

## **CONSTITUTION AND ETHICS COMMITTEE**

**MONDAY 16 MARCH 2020**

**7.00 PM**

**Bourges/Viersen Room - Town Hall**

### **AGENDA**

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<b>1. Apologies for Absence</b>	
<b>2. Declarations of Interest</b>	
<b>3. Minutes of the Meeting held on 30 September 2019</b>	<b>3 - 8</b>
<b>4. Budget Policy Framework Procedure Rules Update</b>	<b>9 - 22</b>
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<b>8. Update and Review of Council Standing Orders</b>	<b>55 - 58</b>
<b>9. Amendment to the Member Officer Protocol</b>	<b>59 - 62</b>

#### **INFORMATION ITEMS**

<b>10. Dispensations Issues</b>	
The Monitoring Officer will update the Committee on any dispensations given.	
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## Emergency Evacuation Procedure – Outside Normal Office Hours

*In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair. In the event of a continuous alarm sounding remain seated and await instruction from the duty Beadle.*

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<http://democracy.peterborough.gov.uk/ecSDDisplay.aspx?NAME=Protocol%20on%20the%20use%20of%20Recording&ID=690&RPID=2625610&sch=doc&cat=13385&path=13385>



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### Committee Members:

Councillors: Seaton (Chairman), Bashir (Vice-Chair), Allen, Murphy, Amjad Iqbal, Sandford, Shaheed

Substitutes: Councillors: Hemraj, Jones, Simons and Wiggin

Further information about this meeting can be obtained from Dan Kalley on telephone 01733 296334 or by email – [daniel.kalley@peterborough.gov.uk](mailto:daniel.kalley@peterborough.gov.uk)



**MINUTES OF THE CONSTITUTION AND ETHICS COMMITTEE  
MEETING  
HELD AT 7:00PM, ON  
MONDAY, 30 SEPTEMBER 2019  
BOURGES/VIERSEN ROOM, TOWN HALL, PETERBOROUGH**

Present: Councillors Seaton (Chairman), Simons, Murphy, Amjad Iqbal and Sandford

Officers in

Attendance: Pippa Turvey, Democratic and Constitutional Services Manager  
Dan Kalley, Senior Democratic Services Officer  
Fiona McMillan, Director of Law and Governance and Monitoring Officer  
Paulina Ford, Senior Democratic Services Officer  
Rachel Edwards, Head of Constitutional Services

Also in

Attendance:

**11. APOLOGIES FOR ABSENCE**

There were apologies from Councillors Bashir, Allen and Shaheed. Councillor Simons attended as substitute

**12. DECLARATIONS OF INTEREST**

There were none.

**13. MINUTES OF THE MEETING HELD ON 8 JULY 2019**

The minutes of the meeting held on 8 July 2019 were agreed as a true and accurate record.

**14. UPDATE ON REVIEW OF SCRUTINY GUIDANCE AND FUNCTIONS**

The Constitution and Ethics Committee received a report in relation to an update on the review of scrutiny guidance and functions following a request at the last meeting.

The Senior Democratic Services Officer introduced the report and confirmed that the report outlined responses to actions that were raised at the previous meeting.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- There was agreement that there were already joint scrutiny arrangements in place with Cambridgeshire County Council. The Health Scrutiny Committee had previously met with the Health Scrutiny Committee from Cambridgeshire County Council. The Committees terms of reference allowed for joint working in the future.
- It was important that joint working arrangements were kept under review and opportunities for joint working were taken when they arose.
- In terms of the council's call-in procedure the previous rules allowed any two scrutiny members from any scrutiny committee who could call in a Cabinet Member decision. This never resulted in any more call-ins compared to the current set of rules. It was unclear why this had changed to the current practice.
- It was arguable that the threshold for a key decision was too high. It was agreed that officers would look at similar authorities and what their thresholds were for key decisions as well as looking at how many decisions used the urgency procedures.
- There was some support for the rules used by Nottingham City Council in terms of their call-in procedures.
- There was a proposal to recommend to Full Council that the call-in process be changed to allow three Councillors of any Scrutiny Committee to be able to call in any key or non-key decisions.
- With regards to the Chairmanship of scrutiny committees and constitution and ethics this had already been agreed upon at Annual Council. There was argument that the best way of electing a Chairperson was for a secret ballot and that not all committees should be from the controlling party.
- It was agreed that the issue around Chairmanship of committees would be looked at again in the next municipal year.
- In terms of scrutiny committees reporting to Full Council on an annual basis, there was an argument that scrutiny committees could report more often than once a year. It was important to ensure that Full Council was kept informed of the recommendations made by the scrutiny committees. In addition, it would allow those Councillors who are not on any scrutiny committees the opportunity to ask any questions.
- This would also give scrutiny a wider general power that if they had any issues they could draw this to the attention of Full Council.
- There was concern that if scrutiny reported more regularly to Full Council it would take up more of an already crowded agenda.
- It was agreed that officers would look at how other authorities reported scrutiny recommendations to Full Council, discussing this with the current scrutiny chairmen to seek their views and report back to the Constitution and Ethics Committee.
- In terms of the proposed changes to the scrutiny functions and which scrutiny committee had responsibility, it was agreed to recommend the changes to Full Council.

The Constitution and Ethics Committee considered and **RESOLVED** to:

1. Recommend to Full Council updating the Council's standing orders in relation to the Council's Call-in procedure to allow any three Councillors who sit on a Scrutiny Committee to be able to call-in both key and non-key decisions made by the Executive. (3 For, 2 Abstain)
2. Recommend to Full Council updating the current functions of the Scrutiny Committees as detailed below and to take effect in January 2020:
  - a. Move Libraries, Arts & Museums from the Growth, Environment and Resources Scrutiny committee to the Adults & Communities Scrutiny committee as this now falls under the Service Director Adults Services and Communities
  - b. Move Adult Learning & Skills from the Children & Education Scrutiny Committee to the Adults and Communities Scrutiny Committee
  - c. Move Youth Service from Children & Education Scrutiny committee to Adults & Communities Scrutiny Committee

#### **ACTIONS:**

1. Officers to monitor and review joint working arrangements with Cambridgeshire County Council
2. Officers to review and research how other authorities report scrutiny recommendations to Full Council.
3. Officers to research how many urgent decisions are taken and compare to other authorities and to look at bringing a report back to the Committee.

#### **15. ADDITIONAL COUNCIL MEETING**

The Constitution and Ethics Committee received a report in relation to potential additional Full Council meetings.

The Democratic and Constitutional Services Manager introduced the report and explained that following on from the last meeting the views of the Council's Senior Management Team and Group Leaders had been sought as to the possibility of additional Full Council meetings. Most had responded in favour of an additional May meeting. Additional comments were received in relation to the order of motions and questions on the agenda.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- The consensus from senior officers and some group leaders was for an additional meeting held two weeks after Annual Council. It was also agreed to look at moving the January meeting to early February.
- There was a long period from March to July currently where there were no Full Council meetings in which motions and questions could be asked. An additional meeting in May would help alleviate the long gap.

- There was debate around making the final budget meeting one to discuss the budget only. If that was the case a further additional meeting needed to be made in order to consider normal business.
- There were a number of proposals put forward including:
  - Look to moving January Full Council meeting to February,
  - Supporting an extra meeting in May, two weeks after Annual Council.
  - If there were three budget meetings proposed for a municipal year then the Constitution and Ethics Committee could revisit the number of Full Council meetings held for that year.
  - In terms of motions and the order of business it was agreed that the Mayor and Group Leaders could look at altering the agenda if there were issues that needed to be given more time for debate at the meeting.
- It was important that Group Leaders meetings worked around looking at the proposed agenda items and recommend any changes to the order of the agenda to the Mayor.
- The Mayor still had the power to change the order of the agenda at their discretion.

The Constitution and Ethics Committee considered and **RESOLVED** to:

1. Recommend to Full Council the creation of an additional Full Council meeting to be held two weeks following the Annual Council meeting, to allow normal business of the Full Council to be conducted.
2. Officers to look at the possibility of moving the January Full Council meeting to February.
3. Receive a report into the possibility of having an additional Full Council meeting should there be three budget council meetings in a Municipal Year.

**ACTIONS:**

1. Group Leaders and the Mayor to identify any opportunities prior to a Full Council meeting in changing the order of the agenda to allow important motions to be sufficiently debated.

**16. COMMITTEE START TIME 2020-2021**

The Constitution and Ethics Committee received a report in relation to the start time for the Constitution and Ethics Committee for the municipal year 2020-2021.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to agree the start time for the Committee in 2020-21 as 6pm

**17. DISPENSATIONS ISSUES**

The Director of Law and Governance and Monitoring Officer informed the Committee that a dispensation had been granted to Councillor Sandford so

that he can meet with officers from Cambridgeshire County Council and the Combined Authority with regards to representing the Woodland Trust.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note the dispensation granted

**18. CODE OF CONDUCT COMPLAINTS RECEIVED SINCE JULY 2019**

The Constitution and Ethics Committee received an update report on the code of conduct complaints received by the Monitoring Officer since the last meeting in July 2019.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting in July 2019.

**19. WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES**

The Constitution and Ethics Committee received a report in relation to the Committee's Work Programme for the Municipal Year 2019/20.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to note the Committee's work programme for the municipal year 2019/20

7:00pm – 8.03pm  
Chairman

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<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 4
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Peter Carpenter, Acting Director of Corporate Resources		
Cabinet Member(s) responsible:	Cllr David Seaton, Cabinet Member for Finance		
Contact Officer(s):	Peter Carpenter, Acting Director of Corporate Resources	Tel. 452520	
	Kirsty Nutton, Head of Corporate Finance	Tel. 384590	

**BUDGET POLICY FRAMEWORK PROCEDURE RULES UPDATE**

R E C O M M E N D A T I O N S	
<b>FROM:</b> Corporate Director: Resources	<b>Deadline date:</b>
It is recommended that the Constitution and Ethics Committee recommend that Full Council approve the updated Budget Policy Framework Procedure Rules, as outlined in Appendix A.	

**1. ORIGIN OF REPORT**

- 1.1 This report is submitted to Constitution and Ethics Committee following referral from The Corporate Director of Resources, the *S151 Finance Officer*.

**2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is to update the Budget Policy Framework Procedure Rules as set out in part 4, section 6 of the Council's constitution.
- 2.2 This report is for Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1, 'Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.'

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	NA
Date for relevant Council meeting	01/06/2020	Date for submission to Government Dept. <i>(Please specify which Government Dept.)</i>	NA

**4. BACKGROUND AND KEY ISSUES**

**4.1 Background**

The current Budget Policy Framework Procedure Rules, approved in March 2018, outline a rolling budget approach, whereby the budget model is continually revised on an ongoing (quarterly) basis. This was to enable the Council to identify saving proposals and actions that

mitigate new arising pressures to be implemented throughout the financial period and the Council to benefit from results as quickly as possible.

The Council is in a very difficult financial position, with an £14.2m budget gap in 2021/22, as outlined in the Medium Term financial Strategy (MTFS) (approved by council on 4 March 2020), and current in year forecast overspend of £4.4m, (as outlined in the December BCR report, which went to Cabinet on 25 February 2020). The reserves position is also fragile, and will not be able to fully support the current budget gap in 2021/22 and provide any resilience to mitigate future risks or emergencies. Within the Medium Term financial Strategy the Council outlined that it had made an application to MHCLG to fund £9m of costs relating to transformational activities, including expenditure incurred through acceptance of voluntary redundancies, through a Capitalisation Direction. The reserves position assumes a successful application, therefore if the Council were not successful with their application, the reserves balances would be perilously low, with limited financial resilience, and unable to fund the 2021/22 £14.2m budget gap.

The magnitude of savings required means that the Council will have to make significant operational changes, which will affect the way we deliver services. Due to the nature and scale of this development of proposals is expected to take longer to ensure the plans are robust, deliverable and collectively achieve financial sustainability. Therefore a different budget setting process will be required to accommodate this.

In July 2019 the Council approved an extraordinary budget setting approach for the 2020/21 budget process, outside of the Budget Policy Frame Work Procedure Rules. However this approach is required to be made on an ongoing basis to reflect the development tie required to deliver savings of this size.

## 4.2 Proposal Detail

This report proposes the implementation of the budget process adopted within 2020/21 as a permanent change to the Budget Policy Framework. This will enable budget proposals developed in to business cases, scrutinised and implemented throughout the financial period the ensure the Council can maximise the financial benefits as quickly as possible.

The following table is for illustrative a high level timeline for the proposed approach. The process would need to include all Governance processes presently in the budget process (Cabinet Policy Forum, Budget Working Group, and Joint Scrutiny of the Budget, Cabinet Report, Council Approval and consultation requirements) and would work with this process repeating itself twice throughout the financial year

### Budget setting plan

MEETING	CONTENT	DATE
<b>PHASE ONE</b>		
Cabinet	To consider the first phase of budget proposals for consultation (following approval through CPF and BWG). The publication of the report commences the Consultation period.	Summer/ Autumn
Scrutiny Committee	To formally scrutinise the first phase of budget proposals	Summer/ Autumn
Cabinet	To recommend the first phase of budget proposals to Council having regard to feedback from the joint scrutiny committee and stakeholders	Summer/ Autumn
Council	To approve the first phase of budget proposals	Summer/ Autumn
<b>PHASE TWO</b>		

Cabinet	To agree: <ul style="list-style-type: none"> <li>• Council Tax base and estimated position on the Collection Fund;</li> <li>• NNDR1 (Business Rates position);</li> <li>• Any changes proposed to the Council Tax Support Scheme.</li> </ul>	January
Cabinet	To consider the final phase of budget proposals and the MTFS report for consultation (following approval through CPF and BWG). The publication of the report commences the Consultation period.	February
Scrutiny Committee	To formally scrutinise the final phase of budget proposals	February
Audit Committee	To review and approve the Asset Investment Strategy and Treasury Management Strategy prior to inclusion in the MTFS.	January/February
Cabinet	To recommend the MTFS including the revenue budget and Council Tax rates to Council having regard to feedback from the joint scrutiny committee and stakeholder consultation	February
Council	Approve the consolidated MTFS, including the revenue and capital budget and Council Tax Resolution.	March

## 5. CONSULTATION

5.1 There are no consultation requirements. This is an enhancement to the budget process.

## 6. ANTICIPATED OUTCOMES OR IMPACT

6.1 Following approval by the Constitution and Ethics Committee on 16 March 2020 and Full Council on 20 May 2020, The Corporate Management Team will develop proposals in order to deliver a balanced budget, within the budget timetable and process proposed in this report.

## 7. REASON FOR THE RECOMMENDATION

7.1

The Cabinet is responsible for initiating Budget Proposals within the Council's Budget and Policy Framework Procedure Rules. This proposes a revised approach to that outlined within the current Budget Policy Procedure Rules, set out in the Councils Constitution. This is due to the magnitude of the financial savings required in order to reach a balanced budget in 2021/22.

Adopting this approach will ensure that robust and deliverable plans are approved in order to achieve a budget for the Council, which is financial sustainability. The additional time required on the development of these opportunities will ensure that they have undergone a greater level of scrutiny, and implementation plans outlined within the business cases have been fully considered by the corporate management team and Cabinet, before being proposed. This will ensure that the Council is successful in the implementation of these proposals.

This recommendation will best support the Council to fulfil its statutory obligation to set a lawful and balanced budget by 11 March annually.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 No other options have been considered. The Council had previously adopted a different rolling budget approach to the budget setting process which was adopted within the Budget Policy Framework Procedure Rules and implemented for the 2019/20 process.

