

**REVIEW OF CODE OF CONDUCT FOR ELECTED & CO-OPTED MEMBERS,  
PLANNING PROTOCOL AND PROTOCOL ON MEMBER / OFFICER RELATIONS**

1. Purpose

To inform the Committee of the outcome of a review of the following documents and to seek the views of the Committee on the proposed changes with a view to them being recommended for adoption by Annual Council on 22 May 2019:

- Code of Conduct for Elected & Co-Opted Members
- Protocol for Councillors and Officers dealing with Planning Matters (Planning Protocol)
- Protocol on Member / Officer Relations

2. Background

- 2.1 Robust standards arrangements are necessary to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.
- 2.2 At the last Standards Committee on 14 January 2019, members were informed that a review of these important documents was underway to ensure they remain up-to-date and fit for purpose. The report indicated the proposed amendments to the documents arising from the review would be reported to members of the Standards Committee in due course for consideration.
- 2.3 Proposed changes to these documents requires the approval of full Council to adopt them, as an amendment to Part 5 of the Constitution. The intention is to provide a report with the recommended changes at Annual Council on 22 May 2019.
- 2.4 All elected members were invited to attend Ethical Standards & Code of Conduct training in October 2018. The review process was instigated following this training. A number of issues were highlighted during the training which have been considered and addressed as part of the review, along with other changes which are considered to be appropriate to include.

3. The Review

- 3.1 The review was also supported by David McGrath of Link Support Services, who delivered the training to members in October 2018. He has reviewed the Council's current documents and benchmarked them against other local authorities.
- 3.2 The best practice recommendations set out in the recent Committee on Standards in Public Life ("CSPL") Review report have informed the review by the Monitoring Officer.

- 3.3 The Monitoring Officer has considered the recommendations with relevant officers and recommends changes to the documents at Appendices 1-3.
4. Code of Conduct for Elected & Co-Opted Members
- 4.1 The existing Code was adopted by Council on 11 July 2012, as required when the new standards regime was introduced by the Localism Act 2011.
- 4.2 Local authorities are under a duty to promote and maintain high standards of conduct by elected and co-opted members and to adopt a Code of Conduct based on Lord Nolan's Seven Principles of Public Life.
- 4.3 It is a matter for the Council to determine the provisions of its Code of Conduct, subject to the over-arching requirement that it be consistent with the Nolan principles of selflessness; integrity; objectivity; accountability; openness; honesty and leadership.
- 4.4 Whereas under the previous regime there was a model code of conduct which all authorities were obliged to abide by, the provisions introduced by the Localism Act meant that each local authority's code will have consistent themes, but will differ in parts between local authorities.
- 4.5 The existing Code is based on a draft produced by the Association of County Secretaries and Solicitors (ACSeS) but Council approved additional provisions in relation to the "other interests" which a local authority is obliged to include. The code therefore sets out general principles of behaviour expected, requirements in relation to pecuniary interests and a requirement, in relation to those "other interests", to register membership or positions of control or management in certain organisations.
- 4.6 Best practice 1 in the CSPL Review states local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
- 4.7 When the existing Code was adopted by the Council, express provisions relating to discrimination and harassment did not form part of the Code. Any complaints relating to these issues would be considered under sections 1.1 and 1.2 of the existing Code as part of the general obligations placed on members to treat others with respect and not to conduct themselves in a manner which is contrary to the Authority's duty to promote and maintain high standards of conduct of members.
- 4.8 The proposed amendments strengthen the existing Code by including express obligations relating to discrimination, bullying, harassment, sexual harassment and victimisation along with definitions in accordance with the best practice recommendation.
- 4.9 The Localism Act removed the statutory requirement to register gifts and hospitality. Notwithstanding this, the Council determined when it adopted its Code in 2012, to include an obligation on members not to accept gifts worth in excess of £50.00. Best practice recommendation 5 in the CSPL report states local authorities should update their gifts and hospitality register at least once per quarter and publish the register. It is therefore recommended to alter the approach and amend the provisions in the existing Code which would require

members to declare any gifts, benefit or hospitality over £25.00. It is also recommended to publish the register of gifts and hospitality on the Council's website alongside the Members' Register of Interests for transparency.

- 4.10 Parish Councils are subject to the same duty in relation to promoting and maintaining high standards of conduct of its members. Parish Councils are entitled to adopt their own code of conduct, which may be different to the code of the Borough Council. Parish Councillors are under the same duty to register and disclose pecuniary interests.
- 4.11 If the proposed amendments to the Council's Code of Conduct are approved by Council in May, the Monitoring Officer will advise Parish Council Clerks of the updated version in due course, which they may choose to adopt as their own code.
- 4.12 The proposed amendments to the existing Code of Conduct are set out in Appendix 1 highlighted in red.
- 4.13 The CSPL Review recommended that the Local Government Association should create an updated model code of conduct. Should such a model code be produced, it will be presented to members for consideration in due course.
- 4.14 The option of a common Code of Conduct for Members to be adopted across the constituent authorities of the Liverpool City Region Combined Authority to achieve consistency of approach has been discussed informally previously but never implemented. If this option is to be progressed further, it will be reported to members for consideration.
5. Protocol for Councillors and Officers dealing with Planning Matters (commonly known as the Planning Protocol)
  - 5.1 The existing Planning Protocol was last updated and approved by Council on 13 April 2016. The document provide guidance on how members should conduct themselves when determining planning applications and attending meetings. The aim of the Protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
  - 5.2 As the provisions of the Protocol impact primarily on Members who sit on the Planning Committee, the updated document has been circulated to those Members in order that they may have the opportunity to comment on it prior the meeting of this Committee.
  - 5.3 The proposed amendments to the existing Protocol are set out in Appendix 2 highlighted in red. The changes seek to give clarity to members and strengthen the guidance on a number of issues including; consideration of applications during Committee meetings, guidance on when members propose to make determinations contrary to officer recommendations, site visits, gifts and hospitality within the planning context and press comments.
6. Protocol on Member / Officer Relations
  - 6.1 The existing Protocol has not been updated for some years and a review is long overdue. There is no statutory requirement for Councils to adopt such

protocols, but it is good practice to do so. Given that the Council already has a protocol in place it would benefit from being updated.

- 6.2 The purpose of the Protocol is to give guidance on the respective complementary roles and responsibilities of Members and Officers and expectations on their relationship with each other. It also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Chief Executive.
- 6.3 The proposed changes serve to provide clarification in certain areas, including the expectations of members of officers and vice versa, the role of statutory officers. There are also some new sections such as politeness and respect, appointment of officers by members and visits to premises and land by members.
- 6.4 The proposed amendments to the existing Protocol are set out in Appendix 3 highlighted in red.
7. Recommendation
  - 7.1 The Committee is asked to consider the proposed changes to the following documents, provide any comments/further amendments and to recommend them to Annual Council for adoption on 22 May 2019:
    - Code of Conduct for Elected & Co-Opted Members
    - Protocol for Councillors and Officers dealing with Planning Matters (Planning Protocol)
    - Protocol on Member / Officer Relations

Appendix 1 – Code of Conduct for Elected & Co-Opted Members

Appendix 2 – Protocol for Councillors and Officers dealing with Planning Matters

Appendix 3 – Protocol on Member / Officer Relations

**Jan Bakewell**

Deputy Director, Legal & Governance

The Contact Officer for this report is Mrs J Bakewell, Corporate Services Department, Town Hall, Victoria Square, St Helens, WA10 1HP  
Telephone: (01744) 673209