered by procedure rules, which would apply not just to Council, Committees and Sub-Committees, but can apply also to Cabinet and Cabinet Committee meetings, so that failure to comply would be neither a criminal offence nor a breach of Code of Conduct, although the meeting could vote to exclude the member.

Issue 6 – What Procedure Rule should the Council adopt in respect of withdrawal from meetings for interests?

Recommendation 6 –

The Head of Legal and Property be instructed to recommend to Council a Procedure Rule which equates to the current Code of Conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation.

9 Disclosure and Withdrawal in respect of matters to be determined by a Single Member

9.1 Matters can be decided by a single member acting alone where the member is a Cabinet Member acting under

Portfolio powers

- 9.2 The Act provides that, when a member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –
 - 9.2.1 Unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and
 - 9.2.2 He/she must take no action in respect of that matter other than to refer it another person or body to take the decision.
- 9.3 Procedure Rules can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter.
- 9.4 Note that the Act here effectively removes the rights of a member with a prejudicial interest to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct

Issue 7 – In what circumstances should Procedure Rules exclude single members from attending meetings while the matter in which they have a DPI is being discussed or voted upon?

It is recommended that the same rules apply as any other member with a DPI as stated in recommendation 6 above.

10 Sensitive Interests

The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests.

So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest".

If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

11 Dispensations

- 11.1 The provisions on dispensations are significantly changed by the Localism Act.
- 11.2 At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –
 - 11.2.1 That at least half of the members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realised how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and
 - 11.2.2 That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter (this ground would require that the members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).
- 11.3 In future, a dispensation will be able to be granted in the following circumstances –
 - 11.3.1 That so many members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
 - 11.3.2 That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
 - 11.3.3 That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
 - 11.3.4 That, without a dispensation, no member of the Cabinet would be able to participate on this matter

(so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet Member. It will be necessary to make provision in the scheme of delegations from the Mayor to cover this, admittedly unlikely, eventuality); or

- 11.3.5 That the authority considers that it is otherwise appropriate to grant a dispensation.
- 11.4 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.
- 11.5 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds 11.3.1 and 11.3.4 are pretty objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to the Standards Committee, thus enabling dispensations to be granted “at the door of the meeting”. Grounds 11.3.2, 11.3.3 and 11.2.5 are rather more objective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

Issue 8 – What arrangements would be appropriate for granting dispensations?

Recommendation 7 –

That Council delegate the power to grant dispensations –

- a. **on Grounds set out in Paragraphs 11.3.1 and 11.3.4 of this report to the Head of Legal and Property with an appeal to Standards Committee, and**
- b. **on Grounds 11.3.2, 11.3.3 and 11.3.5 to the Standards Committee, after consultation with the Independent Person.**

12 Transitional Arrangements

Regulations under the Localism Act provide for –

- a. transfer of Standards for England cases to local authorities following the abolition of Standards for England; This happened on 31 January 2012

- b. a transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;
- c. removal of the power of suspension from the start of the transitional period, i.e 31 January 2012; and
- d. removal of the right of appeal to the First Tier Tribunal from the 31 January 2012.

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 The Head of Strategic Finance comments that any financial implications will need to be monitored during the 2012/2013 financial year. Should there be any additional costs then every effort will be made to contain such costs within existing base budgets.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The Head of Legal and Property Services comments that the legal implications are contained within the body of the report

4.3 **Equalities**

4.3.1 No implications

Background Papers

Localism Act 2011

File Reference

None

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COUNCILLOR CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

Introduction and interpretation

As a member you are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in Appendix 1 and the provisions of S29(1) Localism Act 2011

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, task groups, joint committees, joint sub-committees or neighbourhood forums whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members
- (d) any briefings by officers and site visits organised by the authority

“member” includes a co-opted member.

1. Who does the Code apply to?

- (1) This Code applies to all members of Watford Borough Council, including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

2. What does the Code apply to?

- (1) You must comply with this Code whenever you -
 - (a) conduct the business of your authority, or
 - (b) you are acting as a representative of your authority,
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) 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.

3. General obligations

- (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
 - (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.

4. Confidential Information

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. Conferring an advantage or disadvantage

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.
- (d) It is a criminal offence under the **Bribery Act 2010** to request, agree, or accept a financial or other advantage intending that you will exercise your role as a councillor improperly, or get another councillor to exercise their role, or a council officer to perform their duties improperly. It does not matter if you do not directly receive or accept the advantage. You are expected to uphold the principles set out at the end of this code and to perform your role in good faith.
- (e) You will be required to disclose in the Council's register of gifts and hospitality any gift or hospitality you receive that is £25 or over. You

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will need to consider when you are offered any gift or hospitality if the intention behind it is to place you under an obligation to the giver, or be seen to be given to influence the exercise of your role. If you consider that this is the intended consequence you should decline the offer and report it to the Council's Monitoring Officer

- (f) If anyone attempts to bribe you you must report it as soon as is practicable to the Council's Monitoring Officer.

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PART 2 MEMBERS INTERESTS

6. Disclosable Pecuniary Interests

6.1 You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 6.2¹ below and is either:

- (a) An interest of yours
- (b) An interest of your spouse
- (c) An interest of your civil partner
- (d) An interest of a person you are living with as a spouse or civil partner

And in the case of paragraphs 6.1 (b) – 6.1 (c) you are aware that that other person has the interest

6.2 “Disclosable pecuniary interest” are defined by *(regulations still awaited)* and are:-

- (a) *(to be completed when regulations are issued)*

7. Other Pecuniary Interests²

7.1 You have a pecuniary interest in any business of your authority where either-

- (a) It relates to or is likely to affect:
 - i. any employment or business carried on by you;
 - ii. any person or body who employs or has appointed you;
 - iii. 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;
 - iv. 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

¹ Regulations still awaited. Paragraphs 6.2 and 7 should be given further consideration when regulations are available

² Regulations still awaited. Paragraphs 6.2 and 7 should be given further consideration when regulations are available

- exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- v. 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 specific in paragraph (iv);
 - vi. any land in your authority's area in which you have a beneficial interest;
 - vii. 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 (iv) is, the tenant;
 - viii. 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
 - ix. a decision in relation to that business might reasonably be regarded as affecting your financial position or financial position of a relevant person to a greater extent than the majority of-

other council tax payers, ratepayers or inhabitants of the ward, affected by the decision;

8. Non-Pecuniary Interests

8.1 You have a non-pecuniary 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-
 - 1. exercising functions of a public nature;
 - 2. directed to charitable purposes; or
 - 3. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union);
- of which you are a member or in a position of general control or management;

- iii. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- iv. a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-
other council tax payers, ratepayers or inhabitants of the ward, affected by the decision;

9. “Relevant Persons”

9.1 For the purposes of paragraphs 7.1(a) ix and 8.1(a) iv a relevant person is-

- (a) A member of your family or any person with whom you have a close association;
- (b) Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company or 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 which such persons are a member or in a position of general control or management and to which you are appointed or nominated by your authority
- (e) any body of a type described in paragraph 8(a) i. and ii. of which such persons are members or in a position of general control or management

