

Addendum

Standards Committee

Dear Councillor,

Standards Committee - Tuesday, 1 September 2020, 6.00 pm

I enclose, for consideration at the meeting of the Standards Committee to be held on Tuesday, 1 September 2020 at 6.00 pm, the following report which was unavailable when the agenda was published.

Mari Roberts-Wood
Interim Head of Paid Service

4. **Annual Standards Report** (Pages 3 - 28)

To provide an update on the key elements of the Standards arrangements at the Council.

For enquiries regarding this addendum;

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Agenda Item 4



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TO	Standards Committee
DATE	1 September 2020
LEAD MEMBER	Chair of Standards

KEY DECISION REQUIRED	No
WARDS AFFECTED	All Wards

SUBJECT	Annual Standards Report
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RECOMMENDATIONS
1. That the Committee receives and notes the Annual Standards Report 2019/20
REASONS FOR RECOMMENDATIONS
To demonstrate the promotion and maintenance of high standards of conduct by Councillors.
EXECUTIVE SUMMARY
This report summarises the discharge of the Standards function during 2019/20, including but not limited to: <ul style="list-style-type: none"> • The Member Code of Conduct • Complaints against Members • The role of the Monitoring Officer • Maintenance of the Register of Interests
The Standards Committee may receive and note this report

Agenda Item 4

STATUTORY POWERS

The Localism Act 2011 requires Councils to have in place locally focussed processes for regulating the conduct of Members. The Act also imposes a duty on Councils to promote and maintain high standards of conduct by Members.

REIGATE AND BANSTEAD CODE OF CONDUCT

Code of Conduct

1. All Members were provided with Code of Conduct training after the local elections in 2019.
2. The Member Code of Conduct was comprehensively reviewed during 2019/20 by the Monitoring Officer and the Governance Task Group, in accordance with the findings of the review conducted by the Committee on Standards in Public Life.
3. The Governance Task Group agreed the revised Code of Conduct in March 2020, and recommended the Code to Council for approval in July 2020 where it was duly approved. A summary of the revisions are set out below for ease of reference and the full amended code is attached.
 - Defining Bullying/harassment and examples of such behaviours
 - Consideration of the application of the Code of Conduct to Social Media
 - Introduction of a requirement to declare gifts and hospitality over £25

Complaints against Members

4. The procedure for dealing with complaints involves the following four stages:
 - initial consideration by the Monitoring Officer (Stage 1)
 - local resolution (Stage 2)
 - referral to an Assessment Panel (Stage 3)
 - determination by a Hearings Sub-Committee (Stage 4)
5. Three complaints against Members were received in 2019/20, from members of the public and a complaint against a Member was made by a member of staff. Two were resolved, and one complex case is ongoing. All three cases related to a perceived failure to treat others with respect.
6. Of the two cases that were resolved, one failed to meet the threshold of a valid complaint, and the other was informally resolved by the office of the Monitoring Officer, having spoken with the Member concerned, writing to the complainant in clarification.
7. The Monitoring Officer did receive a complaint against a Member by a member of staff during the relevant period. Whilst the matter is now concluded, it did reveal a number of learning points and areas of improvement which could be made to the current protocol. During the coming Municipal Year, the Monitoring Officer and Deputy Monitoring Officer will work with the Standards Committee and its Chair to implement those learning points and bring forward an updated protocol to bring increased clarity and transparency to the process.

Role of the Monitoring Officer

8. The Role of the Monitoring Officer is held by the Commercial and Investment Director, a qualified lawyer. The Deputy Monitoring Officer is the Head of Legal and Governance.

Maintenance of the Register of Interests

9. The register of interests forms are completed by Members electronically, verified, and published on the Council's website.

LEGAL IMPLICATIONS

10. The Constitution sets out the role of the Standards Committee, and the Monitoring Officer, in promoting high standards of conduct. This committee helps to promote and maintain the highest standards of conduct amongst members of the Council, and ensures that Councillors act in accordance with the Local Government Code of Conduct
11. The Council has recently formed a Governance Task Group. This is a cross-party Task Group should be established to provide a forum for the continued review of governance matters by the Council.
12. The Terms of Reference for the Standards Committee and the Governance Task Group will require a review to ensure there is no overlap or confusion between their distinct remits,

CONSULTATION

13. The Monitoring Officer consulted on necessary matters with the Chair of the Standards Committee throughout the year.
14. Regular update meetings are held with the Standards Committee Chairman and the Political Group Leaders throughout the year. These provide a proactive opportunity to promote good conduct and raise any concerns at an early stage
- 15.