However as outlined within this report the Council moved to an extraordinary approach to the budget setting process for 2020/21. This approach was revised mid –year (approved in July 2019), and this report proposes to incorporate this change within the Constitution.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 *None*

### **Legal Implications**

- 9.2 The provisions of the Local Government Finance Act 1992 (LGFA 1992) set out what the Item 9(c) - For Information Only 9.1 9.3 9.4 council must base its budget calculations on and require the council to set a balanced budget with regard to the advice of its Chief Financial Officer (section 151). The setting of the budget in March each year is a function reserved to Full Council, who will consider the draft budget which has been prepared and proposed by Cabinet. When it comes to making its decision in March each year the Council is under a legal duty to meet the full requirements of s31A of the LGFA 1992 which includes the obligation to produce a balanced budget.

- 9.3 Once the budget has been agreed by Full Council the Cabinet cannot make any decisions which conflict with it, although variations and year-in-year changes can be made in accordance with the Council's financial regulations.

- 9.4 Councils are under a general duty (Section 151 of the Local Government Act 1972) to make arrangements for 'the proper administration of their financial affairs'. It is for each council to decide on the detail of its budget setting process as part of this overall duty.

### **Equalities Implications**

- 9.5 *None.*

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Council 23 July 2019- revised 2020/21 Budget Setting Process Report  
Council 23 July 2019- Appendix  
Constitution – Part 4, Section 6 – Budget and Policy Framework Procedure Rules

## **11. APPENDICES**

- 11.1 *Appendix A- Revised Budget Policy Framework Procedure Rules*

## Section 6 - Budget and Policy Framework Procedure Rules

### 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

- 1.1 The Council will be responsible for the adoption of its Budget and Policy Framework. The Executive will be responsible for implementing the Budget and Policy Framework. The Executive will be responsible for initiating Budget and Policy framework proposals, and Council will be responsible for their approval on the recommendation of the Executive.
- 1.2 The Council may, from time to time, review which plans and strategies shall comprise the major policy framework (as listed in in Part 2 Article 4). The Cabinet will usually make recommendations on the plans that should be added or deleted.

### 2. PROCESS FOR DEVELOPING THE COUNCIL'S BUDGET

- 2.1 The budget setting process will have a two phased approach for developing and recommending budget proposals to Council for approval.
- 2.2 The Council's budget will be reviewed and reported on twice throughout each financial year. The Cabinet will consider the Council's Budget and Financial Strategy on both occasions. The Corporate Resources Director will confirm the number of phases and the timetable that will apply in the forthcoming financial year by the end of March prior to the start of each financial year.
- 2.3 This approach will enable identified budget proposals for savings and income generation and actions that mitigate new arising financial pressures to be implemented earlier in the financial year. This will therefore enable the Council to benefit from the result of more timely management action.
- 2.4 The Cabinet shall consider the Council's Budget and Financial Strategy in accordance with the Budget setting plan set out in 2.4 below. This will include consideration of the Revenue Budget, the Asset Investment Strategy, the Treasury Management Strategy and Medium Term Financial Strategy (MTFS).

#### Budget setting plan

MEETING	CONTENT	DATE
<b>PHASE ONE</b>		
Cabinet	To consider the first phase of budget proposals for consultation (following approval through CPF and BWG). The publication of the report commences the Consultation period.	Summer/ Autumn
Scrutiny Committee	To formally scrutinise the first phase of budget proposals	Summer/ Autumn

Cabinet	To recommend the first phase of budget proposals to Council having regard to feedback from the joint scrutiny committee and stakeholders	Summer/ Autumn
Council	To approve the first phase of budget proposals	Summer/ Autumn
<b>PHASE TWO</b>		
Cabinet	To agree: <ul style="list-style-type: none"> <li>• Council Tax base and estimated position on the Collection Fund;</li> <li>• NNDR1 (Business Rates position);</li> <li>• Any changes proposed to the Council Tax Support Scheme.</li> </ul>	January
Cabinet	To consider the final phase of budget proposals and the MTFs report for consultation (following approval through CPF and BWG). The publication of the report commences the Consultation period.	February
Scrutiny Committee	To formally scrutinise the final phase of budget proposals	February
Audit Committee	To review and approve the Asset Investment Strategy and Treasury Management Strategy prior to inclusion in the MTFs.	January/February
Cabinet	To recommend the MTFs including the revenue budget and Council Tax rates to Council having regard to feedback from the joint scrutiny committee and stakeholder consultation	February
Council	Approve the consolidated MTFs, including the revenue and capital budget and Council Tax Resolution.	March

## PHASE ONE

2.5 The purpose of phase one is:

- (a) identify new financial pressures arising in the current financial year and take timely actions to contain expenditure within approved budgets
- (b) to identify the likely budget position for the forthcoming financial year prior to the Government providing the financial settlement and
- (c) to provide an opportunity for directors to work up budget proposals at an early stage in consultation with Members and relevant stakeholders, and allow sufficient time for the delivery and implementation of budget proposals, in advance of the forthcoming financial year.

2.6 Directorates will be required to develop and present budget proposals that will contribute towards containing expenditure within the approved budget for the current financial year

and balancing the budget in future financial years. These options will be discussed with Cabinet Members and with a cross party working group set up for the purpose. An outline terms of reference for the group is attached. (Appendix 1).

- 2.7. Within Phase one Cabinet will formally publish budget proposals and if required, will be subject to a consultation process, which will commence at this time. As part of the consultation process, the Cabinet shall formally consult all scrutiny committees at a joint meeting on these proposals. The Cabinet shall also consult with local stakeholders, including residents, partner organisations and businesses.
- 2.8. Cabinet will then formally consider the budget proposals and the results of the consultation, including the views of the joint scrutiny committee and make recommendations to Council to agree them.

## **PHASE TWO**

- 2.9 Phase two will result in Cabinet making recommendations to Council on further budget proposals and the consolidated MTFS Report, to enable Council to set a lawful and balanced budget and to set the Council Tax by 11 March each year. Every Council has a statutory obligation to agree the Council tax by that date.
- 2.10 In January, Cabinet will formally publish its second phase of budget proposals and the consolidated MTFS and if required, will be subject to a consultation process, which will commence at this time. As part of the consultation process, the Cabinet shall formally consult on the further budget proposals with all scrutiny committees at a joint meeting on these proposals. The Cabinet shall also consult with local stakeholders, including residents, partner organisations and businesses, the same process outlined in Phase one to ensure that decisions made reflect community and Members' views
- 2.11 Following consultation, the final budget proposals and consolidated MTFS report will be considered by Cabinet and presented to Council for consideration and approval. This will be required to take place no later than 11 March.
- 2.12 Details of the Cabinet's consultation process as set out within the budget plan shall be included in the Forward Plan.
- 2.13 At any stage during the year, Cabinet Members may also consult and seek advice from any scrutiny committees about relevant service issues in relation to the formulation of budget proposals. Scrutiny committees have the ability to develop their own proposals as part of any themes they are reviewing as part of their work programme. Any such proposals will be reported to Cabinet and Cabinet will formally respond when recommending their budget proposals.
- 2.14 In addition to the requirements of this procedure rule the Cabinet may also receive and invite comments from any or all Members or persons on its proposals.
- 2.15 The Growth, Environment & Resources Scrutiny Committee will have overall oversight of the Budget and finance issues (and corporate issues such as Council Tax and the Treasury Management Strategy).

### **3. PROCESS FOR DEVELOPING THE POLICY FRAMEWORK**

- 3.1 Where statutory deadlines allow, at least two months before a plan or strategy in the policy framework needs to be adopted by Council, the relevant Scrutiny Committee will consider initial proposals for the plan or strategy. Details of any consultation processes shall be included in relation to each of these matters in the Forward Plan, where the plan or strategy is being recommended by the Cabinet. The consultation process shall be published and available on the Council's website.
- 3.2 Any representations made to the relevant Scrutiny Committee shall be taken into account when considering the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where a Scrutiny Committee has carried out a review of policy, then the outcome of that review will also be considered alongside the initial proposals.
- 3.3 The Scrutiny Committee may consult local stakeholders, any or all Members and any such persons or communities as they shall consider appropriate, allowing a period of four weeks for them to respond to the initial proposals, unless there are special factors that make this timescale inappropriate. If there are, it will inform the consultees of the time for response when the proposals are referred to them.
- 3.4 With the exception of the Corporate priorities, the relevant Scrutiny Committee will submit its proposals, including any views received during the consultation process, to the Cabinet for them to determine and make recommendations to Council.

### **4. ADOPTION OF BUDGET AND POLICY FRAMEWORK**

- 4.1 The Cabinet will consider the comments of the Scrutiny Committees and, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the scrutiny committee.
- 4.2 The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from the relevant Scrutiny Committees.
- 4.3 Where at a Council meeting a Member wishes to move a substantial amendment or amendments which amount to an alternative Budget to be adopted by the Council, they may only do so provided they give notice in writing of the proposed amendment(s) to the Proper Officer no later than 10 am three working days before the Council meeting (not including the day of the meeting). A substantial amendment, or amendments which amount to an alternative budget, is deemed to be one that proposes a different level of council tax. Any other amendments must comply with the rules relating to amendments to motions in the Council Standing Orders. Such notice shall be

circulated to all Members and the alternative proposal(s) will be dealt with as amendments in the order they are received by the Proper Officer.

- 4.4 The Council's decision will be published on the Council's website. The Proper Officer will notify the Leader of the Council's decision and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.
- 4.5 If the Leader objects to the decision of the Council, he or she shall give written notice to the Proper Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Proper Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- 4.6 The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- 4.7 The Council shall at that meeting make its final decision which shall be published on the Council's website, and shall be implemented immediately.
- 4.8 These procedures only applies to plan which relate to executive functions. Plans that relate to non-executive functions will be reported to the relevant committee prior to submission to Council.

## **5. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 5.1 Subject to the provisions of paragraph 6 below, the Executive may only take decisions which are in line with the Budget and Policy Framework. If the Executive wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Council, then that decision may only be taken by the Council. In approving the Medium Term Financial Strategy, the Council will specify the level of virement within the budget. Any other changes to the Budget and Policy Framework are reserved to the Council.
- 5.2 The Executive shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether a decision would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by the Executive to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 6 below apply.

## **6. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

6.1 The Executive may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by the Council if the decision is a matter of urgency. A decision will be urgent if any delay likely to be caused in taking it would seriously prejudice the Council's or the public's interests. However, the decision may only be taken:

- (a) if it is not practical to convene a quorate meeting of the full Council;
- (b) if the Chair of the Growth, Environment & Resources Scrutiny Committee agrees that the decision is a matter of urgency;
- (c) In the absence of the Chair of the Growth, Environment & Resources Scrutiny Committee, the Chair of the Scrutiny Committee relevant to the decision must give consent;
- (d) In the absence of both Chairs, the consent of the Mayor or Deputy Mayor will suffice.

6.2 The reasons for urgency and why it is not practical to convene a quorate meeting of the Council and the Chairman of the relevant scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision

6.3 Following the decision, the decision taker will provide a full report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **7. IN-YEAR CHANGES TO BUDGET OR POLICY FRAMEWORK**

7.1 Changes to the Budget may be made by the Executive where those changes:

- (a) are necessary to ensure compliance with the law, ministerial direction or government guidance;
- (b) where the changes do not exceed virement limits set by Council;
- (c) follow a decision to spend less than the budget allocated by Council (R (Buck)v Doncaster MBC (2013)).

7.2 Changes to the Budget may be made by the Executive where those changes are in respect of:

- (a) a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (b) two or more policies which conflict with one another on the matter under consideration.

## **8. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 8.1 Where a Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- 8.2 Where the Monitoring Officer and/or Chief Financial Officer are of the opinion that the decision in question is contrary to the Policy Framework or contrary to or not wholly in accordance with the Council's Budget then they shall prepare a report to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council.
- 8.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, a scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
- (a) endorse a decision or proposal of the Executive decision taken as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Members in the normal way;
  - (b) amend the Council's Financial Regulations or Policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Members in the normal way;
  - (c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Chief Financial Officer.

## **Budget Working Group - Terms of Reference**

### **Objective**

A cross party working group of members reviewing Council expenditure and services with a view to recommending a sustainable, balanced budget to Cabinet for the next financial year and the medium term.

This will also include reviewing the current year financial position with a view to making recommendations to be incorporated as part of a revised budget, in order to strengthen the current financial position and deliver savings and efficiencies at the earliest opportunity.

The primary purpose of the Budget Working Group (BWG) is to address the funding gap and deliver a robust and sustainable budget.

### **Purpose**

- To review the Council's budgets;
- To review budget proposals presented by senior officers;
- To identify savings, income generation and efficiencies;
- To recommend a budget for following financial year to Cabinet within available resources
- To advise the Cabinet on a Medium Term Financial Strategy for following financial year;
- To advise the Cabinet on a revised budget position for the current financial year

Where a presented proposal is opposed by the BWG, the group will need to nominate (or volunteer) members of the group, to work with officers to bring an alternative proposal to the following meeting. This will need to evidence the same level of financial benefit, or more in order to replace the original proposal.

### **Constitution & powers**

The BWG shall comprise of:

- Group Leaders are automatically nominated;
- One nominate member from each group;
- The Cabinet Member for Finance.

Substitution arrangements will not apply.

BWG meetings will begin with a financial briefing at the start of the budget setting process followed by regular meetings throughout the process. This will usually be held within 10 working days of Cabinet Policy Forum. Meetings may be held more or less frequently as the Group sees fit.

The BWG is an informal meeting of members and officers to which the Access to Information rules shall not apply.

The Budget Working Group shall appoint a Chair and Vice-Chair at its first meeting

The quorum of the Working Group shall be 3 members

Meetings of the Working Group will be supported by a senior officer of the Finance team and administered by the Leader's executive support assistant, with confidential briefing papers being issued in advance of the meeting. The Corporate Management Team will attend as necessary to present and discuss proposals, and respond to Group queries.

***Note:***

**Members agree to retain the confidentiality of the budget working papers until proposals are published for the Cabinet meeting. Confidentiality is of particular importance as the impact of the proposals will directly affect**

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<b>CONSTITUTION AND ETHICS</b>	<b>AGENDA ITEM No. 5</b>
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Councillor Nick Sandford	
Cabinet Member(s) responsible:	Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Fiona McMillan, Director of Law and Governance and Monitoring Officer Paulina Ford, Senior Democratic Services Officer	Tel. 452508

**CHAIRING OF SCRUTINY COMMITTEES**

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM:</b> Councillor Nick Sandford	<b>Deadline date:</b> <i>n/a</i>
<p>It is recommended that the Constitution and Ethics Committee:</p> <ol style="list-style-type: none"> <li>1. Notes the contents of the report, and</li> <li>2. That Council should consider making Charing Skills training mandatory for scrutiny committee chairs.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Constitution and Ethics Committee following a request from Councillor Nick Sandford on behalf of the Liberal Democrat Group.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to review the current practice of how scrutiny committees are chaired, and what training is offered to chairman of scrutiny committees.

2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1 Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	N/A
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**4. BACKGROUND AND KEY ISSUES**

4.1 Councillor Sandford has raised an issue with regard to the style of chairing at scrutiny committees. He has felt at times that on some committees the allowance of one question at a time has led to

ineffective scrutiny of a topic. Concerns had been raised with the Monitoring Officer on how a meeting of the Children and Education Scrutiny Committee was chaired in December which has prompted this report to Constitution & Ethics Committee.

Councillor Sandford has advised that having attended on several occasions training on effective scrutiny that members must be able to ask a series of consecutive questions to each witness, in order to test the information presented, and elicit clarification or further information if required. The restriction of one question at a time does not allow for effective scrutiny and to follow a line of enquiry. Councillor Sandford has therefore requested that Council should consider making Chairing Skills training mandatory for all committee chairs. He feels that chairman of scrutiny committees in particular, have a position of great responsibility in the scrutiny process, and the Council pays them a substantial amount of additional members allowance for performing the function.