10. Disclosure of Interests

10.1 Subject to sub-paragraphs 10.2 to 10.5, where you have a disclosable pecuniary interest, any other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your register of Interests or for which you have made a pending notification

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- 10.2 Sub-paragraph 10.1 only applies where you are aware or ought reasonably to be aware of the existence of the pecuniary interest
- 10.3 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 10.1 but by virtue of paragraph 14 (sensitive interests) details of the interest are not registered in your authority's published register of members' interest and that the interest is a disclosable pecuniary interest (if that is the case) but you need not disclose the nature of the interest to the meeting
- 10.4 Where you have a pecuniary interest in any business of your authority and a function of your authority may be discharged by you acting alone in relation to that business, you must ensure you notify the authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business
- 10.5 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 10.1 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
- 10.6 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

11. Disclosure of Interests generally³

- 11.1 Subject to sub-paragraph 11.2 where you have a pecuniary interest in any business of your authority you also have a disclosable pecuniary 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 judgment in the public interest.
- 11.2 You do not have a disclosable pecuniary interest in any business of your authority where that business-
- i. does not affect your financial position or the financial position of a person or body described in paragraph 8.1 (a) i. and ii.;
 - ii. 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 8.1 (a) i and ii; or

³ Regulations from the Secretary of State are currently awaited as to the definition of "pecuniary interests and disclosable pecuniary interests". This paragraph may become superfluous

- iii. 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

12. Effect of Disclosable Pecuniary Interests on participation

12.1 You may not-

- a. if present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority and
- b. you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and
- c. you are aware that sub-paragraph 12.1.b is met:
 - i. participate, or participate further, in any discussion of the matter at the meeting, or
 - ii. participate in any vote, or further vote, taken on the matter at the meeting

and must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the authority's proper officer

- d. exercise executive functions in relation to that business and
- e. seek improperly to influence a decision about that business

12.2 If a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself)

12.3 If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority 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 and you are present at a meeting of the authority at which such business is to be considered or is being considered your must:-

12.3.1 Disclose the existence and nature of the interest in accordance with paragraph 10.1 (but subject to paragraph 10.3)

12.3.2 Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from your authority's proper officer in a case where paragraph 12.3 applies immediately after making your representations or in any other case when the business is under consideration unless you have obtained a dispensation from your authority's proper officer

PART 3 REGISTER OF MEMBERS INTERESTS

13. Registration of Members' Interests

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, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the authority

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- i. disclosable pecuniary interests⁴ as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time
 - ii. pecuniary interests referred to in paragraph 7 that you have
- (c) Subject to paragraph 14, you must within 28 days of becoming aware of any new disclosable pecuniary interest as referred to in paragraph 6 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any disclosable pecuniary interest registered under paragraphs 13. i. or ii above

by providing written notification to your authority's Monitoring Officer

14. Sensitive Information

- 14.1 Where you have a disclosable pecuniary interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and your authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but

⁴ Regulations from the Secretary of State are currently awaited as to the definition of "pecuniary interests and disclosable pecuniary interests"

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may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

14.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify your authority's monitoring officer

14.3 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 subject to violence or intimidation.

CODE OF CONDUCT

APPENDIX 1

THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011

SELFLESSNESS

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

INTEGRITY

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

OBJECTIVITY

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

ACCOUNTABILITY

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

OPENNESS

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

HONESTY

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

LEADERSHIP

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

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Watford Borough Council's Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These "Arrangements" set out how you may make a complaint that an elected or co-opted member of Watford Borough Council has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council or of a Committee or Sub-Committee of the Council, has failed to comply with that Council's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and which is available for inspection on the Council's website www.watford.gov.uk and on request from the Customer Service Centre at the Town Hall.

3 Making a complaint

If you wish to make a complaint, please write or email to –

The Head of Legal and Property Services,
Town Hall,
Watford,
Herts
WD17 3EX

Or –

legalanddemocratic@watford.gov.uk

The Head of Legal and Property is the Council's Monitoring Officer and is a senior officer of the Council who has statutory responsibility for maintaining

the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Customer Service Centre at the Town Hall.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Head of Legal and Property will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Head of Legal and Property will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 working days of receipt of your complaint. Where the Head of Legal and Property has taken a decision, she will inform you of her decision and the reasons for that decision.

Where she requires additional information in order to come to a decision, she may come back to you for such information, and may request information from the member against whom your complaint is directed.

In appropriate cases, the Head of Legal and Property may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Head of Legal and Property will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Head of Legal and Property has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The Council has adopted the following procedure for the investigation of misconduct complaints.

If the Head of Legal and Property decides that a complaint merits formal investigation, she will appoint an Investigating Officer, who may be another

senior officer of the Council, an officer of another council or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

The Investigating Officer will also interview anybody else he/she deems necessary and may also ask for copies of any documents to assist him/her with the investigation.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Head of Legal and Property.

The Head of Legal and Property will at the outset discuss with the Investigating Officer how long the Investigating Officer considers he/she will require to complete their investigation.

In the event that the Investigating Officer does not get cooperation from any person he/she wishes to interview. The Investigating Officer will be entitled to conclude his/her report based on the information that has been made available to him/her.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Head of Legal and Property will review the Investigating Officer's report and, if she is satisfied that the Investigating Officer's report is sufficient, the Head of Legal and Property will write to you and to the member concerned, notifying you that she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Head of Legal and Property is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Head of Legal and Property will review the Investigating Officer's report and will then either send the matter for local hearing before the Standards Committee or, after consulting the Independent Person, seek local resolution.

7.1 Local Resolution

The Head of Legal and Property may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Head of Legal and Property will report the matter to the Standards Committee for information, but will take no further action. However, if you tell the Head of Legal and Property that any suggested resolution would not be adequate, she will refer the matter for a local hearing.

7.2 Local Hearing

If the Head of Legal and Property considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Head of Legal and Property will report the Investigating Officer's report to the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Two to these arrangements.

Essentially, the Head of Legal and Property will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Standards Committee may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Standards Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Standards Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Standards Committee concludes that the member did fail to comply

with the Code of Conduct, the Chair will inform the member of this finding and the Standards Committee will then consider what action, if any, the Standards Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Standards Committee will give the member an opportunity to make representations it and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

8 What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Head of Legal and Property to arrange training for the member;
- 8.6 Remove from all outside appointments to which he/she has been appointed or nominated by the authority or ask the Mayor to remove the member from all outside bodies that he/she has been nominated to by the Mayor
- 8.7 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Standards Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Standards Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Standards Committee resolves to take.

As soon as reasonably practicable thereafter, the Head of Legal and Property shall prepare a formal decision notice in consultation with the Chair of the Standards Committee, and send a copy to you, to the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

The member will have the right to appeal against the finding and or proposed sanction of the Standards Committee. Such appeal must be notified to the Head of Legal and Property within 10 working days of the date of the decision notice. In the event that a member appeals the matter will be considered by a special council meeting convened for the purpose.