BACKGROUND PAPERS

16. Minutes from Annual Standards meeting June 2018
17. Code of Conduct
18. Procedures for dealing with complaints under the member code of conduct

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BOROUGH OF REIGATE AND BANSTEAD
STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held at the Front Committee Room - Town Hall, Reigate on 25 June 2018 at 7.00 pm.

Present: Councillors Mrs. R. S. Turner (Chairman), Mrs. R. Mill (Vice-Chair), T. Archer, N. D. Harrison and F. Kelly (Substitute); and co-opted Member Councillor J. Baird of Horley Town Council.

Members were advised at the start of the meeting that there was a need to consider 'Apologies' (item 4 on the agenda) first in order for Councillor F. Kelly to vote as a substitute during items 1 - 3.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor R. C. Newstead (substituted for by Councillor F. Kelly); and co-opted Member Councillor Mrs. J. Ashton of Salfords and Sidlow Parish Council.

2. ELECTION OF CHAIRMAN

RESOLVED that Councillor Mrs. R. S. Turner be elected Chairman of the Committee for the Municipal Year 2018/19.

Councillor Mrs. R. S. Turner took the Chair.

3. ELECTION OF VICE CHAIRMAN

RESOLVED that Councillor Mrs. R. Mill be elected Vice-Chairman of the Committee for the Municipal Year 2018/19.

4. MINUTES

RESOLVED that the minutes of the meeting held on 20 June 2016 be approved as a correct record.

5. DECLARATIONS OF INTEREST

None.

6. ANNUAL STANDARDS REPORT

The Committee received an update on Standards matters from the Interim Monitoring Officer. The report covered:

- Code of Conduct;
- Register of Interests;
- Complaints procedures;
- Code of Conduct complaints 2017/18;
- Group Leader meetings;
- Member training;

- Arrangements for appointing a statutory Monitoring Officer.

Members asked why the formal process for complaints in respect of Members and the Code of Conduct only related to complaints about something that occurred within the last six months. The Interim Monitoring Officer explained that, for the completeness and accuracy of the information concerned, it was not practical to investigate complaints more than six months ago. Despite this, the Interim Monitoring Officer still undertook to investigate and resolve those complaints which were more than six months old on an informal basis. The Interim Monitoring Officer highlighted the importance of the role of political Group Leaders in resolving complaints since the Localism Act 2011 which abolished the Standards Board regime.

Members sought to improve the transparency of those complaints which were not brought to the Standards Committee. With this in mind, the Committee expressed a desire to review the Code of Conduct and terms of reference of the Standards Committee. The Interim Monitoring Officer advised Members that the timing of such a review would be more prudent when a permanent appointment had been made to the position of Monitoring Officer.

The Committee discussed the Code of Conduct training arrangements in place for Members, the Member/officer protocol and the nature of the complaints typically received by the Interim Monitoring Officer.

RESOLVED that the report be noted.

7. ANY OTHER URGENT BUSINESS

None.

The Meeting closed at 7.32 pm

Member Code of Conduct

Part 1 – Provisions of the Code

1.1 Interpretation

- 1) This Code applies to you as a member of the authority, when acting in that capacity.
- 2) This Code is based upon seven principles fundamental to public service, which you must have regard to, in order to comply with the Code. The seven principles are:

Selflessness: Members should act solely in terms of the public interest

Integrity: Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Accountability: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Objectivity: Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness: Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty: Members should be truthful

Leadership: Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

- 3) It is your responsibility to comply with the provisions of this Code. If you need guidance on any matter about this Code you should seek it from the Monitoring Officer, or your own legal advisor.
- 4) It is a criminal offence to fail to notify the Monitoring Officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the Monitoring Officer.