- 4.2 The Democratic Services team have contacted the Centre for Public Scrutiny to seek guidance and information with regard to chairing of scrutiny committees. They have advised that there is no specific guidance to chairing scrutiny meetings and each chairman will adopt their own style. The best chairs are flexible, changing their approach depending on the meeting and the subject matter. For some non-contentious topics, they may adopt a very free flowing approach, for topics which are more complex and where there might be political tension the chairman might assert greater control. Following the style of Parliamentary Select Committee meetings good practice is to have a private meeting of the committee before the formal meeting where questioning tactics are discussed and agreed. This then allows the chairman to understand the intention and the line of questioning from the individual committee members and ensure that members are forensically following a line of questioning, and not just trying to monopolise committee time by asking random questions. The chair can then facilitate conversation about objectives **\*before\*** the meeting

All scrutiny committees at Peterborough do have pre meetings prior to the start of the main meeting, the purpose of which is to identify the line of questioning members of the committee wish to take. This ensures that the committee are prepared for the meeting and are working together as a team. However not all members of the committee attend these meetings, therefore making it difficult for the chairman to know the intention of the member asking the question and whether they have a key line of enquiry in line with the rest of the committees thinking..

- 4.3 All training sessions including the chairing skills one is offered to all Councillors at the beginning of the municipal year. Those who have not chaired before are specifically targeted. Some Vice Chairs also attend the training. The training is a generic chairing skills course and is not mandatory as some chairman have been chairman for some considerable time and have attended training in the past. New chairman do however attend the training when requested. The training is an in-house training course delivered by the Democratic Services team at no cost to the council.

The chairs training course does include a section on the chairing of scrutiny committees, however a suggestion might be that as part of this course it contains a further section providing guidance on questioning skills required for members of a scrutiny committee; in that they should forensically follow a line of questioning. This would then assist the chairman in understanding why follow up / supplementary questions should be allowed if the questioner has not felt that the question had been adequately answered.

- 4.4 Alternatively, The Centre for Public Scrutiny offer the following courses (see list below) which provide training for both scrutiny committee members and scrutiny chairman. The cost of each course per person is £195 plus VAT.

**1. Chairing Skills and Scrutiny Leadership**

*Chairing a scrutiny committee is much more than leading the meeting through its agenda. It requires a set of skills, knowledge and understanding to get scrutiny working effectively. This module will help both new and experienced chairs and vice-chairs to learn the essential skills to support them in their crucial tasks. Can be provided as part of a wider*

*package including coaching and mentoring support. Covers team building, understanding the role and purpose of scrutiny, focusing on outcomes, time management and elements of questioning skills.*

## **2. Expert Chairing Skills For Scrutiny**

*The role of the Chair is pivotal in ensuring scrutiny has an impact.*

*This course is not only about how to run a meeting – it is a course about how to be an effective scrutiny leader, an advocate for transparency and inclusion in your authority and working effectively with the executive. All of which will give scrutiny a higher profile and improve the lives of local people.*

*Drawing on CfPS research and expert facilitation, delegates will learn the best way to approach scrutiny leadership, work programming and preparing for meetings. The course will help Chairs to get the most from their fellow members and their officer support.*

## **3. Advanced Leading and Chairing Scrutiny**

*This focuses on developing the leadership, influencing and managing skills that effective scrutiny chairs and vice-chairs need to make the committee or task group effective. There is an element of practical case study tasks and understanding behaviours and culture.*

## **5. CONSULTATION**

5.1 *None*

## **6. ANTICIPATED OUTCOMES OR IMPACT**

6.1 It is for the committee to discuss the contents of the report and decide what further action if any should be taken.

## **7. REASON FOR THE RECOMMENDATION**

7.1 The recommendation has come at the request of Councillor Sandford.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 To do nothing and continue with the current training options.

## **9. IMPLICATIONS**

### **Financial Implications**

9.1 If the committee decide to put in place mandatory training for all scrutiny chairman through an external provider such as the Centre for Public Scrutiny, the cost to the council would be around £195 plus VAT per person per year at the current rate.

### **Legal Implications**

9.2 *None*

### **Equalities Implications**

9.3 *None*

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 *None*

## **11. APPENDICES**

11.1 *None*



<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 6
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Governance	
Cabinet Member(s) responsible:	Cllr David Seaton, Cabinet Member for Finance	
Contact Officer(s):	Amy Brown, Senior Lawyer and Deputy Monitoring Officer Phlippa Turvey, Democratic Services and Constitutional Services Manager	Tel. 452617 Tel. 452460

<b>INDEPENDENT REMUNERATION PANEL</b>
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<b>R E C O M M E N D A T I O N S</b>	
<b>FROM:</b> Corporate Director: Resources	<b>Deadline date:</b>
<p>It is requested that the Constitution and Ethics Committee recommend that Full Council:</p> <ol style="list-style-type: none"> <li>1. Agree the proposed changes to the Terms of Reference of the Independent Review Panel;</li> <li>2. Agree the proposed changes to the Terms of Reference of the Constitution and Ethics Committee; and</li> <li>3. Agree the proposed timetable for recruitment of an Independent Review Panel for the next term.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to Constitution and Ethics Committee for consideration at the request of the Monitoring Officer.

**2. PURPOSE AND REASON FOR REPORT**

2.1 In accordance with the Local Government Act 2000 and Local Authorities (Members' Allowances) (England) Regulations 2003, Local Authorities are required to undertake a formal independent review of the level of allowances for their Members at least once every four years.

2.2 The last review of Peterborough City Council's Member's Allowance Scheme took place in 2016. A further review must therefore be completed during the next municipal year and it is therefore timely to consider the parameters and timeframes within which those arrangements should take place. It is also prudent to consider the possibility for joint working in order to avoid duplication and to reduce the financial and administrative burden of recruiting and supporting multiple Independent Remuneration Panels across the county and its districts.

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	NA
Date for relevant Council meeting	15/06/2020	Date for submission to Government Dept. <i>(Please specify which Government Dept.)</i>	NA

### 4. BACKGROUND AND KEY ISSUES

4.1 The Terms of Reference of the Independent Remuneration Panel (“the IRP”) are comprised within the Members’ Allowance Scheme and have not been reviewed since their original approval. Whilst fundamentally there has been little change to the roles and responsibilities of the IRP, the opportunity has been taken to enhance the existing arrangements so as to add greater transparency and clarity as to arrangements that are routinely made. The track-changed version is at Appendix 1 of the Report with a ‘clean’ version for ease of reference at Appendix 2.

4.2 The proposed Terms of Reference provide for the possibility that Peterborough City Council enter into joint working arrangements with Cambridgeshire County Council and/or any relevant neighbouring Districts in the recruitment and appointment of IRP Members. Each partner authority will need to ensure that it meets its own statutory obligations in terms of the timing of any future review and a period of embedding is anticipated before it will be possible for a fully collective review to take place. Nevertheless, the proposals make provisions for partner authorities to ‘on-board’ Peterborough City Council’s existing arrangements should they wish and with the appropriate constitutional approval of their respective organisations. This initially will benefit partner authorities by reducing the time and cost associated with recruiting a separate Panel and ultimately, if and when the processes are fully aligned, will assist in achieving an appropriate level of consistency across the county. There are however provisions for the IRP to give individual advice to partner authorities recognising that whilst there will be a great deal of similarities they may also be a legitimate need for dissent. Equally where it is not possible to enter into successful joint working arrangements the Terms of Reference provide a clear pathway for Peterborough City Council in its own right thereby building in a high degree of flexibility for the future.

4.3 Noting the statutory position and the date of the last review, a timetable for recruiting the next Independent Review Panel has been drawn up having regard to previous experience and Peterborough City Council’s overall governance arrangements (see Appendix 3). Alongside this is the request that members of the Committee recommend for approval proposed amendments to the Terms of Reference of its Sub-Committee to include a new bullet point under paragraph 2.7.3.3 which reads as follows:

“To remove a member of the Independent Remuneration Panel in accordance with the provisions set out in its Terms of Reference.”

The Terms of Reference of the IRP set out the circumstances in which a panel member can be removed before the expiry of their term of office and propose that the decision in this respect sits with this Committee.

### 5. CONSULTATION

5.1 There are no consultation requirements at this stage in the process however all relevant consultation and publication requirements will be met as part of the independent review.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 Following approval by the Constitution and Ethics Committee on 16 March 2020 and Full Council on 20 May 2020, the Head of Democratic and Constitutional Services will implement the process for recruiting Panel Members who will then undertake the review within the statutorily required timeframes.

## **7. REASON FOR THE RECOMMENDATION**

- 7.1 The recommendations are made in order to ensure the Council's compliance with the statutory requirement to undertake a review of the Members' Allowance Scheme on an at least 4 yearly basis. The recommendations also provide the opportunity to update the Terms of Reference for the Independent Remuneration Panel as well as introducing the possibility of joint working in this respect.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 The Council is statutorily required to undertake a review of the Members' Allowance Scheme at least every 4 years. The last review took place in 2016 and there is therefore no other option than to commence a process enabling the appointment of IRP Members for this purpose. The proposed timetable addresses this requirement within the most efficient timescales achievable. There is no requirement to amend the Terms of Reference or to introduce joint working arrangements and the status quo could therefore be maintained however these proposals are designed with the intention of achieving maximum efficiency and effectiveness.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 None.

### **Legal Implications**

- 9.2 The key legal implications are outlined within the body of this Report.

### **Equalities Implications**

- 9.5 The appointment of IRP Members will be in accordance with the Council's standard recruitment provisions and will therefore ensure that the Council's Equality Act 2010 obligations and commitments are adequately met.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 None

## **11. APPENDICES**

- 11.1 Appendix 1 – Proposed Amendments to Independent Remuneration Panel terms of reference shown as track changes to the existing provisions.  
Appendix 2 – Proposed Amendments to Independent Remuneration Panel terms of reference shown with track changes accepted.  
Appendix 3 – Proposed timetable for IRP Member recruitment and IRP review.

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# INDEPENDENT REMUNERATION PANEL- TERMS OF REFERENCE

## A. TERMS OF REFERENCE ROLE AND RESPONSIBILITIES

1. The Independent Remuneration Panel ("IRP") shall, on a 4 yearly basis or, if otherwise requested, propose recommendations as to any required amendments to the Members' Allowance Scheme in relation to the following matters: ~~recommend to Council a scheme of payments to councillors for implementation from 29<sup>th</sup> July 2004, which:-~~
  - the amount of basic allowance payable;
  - the roles and responsibilities for which special responsibility allowances should be paid and if so, the duties to which they should apply and the amount;
  - whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
  - whether childcare and dependent carers' allowances should be paid and if so, the duties to which they should apply and the amount;
  - Whether a basic allowance should be paid to co-opted members and if so, the amount;
  - whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
  - whether any roles should receive pensionable allowances, where permitted in law;
2. In making its recommendations at paragraph 1 above, the IRP shall undertake a full review of the Members' Allowance Scheme as well as obtaining the views of officers and members of the Council to which it relates and having regard to the following general principles:
  - that councillors undertake their council work for the sake of public service and not private gain;
  - the varying demands placed upon councillors, dependent upon their roles and responsibilities;
  - the need to fairly and equitably compensate councillors, so far as the panel thinks appropriate, for the time and effort they can reasonably be expected to devote to their work as a councillor;
  - the need for the scheme to be economic, efficient to administer and effective;
  - the requirement for their report and recommended changes to the scheme of allowances to be easy to understand and adequately justifiable to the electorate;
  - That recommendations should confirm with existing legislation and anticipate likely future legislation so far as possible.
3. The IRP shall be required in reporting its recommendations to include guidance on what is to be encompassed by each relevant allowance so as to ensure that the Members' Allowance Scheme is consistently applied.

## B. PANEL MEMBERSHIP AND APPOINTMENT

~~1.—The (“IRP”) shall be comprised of 3 members of the public (“IRP Members”) to include:~~

- ~~• a public sector job evaluator or other personnel professional from the Eastern Region, appointed to Chair the IRP;~~
- ~~• an academic/consultancy expert in the field;~~
- ~~• a local private or voluntary sector, or union (not a council employee) representative;~~
- ~~• a person of well known public standing, such as a representative of a relevant faith community;~~

~~1. Candidates/IRP Members will be sought via advert in accordance with the Council’s standard recruitment arrangements. —by asking for quotations from suitable academic/consultancy experts, together with invitations to regional and local partners and stakeholders.~~

~~2. As part of this a person specification shall be drawn up to ensure that candidates who are appointed:~~

- ~~• are able to demonstrate a high degree of personal integrity;~~
- ~~• are not members of any local authority and are not disqualified from being or becoming a member of a local authority;~~
- ~~• have, if possible the appropriate level of skill, knowledge and understanding of setting remunerations;~~
- ~~• have the necessary time and commitment for the role;~~
- ~~• Are not affiliated to any political party – candidates must disclose the extent of their connections to a political party and whether these are such as to risk the effective discharge of the IRP’s functions were the candidate to be appointed;~~
- ~~• A knowledge of local government is preferable however a lack of familiarity will not be a bar to appointment.~~

~~3. Recruitment should be by either public advertisement or direct approach to appropriate business and community/voluntary sector organisations who command local respect and public confidence and would be able to nominate persons who should have the necessary skills, integrity, independence and who are recognisable members of the local business and voluntary/community sectors within their respective areas.~~

~~2.4. IRP Members will be appointed by the Chief Executive, in consultation with group leaders.~~

~~5. The term of office of IRP Members will be three years each. Full Council/The Constitution and Ethics Committee may remove an IRP Member in circumstances where: at Annual Council, or at any other time during the year should it feel the circumstances merit this, on the grounds of loss of confidence in the person (due to criminal conviction or other lack of independence or integrity).~~

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- the IRP Member is disqualified from being a member of an authority or is found guilty of any conduct which brings the office into disrepute e.g. being found guilty of a criminal offence, an act of dishonesty or other serious misconduct;
- the IRP Member is considered to have demonstrated a serious lack of diligence or incompetence;
- the member becomes an elected or co-opted member (or an employee) of the authority.

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6. The IRP shall:

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- appoint its own Chairman at the first meeting of each municipal year;
- require a quorum of 3 at all meetings;
- meet a minimum of once per municipal year with additional meetings convened as necessary;
- Otherwise devise its own rules for the conduct of meetings providing that they are consistent with legislative requirements and general good governance requirements.

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3.7. In order to avoid any perception of personal gain involved with membership of the IRP, travel and subsistence allowances only will be paid to IRP Members, at the rate approved by the Council annually within the limits determined by the Secretary of State. No other allowances will be paid to IRP Members, except for any fees required by the academic or consultancy expert.

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**C. JOINT WORKING ARRANGEMENTS**

Where it is in the best interests of each partner authority to do so, every effort should be made to establish a Joint Independent Remuneration Panel ("Joint IRP") with Cambridgeshire County Council and/or any neighbouring District Council whose Terms of Reference and Constitution will be as set out above save in respect of the following:

**TERMS OF REFERENCE**

1. In fulfilling the requirements set out in Section A above, the Joint IRP may make collective or separate recommendations to each partner authority as appropriate.

**PANEL MEMBERSHIP AND APPOINTMENT**

1. Where one authority already has arrangements in place, subject to the agreement of the IRP Members, it shall be open to the partner authority to request the establishment of an Interim Joint IRP and subject to the correct approvals being given, utilise the persons already appointed for the remainder of their term. Once their term is completed or in any other circumstances the partner authorities will then arrange to jointly recruit and appoint a Joint IRP where possible aligning their reviews accordingly. The following provisions will then apply.
2. Each partner authority shall appoint 3 representatives to serve on the Joint IRP.
3. The quorum of the Joint IRP will be two thirds of its overall membership.

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4. The partner authorities should jointly carry out the recruitment and appointment of IRP Members.

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5. Where there is any disparity between this and the terms of reference of the partner authorities these should be resolved prior to entry into joint working arrangements and in accordance with their respective constitutional requirements.