The procedure adopted for hearing the appeal will be as follows:

The Chairman of the Standards Committee will outline the Committee's reasoning for it's decision.

The member may question the Chairman.

The member will then make his/her representations to Council

The Chairman may question the member

Council makes a decision, if it finds the member has breached the code it will then consider what sanction to impose after hearing any further representations from the member.

10 Who are the Standards Committee?

The Standards Committee is a Committee of the Council that five members of the Council, each political party is represented on the Committee. It is appointed on the nomination of party group leaders at Annual Council in May of each year

The Independent Person is invited to attend all meetings of the Standards Committee and his/her views are sought and taken into consideration before the Standards Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is the appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

11.1 (a) Is, or has been within the past 5 years, a member, co-opted member or officer of the authority; or
(b) stood for election to the Council: or

11.2 Is a relative, or close friend, of a person within paragraph 11.1(a) above. For this purpose, "relative" means –

11.2.1 Spouse or civil partner;

11.2.2 Living with the other person as husband and wife or as if they were civil partners;

- 11.2.3 Grandparent of the other person;
- 11.2.4 A lineal descendent of a grandparent of the other person;
- 11.2.5 A parent, sibling or child of a person within paragraphs 11.2.1 or 11.2.2;
- 11.2.6 A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5; or
- 11.2.7 Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant against a decision of the Head of Legal and Property or of the Hearings Panel *a member only has the right of appeal against a decision of the Standards Committee following a hearing as described above*

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix One The authority's Code of Conduct

Appendix Two Procedure for Hearings

**Appendix two
Procedure for Hearings.**

1. Head of Legal and Property will request the convening of a Standards Committee such Committee to sit no earlier than 21 working days from the date of the request
2. Head of Legal and Property will notify the member of the decision to convene a Standards Committee hearing and ask the member to provide her with a written response to the Investigating Officers report within 5 working days with the purpose of narrowing the issues of dispute at the hearing. The member will also be required to indicate any witnesses he/she would intend to call
3. Head of Legal and Property will notify the Investigating Officer and complainant of decision to convene a hearing.
4. On receipt of the member's written response or if no response is received after 5 working days the Head of Legal and Property will meet with the Chair of the Standards Committee to agree any specific directions to be set for the hearing, these can include clarifying which areas are disputed and evidence needs to be adduced on, witnesses required, documents to be submitted.
5. If any directions are set the Head of Legal and Property will write to both the member and the Investigating Officer with those directions.
6. The Investigating Officer will be informed of those areas of his/her report in dispute and be asked what witnesses he/she intends to call and will be required to respond within 5 working days.
7. All papers to be relied on by any party must be submitted to the Head of Legal and Property no later than 5 clear days before the date of the Hearing with a copy sent to the other party.

8. The member will be entitled to employ a representative to speak on his/her behalf at the hearing. If a member chooses to employ a representative he/she does so at their own expense.
9. At the Hearing the procedure to be followed will be:
 1. Consideration of whether the matter should be dealt with in private or public
 2. Investigating Officer to present his/her case
 3. Questions by Committee and member to Investigating Officer and any witnesses
 4. Member or his/her representative to present his/her case
 5. Questions by Committee and Investigating Officer to member and any witnesses
 6. Investigating officer sums up
 7. Member or his/her representative sums up
 8. Committee takes view of Independent Person
 9. Committee makes decision if code breached or not
 10. If Committee decides code breached Committee asks member or his/her representative to make any representations before considers sanction.
 11. Committee takes view of Independent Person
 12. Committee announces decision.

9. Following the hearing the Head of Legal and Property will after consulting with the Committee Chair, on behalf of the Committee formally notify the member and the complainant of the Committee's decision within 5 working days of the Hearing.

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PART A

Report to: Constitution Working Party
Date of meeting: 23 February 2012
Report of: Head of Legal and Property Services
Title: Suggested Amendments to the Constitution

1.0 SUMMARY

- 1.1 To consider the following changes to the Constitution for recommendation on to Council.
- A minor amendment to the Council scheme of delegation relating to Town and Country Planning and Development Control with regard to Article 4 Directions.
 - To agree to changes to the Officer Code of Conduct to reflect the introduction of offences under the Bribery Act 2010.
 - The Watford Borough Petition Scheme
 - Matters for consideration at Council meetings
 - Arrangements for access by councillors to Part B reports
 - Access to meetings and papers in respect of Scrutiny Task Groups
 - Replacement members on committees
 - Councillors' names in minutes.
 - Virement Rules

2.0 RECOMMENDATIONS

To recommend to Council

- 2.1 That A 6 (m) of the Council Scheme of Delegation be amended to remove the words 'where urgent action is considered necessary'

- 2.2 To amend the Officer Code of Conduct by adding the following paragraphs:

To 2.7 - Working with Contract and Contractors

'It is a criminal offence under the Bribery Act 2010 to request, agree or accept a financial or other advantage intending that you will perform your duties as a council officer improperly, or get another council officer to perform their duties

improperly. It does not matter if you do not directly receive or accept the advantage. You are expected to perform your duties in good faith and impartially. As a council officer you are in a position of trust.'

To 2.8 Gifts, Loans, Benefits or Hospitality

'To prevent any suspicion of dishonesty or corruption as specified above and to protect you from suspicion, a hospitality register will be kept by the Head of Legal and Property Services'

- 2.3 To advise Council whether to retain the Watford Borough Petition Scheme post the implementation of section 46 of the Localism Act 2011.
- 2.4 To determine what standard items should be excluded from the agenda for Budget and Annual Council – see paragraph 3.4.
- 2.5 To agree the process for the circulation of Part B reports as outlined in paragraph 3.5.
- 2.6 To agree the process for dealing with Scrutiny Task Group meetings as outlined in paragraph 3.6
- 2.7 To agree the procedure for replacement members on committees as outlined in paragraph 3.7
- 2.8 To agree to refer to the full names of councillors in committee minutes. See paragraph 3.8
- 2.9 To agree the revised virement scheme as set out in Appendix C.

Contact Officer:

For further information on this report please contact: Carol Chen Head of Legal and Property Services
telephone 01923 278350 email: carol.chen@watford.gov.uk

3.0 DETAILED PROPOSAL

3.1 A minor amendment to the Council scheme of delegation relating to Town and Country Planning and Development Control with regard to Article 4 Directions.

- 3.1.1 During the course of the year it has been necessary for the Council to consider making directions under Article 4 of the Town and Country Planning General Permitted Development Order 1995.

The provisions of Article 4 allow the Council as Local Planning Authority, if it considers it is expedient, that development that would otherwise be

deemed to have been granted permission under Schedule 2 to the Order (with the exception of Parts 22 and 23 or Part B), should not be so deemed, and that the Local Planning Authority should be entitled to determine whether planning permission should be granted, by an affected person making a formal application for planning permission.

The Direction can apply to all or any development of the Part, Class or Paragraph in question in an area specified in the Direction or any particular development falling within that Part, Class or Paragraph which is specified in the Direction.

