

## CONSTITUTION AND ETHICS COMMITTEE

MONDAY 12 OCTOBER 2020

6.00 PM

VENUE: [Peterborough City Council Youtube Page](#)

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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>

**Committee Members:**

Councillors: Allen, Bashir (Vice Chairman), Iqbal, E Murphy, N Sandford, D Seaton (Chair) and A 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</b>	<b>AGENDA ITEM No. 4</b>
<b>12 OCTOBER 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 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> Director of Law and Governance and Monitoring Officer	<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 Governance and 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 Governance and Scrutiny offer the following courses (see list below) which provide training for both scrutiny committee members and scrutiny chairman. They have also offered to provide one course covering elements from all of the courses listed below if preferred.

**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 Governance and Public Scrutiny, the cost to the council would be around £600 per course. During the current Covid period the Centre for Governance and Public Scrutiny are offering on-line training and development sessions via Zoom or Teams which would last around 1.5 hours and would accommodate up to 30 people per course.

**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. 5
<b>12 OCTOBER 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 ~~P~~policy is that a ~~M~~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 value of £50 or accumulative value of £100 (from a single source) over the course of a municipal year 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.~~

~~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 an individual value of £50 or an accumulative value (from a single source) of £100 over the course of a municipal year 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.

## **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 lunches, 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

This Policy sets out guidance for elected members, co-opted members and independent members (“Members”) 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 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:

- 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 value of £50 or accumulative value of £100 (from a single source) over the course of a municipal year 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 an individual value of £50 or an accumulative value (from a single source) of £100 over the course of a municipal year 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>	AGENDA ITEM No. 6
<b>12 OCTOBER 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

<b>UPDATE AND REVIEW OF COUNCIL STANDING ORDERS AND PETITION SCHEME</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> <ol style="list-style-type: none"> <li>1. Recommends to Council that the Standing Orders be amended as set out in paragraph 4.6 of the report, in relation to the approval of minutes.</li> <li>2. Recommends to Council that the Standing Orders be amended as set out in paragraph 4.12 of the report, in relation to equality of votes.</li> <li>3. Recommends to Council that the Petition Scheme be amended as set out in paragraph 4.12 of the report, in relation to decision already taken.</li> <li>4. Reviews the timeline for submissions of motions to Full Council and recommends any proposed change to Council as necessary.</li> </ol>	

**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?	<b>NO</b>	If yes, date for Cabinet meeting	<b>N/A</b>
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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 (ie. 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 year 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.

### **EQUALITY OF VOTING AND ABSTENTIONS**

4.11 In order to clarify the position in relation to equality of votes and in what situation the Mayor or Chair would be called upon to utilise their casting vote, the below wording is proposed to be added to the Council Standing orders.

4.12 **24.2 Mayor's/Chair's casting vote**

If there are equal numbers of votes for and against (not including any formal abstentions), the Mayor/Chair will have a second or casting vote. There will be no restriction on how the Mayor/Chair chooses to exercise a casting vote.

### **PETITION SCHEME – DECISIONS ALREADY TAKEN**

4.13 Following feedback in relation to the practicality of the Council's Petition Scheme, the below addition is suggested. This addition would disqualify any petitions that sought action on a decision that had already been taken. The aim of this addition would be to avoid receiving petitions that could not then be actioned.

4.14 3.4 Petitions will not be considered if they are:

- Abusive.
- Vexatious (intending to cause only annoyance, frustration or worry)
- Presented for the purpose of making mischief.
- Related to a function the Council is not responsible for and/or could not influence.
- Related to a decision by the Council that has already be taken.
- Otherwise inappropriate.

## **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  
Petitions Scheme

## **11. APPENDICES**

11.1 None.

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 7
<b>12 OCTOBER 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

## AMENDMENTS TO THE MEMBER OFFICER PROTOCOL

RECOMMENDATIONS	
<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. Recommends that Full Council amends 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 proposed 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 in order 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>	<b>AGENDA ITEM No. 8</b>
<b>12 OCTOBER 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</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 in the period from October 2019 to September 2020. 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 October 2019 to September 2020 Peterborough City Council took 9 urgent decisions, all of which were reported to/ are to be reported 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 Appendix 1 has a link to those decisions under urgency and a summary from the leading officer as to why the decision was urgent.
- 4.4 The Democratic Services Team have held a number of drop in sessions over the past 18 months for officers across the organisation to outline the governance procedures in place. This includes the workings of the Forward Plan, what constitutes a key and non-key decision and the timelines in order for a decision to be implemented. These have been well attended and officers have welcomed the continued support of the Democratic Services Team.