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6. The removal of an IRP Member must be with the agreement of each partner authority with the decision having been taken in accordance with their respective constitutional requirements.

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7. In the event that a partner authority wishes to end its participation in the Joint IRP or Interim Joint IRP, notice must be given in writing no later than 3 months before the end of the financial year to take effect from the start of the next financial year.

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# INDEPENDENT REMUNERATION PANEL- TERMS OF REFERENCE

## A. ROLE AND RESPONSIBILITIES

1. The Independent Remuneration Panel (“IRP”) shall, on a 4 yearly basis or, if otherwise requested, propose recommendations as to any required amendments to the Members’ Allowance Scheme in relation to the following matters:-
  - the amount of basic allowance payable;
  - the roles and responsibilities for which special responsibility allowances should be paid and if so, the duties to which they should apply and the amount;
  - whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
  - whether childcare and dependent carers’ allowances should be paid and if so, the duties to which they should apply and the amount;
  - Whether a basic allowance should be paid to co-opted members and if so, the amount;
  - whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
  - whether any roles should receive pensionable allowances, where permitted in law;
2. In making its recommendations at paragraph 1 above, the IRP shall undertake a full review of the Members’ Allowance Scheme as well as obtaining the views of officers and members of the Council to which it relates and having regard to the following general principles:
  - that councillors undertake their council work for the sake of public service and not private gain;
  - the varying demands placed upon councillors, dependent upon their roles and responsibilities;
  - the need to fairly and equitably compensate councillors, so far as the panel thinks appropriate, for the time and effort they can reasonably be expected to devote to their work as a councillor;
  - the need for the scheme to be economic, efficient to administer and effective;
  - the requirement for their report and recommended changes to the scheme of allowances to be easy to understand and adequately justifiable to the electorate;
  - That recommendations should confirm with existing legislation and anticipate likely future legislation so far as possible.
3. The IRP shall be required in reporting its recommendations to include guidance on what is to be encompassed by each relevant allowance so as to ensure that the Members’ Allowance Scheme is consistently applied.

## **B. PANEL MEMBERSHIP AND APPOINTMENT**

1. The (“IRP”) shall be comprised of 3 members of the public (“IRP Members”)
2. IRP Members will be sought via advert in accordance with the Council’s standard recruitment arrangements.
3. As part of this a person specification shall be drawn up to ensure that candidates who are appointed:
  - are able to demonstrate a high degree of personal integrity;
  - are not members of any local authority and are not disqualified from being or becoming a member of a local authority;
  - have, if possible the appropriate level of skill, knowledge and understanding of setting remunerations;
  - have the necessary time and commitment for the role;
  - Are not affiliated to any political party – candidates must disclose the extent of their connections to a political party and whether these are such as to risk the effective discharge of the IRP’s functions were the candidate to be appointed;
  - A knowledge of local government is preferable however a lack of familiarity will not be a bar to appointment.
4. Recruitment should be by either public advertisement or direct approach to appropriate business and community/voluntary sector organisations who command local respect and public confidence and would be able to nominate persons who should have the necessary skills, integrity, independence and who are recognisable members of the local business and voluntary/community sectors within their respective areas.
5. IRP Members will be appointed by the Chief Executive, in consultation with group leaders.
6. The term of office of IRP Members will be three years each. The Constitution and Ethics Committee may remove an IRP Member in circumstances where:
  - the IRP Member is disqualified from being a member of an authority or is found guilty of any conduct which brings the office into disrepute e.g. being found guilty of a criminal offence, an act of dishonesty or other serious misconduct;
  - the IRP Member is considered to have demonstrated a serious lack of diligence or incompetence;
  - the member becomes an elected or co-opted member (or an employee) of the authority.
7. The IRP shall:
  - appoint its own Chairman at the first meeting of each municipal year;
  - require a quorum of 3 at all meetings;
  - meet a minimum of once per municipal year with additional meetings convened as necessary;
  - Otherwise devise its own rules for the conduct of meetings providing that they are consistent with legislative requirements and general good governance requirements.

8. In order to avoid any perception of personal gain involved with membership of the IRP, travel and subsistence allowances only will be paid to IRP Members, at the rate approved by the Council annually within the limits determined by the Secretary of State. No other allowances will be paid.

## **C. JOINT WORKING ARRANGEMENTS**

Where it is in the best interests of each partner authority to do so, every effort should be made to establish a Joint Independent Remuneration Panel (“Joint IRP”) with Cambridgeshire County Council and/or any neighbouring District Council whose Terms of Reference and Constitution will be as set out above save in respect of the following:

### **TERMS OF REFERENCE**

1. In fulfilling the requirements set out in Section A above, the Joint IRP may make collective or separate recommendations to each partner authority as appropriate.

### **PANEL MEMBERSHIP AND APPOINTMENT**

1. Where one authority already has arrangements in place, subject to the agreement of the IRP Members, it shall be open to the partner authority to request the establishment of an Interim Joint IRP and subject to the correct approvals being given, utilise the persons already appointed for the remainder of their term. Once their term is completed or in any other circumstances the partner authorities will then arrange to jointly recruit and appoint a Joint IRP where possible aligning their reviews accordingly. The following provisions will then apply.
2. Each partner authority shall appoint 3 representatives to serve on the Joint IRP.
3. The quorum of the Joint IRP will be two thirds of its overall membership.
4. The partner authorities should jointly carry out the recruitment and appointment of IRP Members.
5. Where there is any disparity between this and the terms of reference of the partner authorities these should be resolved prior to entry into joint working arrangements and in accordance with their respective constitutional requirements.
6. The removal of an IRP Member must be with the agreement of each partner authority with the decision having been taken in accordance with their respective constitutional requirements.
7. In the event that a partner authority wishes to end its participation in the Joint IRP or Interim Joint IRP, notice must be given in writing no later than 3 months before the end of the financial year to take effect from the start of the next financial year.

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### APPENDIX 3 - DRAFT TIMETABLE

Date	Action	Responsibility
16 <sup>th</sup> March 2020	Report to Constitution & Ethics Committee to: <ol style="list-style-type: none"> <li>1. Recommend proposed changes to ToR for approval by Full Council.</li> <li>2. Recommend proposed changes to the Constitution of the Panel for approval by Full Council.</li> </ol>	Fiona/Pippa
01.06.2020	Report to Full Council recommending: <ol style="list-style-type: none"> <li>1. The adoption of the ToR and Constitutional amendments proposed by the C&amp;E Committee; and</li> <li>2. Noting the proposal to commence a review for the term 2020-2024.</li> </ol>	Cabinet Member/Fiona
03.06.2020	Letter to existing IRP to thank them for their contribution and to advise that a new IRP to be convened.	Fiona/Pippa
13.06.2020	Recruitment pack to be created, which includes new Terms of Reference and amended Scheme of Allowances together with example Reports from last 2 Reviews (to give an example of what is expected and the format).	Fiona/Pippa
15.06.2020	Advertisement to be placed in local paper, website, community publications and emailed to target groups with two week closing date.  Press release to be issued to generate local interest.	Pippa/Comms.
06.07.2020	Recruitment Closes, process applications.	Fiona/Pippa
13.07.2020 31.07.2020	- CEO to interview candidates and determine appointments in consultation with Group Leaders.	Gillian/Fiona/Group Leaders
By 07.08.2020	Contract letters to be issued confirming tenure of appointment and terms and conditions.	Fiona/Pippa
By 04.09.2020	IRP to meet to review existing scheme. Administrative support to be provided by Governance Team.	Fiona/Pippa
By 31.12.2020	IRP to produce report, which outlines their findings and recommendations. Finance to check calculations.	Fiona/Pippa/Pete

By 11.01.2021	Details of IRP recommendations to be published in a notice in a local paper as soon as reasonably practicable.	Pippa/Comms.
At the next available meeting.	C&E to agree final report and recommend any proposed changes to the Scheme for adoption by FC.	Fiona/Pippa
March 2021?	Report to full Council.	Fiona/Cabinet Member.
Immediately following FC.	Details of Members' Allowances Scheme to be published in a notice in a local paper as soon as adopted.	Pippa/Comms

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 7
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor David Seaton, Cabinet Member for Finance	
Contact Officer(s):	Amy Brown, Senior Lawyer and Deputy Monitoring Officer Philippa Turvey, Democratic and Constitutional Services Manager	452 617 452 460

## **MEMBERS' GIFTS & HOSPITALITY POLICY**

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM: Fiona McMillan, Monitoring Officer</b>	<b>Deadline date: N/A</b>
It is recommended that the Constitution and Ethics Committee review and approve the proposed changes to the Members' Gifts and Hospitality Policy.	

### **1. ORIGIN OF REPORT**

- 1.1 This report is submitted to the Constitution and Ethics Committee at the request of the Monitoring Officer in ensuring the overall good governance of the Council and Member compliance with the Code of Conduct.

### **2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this Report is to provide an opportunity for members to review the current Policy and to consider and approve the proposed amendments which have been suggested in order to provide greater transparency and clarity around the management of gifts and hospitality.
- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.2:

*"Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members of the Council".*

### **3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	N/A
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#### **4. BACKGROUND AND KEY ISSUES**

- 4.1 As per the Policy, whilst there is now no specific statutory requirement for members/co-opted members to register the offer of gifts and hospitality, the Bribery Act 2010 provides that accepting any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, will amount to a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both. Additionally, the Code of Conduct provides that Members must serve the public interest rather than acting in the interests of any particular individual or section of the community and it is a breach for members to place themselves under a financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Having regard to the above it is important that the Council maintains a clear and transparent Policy which sets out the arrangements that have been put in place for the management of gifts and hospitality. This assists in protecting the reputation of Members and the Council as a whole and ensures that a consistent and robust approach is being taken.

#### **5. CONSULTATION**

- 5.1 None.

#### **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 It is anticipated that if approved, the Policy will assist Members in determining how to manage offers/receipt of gifts and hospitality and the associated governance process for reporting and recording this.

#### **7. REASON FOR THE RECOMMENDATION**

- 7.1 The recommendations reflect the need to update the Policy which has the overall aim of providing greater clarity and transparency in relation to the management of gifts and hospitality.

#### **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 The status quo could be maintained in which case the Policy would remain the same. It is acknowledged that the current Policy is completely compliant with all required legal and constitutional obligations, the revised version builds upon that.

#### **9. IMPLICATIONS**

##### **Financial Implications**

- 9.1 None

##### **Legal Implications**

- 9.2 The legal implications are as set out in this Report.

##### **Equalities Implications**

- 9.3 None.

#### **10. BACKGROUND DOCUMENTS**

- 10.1 *None.*

**11. APPENDICES**

- 11.1 Appendix 1 – Proposed Amendments shown as track changes
- Appendix 2 – Proposed Amendments shown without track changes for ease of reference

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# PETERBOROUGH CITY COUNCIL

## GIFTS AND HOSPITALITY POLICY

### INTRODUCTION

This Policy sets out guidance for elected members, co-opted members and, independent members ("Members") and employees on the principles governing the acceptance of gifts and hospitality.

Members are likely to be offered gifts or hospitality during the course of conducting Council business. This raises an initial question of deciding whether or not to accept. The acceptance of a gift or hospitality potentially creates a risk to the integrity and reputation of the Member as well as the Council itself. The overriding objective is to ensure transparency in the dealings of the Council, which in turn is a safeguard against this and any associated allegations of misconduct.

The fundamental principle of this Policy is that a Member of staff or elected member should not do anything that might give rise to the inference that they have or may have been influenced by a gift or hospitality, to show bias for or against anybody or any organisation in carrying out their duties. Members are therefore strongly advised to be cautious and should consult the Monitoring Officer if they are in any doubt.

1. The council expects all members and employees to comply with this policy. Failure to do so may result in action under the staff disciplinary procedure and could lead to dismissal or the member's code of conduct, which could result in loss of office.

### LAW AND GOVERNANCE

#### Legal Position

While there is now no specific statutory requirement for members/co-opted members to register the offer of gifts and hospitality, the Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.

#### Members' Code of Conduct and Constitution

The Council's Members' Code of Conduct (Part 5, Section 1 of the Constitution) provides that you must serve the public interest, rather than acting in the interests of any particular individual or section of the community, and it is a breach of the Code to place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

### GENERAL PRINCIPLES

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if it would normally be appropriate to accept a small gift or hospitality, you should not do so if it would be in breach of one or more of these principles:

- Never accept a gift or hospitality as an inducement or reward for anything you do as a Member.
- You must not be influenced in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- You should only accept a gift or hospitality if there is a commensurate benefit to the Council.

- The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council that would not have been available but for the acceptance of that gift or hospitality.
- Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority through a working lunch. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
- Never accept a gift or hospitality if acceptance might be open to misinterpretation.
- The appearance of impropriety can be just as damaging to the Council and to you as a Member as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must consider whether acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company, organisation or section of the community or as placing you under any improper obligation to any person or organisation. If so, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
- Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:
  - competitive procurement processes;
  - determinations of planning applications or planning policy;
  - funding decisions.
- Never accept a gift or hospitality that puts you under an improper obligation. Some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, they may seek to use this fact to persuade you to determine an issue in their favour. If others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.
- Never solicit a gift or hospitality in connection with your position as a Member and you should also take care to avoid giving any indication that you might be open to any such improper offer.

## GIFTS

In general, all gifts should be refused, this includes all such offers from organisations or persons who do, or might provide work, goods or services to the Council or who need some decision from the Council. These rules also apply to discounts offered to an individual Member going beyond those offered to the general public (other than those available to all Members and Officers).

As general guidance, the following small gifts worth under an individual or accumulative value of £25 may occasionally be accepted (provided that they do not conflict with the General Principles):

- office equipment or stationery given by way of trade advertisements or for use in the office. Nothing more elaborate than calendars, pens or diaries would fall within this exception. (NB: You should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise).
- gifts of only token value given on the conclusion of an official courtesy visit, for example, a visiting delegation.
- Gifts e.g. a box of chocolates or flowers of a value less than £25 provided they are given as a genuine show of appreciation of work undertaken but should never be accepted if it may give rise to an appearance of influence or reward.

However, in cases where refusal is likely to offend the donor, some discretion may be exercised. The offer of a gift or hospitality should be reported via e-mail to line managers or the Monitoring Officer. The line manager or Monitoring Officer will consider the nature, value and origin of the gift and whether it should be refused, accepted or donated to charity. The line manager or Monitoring Officer will then register the offer by sending the form to [giftsandhospitality@peterborough.gov.uk](mailto:giftsandhospitality@peterborough.gov.uk). Those individuals who do not have access to an e-mail account should complete a copy of the form contained within this policy and send it to their line manager or Monitoring Officer in hard copy. The form will then be forwarded to the Investigations Manager.