3.1.2 Once a Direction is made it must be served on the owners and occupiers of the land which it affects and must be published in the local paper. It comes into effect immediately but will lapse after six months unless it is confirmed, either by the Local Planning Authority, or in some cases by the Secretary of State.

3.1.3 Under the current scheme of delegation the making of such a Direction is delegated to the Head of Planning and Development Manager 'where urgent action is considered necessary'.

It is the view of officers that this last proviso should be removed from the delegation and officers should be free to make and confirm such a Direction subject only to the existing caveats in the scheme of delegation. This would avoid having to take a report to Development Control Committee to confirm a Direction where no objections had been received.

3.2 **To agree to changes to the Officer Code of Conduct to reflect the introduction of offences under the Bribery Act 2010.**

3.2.1 The Bribery Act 2010 came into force on 1 July 2011 and now specifies offences relating to being bribed, as well as bribing others. The Council already has a robust code of conduct for Council employees that deals with officer relationships with the community, councillors, other employees, contractors, gifts and hospitality etc. A recent internal audit has highlighted the need to 'beef up' the code by making specific reference to the Bribery Act 2010 in the code, to ensure employees are clear about their legal position. A copy of the Officer Code is attached at Appendix A.

3.2.2 It is suggested that an additional paragraph be added to paragraph 2.7 Working with Contract and Contractors which states:
It is a criminal offence under the Bribery Act 2010 to request, agree or accept a financial or other advantage intending that you will perform your duties as a council officer improperly, or get another council officer to perform their duties improperly. It does not matter if you do not directly receive or accept the advantage. You are expected to perform your duties in good faith and impartially. As a council officer you are in a position of trust.

3.2.3 Also that an additional sentence be added in paragraph 2.8 Gifts, Loans,

Benefits or Hospitality which states:

To prevent any suspicion of dishonesty or corruption as specified above and to protect you from suspicion a hospitality register will be kept by the Head of Legal and Property.

- 3.2.4 The provisions of the Bribery Act 2010 apply to councillors as well as officers. At present the Members Code of Conduct is laid down by statutory instrument. Also on this agenda is an item on the future of the standards regime post the implementation of the Localism Act 2011. It would be officers intention to make reference to the Bribery Act 2010 in a new code of conduct to be adopted by the Council from July 2012.

3.3 **The Watford Borough Petition Scheme**

- 3.3.1 Section 46 of the Localism Act 2011 when brought into force will repeal the provisions of the Local Democracy, Economic Development and Construction Act 2009 requiring councils to adopt petition schemes. Prior to the requirement to have a formal scheme the Council had in its procedure rules the ability for members of the public to bring petitions to council and to cabinet. The Council kept the same requirement for the number of signatories for a petition to be debated at full council (30) as it had under the previous procedure rules.

What the scheme required which was new was the ability for petitioners to ask for a senior officer to give evidence at a public meeting about something they were responsible for as part of their job. It also introduced the ability to submit petitions electronically and the Council purchased specific software to receive such petitions. To date the Council has received no electronic petitions. A copy of the petition scheme is attached as Appendix B.

- 3.3.2 The Working Party is asked to consider whether it wishes to recommend to Council removing the current scheme and reverting to the previous position of petitions being accepted for discussion at full council and cabinet by way of the procedure rules, maintaining the ability for such petitions to be received electronically.

3.4 **Matters for consideration at Council meetings**

- 3.4.1 The Constitution states that there will be no public questions at Annual and Budget Councils. The Working Party is asked whether this should also include public petitions.
- 3.4.2 There is no Mayor's report at Annual Council. The Working Party is asked whether this should also include Budget Council as the Mayor already does quite a lot of speaking at Budget Council and Members are provided with ample opportunity to question her on the budget proposals and other issues.
- 3.4.3 The Working Party is also asked to consider whether there is a need for

Member Questions at Annual Council bearing in mind that the Municipal Year has only just started.

3.5 To agree the process for the circulation of Part B reports as outlined in paragraph 3.5.

3.5.1 Part B reports are sent to all members of the particular committee.

The current practice regarding non committee members, adopted after the December 2011 Cabinet meeting, was for the Democratic Services Manager to write to all Group Leaders asking them to advise their Group that, if anyone wanted a copy of a Part B item, they had to contact the Democratic Services Manager or the Head of Legal & Property. This process was followed for the January 2012 meeting. Only one councillor made contact and was given a copy of the report. At the meeting all the other non Cabinet councillors in attendance asked for copies and it was quite difficult to keep track of who took what, especially as the discussion on the item had already started

3.5.2 The Working Party is asked to agree that in future, one hard copy of a Part B report is sent to each of the Group Leaders asking them to contact the Democratic Services Manager if they require any further copies and stating why they need them. At least this way all Groups will have had an opportunity to see the report. This is particularly relevant for Cabinet where opposition groups members attend to ask questions on agenda items.

3.6 Access to meetings and papers in respect of Scrutiny Task Groups

3.6.1 When the current scrutiny arrangements were introduced it was determined that scrutiny task groups should be treated in the same way as formal committees with agenda and minutes being published on the web and the meetings open to the public.

One of the problems which occurred following a meeting of the Hospital Parking Charges Task Group at which the press was present was that an inappropriate quote was published in the paper.

The purpose of task groups is to brainstorm ideas and thoughts on a specific topic with a view to making recommendations to the Overview & Scrutiny Committee. If the press and public are present there is always the risk that a "random" comment made as part of the discussion may be taken out of context and presented as a firm proposal. This can set hares running unnecessarily. It is also important to encourage a good flow of ideas at Task Groups to ensure that all aspects of the topic are covered and having the press and public present can stifle such debates.

We have consulted other local authorities to see what they do with regard to task groups and most responded that they did not treat them as public meetings.

Obviously recommendations made to the Overview &Scrutiny Committee will become public, along with the background papers which would include Task Group reports and minutes.

3.6.2 It is suggested that Task Groups be treated as informal meetings and not publicised but that the Task Group reports and minutes be included as background papers (and therefore accessible) once the Task Group's final recommendations are submitted to the Overview & Scrutiny Committee.

3.7 **To agree the procedure for replacement members on committees**

3.7.1 The Constitution Working Party at its meeting on 2/4/08 agreed that replacement members should be allowed on Call-in & Performance Scrutiny only. The arrangement was not specifically updated when the new arrangements were introduced although the report to Council did state that "the current convention of substitution/replacement of members on the Overview & Scrutiny Committee and Budget Panel be retained, except where either are meeting to discuss an ongoing review." As there was not and Overview & Scrutiny Committee under the old arrangements this point needs clarification and also needs to be specifically included in the Constitution.

3.7.1 It is suggested that replacement members be allowed on all scrutiny committees except where there is an ongoing review and that this arrangement be included in the Constitution.

3.8 **Councillors' names in minutes**

The current practice when writing minutes is to refer to "a member" and "another member" etc when indicating who spoke during a discussion. When a number of members speak on a particular issue this can get very cumbersome. An alternative would be to refer to councillors by name.