- 5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code, the authority has the right to have regard to this failure in deciding –
 - a) whether to take action in relation to you, and
 - b) what action to take
- 6) Members must comply with any reasonable request by the Monitoring Officer regarding the provision of information in relation to a complaint that alleged a breach of the Code of Conduct, and must comply with any formal standards investigation.
- 7) Members must not misuse this Code by, for example, making trivial or malicious allegations against another Member.

1.2 Scope

- 1) You must comply with this Code whenever you:
 - a) conduct the business of the authority, which includes the business of the office to which you are elected or appointed; or
 - b) act, claim to act or give the impression you are acting as a representative of your authority
- 2) Where you act as a representative of your authority
 - a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

1.3 Obligations

- 1) **You must not:**
 - a) conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute
 - b) do anything which may cause your authority to breach any of its equality duties (in particular set out in the Equality Act 2010)
 - c) demonstrate objectively unacceptable behaviour, including, but not limited to:
 - i) bullying or harassment, including, without limitation: spreading malicious rumours, or insulting someone by word or behaviour, being offensive, intimidating, or misusing power to undermine, humiliate, denigrate or injure the recipient

- ii) copying written material, including emails, that are personally critical about someone, or continuing an email chain designed to seek to criticise someone
- iii) ridiculing or demeaning someone - picking on them or setting them up to fail, such as testing someone's knowledge, or 'putting them on the spot' in order to prove that they are inexperienced or incompetent
- iv) exclusion or victimisation, including excluding someone from a meeting that they would otherwise be entitled to attend, or ostracising someone for having not agreed with you
- v) unfair treatment, or treatment that could be perceived to be unfair
- vi) overbearing supervision or other misuse of power or position, such as not respecting the delineation of roles and responsibilities as set out in the Member / Officer protocol, for example repeat emails to a junior officer requesting updates
- vii) making threats or comments about job security, such as asking someone when they were considering retirement
- viii) deliberately undermining a competent employee by overloading or constant criticism, either in meetings or in written format, or indirectly in the media, or with residents
- ix) preventing individuals progressing by intentionally blocking promotion or training opportunities, as a consequence of your perception of something that they had done
- x) invading someone's personal space, by standing or sitting too close to them
- xi) speaking, or writing to someone in an overbearing manner, seeking to highlight or correct minor inconsequential matters
- xii) using aggressive body language, such as pointing, or preventing access to a room or preventing access to documentation
- xiii) undermining or belittling someone, by seeking an alternative view from someone at another authority or elsewhere for the specific purpose of undermining someone at the Council
- xiv) unwelcome advances - touching, standing too close, asking for favours, making a decision on the basis of advances being accepted or rejected
- xv) making abusive, derogatory, patronising, suggestive or sexualised comments or sounds, particularly in meetings which are webcast, or on voicemails
- xvi) making jokes or insulting gestures or facial expressions, what you may identify as a joke may not be perceived as a joke by others
- xvii) ridicule, for example mocking the way something has been written or said and repeatedly mentioning it thereafter
- xviii) offensive e-mails, tweets or comments on social networking sites, where you are acting in your role as a Member
- xix) trolling via social networking sites, where you are acting in your role as a Member
- xx) threats of aggression or intimidation, such as seeking to persuade someone to change their opinion or, in the case of a Member, the way they were considering voting
- xxi) making false and malicious assertions, such as commenting on perceived pecuniary interests of Members, or emphasising some information that you do not know to be true
- xxii) intrusive questioning about private matters, such as someone's relationship status, pastimes or private interests

- xxiii) display of offensive material, or material that may be perceived as offensive by a designated group of people, such as the wearing of offensive badges, ties or clothing, or by the posting of written material on social media or in hard copy format
 - xxiv) comments on dress or appearance, even when you think that would be complementary
 - xxv) any of the behaviours listed above, occurring separately or cumulatively.
- d) Intimidate or improperly influence or attempt to intimidate or improperly influence any person who is or is likely to be
- i) a complainant
 - ii) a witness; or
 - iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Code; or
- e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority
- f) use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage
- g) prevent another person from gaining access to information to which that person is entitled by law
- h) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
- i) you have the consent of the person authorised to give it
 - ii) you are required by law to do so
 - iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - iv) the disclosure is
 - a) reasonable and in the public interest; and
 - b) made in good faith and in compliance with the reasonable requirements of the authority