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~~However, members and employees may accept occasional seasonal gifts of low value such as calendars, diaries and pens. It is not necessary to ascertain the exact value of such gifts but anything that appears to be Gifts & Hospitality worth more than £25 should not be accepted. Careful judgement must be exercised in such cases.~~

~~It is important to note that if several gifts, with a value of £25 or less are received from the same donor, within a period of 12 months, then these should be recorded when the accumulative value exceeds £25.~~

## HOSPITALITY

~~Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused.~~

~~Hospitality should only be accepted with the utmost caution, and on a scale appropriate, to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it and might later be thought to have affected a Member's impartiality in dealing with official matters.~~

~~Some offers of hospitality are always unacceptable for example, offers of holiday accommodation. Others will need to be considered on their facts, for example, invitations to sporting fixtures, evenings at the theatre or similar entertainment should only be accepted when they are required for the conduct of Council business or can properly be considered to provide a commensurate benefit to the Council not the individual Member. Hospitality on a lower scale than this may also be unacceptable. No absolute dividing-line can be laid down.~~

~~There is an important difference between, for example, attendance in an official capacity at a function organised by a public authority and accepting hospitality from a private individual or firm standing to benefit from the goodwill of the Council. However, it will not always be possible or even desirable to reject offers of hospitality on a modest scale. **Acceptable hospitality is that not exceeding £XX in value such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions.** The decision whether to accept or not must depend on the circumstances in each case but hospitality should never be accepted if it may give rise to an appearance of influence or reward.~~

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## HOSPITALITY

~~2. Working lunches on a modest scale, and on an occasional basis, are a part of normal business practice and members and employees do not require formal approval to attend them. However, if individuals receive a prior invitation to a more formal lunch or dinner or regular working lunches, they must seek approval using the form contained within this policy. It is important that approval is sought as early as possible.~~

~~3. As is the case with gifts, the refusal of an invitation may sometimes cause embarrassment or appear discourteous and this will be taken into account when a decision is made. Consideration will also be taken regarding the timing of an invitation in relation to decisions, which the council may be taking affecting those offering the hospitality. Invitations to other events such as launches, conferences, arts or sporting events etc. should be dealt with in the same way.~~

~~4. Invitations to attend all expenses paid study tours, site inspections or product demonstrations should always be the subject of prior approval, particularly if overseas travel is involved.~~

## WILLS & BEQUESTS

~~If there is any connection between your work as a Member and being a beneficiary under a will, then you need to be cautious as the offer of any benefit will need to be considered carefully in accordance with the General Principles and~~

if accepted, may need to be registered. You should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal.

## **SPONSORSHIP**

Offers of sponsorship need to be treated carefully. If the offer is to sponsor the Council it should be referred to the Monitoring Officer who will consider the offer in accordance with the Council's usual processes.

If the offer is to sponsor you as an individual, it should be dealt with in the same way as an offer of a gift or hospitality. In some cases such offers may be acceptable for example, where colleagues or others are sponsoring you for a charitable purpose. In other cases they may not be acceptable for example, where they are related in some way to the work of the Council or your role as a Member; involve significant sums; or seek specific outcomes for the person or organisation making the offer. If in doubt you should consult the Monitoring Officer.

## **GIFTS TO THE COUNCIL**

You may at some time be offered a gift for the Council as opposed to a gift to you in your individual capacity as a Member. Such gifts could take several forms, for example: land, buildings, goods, services, either for the Council to retain or test with a view to future acquisition; offers to carry out works, or provide services; or sponsorship of a Council-supported or organised function or activity. In such cases you should report the offer on receipt to the Monitoring Officer who will consider and determine in accordance with normal Council processes whether the Council should or should not accept the gift.

The Monitoring Officer will notify the person or the organisation offering the gift, whether it is accepted or not and will:

- Record the acceptance or non-acceptance;
- Record the outcome for audit purposes;
- Ensure the gift, if accepted, is properly applied for the benefit of the Council.

## **GIFTS TO THE CHAIRMAN/WOMAN**

Gifts received by the Chairman/woman in his or her official capacity are deemed to be gifts of the Council. The Chairman/woman should record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they may be used for the benefit of the Council.

## **REGISTER**

In order to protect your integrity and that of the Council, and to counter any possible accusations or suspicion of improper conduct, the organisation will maintain a central register of gifts and hospitality.

All gifts and offers of hospitality accepted by you or your partner in accordance with the General Principles (except to modest working lunches) should be recorded on a gifts and a Member Gifts and Hospitality Declaration Form (see Appendix A) ~~hospitality declaration form~~ and recorded centrally at [giftsandhospitality@peterborough.gov.uk](mailto:giftsandhospitality@peterborough.gov.uk). This applies whether they have been accepted or refused.

All declarations should be made within 28 days of receipt of offer and will be published on the Council's website.

If you are in any doubt as to whether to accept or decline any gift, hospitality or sponsorship then you are advised to seek the Monitoring Officer's advice before doing so. In order to do this you will need to advise the Monitoring Officer of the following:

- The nature and your estimate of the market value of the gift or hospitality;
- The name of the person or company offering the gift or hospitality;
- The connection which you have with the person or organisation making the offer or invitation such as any work which you have undertaken for the Council in which they have been involved;
- Any work, permission, concession or facility that you are aware that the person or organisation making the offer or invitation may seek from the Council;
- Any special circumstances that lead you to believe that acceptance would not be improper.

The Monitoring Officer will give you advice wherever possible but it will be a matter for you to make the decision as to whether to accept or decline.

You may also make a voluntary declaration to be entered on the Register of Gifts and Hospitality, even if you have declined the gift or hospitality or the value of the gift or hospitality is less than the maximum permissible amount. If you are concerned that an offer or its acceptance might be misinterpreted you may make such a voluntary declaration to ensure that there is nothing secret or underhand about the gift or hospitality or your actions

### **WHAT DO I NEED TO DECLARE AT A MEETING?**

If a matter under consideration at a meeting is likely to affect a person who gave you a gift or hospitality then you must declare the existence and nature of the gift or hospitality, the source who gave it to you and how the business under consideration relates to that source.

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# PETERBOROUGH CITY COUNCIL

## GIFTS AND HOSPITALITY POLICY

### INTRODUCTION

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Members are likely to be offered gifts or hospitality during the course of conducting Council business. This raises an initial question of deciding whether or not to accept. The acceptance of a gift or hospitality potentially creates a risk to the integrity and reputation of the Member as well as the Council itself. The overriding objective is to ensure transparency in the dealings of the Council, which in turn is a safeguard against this and any associated allegations of misconduct.

The fundamental principle of this Policy is that a Member should not do anything that might give rise to the inference that they have or may have been influenced by a gift or hospitality, to show bias for or against anybody or any organisation in carrying out their duties. Members are therefore strongly advised to be cautious and should consult the Monitoring Officer if they are in any doubt.

### LAW AND GOVERNANCE

#### Legal Position

While there is now no specific statutory requirement for members/co-opted members to register the offer of gifts and hospitality, the Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Council is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 10 years or a fine or both.

#### Members’ Code of Conduct and Constitution

The Council’s Members’ Code of Conduct (Part 5, Section 1 of the Constitution) provides that you must serve the public interest, rather than acting in the interests of any particular individual or section of the community, and it is a breach of the Code to place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

### GENERAL PRINCIPLES

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if it would normally be appropriate to accept a small gift or hospitality, you should not do so if it would be in breach of one or more of these principles:

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- You must not be influenced in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- You should only accept a gift or hospitality if there is a commensurate benefit to the Council.
- The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council that would not have been available but for the acceptance of that gift or hospitality.
- Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority through a working lunch. Acceptance of a gift is much less likely to confer such an

advantage. But unless the benefit to the Council is clear and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

- Never accept a gift or hospitality if acceptance might be open to misinterpretation.
- The appearance of impropriety can be just as damaging to the Council and to you as a Member as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must consider whether acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company, organisation or section of the community or as placing you under any improper obligation to any person or organisation. If so, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
- Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:
  - competitive procurement processes;
  - determinations of planning applications or planning policy;
  - funding decisions.
- Never accept a gift or hospitality that puts you under an improper obligation. Some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, they may seek to use this fact to persuade you to determine an issue in their favour. If others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.
- Never solicit a gift or hospitality in connection with your position as a Member and you should also take care to avoid giving any indication that you might be open to any such improper offer.

## GIFTS

In general, all gifts should be refused, this includes all such offers from organisations or persons who do, or might provide work, goods or services to the Council or who need some decision from the Council. These rules also apply to discounts offered to an individual Member going beyond those offered to the general public (other than those available to all Members and Officers).

As general guidance, the following small gifts worth under an individual or accumulative value of £25 may occasionally be accepted (provided that they do not conflict with the General Principles):

- office equipment or stationery given by way of trade advertisements or for use in the office. Nothing more elaborate than calendars, pens or diaries would fall within this exception. (NB: You should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise).
- gifts of only token value given on the conclusion of an official courtesy visit, for example, a visiting delegation.
- Gifts e.g. a box of chocolates or flowers of a value less than £25 provided they are given as a genuine show of appreciation of work undertaken but should never be accepted if it may give rise to an appearance of influence or reward.

## HOSPITALITY

Offers of hospitality should always be approached with caution and offers of hospitality where any suggestion of improper influence is possible must be refused.

Hospitality should only be accepted with the utmost caution, and on a scale appropriate, to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it and might later be thought to have affected a Member's impartiality in dealing with official matters.

Some offers of hospitality are always unacceptable for example, offers of holiday accommodation. Others will need to be considered on their facts, for example, invitations to sporting fixtures, evenings at the theatre or similar entertainment should only be accepted when they are required for the conduct of Council business or can properly be considered to provide a commensurate benefit to the Council not the individual Member. Hospitality on a lower scale than this may also be unacceptable. No absolute dividing-line can be laid down.

There is an important difference between, for example, attendance in an official capacity at a function organised by a public authority and accepting hospitality from a private individual or firm standing to benefit from the goodwill of the Council. However, it will not always be possible or even desirable to reject offers of hospitality on a modest scale. Acceptable hospitality is that not exceeding £XX in value such as official hospitality at a function organised by a public authority; a drink and sandwich following a site visit; or a working lunch of modest standard to enable business discussions. The decision whether to accept or not must depend on the circumstances in each case but hospitality should never be accepted if it may give rise to an appearance of influence or reward.

## **WILLS & BEQUESTS**

If there is any connection between your work as a Member and being a beneficiary under a will, then you need to be cautious as the offer of any benefit will need to be considered carefully in accordance with the General Principles and if accepted, may need to be registered. You should discuss this matter fully with the Monitoring Officer before a decision is taken on acceptance or refusal.

## **SPONSORSHIP**

Offers of sponsorship need to be treated carefully. If the offer is to sponsor the Council it should be referred to the Monitoring Officer who will consider the offer in accordance with the Council's usual processes.

If the offer is to sponsor you as an individual, it should be dealt with in the same way as an offer of a gift or hospitality. In some cases such offers may be acceptable for example, where colleagues or others are sponsoring you for a charitable purpose. In other cases they may not be acceptable for example, where they are related in some way to the work of the Council or your role as a Member; involve significant sums; or seek specific outcomes for the person or organisation making the offer. If in doubt you should consult the Monitoring Officer.

## **GIFTS TO THE COUNCIL**

You may at some time be offered a gift for the Council as opposed to a gift to you in your individual capacity as a Member. Such gifts could take several forms, for example: land, buildings, goods, services, either for the Council to retain or test with a view to future acquisition; offers to carry out works, or provide services; or sponsorship of a Council-supported or organised function or activity. In such cases you should report the offer on receipt to the Monitoring Officer who will consider and determine in accordance with normal Council processes whether the Council should or should not accept the gift.

The Monitoring Officer will notify the person or the organisation offering the gift, whether it is accepted or not and will:

- Record the acceptance or non-acceptance;
- Record the outcome for audit purposes;
- Ensure the gift, if accepted, is properly applied for the benefit of the Council.

## **GIFTS TO THE CHAIRMAN/WOMAN**

Gifts received by the Chairman/woman in his or her official capacity are deemed to be gifts of the Council. The Chairman/woman should record the receipt of all such gifts in the Register and in consultation with the Monitoring Officer determine how best they may be used for the benefit of the Council.

## **REGISTER**

In order to protect your integrity and that of the Council, and to counter any possible accusations or suspicion of improper conduct, the organisation will maintain a central register of gifts and hospitality.

All gifts and offers of hospitality accepted by you or your partner in accordance with the General Principles should be recorded on a Member Gifts and Hospitality Declaration Form (see Appendix A) and recorded centrally at [giftsandhospitality@peterborough.gov.uk](mailto:giftsandhospitality@peterborough.gov.uk).

All declarations should be made within 28 days of receipt of offer and will be published on the Council's website

If you are in any doubt as to whether to accept or decline any gift, hospitality or sponsorship then you are advised to seek the Monitoring Officer's advice before doing so. In order to do this you will need to advise the Monitoring Officer of the following:

- The nature and your estimate of the market value of the gift or hospitality;
- The name of the person or company offering the gift or hospitality;
- The connection which you have with the person or organisation making the offer or invitation such as any work which you have undertaken for the Council in which they have been involved;
- Any work, permission, concession or facility that you are aware that the person or organisation making the offer or invitation may seek from the Council;
- Any special circumstances that lead you to believe that acceptance would not be improper.

The Monitoring Officer will give you advice wherever possible but it will be a matter for you to make the decision as to whether to accept or decline.

You may also make a voluntary declaration to be entered on the Register of Gifts and Hospitality, even if you have declined the gift or hospitality or the value of the gift or hospitality is less than the maximum permissible amount. If you are concerned that an offer or its acceptance might be misinterpreted you may make such a voluntary declaration to ensure that there is nothing secret or underhand about the gift or hospitality or your actions

## **WHAT DO I NEED TO DECLARE AT A MEETING?**

If a matter under consideration at a meeting is likely to affect a person who gave you a gift or hospitality then you must declare the existence and nature of the gift or hospitality, the source who gave it to you and how the business under consideration relates to that source.

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	<b>AGENDA ITEM No. 8</b>
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Pippa Turvey, Democratic and Constitutional Manager	Tel. 452460

<b>UPDATE AND REVIEW OF COUNCIL STANDING ORDERS</b>
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<b>RECOMMENDATIONS</b>	
<b>FROM:</b> <i>Fiona McMillan, Director of Law and Governance and Monitoring Officer</i>	<b>Deadline date:</b> <i>N/A</i>
<p>It is recommended that the Constitution and Ethics Committee:</p> <p><b>MINUTES OF THE PREVIOUS MEETING</b></p> <p>1. Recommend to Council that the Standing Orders be amended as set out in paragraph 4.6 of the report.</p> <p><b>REVIEW OF TIMELINE OF SUBMISSION OF MOTIONS TO FULL COUNCIL</b></p> <p>1. Review the timeline for submissions of motions to Full Council and recommend any proposed change to Council as necessary.</p>	

**1. ORIGIN OF REPORT**

- 1.1 This report is submitted to the Constitution and Ethics Committee following a referral from the Monitoring Officer.

**2. PURPOSE AND REASON FOR REPORT**

- 2.1 The purpose of this report is for the Constitution and Ethics Committee to review the Council's Standing Orders around notifying the Monitoring Officer and Democratic Services Team of any factual corrections or omissions from the minutes before any committee meeting commences and for the Committee to determine whether a recommendation is to be made to Full Council.

In addition Members of the Constitution and Ethics Committee have requested a review of the Council's Standing Orders in relation to the timeline for submitting draft and final motions to the Monitoring Officer

- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

*.Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a*

report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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### 4. BACKGROUND AND KEY ISSUES

#### MINUTES OF THE PREVIOUS MEETING

- 4.1 The Council's Standing orders under section 25.1 states that the only discussion when agreeing the minutes of the previous meeting is around the accuracy of those minutes.
- 4.2 The Council's current system of recording minutes is to summarise debate and answers to questions raised at meetings. Minutes are not intended to be a verbatim account of proceedings but rather a summary of the debate and record of decisions taken. All Council meetings, where appropriate, are audio recorded. This includes Full Council which is live streamed on the Council's Facebook page.
- 4.3 There have been occasions when Members have asked to include in the minutes of previous meetings something they believed should have been recorded or omitted, however the Council's standing orders do not currently allow for this and this can only be agreed with the specific agreement of Council at the time.
- 4.4 It is proposed that the Council's Standing Orders be amended so that Members would have to notify officers of what they consider to be a substantive omission or factually incorrect information (more than mere typos) of previous minutes by no later than 12pm on the day of the meeting. This would allow officers the opportunity to review what was said and to make any necessary alterations if applicable so that Council is properly informed when it makes a decision on whether to agree the minutes as accurate.
- 4.5 It is proposed that the Council Standing Orders be amended as below, with additional wording highlighted in italics and underlined.
- 4.6 **25.1 Signing the minutes**

The Mayor/Chairman will sign the minutes of the proceedings at the next suitable meeting. The Mayor/Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

*Members must notify the Monitoring Officer or Democratic Services by no later than 12pm on the day of the meeting, if they believe there has been a substantive omission or factually incorrect information recorded in the minutes.*

#### REVIEW OF TIMELINE OF SUBMISSION OF MOTIONS TO FULL COUNCIL

- 4.7 Following a recommendation from the Constitution and Ethics Committee, Full Council at its meeting on 24 July 2019 agreed to amend standing orders to incorporate a new set of deadlines for the submission of motions and amendments.
- 4.8 This new set of deadlines, which have been in operation for the past seven months are:
- Draft Motions – 12 noon, 9 clear working days before the meeting.
  - Final Motions – 12 noon am, 7 clear working days before the meeting.
  - Draft Amendments - 12 noon, 3 clear working days before the meeting.