Although this does not require a change to the Constitution, the Working Party is asked for its views on introducing this proposal with effect from the 2012/13 Municipal Year.

3.9 **Virement Rules**

3.9.1 The Head of Strategic Finance is proposing to update the Virement Rules to reflect the fact that the Executive Director Resources Post will be deleted at the beginning of the next financial year and also to clarify the use of earmarked reserves.

3.9.2 The proposed rules are attached as Appendix C. The proposal is that where a cost centre is currently under the indirect control of the Executive Director Resources this role will be taken by the Head of Strategic Finance. Also all virements over £50,000 will require a further control through the relevant portfolio holder or the Mayor.

- 4.0 **IMPLICATIONS**
- 4.1 **Financial**
- 4.1.1 The Head of Strategic Finance comments that there are no financial implications arising directly out of this report.
- 4.2 **Legal Issues** (Monitoring Officer)
- 4.2.1 The Head of Legal and Property Services comments that the legal implications are contained within the body of the report.
- 4.3 **Equalities**
No implications
- 4.4 **Potential Risks**
None apparent

- 4.5 **Staffing**
- 4.5.1 N/A
- 4.6 **Accommodation**
- 4.6.1 N/A
- 4.7 **Community Safety**
- 4.7.1 N/A
- 4.8 **Sustainability**
- 4.8.1 N/A

Appendices

- A. Officers' Code of Conduct
- B. Watford Borough Council Petition Scheme
- C. Proposed Virement Rules

Background Papers

Constitution

File Reference None

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2.0 **OFFICERS' CODE OF CONDUCT**

CODE OF CONDUCT FOR COUNCIL EMPLOYEES

2.1 **Introduction**

The Council has developed vision and a set of objectives which sets out the key and underpinning aspirations that shape our work for the Town. Our vision is that Watford is a town to be proud of, where people will always choose to live, work and visit.

Our objectives are:

- Improve the health of the town and enhance its heritage
- Enhance the town's 'clean and green' environment
- Enhance the town's sustainability
- Enhance the town's economic prosperity and potential
- Supporting individuals and the community
- Securing an efficient, effective, value for money council
- Influence and partnership delivery

The Council places great value on the contribution of all staff in achieving these objectives, and is committed to creating an environment where staff are highly motivated and are able to provide excellent services to the community.

The Code of Conduct has been developed to help us achieve these aims and ensure that honesty, integrity and high standards of personal behaviour are maintained at all times.

This Code of Conduct applies to all employees of the Council and has been developed in consultation with the Trade Unions. It is intended to complement and enhance other employment regulations, policies and procedures which are available from either your line manager, or Human Resources.

The code provides a framework for employees that will help to maintain and improve standards, and also protect employees from misunderstanding or criticism.

It is very important for all staff to read and understand the code. It is possible, in some circumstances that if employees seriously fall below the expected standards, disciplinary action, and possibly dismissal may result.

The Council will take into account any mitigating circumstances which may be relevant to possible breaches of the Code.

If you do not understand any points made in the code, or have any questions or would like clarification you should seek advice from either your line manager or Human Resources.

2.2 **Respecting Others**

Respecting the rights, dignity and contribution of everyone is one of the Council's key aspirations, both within the organisation and also with the wider community. Everyone therefore has the right to be treated with courtesy and

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respect at all times and it is your responsibility to ensure you always treat others this way.

Additionally, everyone is entitled to be treated fairly and not to be discriminated against and the Council expects you to reflect this when carrying out your duties.

You should never harass or discriminate against or victimise people you meet in the course of your work either other council employees, service users or when working with the general public, in particular, on the following grounds:

Race	Gender	Sexuality
Disability	Religious Beliefs	Social Background
Marital Status	HIV Status	Educational Background
Irrelevant Conviction	Gender reassignment	Age

Harassment, discrimination or victimisation will not be tolerated by the Council.

It is not acceptable in the workplace to display material or make remarks which might be offensive or undermine the dignity of others.

Everyone has a role to play in ensuring fairness and respect towards colleagues and the community. If you have any concerns in relation to this, you must raise them either with your line manager or Human Resources. The Council has introduced procedures such as the Harassment and Bullying Procedure and Whistleblowing Procedure to support employees who may have concerns to raise.

2.3 **Working with the Community**

The community has a right to be treated with respect regardless of their background or any other personal issues. It is important that there is a positive attitude from all staff towards meeting the needs of individuals and different groups within the community.

Our service users and customers have the right to expect us to listen to them, be open, helpful and professional in our approach.

The Council recognises, that due to the nature of their work, some staff may come into conflict with members of the public more than others and this can often be difficult. The Council will support staff who are abused or assaulted by members of the public in the course of their duties.

If a member of the public is being abusive or completely unreasonable and your attempts to defuse the situation fail, try to end the conversation in a polite manner, and report the incident to your manager. Make every effort not to be rude or offensive in return.

Staff who are directly assaulted may be entitled as a last resort to take reasonable action to defend themselves, however, it is important to remember that only reasonable force (over reaction can constitute a criminal offence) may be used to remove a person who has acted violently and for example, refuses to leave the premises. In these circumstances it may be appropriate to call the police.

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The Council has a Violence at Work policy that gives guidance about dealing with potentially difficult situations and how the Council will provide support.

Our attitude, manner and appearance are important in portraying confidence in the Council and your behaviour or actions should not at any time damage public confidence in the Council.

2.4 **Relationships with other Employees and Managers**

In order to achieve the Council's aim of providing the best quality services for all, the same high standards of conduct need to be displayed with other employees as the public.

You should show respect for others and not disrupt their work. Harassment, discrimination and bullying will not be tolerated. It is important to maintain effective working relationships with team members and your manager.

Managers should show respect for staff and behave courteously, reasonably and fairly at all times. You should carry out any reasonable and lawful instructions your manager gives you to the best of your ability.

Any complaints about other employees may be raised through the Harassment and Bullying Procedure or the Grievance procedure. If you have a complaint relating to your immediate line manager you should report it to the manager next in line or contact Human Resources.

2.5 **Working with Councillors**

When dealing with Councillors' enquiries you are expected to be both polite and efficient, working within whatever procedures apply in your service or work area. Councillors should also deal with you courteously and reasonably and there is a Code of Conduct in place for Councillors which covers these areas.

You should serve all councillors impartially and professionally, not just those of any particular political group.

Councillors have the legal right to information that they "need to know" i.e. if it is reasonably necessary to fulfil their duties as a Councillor. If you have any concerns or are unclear about requests for information from Councillors you should raise this with your line manager.

Any personal issues relating to your job should not be discussed with Councillors directly, but should go through the accepted Council procedures, , Grievance, relevant appeal procedures and usual consultation routes. In the same way, allegations or claims about other employees should be taken up with an appropriate manager and not a Councillor.

You should not use Councillors to bypass formal Council procedures in any way, for example to influence the outcome of any disciplinary matter. This does not affect the rights of trade unions to take up matters on behalf of their members through the recognised channels.