#### **5. CONSULTATION**

- 5.1 Consultation has taken place with senior officers over why decisions needed to follow the urgency procedures of the Council.

#### **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 None

**11. APPENDICES**

11.1 Appendix A – Number of urgent decisions taken and reasons

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## **Review of urgent decisions**

### **[Award of Utility Contracts \(Gas, Electricity, Half Hourly \(HH\) and non-half hourly \(NHH\)\) to suppliers under the ESPO Contract](#)**

*This decision was made on an emergency basis due to the need to notify the supplier of the Council's intention to move to a green electricity tariff by 31 August 2020. The deadline for notification of moving to green energy is non moveable because of the need for the industry to buy products at certain points in the year in line with their contract. In this case the deadline is 31st August to enable the switch on 1st October 2020. In addition, the reason for the urgency now in terms of governance is due to delays in receiving final contract information, and seeking clarity on points of detail following the unexpected passing of a colleague who was previously overseeing this procurement exercise.*

*If we were to miss this deadline, the Council would remain on a brown electricity tariff. This would go against a Council declared 'top 20' actions for 2020/21. We have been informed by Richard Kay (Head of Sustainable Growth Strategy) that if the Council does not sign up to green energy supply where possible, there will be significant political (and possibly public) opposition given that Full Council had committed to the change in July 2019 and again in March 2020.'*

### **[Transfer of Services from Vivacity to Peterborough Ltd and City College Peterborough](#)**

*This decision needs to follow special urgency procedures as outlined in the Councils Constitution because of the limited timescales to undertake the transfer of Leisure and Cultural services to the Council. Significant work has taken place since that date and the Report is the result of discussions with Vivacity and Partners to set out where these services will be delivered from the 17th September. The urgency of this decision is to ensure there is clarity with Members and the public on what is happening and what these interim arrangements are*

### **[Agreement to lease 9 Three-bedroom houses at Paston Lane](#)**

*With the approval of the Chairman of Growth, Environment and Resources Scrutiny Committee, special urgency procedures have been invoked to suspend the requirement to publish on the Forward Plan and the five day consideration period. These procedures have been invoked for the reasons set out below.*

*The timescale for approval is urgent as initially it was anticipated that the agreement would be concluded in July 2020. In reliance on this the developer has a contractor ready and waiting to start on site and any further delay is likely to prejudice that arrangement and the overall progress of the scheme.*

### **[Covid-19 urgent and surge community swabbing service](#)**

*These procedures have been invoked in order to meet critical timescales for the urgent procurement of these services and to ensure that delegated authority for CCC to act as lead authority in the commissioning of the COVID-19 Urgent and Surge Community Swabbing Service across Peterborough and Cambridgeshire is obtained. The local testing service shall provide a swift response that is accessible to the local population. There is synergy in the Council's working together given that the COVID-19 Urgent and Surge Community Swabbing Service shall be provided within the boundaries of Cambridgeshire and Peterborough Local Authority areas and there are clear efficiencies in having one service provision across the two Local authority areas. The service will need to be able to swab in any community setting or workplace as national and local guidance on COVID-19 changes with time and where potential outbreaks could occur*

#### [Extended support to Businesses as a result of the Covid 19 Coronavirus](#)

*These procedures have been invoked due to the potential for the scheme to become oversubscribed. The Council only have circa £1.47m of funding but potentially 2,000 to 3,000 possible applicants. This is why the Council have proposed a 2 week application process and then will distribute funds after this point when all the applicants have been validated.*

#### [Increased street lighting dimming during Covid-19 restrictions](#)

*Street light dimming was successfully introduced in Peterborough in January 2020. Following its introduction, no negative representations were made to the Council by both local stakeholders and residents. When "lockdown" was introduced on the 23rd March 2020 significant reductions in traffic flows and pedestrian movements were recorded, the reductions highlighted an opportunity to make additional savings with the introduction of more aggressive dimming regimes. The proposal was discussed with senior officers and Members prior to any formal communication where it was informally agreed additional dimming would be considered acceptable given the unprecedented circumstances.*

*The new dimming regimes (all lights dimmed by 40% from switch on to switch off), were proposed to be introduced in the summer months between May and July where hours of darkness are at their minimum with the caveat that they would remain in place or revert to January 2020 dimming regimes should pre lockdown traffic and pedestrian levels be reached pre or post July 2020.*