- Final Amendments - 12 noon, the day before the meeting.

4.9 In practice, due to the fact that motions must be published with the agenda 5 clear working days before the meeting, means that draft Motions must be received 4 days before the agenda dispatch. The final deadline is set at 2 days before the agenda deadline, providing officers with 2 days to liaise with service officers to ensure that motions are acceptable.

Following the final deadline, all motions are circulated to Member for information on the Friday before the agenda publication.

4.10 Two options are proposed to the Committee:

a) To retain the current motion deadline dates.

b) To push the draft motion deadline date and the final motion deadline date back one day each:

- Draft Motions – 12 noon, 8 clear working days before the meeting.
- Final Motions – 12 noon am, 6 clear working days before the meeting.

## 5. CONSULTATION

5.1 Consultation has been undertaken with officers within Constitutional Services who support the Full Council and committee meetings.

## 6. ANTICIPATED OUTCOMES OR IMPACT

6.1 It is anticipated that should the recommendation on the minutes of previous meeting be agreed at Full Council that standing orders will be amended accordingly.

## 7. REASON FOR THE RECOMMENDATION

7.1 To ensure that the Council's resources are used in an effective and efficient manner while maintaining an open and transparent decision-making process

## 8. ALTERNATIVE OPTIONS CONSIDERED

8.1 To keep the current standing orders as they are and not making any further recommendations.

## 9. IMPLICATIONS

### Financial Implications

9.1 There are none.

### Legal Implications

9.2 There are none.

### Equalities Implications

9.3 There are none.

## 10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 Council Standing Orders, part 4, section 1

## 11. APPENDICES

11.1 None.



<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 9
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance	
Cabinet Member(s) responsible:	Councillor Farooq, Digital Services and Transformation	
Contact Officer(s):	Pippa Turvey, Democratic and Constitutional Services Manager	Tel. 452460

**AMENDMENT TO THE MEMBER OFFICER PROTOCOL**

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM:</b> <i>Director of Law and Governance</i>	<b>Deadline date:</b> <i>N/A</i>
<p>It is recommended that the Constitution and Ethics Committee:</p> <p>1. Recommend that Full Council amend the Member Officer Protocol in the Council's Constitution to include a section on 'Motions Submitted to Full Council' and 'Use of Council Facilities and Resources by Councillors' as set out in paragraph 4.1 and 4.4 of the report.</p>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Constitution and Ethics Committee following referral from the Director of Law and Governance.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to consider an update to the Member Officer Protocol in relation to actions around the submission of motions to Full Council, and use of Council facilities and resources.

2.2 This report is for Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1, "*Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.*"

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	<b>N/A</b>
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**4. BACKGROUND AND KEY ISSUES**

**Submitting Council Motions**

4.1 Following discussions between officers and members in relation to the process for submitting motions to Full Council, it is suggested to add the following into the Member Officer Protocol:

### **“3.8 Motions Submitted to Full Council:**

- Prior to the submission of any topical motions, Members are expected to liaise with the relevant services area with a view to submitting their motion in a form that is the most acceptable.
- Following the receipt of motions, Democratic Services Officers will liaise with the relevant service officers to ensure that all motions meet the necessary criteria as set out in the Council’s Standing Orders.
- Officers within the relevant service areas are expected to respond to requests in relation to motions from Members and from officer with due priority, in order to ensure that submission deadlines are met.”

4.2 In addition to the above changes to the Member Officer Protocol officers will be advised to keep a record of any cost implications to the Council of any motions passed.

### **Use of Council Premises**

4.3 Following concerns and questions raised by members about what activities could be undertaken in council premises by Members the Monitoring Officer felt it would be helpful to add a more detailed breakdown into the Member Officer protocol to clarify the existing wording about use of Council resources.

4.4 To add to a section, in between '14. Support Services Provided for Members' and '15. Political Groups':

### **“USE OF COUNCIL FACILITIES AND RESOURCES BY COUNCILLORS**

The Nolan Principles in the Members' Code of Conduct state: 'You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986".

Councillors are provided with facilities and resources to carry out their duties as a Councillor. Councillors may not use Council facilities and resources for purely political purposes, as opposed to council business. This includes use of political group rooms.

The term "facilities and resources" can include:-

- a. ICT equipment, including software and systems, provided by the council
- b. Rooms and accommodation, including office furniture, provided by the council
- c. Stationery equipment and office consumables provided by the council
- d. Printing and photocopying using the council's equipment.
- e. Support given by officers of the council
- f. Allowances and expenses paid by the council to councillors in their official capacity
- g. Travel, hospitality and hotel accommodation provided by the council
- h. Data and information in any form (electronic, paper etc) provided by the council

'Council business' means matters relating to a Member's duties as an elected Councillor, as a Cabinet Member, as a Member of an Overview and Scrutiny Committee, Committee, Sub-Committee, Working Party or as a Council representative on another body or organisation (outside body).

All use of council resources must be able to be reasonably regarded as likely to facilitate, or be conducive to, the discharge of the Council’s functions or of the office to which the Member has been elected or appointed e.g. use in connection with the following business:-

- (a) ward surgeries;
- (b) dealing with correspondence from constituents;
- (c) communicating group activities;

(d) meetings between group members to discuss council business.

The following are not Council business and Council facilities will not be available:-

- Documents and communications for constituency party meetings, ward party meetings, etc. or letters to party members collectively in their capacity as party members.
- Documents relating to the policy and organisation of political parties, particularly regarding the conduct of elections.
- Using the interior of the Town Hall or other council properties for taking photographs intended for use for party political purposes (eg in election literature or on social media to promote a political candidate). These can be taken outside the Town Hall but not inside.

Members should not display in or on Council premises any material which is of a party political nature ( eg leaflets, posters, election campaign sheets etc).

You may only use Council owned premises for party political purposes (where such meetings are used to further the political aims and objectives of the party concerned) if restricted to premises available for hire to members of the public generally and paid for at the full hire costs."

## **5. CONSULTATION**

5.1 Group Leaders were provided with an overview of the motion submission process as set out within this report following the Full Council meeting on 5 February 2020.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

6.1 It is anticipated that the revision of the Member Officer Protocol would provide greater clarity for Member and officers on their roles in relation to motions to Full Council and use of Council resource.

## **7. REASON FOR THE RECOMMENDATION**

7.1 In order to clarify what is expected of members and officers when submitting or reviewing motions to Full Council and use of Council resource.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 Not to amend the Member Officer Protocol – This was dismissed, as it was felt that further information was required within the constitution to set out expectations of Members and officers beyond the deadlines provided in the Council's Standing Orders, and on the use of Council resources by Members.

## **9. IMPLICATIONS**

### **Financial Implications**

9.1 There are no financial implications arising from this report.

### **Legal Implications**

9.2 There are no legal implications arising from this report.

### **Equalities Implications**

9.3 There are no equalities implications arising from this report.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 None.

**11. APPENDICES**

11.1 None.

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 11
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Fiona McMillan, Director of Law and Governance and Monitoring Officer	Tel. 452409

**UPDATE ON NATIONAL ISSUES (LGA MODEL CODE OF CONDUCT)**

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM:</b> <i>Fiona McMillan, Director of Law and Governance and Monitoring Officer</i>	<b>Deadline date:</b> <i>N/A</i>
It is recommended that the Constitution and Ethics Committee notes, comments and makes any representations on the draft Local Government Association (LGA) model code of conduct.	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Constitution and Ethics Committee following a request from the Monitoring Officer that the Committee are made aware of the next stages in the process of the LGA model code of conduct.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is for members to comment and respond to the consultation, which opens in the 16 March, on the draft code which will be published on 11 March **and will therefore follow the publication of this report.**

2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.2

*Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members of the Council including:*

- *Promoting and maintaining high standards of conduct by Members and coopted members;*
- *Assisting the Members and co-opted members to observe the Code of Conduct;*
- *Advising the Council on the adoption or revision of the Members Code of Conduct and Officer Code of Conduct;*
- *Monitoring the operation of the both Codes of Conduct;*
- *Advising, training or arranging to train Members and co-opted members on matters relating to the Code of Conduct.*

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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## 4. BACKGROUND AND KEY ISSUES

4.1 Members will be aware that the Committee of Standards in Public Life report published on 30 January 2019 recommended that “*The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of Councillors and officers of all tiers of local government in consultation with representatives of following the recommendations of the Committee of Standards in Public Life report publishes on 30 January 2019*”.

4.2 The Board of the LGA at its meeting on 11 September 2019 (Appendix A) considered and agreed to commence reviewing of the Code ahead of central government’s response to the recommendations of the report.

This work is part of a wider programme of work on civility in public life and in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement.

4.3 If the code is completed before any government response Local Authorities will be able to adopt the Code.

Members need to be aware that some of the recommendations in the report, for example the power to suspend councillors, requires legislation which means that provisions cannot be included in the Code until this has been done.

4.4 The first stage of the review was the gathering of views and good practice examples, and a series of workshops with national representative bodies (Monitoring and Democratic Services officers and elected members from the main parties), to review what worked and develop some broad principles. Three workshops were held on 17;20 and 21 January 2020.

The LGA have reported that the workshops discussions went very well and there were mutual concerns expressed by members and officers about the current codes, inconsistencies in application, lack of guidance and sanctions.

4.5 Below is a summary of the timetable for the publication of the model code of conduct. A draft code will circulated to members of the Committee once it has been published on 11 March 2020.

### **Summary of code drafting timetable/milestones**

- 3 February –2 March preparation of draft code and report for LGA Board
- Wednesday 11 March – Draft Code to Board for consideration and approval for consultation
- W/C 16 March – launch of consultation period (6 weeks takes us up to Friday 24 April)
- W/C 16 March – Round table discussion with key stakeholders (including LGO)
- *RISK – Thursday 26 March start of pre-election period for local government elections*
- Friday 24 April – close of consultation
- Monday 27 April – Friday 15 April (3 weeks) review of consultation findings and final drafting
- *Note – Thursday 7 May local government elections*
- Friday 15 May – deadline for final draft from Hoey Ainscough
- w/c 18 May – Drafting of report for Board /final edits to code
- Monday 25 May – LGA deadline for submission of report for Board
- Wednesday 3 June – Final copy to Board for approval
- W/C 8 June – LGA design and print and final editing for launch

- Tuesday 30 June – Launch at first day of LGA conference, Harrogate

4.6 At the current time there has been no formal response from Central Government to the recommendations contained in the Committee in Standards in Public Life report on local government standards. It is hoped that further information and update will be received in due course.

## **5. CONSULTATION**

5.1 Members of the Committee will have the opportunity to comment on the consultation once it opens on 16 March 2020.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

6.1 Responses from the committee will be fed into the consultation and the launch of the model code of conduct will take place at the LGA conference on 30 June 2020.

## **7. REASON FOR THE RECOMMENDATION**

7.1 The recommendation will give the committee the opportunity to comment on the draft code.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 N/A

## **9. IMPLICATIONS**

### **Financial Implications**

9.1 There are none.

### **Legal Implications**

9.2 There are none at this stage as the consultation only opens on 16 March.

### **Equalities Implications**

9.3 There are none.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 Committee of Standards in Public Life report 30 January 2019

## **11. APPENDICES**

11.1 Appendix A – LGA Leadership Board report – Civility in Public Life

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## Civility in public life – project proposal

### Purpose of report

For direction.

### Summary

- This report sets out a proposed programme of work entitled ‘civility in public life’ to address the concerns raised by our membership around intimidation of those in public office and also the concerns about the standards of public and political discourse and debate.
- Leadership Board are asked to provide comment on the paper and its proposals.
- Officers are looking for a steer on:
  - the objectives of the programme
  - the elements of the programme and their delivery

### Recommendation/s

- That the work programme is endorsed and adopted

### Action/s

- Officers will modify the work programme as directed and once agreed
- Officers will deliver the agreed work programme

**Contact officer:** Abigail Gallop  
**Position:** Senior Policy Adviser  
**Phone no:** 0207 664 3245  
**Email:** Abigail.gallop@local.gov.uk

## **Civility in public life – project proposal**

### **Introduction**

1. Members of the LGA, WLGA, COSLA and NI have all expressed concerns about the increasing intimidation of councillors, the increasing toxicity of debate and the impact on the democracy of our country, particularly on the decision-making processes that affects our local communities. There are calls for the LGA to coordinate a programme of work, and it is proposed that the LGA takes this on through a programme of work entitled 'Civility in Public Life'. This paper sets out a number of initial outline proposals.
2. So far, the LGA has:
  - Developed a toolkit for enabling women, carers and parents to become councillors, which addresses some of the above issues.
  - Launched a guide for councillors on handling intimidation
  - Discussed the issue at Leadership Board
  - Issues an informal call for evidence through the political groups
  - Submitted evidence to parliamentary debates
  - Held sessions at the 2019 LGA annual conference

### **Background**

1. One of the most pressing concerns facing the conduct of public life at the moment is the increasing incidents of intimidation and abuse by members of the public against councillors. These attacks risk the personal safety of our members, undermine local democracy and decision-making, and can put off prospective candidates from standing. Intimidation and physical threats of violence against councillors are a real and growing concern in every area of the country. Whilst debate and having different views is all part of a healthy democracy; abuse, public intimidation and threats are designed to undermine democratic decision making by generating fear in those who represent it.
2. Intimidation, abuse and harassment of councillors is a crime, as it would be towards any member of the public. However, reports from LGA members indicate that there is not a consistent response from the police across the country and that there is confusion about reporting, support, the legislation, and the broader impacts for our society and democracy.
3. We need a wider discussion with our citizens on how they involve themselves in public debate. We collectively need to be clear that abuse, harassment, intimidation and violence is not the way for anyone to engage in modern-day politics.
4. Concern has also been raised about incidents of intimidation within councils, involving councillors as well as officers. If we expecting decent standards of behaviour from

members of the public when they engage with councillors, then good standards of behaviour need to be modelled within the council.

## **Purpose**

5. The purpose of the programme is:
  - To address the intimidation of local government members and officers
  - To address standards of public discourse
  - To address standards of political discourse and behaviour in public office
  - To provide support and advice to councils and councillors

## **Objectives**

6. The LGA's objectives in embarking on this programme of work are:
  - 6.1. To articulate what local government believes are good standards for anyone engaging in public and political discourse and debate, and what is needed to achieve these standards.
  - 6.2. To show leadership at a local, national, UK-wide and international level in good standards of political debate, engagement and decision-making, demonstrating the positive impact it can have.
  - 6.3. To understand the scale and impact of intimidation and abuse behaviour our membership is experiencing.
  - 6.4. To challenge the 'new-norms' of intimidation, abuse, threats and aggressive behaviour by many engaging in political and public discourse.
  - 6.5. To demonstrate the impact that intimidation and abusive behaviour in our political system and from the general public has on our democratic system, and recommendations for achieving positive debate and public engagement in local decision-making.
  - 6.6. To support its member councils in addressing intimidation and abuse.
  - 6.7. To enhance the reputation of local government and local politicians, and encourage more people to become councillors by addressing the issues of intimidation and abuse.
  - 6.8. To support all democratically elected local representatives in delivering their best on behalf of their local communities.
  - 6.9. To build on the good practice that already exists within member councils.