The above does not preclude you from approaching your local Ward Councillor in his/her role as your elected representative.

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If you have any concerns about working relationships with Councillors you should raise them with your line manager.

2.6 **Working within the Law**

It is very important that the Council and all staff work within the law. In order for Council decisions and actions to be held to be reasonable in law, the Council must carry out its business in a way that is rational, proper and fair. Unlawful behaviour at, or even way from work could result in a loss of trust and confidence in the employee or the Council.

It is important that you uphold the law at work, and it is important that you do not break a law away from work which could damage public confidence in you or the council, or makes you unsuitable for the work you do. This includes, for example:

- submitting false or fraudulent claims to the Council or other public bodies (e.g. income support, housing or other benefit claims)
- breaching copyright on computer software
- crimes of dishonesty which might make an employee unfit to hold a position of trust
- accepting a bribe

If you are charged with or convicted of a crime which may affect your job you must inform your line manager or Human Resources.

2.7 **Working with Contracts and Contractors**

Orders and Contracts must be awarded in accordance with the Council's Contract Procedure Rules and the law and no special favour must be shown to businesses run by, for example, friends, partners or relatives in this process, nor should any part of the local community be discriminated against.

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 capacity with the contractors or potential contractors, you must declare that relationship to your manager.

There is a specific legal responsibility (Section 117 Local Government Act 1972) to declare such interests where you or your spouse/partner has a financial interest, (which can include a shareholding in a Company) in any Contract with the Council whether or not you have dealings with that contractor on behalf of the Council.

It is a criminal offence under the Bribery Act 2010 to request, agree or accept a financial or other advantage intending that you will perform your duties as a council officer improperly, or get another council officer to perform their duties improperly. It does not matter if you do not directly receive or accept the advantage. You are expected to perform your duties in good faith and impartially. As a council officer you are in a position of trust.

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Any attempts to bribe you or another employee must be reported to your manager as soon as possible, as should any evidence of corruption or improper conduct by others.

It is also not acceptable for an officer to purchase goods from, or use the services of a contractor for private use, at a preferential rate, if the preferential rate is given as a result of the official business relationship between the Council and the contractor.

If you have any concerns, or a situation arises in which you are uncertain about the correct way to deal with it, you should seek advice from your manager.

2.8 **Gifts, Loans, Benefits or Hospitality**

As a general rule members of staff should not accept any gift offered to them because of the work they do for the Council. Providing the public with the highest quality of service possible requires integrity and honesty at all times.

To prevent any suspicion of dishonesty or corruption as specified above and to protect you from suspicion, a hospitality register will be kept by the Head of Legal & Property Services. Any offer of a gift or hospitality, whether accepted or not, will be recorded on a proforma countersigned by your manager and forwarded to the Head of Legal & Property Services to place on the register. It is your responsibility to ensure that any offers are communicated to your manager and that you fill in the proforma.

Things that cannot be accepted include: money, goods, services, holidays, travel, accommodation, discounts or anything else of value.

There are occasions when a gift is offered and it may seem impolite to refuse, in these circumstances you must inform your line manager who will decide whether or not it is appropriate for the gift to be kept, returned or forwarded elsewhere (e.g. an appropriate charity organisation). This will be recorded in the hospitality register.

Often small gifts such as calendars, diaries or simple items of office equipment of modest value are made and these can be accepted if your manager agrees. They must be recorded in the hospitality register.

As a general guide no employee should accept a gift from anyone which could, or might appear to, place them under an obligation or be seen to influence the performance of their duties.

There are times when receiving reasonable hospitality is acceptable, such as light refreshments (e.g. tea, coffee, sandwiches) when visiting sites, offices or peoples homes in the ordinary course of your employment. It will not be necessary for these modest hospitalities to be recorded in the hospitality register.

Invitations to meals, or similar are acceptable if you are representing the Council in a professional capacity, but this must be agreed with your manager (in advance as far as possible), and will be noted in the hospitality register.

You should inform your manager if people you meet through work leave you things in their will.

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If you are in any doubt at all about whether you can accept a gift or hospitality it is your responsibility to seek advice from your line manager.

2.9 **Using the Council's Resources**

Only in exceptional circumstances, and after specific written authority from your manager may Watford Council's resources (property, equipment and staff) be used for private purposes. Separate guidelines for staff who use Council resources when they work from home in the course of their normal duties have been developed.

You must not steal or wilfully damage anything that belongs to the Council.

You should not copy or take Council Software including other licensed software for your own use, nor use your own software on Council equipment except with the prior consent of your manager and in accordance with the license provisions for that software. Any disc brought into the Council on legitimate business or exchanged within the Council must be virus checked.

Council telephones should normally be used for Council business. The Council understands that there are occasions when people need to make personal calls from work to make arrangements for child care, doctors appointments etc. These personal calls are acceptable only if they are essential and are kept to a minimum and are in accordance with any agreement reached with your manager. Other personal calls at the Council's expense are not acceptable

2.10 **Working with Sensitive Information**

Often information held by the Council is sensitive and confidential. The Council is required to make some information available to Councillors, auditors, government departments, service users and the public.

Information gathered by the Council should not be used for commercial or personal gain or misused in any way. It is important that you know what the Council treats as confidential, who is entitled to have access to the information, and are responsible and professional in using and allowing access to information.

Any personal information held on computer must be in line with the principles of the Data Protection Act.

If you have any concerns or are unsure you must seek clarification from your line manager.

2.11 **Work outside of Council Employment**

If you are undertaking additional employment outside of the Council you must advise your line manager, e.g. additional part-time employment. You must not use your position within the Council to gain such employment, and you may not be engaged in such employment during Council time (includes sick leave), or use Council equipment such as telephone or fax to carry out the work.

Your manager must be informed if you are engaged in additional employment (paid or unpaid) which is relevant to your job or may affect your work for the

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Council. Any such employment must not conflict with, or detrimentally affect the Council's duties or interests, or weaken public confidence in the Council.

Some employees work on a voluntary basis with other bodies, and the Council welcomes this involvement with the community. However, it is important to ensure that public confidence is maintained, and you should therefore inform your manager if your services to any such body could conflict with the work you carry out for the Council or if the organisation receives a grant from or has a contract with the Council. Your manager will decide whether or not there is a conflict of interests.

You are required to pay the Council any fees you receive for work you do such as lectures, speaking at conferences during the course of your job but you can keep fees for such work which the Council does not pay you for and is carried out in your own time.

2.12 **Confidentiality and Contact with the Media**

It is important that staff act as ambassadors of the Council, promoting the policies and reputation of the Council. Contact with the press and media should be conducted through the Council's Communications Team.

Any approaches by the media should be dealt with in a polite and courteous manner. You must contact the Council's Communications Team for advice before giving out any information relating to the Council. If you are in any doubt you should seek advice from your line manager.

You must never bring the Council into disrepute by publicising material which is confidential or against the interest of the Council and its employees. Any concerns you may have should be raised with your manager or through the usual recognised procedures, such as the Grievance procedure or Whistleblowing policy.