*As the formal proposal was only calculated for the initial three month period and not knowing how long the regime would be in place, permission was sought from Cllr Harper, Chairman for the Growth and Regeneration Scrutiny Committee to invoke the urgency procedure. Permission to do so allowed the Council to maximise the possible savings available.*

#### [Request to re-implement city centre public spaces protection order](#)



The decision '[Request to re-implement city centre public spaces protection order](#)' was urgent due to time constraints created by the impact on services as a result of Covid-19. The City Centre PSPO was due to expire on 18 May 2020 and required re-implementation by 17th May 2020 at the very latest. The Council commenced preparations to extend the PSPO from early this year, with a view to have the extension implemented by 5 April 2020.

Unfortunately, due to the Covid 19 public health crisis, the process was significantly delayed. If the 5 day consideration period was not waived, the earliest date the decision could have been implemented was 20 May 2020. This would have resulted in the extension of the previous order not taking place as a PSPO cannot be extended after it has expired.

This would have resulted in the Council having to re-commence the entire evidence gathering and consultation process in order to put in place a new PSPO, rather than an extension. This would have resulted in limited protection from Anti-Social behaviour in the city centre for months, leaving members of the public more vulnerable to anti-social behaviour and destroying all the work that has been put in place over the last 3 years to make the city centre a safer and cleaner place for the public.

It would have been disproportionate to commence the PSPO consultation process all over again when this issue was due to a time lapse of only three days caused by factors out of the Local Authorities control. The public, key interested parties and statutory consultees were consulted throughout February 2020 and indicated their support for an order to improve the safety and cleanliness of the city centre. Any further consultation in such a short period of time is most likely to result in the same response and thus making any further delay in implementing an order in the city centre seem unnecessary and disproportionate.

#### [Extended business rate reliefs and support to businesses as a result of the Covid-19 Coronavirus](#)

These procedures have been invoked to ensure that relief is provided to business in line with Government guidance to mitigate the impact of COVID-19 as soon as possible.

#### [Approval of contract award to adult social care providers](#)

These procedures have been invoked as it is imperative the recommendations are carried urgently. Failing to do so will result in services not being provide and members of the public being at risk of serious harm. These issues will manifest in the form of providers no longer providing their services to vulnerable people as a result of not being able to continue to sustain the significant increase in costs which have been a result of COVID-19.

We were responding to COVID, pressures around cost were mounting - there was national pressures around action to be taken and without an urgent decision we would have seen providers fail leaving vulnerable people at risk of being without care for a period of time.

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<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 9
<b>12 OCTOBER 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and 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>RECOMMENDATIONS</b>	
<b>FROM:</b> Corporate Director: Resources	<b>Deadline date:</b> N/A
<p>It is requested that the Constitution and Ethics Committee recommends that Full Council:</p> <ol style="list-style-type: none"> <li>1. Agrees the proposed changes to the Terms of Reference of the Independent Review Panel; and</li> <li>2. Agrees the proposed changes to the Terms of Reference of the Constitution and Ethics Committee.</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 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	21/10/2020	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 members of the Committee are requested to recommend for approval proposed amendments to the Terms of Reference of its Hearings Panel 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 12 October 2020 and Full Council on 21 October 2020, the Head of Democratic and Constitutional Services will

implement the process for recruiting Panel Members who are currently in the preparatory stages of the 2020/21 review, in line with the statutory timeframe.

## **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 Councils 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. 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.

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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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**Dispensation Decision**

Date dispensation request considered by Monitoring Officer/ <del>Chairman of Constitution and Ethics Committee and the Council's Independent Person</del>	12/02/20
Name of Councillor requesting dispensation:	Co-Opted Member of Children and Education Scrutiny Committee – Mr Flavio Vetesse
Dispensation granted : Yes / No	Yes
The business of the council for which the dispensation has been given (if appropriate)	Dispensation to speak (but not vote) at the meeting of the council's Children and Education Scrutiny Committee on 12 February 2020 in relation to the Request to call in an Executive Decision “proposal to open a voluntary aided Roman Catholic Primary School – JAN20/CMDN/78”
Reasons for the decision  <i>(If granted, also specify on what grounds the decision was made, i.e. the dispensation is in the interests of persons living in the authority's area)</i>  See extract from Localism Act below	It was considered appropriate (under s33 [1](c) and/or (e)) to grant a dispensation to speak (but not vote) . Mr Vetesse is employed as the Deputy Director for Schools - Roman Catholic Diocese of East Anglia and this is registered on his Register of Interests as a disclosable pecuniary interest. The proposal under consideration relates to the creation new Roman Catholic Primary School. As a nominated church representative on a local authority education committee Mr Vetesse usually has statutory voting rights on any education matter under the Education Act 1996. However under the Localism Act 2011 as he has a Disclosable Pecuniary Interest due to his employment with the Roman Catholic Diocese he cannot participate in the discussion or vote unless he has obtained a dispensation to do so. I considered it appropriate for him to be allowed to speak in fulfilment of his statutory role but not vote due to the conflict of interest due to his employer's interest in the issue to be decided.
Length of dispensation	For this meeting alone