## Scope

7. It is proposed that the scope of this work encompasses local government members and officers, given the increasing reports that those both elected and employed in public office are experiencing intimidation and abuse due to their public-facing roles. As such, it is proposed that the LGA engages with member-led partner organisations as well as officer-led partners organisations such as SOLACE and Lawyers in Local Government.
8. It is also proposed that the LGA works with its counterparts in Wales, Scotland and Northern Ireland, as members of the WLGA, COSLA and NILGA have expressed similar concerns to members of the LGA. This provides the opportunity for a powerful message that local government does not accept that its councillors or staff should accept intimidation and abuse because of their roles in public life, which it is undermining our democratic structures and public services, and that national action is urgently required.

## LGA Leadership

9. The LGA is in a position to provide leadership through:
  - Engaging in positive political discourse
  - Challenging poor political discourse
  - The application of consistent and high standards for all public office
  - Emphasising the benefits of becoming a councillor, encouraging prospective candidates to stand for public office and encouraging a diversity in candidates
  - Demonstrating the positive outcomes that can be achieved through civil and respectful debate, discussion and decision-making within and between political parties
  - Accepting and promoting a council duty of care for the wellbeing, safety and security of councillors
  - Facilitating a pan-UK local government response

## Opportunities and risks

10. Undertaking this programme of work offers the LGA the opportunity to demonstrate leadership; to central government, to local government and to the public, on standards in public debate and engagement. It also provides the opportunity for the LGA to respond to concerns raised by our membership, our UK colleagues in Wales, Scotland and Northern Ireland, as well as central government.

11. There are increasing opportunities for the LGA to engage and promote our messages with partners and stakeholders in addressing issues of public discourse and intimidation. The Committee on Standards in Public Life has undertaken research in this area and reported a number of recommendations and the Cabinet Office has now developed a 'defending democracy' work programme. Parliament has debated the toxicity of debate in the House of Lords and the House of Commons, and the APPG on Women in Parliament is specifically addressing the issue of intimidation and threats against politicians. The Jo Cox Foundation is working with the political parties on a joint approach to tackling intimidation, and the LGA has approached them to work at the local level as well as the national level.
12. There is also the opportunity to utilise the potential within the review of the member model code of conduct to address issues of public intimidation, care and support of councillors, and the promotion of good standards of political and public debate for all those in public office.
13. However, there is a risk that the LGA will receive criticism from those who feel their political culture is being threatened. In addition, addressing issues of intimidation, especially on social media, and raising the profile of the LGA as leaders in this area may draw the attention of the people who undertake such activity. The LGA will need to acknowledge this risk, determine if it is willing to draw the attention of those who post abuse on social media sites and apply appropriate safeguards. The nature of any public-facing communication will need to be carefully considered.

### **Components of the proposed programme of work**

14. It is proposed that the LGA focuses on three elements – prevention, support and challenge:

#### **Prevention**

- 14.1. Improvement support and guidance for our member authorities, building on our existing improvement and leadership programmes and the guide for councillors on handling intimidation
- 14.2. Desktop research into the prevalence, impact, good practice and international action on the intimidation of those in public office.

#### **Support and intervention**

- 14.3. The development of policy and legislative proposals with partners, government and stakeholders that address intimidation and standards of public discourse, particularly with a view to gaining a more consistent and robust response from the police and Crown Prosecution Service (CPS). This includes the proposal

for a new criminal offence for intimidating a person in public office and engagement with Police Crime Commissioners (PCCs).

- 14.4. Exploring the potential for an informal council 'duty of care' towards its councillors as good practice.
- 14.5. A revision of the local government model code of conduct (appendix 1) with a view to promoting it as standard for all in public office.

### **Challenge**

- 14.6. The development of a pan-UK commitment and public statement for discussion at the UK Forum for the leaders of all the UK local government associations taking place in November 2019.
- 14.7. Exploring opportunities for a public and political-facing campaign.

### **Oversight**

15. It is proposed that a small member-led steering group oversees the civility in public life work programme to provide ongoing insight and commentary and where operational decisions can be made. Significant decisions and updates will be brought back to Leadership Board. It is proposed that this group consists of one nominated representative from each of the political groups.

### **Prevention - improvement and support**

16. There is the opportunity, through the LGA's existing improvement and support programme for councillors, to include issues relating to intimidation and standards of public and political discourse.
17. This could be extended to include more specific support and training for members around safety, security and utilisation of social media. We have had reports of members being advised to come off social media if they are experiencing intimidation and abuse, but social media is an increasingly important and relevant way of engaging residents, voters and the general public on important issues. The focus should be on empowering members to be savvy on social media and creating a safe and positive online environment rather than restricting the ability of councillors to engage in this important form of communication. This will also link across the policy work stream.
18. This support could include a statement for websites and social media indicating the standards of communication expected and the consequences should engagement fall short. This has been adopted by some MPs, including Harriet Harmon, as well as the Royal Family.

### **Prevention - research**

19. It would be useful, in terms of supporting our messages and providing support to our members, to improve our understanding of the experiences our councillors are having and the impact on both them as individuals and on our democratic systems. The sessions at the LGA Annual Conference in July 2019 revealed a worrying level and intensity of intimidation and abuse, with experiences shared by both newly appointed councillors as well as long serving councillors; from both men and women, from across backgrounds, cultures and political party.
20. It would also be useful to establish more examples of good practice from our member councils, and also across the UK and in other countries.

### **Support and intervention - policy development and stakeholder engagement**

21. The Cabinet Office has recently consulted on changes to electoral law so that individuals who intimidate candidates during a local election would lose their right to stand for election. The same consultation also highlighted that there is existing legislation that should apply to incidents of intimidation. However, evidence from our members indicate that there is a varied approach being applied by police across the country. Statements such as being 'fair game' for abuse, for it 'not being in the public interest' to prosecute and that it is acceptable for individuals to be abusive to those who take on public office is undermining the ability of our local councillors to carry out their public duties and feel protected.
22. As such, the LGA will develop further proposals, including exploring the potential for an offence in criminal law for intimidating a person in public office. This would extend the offence currently proposed by Government within electoral law that simply restricts a person from standing for election as a penalty for intimidating a candidate. Addressing these issues would be a priority for the work programme.
23. The Cabinet Office has developed a 'defending democracy' programme and the Home Office is also exploring the issue of intimidation on social media. Government has also recently consulted on an 'online harms' white paper which seeks to address online intimidation and the Jo Cox Foundation is working across government on a joint approach to tackling intimidation. It will be important that the experiences and views of local politicians is also considered in this work.
24. Another issue that has been raised by councils is the cost associated with increased security for members. Whilst national politicians receive funding from parliament for their personal security, and can have security advisers to review their household arrangements, there are no such provisions for local politicians, many of whom will have a similar profile or levels of engagement with the general public. In some cases the

police have paid for security arrangements, and in others the council has paid, but the landscape is not clear. The issue of responsibility and funding for personal safety and security also needs to be addressed and clarified.

25. It is proposed that the LGA convene a working group to help develop proposals around addressing the intimidation of councillors, and all those in public office. This would include stakeholders such as MHCLG, the Home Office, PCCs, SOLACE, Lawyers in Local Government, SOLACE, etc.

### **Support and intervention - exploring an informal council 'duty of care' for councillors**

26. Alongside confusion about paying for personal safety and security, there has been confusion about the degree of support councils should and can give their councillors in instances of intimidation and abuse, particularly as they are not employees and as such don't fall within employment law – and whether the provision of support crosses the line into political interference. Some councils do open up their employee support packages to members, and others do not, and there will be a cost implication for councils.
27. The WLGA has had a conversation with its members regarding this issue and they have informally agreed to provide support to their members alongside the support they give to their employees.
28. Discussions with members has resulted in the proposal for an informal 'duty of care' that councils could adopt to make clear the support they can and will give their members, and to encourage such provision of support.
29. Endorsing an informal duty of care would require:
- A clear commitment from the LGA that they support an informal 'duty of care' to councillors as good practice.
  - Engagement with the sector regarding the implications of such an approach.
  - A recognition that there may be a cost implication and engagement with the sector on this.
  - Engagement with representative organisations such as SOLACE and Lawyers in Local Government to better understand the implications and gain support.
  - The provision of guidance to help councils differentiate between political intervention and the provision of support to councils who may be experiencing intimidation.

### **Support and intervention - a revision of the member model code of conduct**

30. Please see section 2 on reviewing the model code of conduct for more detailed proposals.

### **Challenge - pan-UK local government initiative**

31. The UK Forum for the leaders of all the UK local government associations taking place in November 2019 provides the opportunity to develop and launch a powerful message that local government does not accept that its councillors or staff should accept intimidation and abuse because of their roles in public life, which it is undermining our democratic structures and public services, and that national action is urgently required. This could be in the form of a commitment and/or public statement.
32. We could then encourage other organisations and representative groups to support the public statement.

### **Challenge - a public and political facing campaign**

33. The LGA could explore the appetite and opportunity for public-facing media-based resources to help councils communicate the best ways to engage with councils and councillors. For example, short videos to encourage people to think about how best to communicate their issues to councils rather than, for example, sending abusive communications via twitter.
34. The LGA could also promote its messages around good standards in political discourse and local impact of intimidation of councillors, any joint pan-UK statement and its revised model code of conduct to national politicians and political parties.

## **Section 2 - Civility in Public Life - the review of the model code of conduct**

### **Why is the model code of conduct being reviewed?**

35. The LGA is undertaking a review of the member model code of conduct in response to the recommendations made by the Committee on Standards in Public Life, but also in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement.
36. The LGA aims to develop a code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It will set out the duties and expectations of persons in public office as well as their rights, particularly their right to be protected from abuse and intimidation resulting from their undertaking of public office.
37. The LGA's objectives in reviewing the model code of conduct are to:
  - Articulate what local government believes are good standards for all in public office

- Show leadership in good standards of conduct for those in public office, both elected and as employees
- Achieve consensus between the stakeholders affected by local government conduct
- Support its member councils and partners in achieving good standards of conduct
- Produce a code that is fit for purpose, useful and held in high regard
- Enhance the reputation of local government and local politicians
- Support the good running of councils
- Support all democratically elected local representatives to deliver their best on behalf of their local communities
- Build on the good practice that already exists within member councils

### Why the LGA?

38. The LGA is well placed to lead on the review and renewal of the model code of conduct because, as set out in the articles of association of the Local Government Association, the LGA's objects are:

- to support, promote and improve local government in England and Wales
- to represent, wherever possible by consensus, the interests of Member Authorities to national governments, to Parliament, to political parties, to European and other international institutions and to other bodies, and to negotiate on behalf of local government
- to formulate policies to support the improvement and development of local governance, effective management in local authorities and the enhancement of local democracy in England, Wales and elsewhere
- to provide forums for discussion of matters of common interest and/or concern to Member Authorities, including groups of Member Authorities, and a means by which **joint views may be formulated and expressed**
- to endeavour to give democratically elected local representatives from different political groups the opportunity to contribute to the Association's work and to the development of policies which represent, as far as possible, **consensus between the political groups and between groups of Member Authorities**
- to support all democratically elected local representatives of Member Authorities

39. The LGA also has the responsibility to speak for all Member Authorities in matters of local government in general or which concern all Member Authorities.

40. In this way, the LGA is well placed to bring together the different stakeholders under the umbrella of local government to achieve understanding and consensus, which will be vital for the adoption and success of any reviewed and renewed code of conduct. It will be important to understand, respect and bring together the range of views on the code of conduct if it is to be successful.

### How will the LGA review the model code of conduct?

41. The LGA aims to work collaboratively with a range of officer and member stakeholders in a spirit of co-production. As such, the LGA will engage with the representative organisations set out in section 4 and also with officers and members across the country.
42. The LGA is using the existing model code of conduct (Appendix 1) as baseline and seeking to achieve the objectives set out in section 43 of this paper.
43. The LGA will gather evidence and opinion on what is needed in an updated and fit-for-purpose code, including considering the review into local government ethical standards undertaken by the Committee on Standards in Public Life and the evidence submitted to the review. The LGA will research the existing local bespoke codes currently used by councils across the country and will work with elected members and officers to consider and evaluate good practice.
44. The LGA will seek to identify good practice codes from the range of tiers of government, other sectors, and organisations that address important issues for local government and public office.
45. The LGA will hold a workshop with members, officers and representative organisations during this period as part of the broader LGA Civility in Politics work. This workshop will also present an opportunity for an exchange of ideas, developing an understanding of the different stakeholders' views with the aim of co-production, collaboration and consensus.
46. From this exercise a collection of suggested propositions for inclusion in the final model code will be presented to the LGA Leadership Board. Following the outcome of the Leadership Board consideration, a draft model code will be prepared for consultation.
47. The form of consultation will need further discussion and will be determined by how the model code develops. The LGA will use its existing methods of research, communication and engagement with its membership, partners and stakeholders. This could include conferences, round tables, regional meetings, online forums, etc, with the aim of achieving as wide a sector engagement as is possible.
48. It is proposed that the consultation period should be a minimum of 8 weeks.
49. The outcome of the consultation and a draft final model code will be presented to the LGA Leadership Board for final discussion and approval. It is recommended that Leadership Board put forward the final model code, as part of its broader work on Civility in Politics, to the LGA General Assembly, held at the LGA annual conference in July, for adoption.

### **Who will the LGA work with to review the model code of conduct?**

50. It will be important, if the review of the model code of conduct is going to result in a consensus about good standards in public office and the generation of a code that members and officers consider attainable and workable, that organisations that represent smaller family groupings within local government form part of the creation, adoption and promotion of the code, in a spirit of co-production. As such, the LGA will seek to engage with:

- The National Association of Local Councils (NALC)
- County Council's Network (CCN)
- District Council's Network (DCN)
- SOLACE
- Lawyers in Local Government
- Association of Democratic Services Officers
- Society of Local Councils Clerks
- Monitoring Officers Network

51. The LGA will also seek the views of MHCLG, the Home Office and the Committee on Standards in Public Life.

#### **How will a final renewed code of conduct be agreed?**

52. The structures of the LGA mean that the final sign-off of the code on behalf of the LGA and its member authorities will be the responsibility of the LGA's Board of Directors / Leadership Board, which they will do on behalf of all member authorities in local government. The LGA will also seek, in a spirit of consensus and collaboration, for NALC, CCN, DCN, SOLACE, Lawyers in Local Government, the Association of Democratic Services Officers, the Society of Local Councils Clerks, Monitoring Officers Network, and MHCLG to also endorse the revised model code of conduct. It is also proposed to take the updated model code of conduct to LGA General Assembly at the July 2020 annual conference.

53. The LGA's work on the model code of conduct will provide an opportunity for the LGA to review its own procedures.

#### **Developing consensus in the development and adoption of a renewed model code of conduct**

54. For the model code of conduct to have traction with the sector, it will need to address the expectations, views, opinions and experiences of members and officers, recognise the value of good political discourse and how trust in local government is affected by conduct. The LGA's organisational structures mean that agreement is on behalf of local government, rather than a single interest group within the local government structure and family.