This does not include a spokesperson for the Council's recognised Trade Unions who may discuss Council business with the press for legitimate industrial relations activities.

2.13 **Working Hours and Attendance**

To carry out the Council's work for the community it is important that you are reliable and punctual in your work attendance. Time off for any reason should be agreed in advance by your immediate manager, and in order to qualify for leave under any of the leave schemes, you are expected to comply with the conditions of the scheme.

If you are not well enough to attend work, it is important to follow the Council's procedure for notifying sickness, which states that you must inform First Care as soon as possible on your first day of absence. Ideally you should make contact yourself, if this is not possible a partner, friend or relative will be sufficient. You should, where possible, give an indication of when you expect to be fit to return to work. For absence between 4 to 7 days duration you must complete a Watford self certification form. For any absence in excess of 7 days you must submit a Fit Note from your General Practitioner.

Appendix A

The Council has a number of policies and leave schemes and you should refer to these to be clear about your entitlements under these schemes. They are: Sickness, Annual Leave, Flexi-time, Job Share, Maternity Leave, Dependency Leave, Paternity Leave, Special Leave (includes Compassionate Leave). If you are unclear or require any clarification you should speak to your line manager or Human Resources.

2.14 **Health and Safety**

The Council accepts and will meet any statutory obligations by making, so far as reasonably practicable, every effort to provide a safe and healthy work environment for all its staff and ensure that all steps are taken to protect the health and safety of its service users. The Council has agreed a number of policies in relation to Health and Safety to which you should refer. These are:

Health and Safety Policy
Alcohol and Drugs Policy
No Smoking Policy
Violence at Work Policy

You have a responsibility under Health and Safety legislation to help ensure a safe working environment by:

- following the Council's Health and Safety policy, copies available from your manager, Human Resources, or Health and Safety Advisor
- taking reasonable care to ensure the health and safety of staff you work with, service users and yourself
- wearing any safety clothing and using any appropriate equipment provided for your work, safely and correctly
- reporting any serious and imminent danger, accidents or near misses you have at work promptly
- attending any medical examination where required under Council Procedures
- complying with hygiene requirements
- telling your manager if you are taking any medication that may harm your ability to do your job safely

2.15 **Membership of organisations not open to the public**

You should register with your Head of Service your membership with any organisation not open to the public which has secrecy about rules, membership and/or conduct, for example, Freemasons.

The register will be open to Councillors and the Managing Director.

2.16 **Applying for a job with Council**

The Council is committed to an open and fair approach to staff recruitment and encourages applicants from all sections of the community to apply for posts, positively valuing the richness that diversity brings.

This approach requires that appointments are made without bias and on the basis of ability and suitability for the job. It is therefore important that you are open and honest at any interview and on your application form.

Appendix A

You should disclose any criminal offence you have been convicted of (unless it is “spent” under the terms of the Rehabilitation of Offenders Act 1978), or any charges you face which may have an impact on the job you are applying for.

You should also disclose if you are a personal friend, relative, tenant or landlord of someone who may influence your appointment.

2.17 **Misconduct**

The Council has a set of Disciplinary Rules which give examples of the types of breaches of standards of behaviour that may be considered to be misconduct. Some breaches are so great that they may be considered to be gross misconduct which could lead to your dismissal from the Council's service.

This Code of Conduct also sets out the standards of behaviour expected from all employees and you should understand that disciplinary action, including where appropriate dismissal, may result if standards of behaviour and conduct fall below those outlined in the Code.

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WATFORD BOROUGH COUNCIL PETITION SCHEME

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt.

This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to:

**Head of Legal and Property Services,
Town Hall,
Watford,
Herts,
WD17 3EX**

Or be created, signed and submitted online by following this link [\[link\]](#)

What are the guidelines for submitting a petition?

Petitions submitted to the Council must include a clear and concise statement covering the subject of the petition.

- It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted.

In the period immediately before an election or referendum we may need to deal with your petition differently if this is the case we will explain the reasons and discuss the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed.

Appendix B

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place.

If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Your petition will be acknowledged and you will be informed why your petition will not be dealt with and what other steps you may wish to take.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate.

Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email.

We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- Consider at Cabinet or other relevant committee
- referring the petition for consideration by the Council's Call-In and Performance Overview and Scrutiny Committee*
- writing to the petition organiser setting out our views about the request in the petition

*Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject Appropriate steps

<p>Alcohol related crime and disorder</p>	<p>If your petition is about crime or disorder linked to alcohol consumption, the council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.</p>
<p>Anti-social behaviour (ASB)</p>	<p>As the elected representatives of your local area, and licensing authority, the council plays a significant role to play in tackling anti-social behaviour. The council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as licensing authority. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken, consider identifying a dedicated contact within the council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and crime and disorder overview and scrutiny committee to the issues highlighted in the petition.</p>

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will aim to make representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your

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petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

Full Council debates

If a petition contains **30** signatures or more it will be debated by the full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting.

This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The petition organiser will be given **five** minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of **15** minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least **30** signatures, the relevant senior officer will give evidence at a public meeting of the Council's Call-In and Performance Overview and Scrutiny committee. The senior staff that can be called are the Managing Director, Executive Directors, Heads of Service

You should be aware that the overview and scrutiny committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs.

Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting the Democratic Services Manager up to three working days before the meeting. You can do this by e-mail at legalanddemocratic@watford.gov.uk or telephone 01923 226400.

E-petitions

The Council welcomes e-petitions which are created and submitted through our website

[link]. E-petitions must follow the same guidelines as paper petitions.

The petition organiser will need to provide us with their name, postal address and email address.

You will also need to decide how long you would like your petition to be open for signatures. The maximum petitions can remain open is for three months.

When you create an e-petition, it may take five working days before it is published online.

This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish.

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If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to the Head of Legal and Property Services. In the same way as a paper petition, you will receive an acknowledgement within 14 days. If you would like to present your e-petition to a meeting of the council (if it has the requisite number of signatures), please contact the Democratic Services Manager on 01923 226400 within five days of the petition closing.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature.

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Call-In and Performance Overview and Scrutiny Committee review the steps that the council has taken in response to your petition.

The committee will consider your request within 30 days of receiving it. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within seven days. The results of the review will also be published on our website.

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BUDGET MANAGEMENT AND CONTROL SUMMARY

Budgetary Management

Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control will also take place at a more detailed level in order to construct the higher level position

Scheme of Virement

Within budgetary management control a scheme of virement exists to enable the Mayor, Executive/ Cabinet, Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Council. With regard to the procedures detailed below, all reference to Executive Directors includes the Managing Director (the MD can also substitute for the Chief Finance Officer in case of absence/ emergency) .