Signed:           Fiona McMillan           Dated:           12/02/2020          

**Monitoring Officer - Peterborough City Council**

## **Extract from Localism Act 2011**

### **33 Dispensations from section 31(4)**

(1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.

(2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

(a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) considers that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

(3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.

(4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.



**Dispensation Decision**

Date dispensation request considered by Monitoring Officer/ <del>Chairman of Constitution and Ethics Committee and the Council's Independent Person</del>	18/09/20
Name of Councillor requesting dispensation:	Cllr Nigel Simons - Chairman of Adults and Communities Scrutiny Committee
Dispensation granted : Yes / No	Yes
The business of the council for which the dispensation has been given (if appropriate)	Dispensation to speak (but not vote) at the meeting of the council's Adults and Communities Scrutiny Committee on 30 September 2020 in relation to the "Review of Vivacity Transition Arrangements" item
Reasons for the decision  <i>(If granted, also specify on what grounds the decision was made, i.e. the dispensation is in the interests of persons living in the authority's area)</i>  See extract from Localism Act below	It was considered appropriate (under s33 [1](c) and/or (e)) to grant a dispensation to speak (but not vote). Cllr Simons has been appointed by the council onto the board of Aragon Direct Services Ltd and this is registered on his Register of Interests. The proposal under consideration relates to the arrangements for services currently run by Vivacity to move back to the council and sports and leisure services will transfer to Peterborough Ltd (Aragon), a wholly-owned company of the council. I considered it appropriate for him to be allowed to speak in order to be able to represent his council appointed role but not vote (if any vote is taken) due to the potential conflict of interest.
Length of dispensation	For this meeting alone

Signed:           Fiona McMillan           Dated:           18/09/2020          

**Monitoring Officer - Peterborough City Council**

**Extract from Localism Act 2011**

**33 Dispensations from section 31(4)**

(1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-

opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.

(2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

(a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) considers that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

(3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.

(4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 11
<b>12 OCTOBER 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

RECOMMENDATIONS	
<b>FROM:</b> <i>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 note the update on the National Code of Conduct	

### 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 to provide the Committee with an update on the model code of conduct and consultation from the Local Government Association (LGA).
- 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 The LGA wrote to all Councils on 18th February 2020 to provide an update on progress with revising the Model Code of Conduct. The background to this review was the report by the Committee on Standards in Public Life on Local Government Ethical Standards which was published on 30 January 2019 <https://www.gov.uk/government/publications/local-government-ethical-standards-report>. One of the recommendations of this report was 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". The proposed update to the Model Code of Conduct is the first major review since the new standards regime was introduced in the Localism Act 2011.
- 4.2 It was reported that the Board of the LGA, at its meeting on 11 September 2019, had considered and agreed to commence a review of the Code ahead of Central Government's response to the recommendations of the CSPL report. This work was part of a wider programme of work on Civility in Public Life, 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. If the code was completed before any government response Local Authorities would be able to adopt the Code. Some of the recommendations in the report, for example the power to suspend councillors (recommendation 16), required legislation which meant that such provisions could not be included in the Code.
- 4.3 The first stage of the LGA review was the gathering of views and good practice examples. A series of workshops with national representative bodies (Monitoring Officers, Democratic Services officers and elected members from the main parties), to review what worked and develop some broad principles. At the workshops there were mutual concerns expressed by members and officers about the current codes, inconsistencies in application and lack of guidance and effective sanctions. The LGA set out the next stages of the review process, and confirmed that the draft consultation code would be sent to local authorities following the LGA board meeting for comment.
- 4.4 The LGA then wrote to Councils again on 20th March 2020 to confirm that the LGA Board had considered the draft consultation Model Code on 12th March 2020 and had authorised officers to commence a nine-week consultation process commencing 19th March 2020. Consultation questions prepared with the assistance of its consultants Hoey Ainscough were published on its website. It had planned to have regional workshops as part of the consultation exercise but due to government Covid-19 advice on gatherings it had asked its consultants to help it develop discussion of the Code via webinars. The original consultation timetable was postponed due to Covid-19. On 9th June 2020, the LGA wrote to the Council to confirm that it had launched the consultation on the Code on 8th June via its website <https://local.gov.uk/code-conduct-consultation-2020>.
- 4.5 The consultation on the draft member code of conduct ran for 10 weeks from Monday 8th June until Monday 17th August. It is hoped this provided officers and members with enough time to reflect on the draft model member code of conduct and provide the LGA with feedback whilst also continuing to respond to the COVID-19 crisis. To facilitate the consultation an online consultation questionnaire was produced for both members and officers.
- 4.6 The LGA is now considering all consultation responses and aims to bring a revised model code to the LGA Annual conference which was due to take place in the autumn. No further updates have been received to date.