55. Members at the LGA have expressed their view that, as individuals whose behaviour is being modelled in the code of conduct, it is essential that they oversee and are fully involved in its development and can sign up to it. The LGA has championed the value of peer-to-peer review and support, and we will embrace those principles in the review of the code. It is in the interests of the LGA and all elected members that the office of local councillor is imbued with trust and a high degree of ethics so that their role and decisions can be robustly defended. It is also important in the continued recruitment of future councillors.
56. Members at the LGA want to ensure that the code will be compatible with upholding the country's democratic principles and structures, and on-going political representation for their residents. They want to see an equal expectation of conduct between members and officers, between members, with the general public, and with others in public office such as Police Crime Commissioners and MPs, so that all are clear about the expected behaviour and the procedures should their behaviour fall short.
57. Members at the LGA also want to ensure that the code is not used as a tool that could remove members on grounds that may not follow natural justice or that it is abuse for personal or political gain by members, officers or the general public. The code needs to provide safeguards for both members and officers.
58. We want to achieve a shift in attitudes that sees the code of conduct as a tool to support members in achieving good standards in public office, rather than a tool that simply penalises poor behaviour. The code should be a way of supporting members who have been subjected to poor behaviour by members and/or staff and/or the general public.
59. It is also important that the impact on staff and the running of the council, should a member's behaviour fall short of what is expected of public office, is given due weight in any review, and that the code provides the tools to address such behaviour.
60. For the code to be successful we need to seek to build consensus, with the primary objective that the code articulates the standards that are expected for anyone in public office or working for the public.
- 61. Outline timetable**
- September 2019 – discussion with Leadership Board
  - October 2019 – research begins
  - November/December 2019 – research and engagement with stakeholders and councils including LGA workshop
  - January 2020 – creating of proposal draft code and discussion with Leadership Board on 22 January
  - February/March/April 2020 – consultation with member authorities and stakeholders

- May 2020 - bringing together draft code
- June 2020 – draft code to Leadership Board on 3 June for final discussion and approval
- July 2020 – final code launched at LGA General Assembly

### **Implications for Wales**

62. The LGA has worked jointly with the WLGA in the development of its ‘guide for councillors on handling intimidation’ and in the associated session at the LGA 2019 annual conference. The WLGA is keen to work with the LGA on the issue of intimidation, and its Chair, Cllr Debbie Wilcox, has been active on the issue.
63. Cllr Wilcox has set up a diversity in local government group with the leaders of all councils in Wales. Part of its remit is to look at culture in councils and political respect.
64. The WLGA has also engaged with its monitoring officers and all have agreed informally that their councillors will be supported and have the same access to support as employees.
65. The WLGA is hosting the UK Forum for lead members of the UK local government associations on 2<sup>nd</sup> and 3<sup>rd</sup> November in Cardiff.

### **Financial Implications**

66. This work programme would be met from existing budgets.

### **Next steps**

67. Officers will take on board the comments and direction and revise the programme accordingly.

## Appendix 1

### **Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member - You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, including your membership of any Trade Union, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register or which you consider should be included if you are to fulfil your duty to act in conformity with the Seven Principles of Public Life. These non-pecuniary interests will necessarily include your membership of any Trade Union.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 12
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Pippa Turvey, Democratic and Constitutional Services Manager	Tel. 452460

**REVIEW OF URGENT DECISIONS TAKEN**

R E C O M M E N D A T I O N S	
<b>FROM:</b> <i>Fiona McMillan, Director of Law and Governance and Monitoring Officer</i>	<b>Deadline date:</b> <i>N/A</i>
<p>It is recommended that the Constitution and Ethics Committee:</p> <ol style="list-style-type: none"> <li>Note, review and comment on the number of urgent decisions taken by Peterborough City Council in comparison with other Local Authorities</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Constitution and Ethics Committee following a request from members of the committee at a previous meeting.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to update the committee on the number of key decisions that have required the use of the Council's urgency procedures compared to those of other authorities. Members are asked to note the report and make any comments

2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

*Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.*

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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#### **4. BACKGROUND AND KEY ISSUES**

- 4.1 From January 2019 to January 2020 Peterborough City Council took 5 urgent decisions, all of which were reported to Full Council outlining the reasons for urgency in each case. As part of the Council's urgency procedure any time a decision needs to be taken it has to get the agreement of the relevant scrutiny committee chairperson and the Monitoring Officer.
- 4.2 There are occasions when a Council needs to take an urgent decision and this procedure allows the Council to do this in those instances. Without this procedure there might be times when the Council would have to pay financial penalties for not taking a decision.
- 4.3 Officers have researched a number of other local authorities to gain a better understanding of the number of urgent decisions that are taken. The findings are outlined in Appendix A.

#### **5. CONSULTATION**

- 5.1 Consultation and research has taken place with other local authorities to ascertain the number of decisions that have been taken using urgency procedures.

#### **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 It is anticipated that the committee will note the report and decide whether it wishes to review this at a later date or as part of an annual report.

#### **7. REASON FOR THE RECOMMENDATION**

- 7.1 The committee are asked to note the contents of the report and attached appendix and make any comments. The report is being presented to committee at its request from the previous meeting.

#### **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 There are no alternative options considered. There are occasions whereby the authority will need to take urgent decisions.

#### **9. IMPLICATIONS**

##### **Financial Implications**

- 9.1 There are no financial implication relating to the report.

##### **Legal Implications**

- 9.2 There are no legal implications relating to the report.

##### **Equalities Implications**

- 9.3 There are no equalities implications relating to the report.

#### **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Council Standing Orders, Part x Section x

#### **11. APPENDICES**

- 11.1 Appendix A – Number of urgent decisions taken by other local authorities.

Appendix A

Local Authority urgent decisions January 2019 – January 2020	No of urgent decisions taken
Peterborough City Council	5
Rochdale Borough Council	2
Cambridge City Council	1
Hull City Council	0
Nottingham City Council	22
Southwark Council	6
Medway Council	5
Milton Keynes Council	1
London Borough Hammersmith and Fulham	22
North Yorkshire County Council	6

Appendix A

Bristol City Council	2
Portsmouth City Council	3
Wiltshire Council	0
North Hertfordshire District Council	1
Plymouth City Council	3
Lancashire County Council	0
Harrogate Council	0
Swindon Borough Council	4
Charnwood Borough Council	5

<b>CONSTITUTION AND ETHICS</b>	<b>AGENDA ITEM No. 13</b>
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Corporate Director of Governance	
Cabinet Member(s) responsible:	Cllr Mohammed Farooq – Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Philippa Turvey, Democratic and Constitutional Services Manager Daniel Kalley – Senior Democratic Services Officer	296334

## CODE OF CONDUCT COMPLAINTS

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM: Monitoring Officer</b>	<b>Deadline date: N/A</b>
<p>It is recommended that the Constitution and Ethics Committee:</p> <ol style="list-style-type: none"> <li>Note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting on 30th September 2019.</li> </ol>	

### 1. ORIGIN OF REPORT

- 1.1 This Report is submitted to the Constitution and Ethics Committee by the Council's Monitoring Officer.

### 2. PURPOSE AND REASON FOR REPORT

- 2.1 The Constitution and Ethics Committee has the responsibility for promoting and maintaining high standards of conduct amongst members and co-opted members of the council including 'monitoring the operation of the Code of Conduct'. This also includes parish councillors.

To assist in the fulfilment of the above objective it has been agreed that a standing item is placed on the agenda for the committee notifying and updating it on complaints that have been made, how they are being handled and whether they have been resolved. The committee decided that these should be reported in an anonymous way until such time as a breach of the code of conduct is found as part of the complaints process.

This Report fulfils the requirements set out above.

- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.2.

Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members including:

- promoting and maintaining high standards of conduct by members and co-opted members;
- Assisting the members and co-opted members to observe the Code of Conduct;
- Advising the council on the adoption or revision of the Members Code of Conduct;

- Monitoring the operation of the Code of Conduct;
- Advising, training or arranging to train members and co-opted members on matters relating to the Code of Conduct.

### 3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	
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### 4. **BACKGROUND AND KEY ISSUES**

#### 4.1 **New Complaints**

Since the Committee's last report on 30<sup>th</sup> September 2019, there has been two new complaints received in relation to city councillors. These include:

- i) a complaint from a councillor in relation to the behaviour of another councillor at a council meeting. The Deputy Monitoring Officer has contacted the councillor for a response and the councillor has been given an extension of time to respond due to extenuating personal circumstances.
- ii) a complaint from a member of the public in relation to social media posts by a city councillor, The Monitoring Officer has contacted the councillor for a response. Once received the complaint and response will be discussed with the council's Independent Person.

There have also been a number of complaints in relation to parish councillors:

- a) two complaints in relation to parish councillors at the same parish council, one by a member of the public and one by a fellow parish councillor.
- b) a complaint in relation to social media posts by a parish councillor

All were concluded following initial assessment with the Council's Independent person, the outcomes of which are reported below.

#### 4.2 **Existing Complaints**

Following assessment by the Council's Independent Person and Monitoring Officer, three complaints about one councillor were previously referred for a formal investigation, to be Investigated together. These related to the following:

- A complaint that was received from a PCC councillor that another PCC councillor had breached the code of conduct in relation to a Facebook post in breach of the Council's Social Media Code.
- A complaint that was received from a member of the public that a PCC councillor had breached the code of conduct in relation to comments made about another councillor during a full council meeting and an associated social media post in breach of the Council's Social Media code.
- A complaint that was made by a PCC member that another councillor had used offensive language (via an acronym) in a social media exchange which had been seen by a member of the public and sad they were "appalled". The complaint is that the post was in breach of the Council's Social Media Code.

The investigation has taken place and draft and final reports have now been issued to those involved. As the investigator has found that there was a breach of the code of conduct in relation to one of the complaints the Monitoring Officer will now, in consultation with the Independent Person, review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel, or seek an alternative resolution, if is considered the matter can be resolved without the need for a hearing. Such resolution may include the member

accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter back to the authority's Constitution and Ethics Committee for information, but will take no further action.

### Informal Resolution

The following complaints have been informally resolved as follows:

- A complaint by a member of the public regarding a parish councillor's posts and comments on social media relating to a tree felling application. The post was removed, an apology was issued and the parish councillor confirmed that they would not participate in the discussion of this matter when it fell for discussion by the Parish Council.

### No Further Action

The following complaints were resolved without any further action because there was no perceived breach of the code or for other reasons:

- A complaint by one Parish Councillor against another in relation to their management of a conduct complaint and the subsequent content of a related email sent to all (but the complainant) parish councillors.
- A complaint was also received by one Parish Councillor in respect of others at the same Parish Council relating to alleged failures to declare disclosable pecuniary interests both in their registers and at meetings during which their interests were engaged. The Deputy Monitoring Officer did not accept this complaint as she was satisfied, following preliminary enquiries that there were no relevant statutory interests.
- A complaint by a member of the public in relation to a number of social media posts made by a parish councillor, which as they were over two years old were considered to be "historical" under the council's complaints process and not to be proceeded with.

## **5. CONSULTATION**

5.1 N/A

## **6. ANTICIPATED OUTCOMES OR IMPACT**

6.1 By reporting the complaints that have been made the Committee can more effectively monitor the operation of the Code of Conduct.

## **7. REASON FOR THE RECOMMENDATION**

7.1 Regular reporting of both quantities and substance of complaints will help the Committee gain a better understanding of the effectiveness of current procedures and how well the Code is being observed across both the council and parish councils in its area. This will inform future decisions about what training may be necessary to ensure the requirements of the code are being met.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 None

## **9. IMPLICATIONS**

### **Financial Implications**

9.1 None

### **Legal Implications**

9.2 Under the Localism Act 2011 the council may set its own procedures in relation to the handling of complaints.

### **Equalities Implications**

9.3 None

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 The Localism Act 2011.

## **11. APPENDICES**

11.1 None

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 14
<b>16 MARCH 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor David Seaton, Cabinet Member Finance	
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer	Tel. 296334

**WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES**

R E C O M M E N D A T I O N S	
<b>FROM:</b> Fiona McMillan, Director of Law and Governance and Monitoring Officer	<b>Deadline date:</b> N/A
<p>It is recommended that the Constitution and Ethics Committee</p> <p>1. Notes and agrees the Work Programme for the remainder of the municipal year 2019/20.</p>	

**1. ORIGIN OF REPORT**

1.1 This is a standard report to the Constitution and Ethics Committee which forms part of its agreed work programme. This report provides details of the Draft Work Programme for the following municipal year.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The programme can be refreshed throughout the year in consultation with senior officer and the Committee membership to ensure that it remains relevant and up to date. In addition, any delays in reporting issues are recorded so that they do not drop off the committee agenda.

2.2 This is also an opportunity for Members of the Committee to raise any issues of concern under the Committee's terms of reference for discussion or addition to the work programme.

**3. TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	<b>N/A</b>
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**4. IMPLICATIONS**

**Financial Implications**

4.1 There are none.

### **Legal Implications**

4.2 There are none.

### **Equalities Implications**

4.3 There are none.

## **5. APPENDICES**

5.1 Appendix A - Work Programme 2019/20.

## APPENDIX A

DATE: 8 JULY 2019			
		Section / Lead	Description
	Scrutiny update from Government and review of scrutiny committee arrangements	Dem Services	To receive a report on conclusions and findings from government report and review current scrutiny arrangements.
	Officer Code of Conduct	Fiona McMillan	To update the Officer Code of Conduct
	Committee start times and Council meeting frequency	Dem Services	To review the start times for all Committees of the Council and to review the overall number of Full Council meetings
	<b>INFORMATION AND OTHER ITEMS</b>		
	Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
	Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
	Update on Parish Council Register of Interests	Linda Letch/Claire Osborne	To receive an update on progress with Parish Council register of interests.
	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2019 / 2020	Democratic Services Dan Kalley	

**DATE: 30 SEPTEMBER 2019**

	<b>Section / Lead</b>	<b>Description</b>
Constitution and Ethics Committee Meeting Start Time 2020-21	Fiona McMillan/Dem Services Legal	Committee to agree it's start time for 2020-21
Model Code of Conduct (LGA) (If completed)	Fiona McMillan	To review the Council's code of conduct based on new model code of conduct from the LGA.
Members Gifts and Hospitality Policy guide	Fiona McMillan	To update and review the policy guide for Member's gifts and hospitality
Update on Scrutiny Committees	Paulina Ford	To provide members with an update on Scrutiny Committees roles following discussions with CMT and Scrutiny Chairpersons
Full Council additional meetings	Dem Services	To provide the Committee with proposals from CMT and Group Leaders on the proposal for additional Full Council meetings
<b>INFORMATION AND OTHER ITEMS</b>		
Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
Work Programme 2019 / 2020	Democratic Services Dan Kalley	

**DATE: 16 MARCH 2020**

	<b>Section / Lead</b>	<b>Description</b>
Chairing of Scrutiny Committees	Paulina Ford Democratic Services	To review the chairing of Scrutiny Committees
Members Gifts and Hospitality	Amy Brown/Pippa Turvey Legal	To update and review the Members Gifts and Hospitality
Update to Standing Orders – Minutes and motions submission review	Pippa Turvey Democratic Services	To update the Council's standing orders to include cut off for Members to raise queries on omissions from minutes
Independent Remuneration Panel	Amy Brown Legal	
Member Officer Protocol	Fiona McMillan Legal	To review working arrangements of motions and working with officers of the Council and use of Council resources
Budget Policy Framework	Emma Riding Finance	
<b>INFORMATION AND OTHER ITEMS</b>		
Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
Review of urgent decisions taken	Fiona McMillan Legal	To review the number of urgent decisions taken by other local authorities
Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
Work Programme 2019 / 2020	Democratic Services Dan Kalley	

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MUNICIPAL YEAR 2020/21

<b>DATE: TBC</b>			
		<b>Section / Lead</b>	<b>Description</b>
	Standing Orders – Video recordings at meetings/Voting and abstentions	Fiona McMillan Legal	To review Council Standing Orders over the use of visual recordings at Council meetings and clarify equality of voting/abstentions
	Petition Scheme	Fiona McMillan Legal	To make additions to the petition scheme and decision making implications
	<b>INFORMATION AND OTHER ITEMS</b>		
	Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
	Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2020 / 2021	Democratic Services Dan Kalley	