- a) The Council has two budgets; the General Fund Revenue Budget and the Capital budget. Council approves these budgets annually and may vary them during the year.
- b) Once approved by Council, these budgets may only be varied by Full Council, in accordance with the use of earmarked reserves or through the Scheme of Virement set out below in (d) and contained within the Councils Constitution
- c) A decision to use the Council's general fund working balance, can only be made by Full Council.
- d) The Scheme of Virement
 - (i) These rules apply to virements within the General Fund and the Capital Budget. It is not possible to vire between these budgets.
 - (ii) All virements over £10,000 are subject to the approval of the Chief Finance Officer to ensure compliance with proper practices. This includes the need for consultation between officers and a written report to any member body or individual member of the Executive considering a virement under (vii) or (viii)
 - (iii) No virement shall be used to fund new services or projects that will create additional budget commitment in future years without the

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approval of the Executive (Cabinet) for amounts up to £100,000 and by Full Council for amounts in excess of £100,000.

(iv) The Managing Director, in consultation with the Chief Financial Officer is authorised to withdraw or limit the delegated authority of officers to vire.

(v) A Head of Service may approve virements **within cost centres** under his or her control on up to three occasions per annum per cost centre

- up to and including £10,000 following notification to the Chief Financial Officer.
- Over £10,000 up to and including £50,000 with approval from the Executive Director Services and Chief Financial Officer. In the case of all areas not covered by the Executive Director Services, only the approval of the Chief Finance Officer will be required.
- Over £50,000 and up to and including £100,000 with approval from the Chief Financial Officer, the Executive Director Services (where appropriate), Portfolio Holder or Mayor

(vii) A Head of Service may approve virements **between cost centres** under his or her control on up to three occasions per annum following the same approval processes as detailed at (v) above.

(viii) Where there is a requirement to vire across 'divisional' boundaries, then the approval of both Heads of Service will be required. Otherwise the processes to be followed remain the same.

(ix) Virements between and within cost centres over £100,000 can only be approved by Full Council

(x) Virements should be made with the following caveats:

- Virements should not be made for ongoing items of growth unless there is a permanent corresponding reduction to the base estimate from where the source of the virement originated.
- The Head of Service will have regard to ensuring that potential overspends within cost centres within their control are met from under spends in other areas in the first instance and before any virement request is requested.
- Where a staffing vacancy general provision, or procurement saving or any further unallocated savings have been assumed within the overall budget then any forecast underspend needs, in the first instance, to be earmarked to ensure such savings are achieved.
- Any over provision for pay awards cannot be used as a source of a virement as it will need to be returned back to the strategic finance cost centre. Similarly Support Costs recharged from another Head of Service cannot be used as a source of virement.
- The Head of Service will have regard for any actions proposed by the Chief Financial Officer in times of financial constraint in order to maintain the overall net budget

Appendix C

- Multiple amounts for the same budget head virement will not be allowed beyond a maximum of three occasions per year. A general exemption (to this ‘three times’ limit) is allowed in the case of virements between staffing and agency budgets where flexible management may well require more frequent use of virement. Even in this case all financial thresholds will continue to apply.
- Virements which would curtail or stop service delivery (by taking away available finance to vire to other areas) should be discussed with the Executive Director Services/ Chief Finance Officer /Portfolio Holder or Mayor as appropriate.

(xi) In the case of an emergency the above limits may be exceeded with the approval of the Chief Financial Officer, Executive Director Services, Portfolio Holder or Mayor, and a report made retrospectively to Full Council.

(xii) If following consultation with the Chief Financial Officer and relevant portfolio holder a projected overspend cannot be accommodated within budget, by virement or by transfer from earmarked reserves then Full Council can consider a supplementary estimate following the submission of a report. The submission of such a report will have regard to

- The time in the budget cycle when the overspend has been identified until the end of the financial year
- The case put forward as to why the overspend cannot be contained
- The overall financial position of the Council
- In respect of capital expenditure authorisation should be obtained from the Executive (Cabinet) for individual schemes where the estimated expenditure exceeds the capital provision by more than the 10% or £25,000 whichever is the lower.

In summary the scheme of virement can be presented as follows :

Virement How Much	Who	Which Budgets	Frequency	Required Consultation/ Approval
Below £10,000	Heads of Service	Within and between cost centres within their control	Three times per annum per cost centre	Notification only to Chief Financial Officer
Between £10,000 and £50,000	Heads of Service	Within and between cost centres within their control	Three times per annum per cost centre	Approval of Chief Financial Officer and the Executive Director Services (as

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				appropriate)
Between £50,000 and £100,000	Heads of Service/ Executive Director Services/ Chief Financial Officer	Within and between cost centres within their control	Three times per annum per cost centre	Approval of CFO, Executive Director Services (as appropriate), Portfolio Holder or Mayor
Over £100,000	Heads of Service/ Executive Director Services/ Chief Finance Officer	Between cost centres within their control	Unlimited	Consultation with Portfolio Holder or Mayor and then Formal report to and approval by Full Council
Virements that funds new services or projects with budget commitments in future years Below £100,000	Heads of Service/ Executive Director Services/ Chief Finance Officer	Any	Unlimited	Executive (Cabinet)
Virements that funds new services or projects with budget commitments in future years over £100,000	Heads of Service/ Executive Director Services/ Chief Finance Officer	Any	Unlimited	Formal report to and approval by Full Council

Carry Forward Of Underspends

All revenue budgets are approved by Full Council with the expectation that expenditure is incurred upon approved service levels within a financial year. Budgets are not approved on the basis that surplus provision can be carried forward to augment future years funding. There may be occasion where an unavoidable delay has occurred in procuring anticipated services/ supplies. In these rare instances Heads of Service should submit a proposal indicating why a carry forward should be permitted. All such submissions will be considered by the Chief Finance Officer / Managing Director / Executive Director Services and reported to Leadership Team. Where approval has been obtained then these cases will be reported as part of the Annual Statement of Accounts report to Audit Committee and Cabinet.

For capital expenditure, it will be harder to fund all projects within a specific timescale (although the increasing use of project management techniques should reduce its occurrence). In these instances carry forward approvals will be endorsed through periodic monitoring reports to Budget Panel/ Cabinet and through the Annual Statement of Accounts to Audit Committee and Cabinet.

Appendix C

Use of Earmarked Reserves

Earmarked reserves and contingencies outside the General Fund or Capital budget shall be used only in accordance with the purpose for which the reserve was set up and shall not be vired to other uses. Specific earmarked reserves have been established to smooth out variations in expenditure year on year and to fund approved initiatives. The use of reserves is delegated to individual Heads of Service but requires the approval of the relevant Portfolio Holder and the Chief Finance Officer and will be reported as part of the monthly Finance Digest to all members of the Council and considered by the Budget Panel and Cabinet at their appropriate meetings. Earmarked reserves generally :

- Should not be used to fund on-going revenue expenditure
- Expenditure should be shown within the Income and Expenditure Account and funded by a transfer from reserves not simply charged to the reserves
- Transfer to and from reserves should be reported to the Budget Panel and Cabinet at the earliest possible opportunity and at end of year via the annual Statement of Accounts to Audit Committee and cabinet.

Bernard Clarke,
Head of Strategic Finance
February 2012.