#### 4.7 **Committee of Standards in Public Life**

On 20th July 2020 a letter was sent to all Local Authorities Chief Executives ( **attached as Appendix 1**) as a follow up the 15 best practice recommendations made in 2019 Local Government report, representing a benchmark for ethical practice and which they expect any local authority should implement. The Committee intends to review the implementation of best practice in 2020 and will be writing to authorities later this year to seek their implementation progress.

#### 5. **CONSULTATION**

5.1 At PCC all members and parish councils were circulated the details of the consultation with an invitation for them to individually take part in the consultation exercise and details were also included in the weekly briefing to all staff inviting them to do the same.

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

6.1 Awaiting final consultation response from the LGA.

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

7.1 The report is for members to note.

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

8.1 None at this stage.

#### 9. **IMPLICATIONS**

##### **Financial Implications**

9.1 There are none.

##### **Legal Implications**

9.2 There are none at the current stage.

##### **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 LGA Model Code of Conduct

#### 11. **APPENDICES**

11.1 Appendix 1 – email to Chief Executives

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Room G.07  
1 Horse Guards Road  
London  
SW1A 2HQ

[public@public-standards.gov.uk](mailto:public@public-standards.gov.uk)

Sent by email  
to Local Authorities in England  
For the attention of the Chief Executive

**Committee on  
Standards in  
Public Life**

July 2020

## **LOCAL GOVERNMENT ETHICAL STANDARDS**

I am writing from the Committee on Standards in Public Life to follow up recommendations made in our January 2019 [report](#) on local government ethical standards.

In that report, we identified some best practice recommendations which represent a benchmark for ethical practice and which we expect any local authority should implement.

We said in our report that we would review the implementation of those best practice recommendations in 2020. We completely understand the unexpected and unprecedented pressures that local authorities are facing this year with COVID-19, so we are not of course asking for an immediate response. The purpose of this email is to let you know that we will be writing again in the autumn to ask you for your progress against these recommendations. I have attached a list of the best recommendations for ease of reference, but they are of course also set out in the report.

If you have any questions, please do just let us know. Otherwise, we wish you well and look forward to being in touch again later this year.

Secretariat  
Committee on Standards in Public Life

## List of Best Practice Recommendations

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial. 19 List of best practice

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.



**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

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<b>CONSTITUTION AND ETHICS</b>	AGENDA ITEM No. 12
<b>12 OCTOBER 2020</b>	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance/Monitoring Officer	
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>RECOMMENDATIONS</b>	
<b>FROM: Monitoring Officer</b>	<b>Deadline date: N/A</b>
<p>It is recommended that the Constitution and Ethics Committee:</p> <p>1. Notes the report on complaints received/being handled by the Monitoring Officer/Deputy Monitoring Officer since the Committee's last meeting on 30th September 2019.</p>	

### **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 - City Councillors**

Since the Committee's last report on 30<sup>th</sup> September 2019, there has been ten new complaints received in relation to city councillors. It should be noted that complaints handling was generally put on hold between the end of March and July 2020 due to Covid-19 issues taking precedence. The new complaints received include:

- i) A complaint from a councillor about another councillor in relation to the use of premises for party political purposes (October 2019) - the Monitoring Officer considered the evidence submitted and was unable to conclude that any rules had been breached. The Monitoring Officer agreed to bring an item to Constitution and Ethics Committee proposing an amendment to the Member Officer protocol which clarified the legal requirements for the use of council premises.
- ii) A complaint from a councillor about the behaviour of other councillors at a council meeting (October 2019). After reviewing footage from meeting it was considered there was insufficient evidence to proceed but the Monitoring Officer agreed that it would be raised at Group Leaders and the Mayor would be asked to warn members about expected standards of behaviour at the start of each council meeting.
- iii) A complaint from a councillor in relation to the behaviour of another councillor at a council meeting (October 2019 - put on hold – final evidence submitted January 2020). This matter is currently under investigation by an external investigator.
- iv) A complaint from a councillor about another councillor in relation to an email sent which related to the complaint at iii) above (December 2019). The Monitoring Officer considered the complaint was not supported by the evidence provided so no further action to be taken.
- v) A complaint was made by a councillor in relation to a social media post by another councillor (December 2019). The Monitoring Officer asked the complainant for further information – this was only received recently due to the complainant overlooking the MO's email. Due to be discussed with the Independent Person.
- vi) A complaint was received from a councillor about a social media post by another councillor (March 2020) – the councillor apologised and removed the post immediately so no further action is to be taken.
- vii) A complaint was made by a councillor about another councillor putting a photo on social media which appeared to show a lack of social distancing (August 2020). The councillor clarified that

it was an old picture reposted following the death of someone in the photo. No further action necessary.

- viii) A complaint from a councillor in relation to social media posts by another councillor (received September 2020) - this awaits initial assessment by the Monitoring Officer and Independent Person
- ix) A complaint from a councillor in relation to social media posts by another councillors (received September 2020) - linked to (viii) above – the Monitoring Officer is awaiting a response from the councillor and then will consider alongside the Independent Person
- x) A complaint was received from a member of the public relating to social media posts by a councillor (September 2020). The complaint has been resolved following a discussion between the parties and the complaint has been withdrawn.

### **New complaints – Parish Councillors**

- i) There have been new complaints made by one parish councillor against two other councillors at the same parish council in respect of issues arising at a Parish Council meeting. These have only just been received (September 2020) and are therefore still at the very early stages of the process.
- ii) A complaint has just been received by a parish councillor about another parish councillor involving allegations of bullying (October 2020).  
Other new but now concluded complaints in relation to parish councillors include:
  - 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

These were initially assessed with the Council's Independent Person, the outcomes of which are reported below:

#### 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.

## 4.2 Update on complaints reported to last meeting

### City Council complaints

Following assessment by the Council’s Independent Person and Monitoring Officer, three complaints about one councillor were previously referred for a formal investigation by an external investigator, 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 said they were “appalled”. The complaint is that the post was in breach of the Council’s Social Media Code.

The investigator found that there was a breach of the code of conduct in relation to one of the complaints. The Monitoring Officer and Independent Person considered the investigator’s recommendation that, taking the complaints as a whole, an alternative resolution in the form of social media training should be sought in order to resolve the complaint without the need for a hearing. The councillor agreed to attend training and this was organised and took place on 9<sup>th</sup> July 2020. The councillor attended and participated fully and therefore no further action will be taken.

## 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

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<b>CONSTITUTION AND ETHICS COMMITTEE</b>	AGENDA ITEM No. 13
<b>12 OCTOBER 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 2020/21.

## APPENDIX A

DATE: 12 OCTOBER 2020			
		Section / Lead	Description
	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, motions submission review, Petition scheme, voting and abstentions	Pippa Turvey/Fiona McMillan Democratic Services	To update the Council's standing orders to include cut off for Members to raise queries on omissions from minutes, submissions of motions, petition scheme and voting/abstentions
	Member Officer Protocol	Fiona McMillan Legal	To review working arrangements of motions and working with officers of the Council and use of Council resources, to review use of Council premises.
	Review of urgent Decisions	Fiona McMillan Legal	To review reasons for urgent decisions being taken.
	Independent Remuneration Panel	Pippa Turvey Democratic Services Officer	Terms of Reference for the Independent Remuneration Panel
	<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	

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<b>DATE: 23 NOVEMBER 2020</b>			
		<b>Section / Lead</b>	<b>Description</b>
	Social Media Policy/Guide	Fiona McMillan Legal	To review the Social Media code for members.
	<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	

<b>DATE: 8 FEBRUARY 2021</b>			
		<b>Section / Lead</b>	<b>Description</b>
	<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	

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