2) You must

- a) treat others with respect, and robustly challenge poor behaviour of other Members, including, but not limited to the behaviours set out at 1) 3) c), above.
- b) when using or authorising the use by others of the resources of the authority
 - i) act in accordance with the authority's reasonable requirements
 - ii) act in compliance with the requirements of the Bribery Act 2010
 - iii) ensure that such resources are not used improperly for political purposes; and
 - iv) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

c) when reaching decisions on any matter, have regard to any advice provided to you by

- i) the Chief Finance Officer
- ii) the Monitoring Officer

where that officer is acting pursuant to their statutory duties

d) give reasons for all decisions in accordance with statutory requirements and any reasonable additional requirements required by the authority.

Part 2 – Interests

2.1 Personal Interests

- 1) The interests described in paragraphs 3 and 4 are your **personal interests**, and the interests described in paragraph 5 are your **pecuniary interests** which are **disclosable pecuniary interests** as defined by section 30 of the Localism Act 2011.
- 2) If you fail to observe Parts 2 and 3 of the Code in relation to your interests –
 - a) The authority may deal with the matter in accordance with paragraph 1, 5) of this Code
 - b) If the failure relates to a disclosable pecuniary interest, you may also become subject to criminal proceedings as described in paragraph 1, 4)
- 3) You have a personal interest in any business of your authority where either –
 - a) It relates to or is likely to affect –
 - i. any body of which you are a Member or in a position of general control or management and to which you are appointed or nominated by your authority
 - ii. any body –
 - a) exercising functions of a public nature
 - b) directed to charitable purposes; or
 - c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which you are a member or are in a position of general control or management
 - iii. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25; or
 - b) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a **relevant person** to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the Ward, affected by the decision
- 4) A **relevant person** is –
 - a) a member of your family or a close associate; or
 - b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- d) any body of a type described in paragraph 3 a i) or ii)

Disclosable pecuniary interests

- 5) You have a **disclosable pecuniary interest** as defined by section 30 of the Localism Act 2011 in any business of your authority where i) you or ii) your partner (which means your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) has an interest as described below:

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses, incurred by a Member in carrying out duties as a Member, or toward the election expenses of a Member. This includes and payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority a) under which goods or services are to be provided or works are to be executive; and b) which has not been fully discharged.
Land	Any beneficial interest in land which is with the area of the relevant authority.
Licenses	Any license (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy, where to the Member's knowledge a) the landlord is the relevant authority; and b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body or place where a) that body, to the Member's knowledge) has a place of business or land in the area of the relevant authority; and b) either i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issues share capital of that body; or ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds exceeds one hundredth of the total issued share capital of that class.

- 6) In paragraph 5, any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.

Gifts and Hospitality

- 7) A Member must, within 28 days of receiving any gift, benefit, or hospitality over the value of £25, provide written notification to the authority's Monitoring Officer of the existence and nature of that gift or hospitality.

2.2 Disclosure of Personal Interests

- 1) Subject to paragraphs 2-5 below, where you have a personal interest in any business of your authority and you attend a meeting of your authority at which any matter relating to the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent. This applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 3) Where you have a personal interest but, by virtue of paragraph 3.2, sensitive information relating to it is not registered in your authority's register of Members' interests, you must indicate to the meeting that you have a personal interest and, if so applicable, that it is a disclosable pecuniary interest, but need not disclose the sensitive information to the meeting.
- 4) Subject to paragraph (5 (1) b) , where you have a personal interest in any business of your authority and you have made an executive decision (in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000) on any matter in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

3. Prejudicial Interest

- 1) Subject to paragraph 2, where you have a personal interest in any business of your authority, you also have a prejudicial interest in that business where either:
 - a) the interest is a disclosable pecuniary interest as described at 5 above; or
 - b) the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest.
- 2) For the purposes of paragraph (3(1)) above, you do not have a prejudicial interest in any business of the authority where that business:
 - a) does not affect your financial position or the financial position of a person or body described in paragraph (2.1(5));
 - b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph (2.1(5)); or
 - c) relates to the functions of your authority in respect of:
 - i) housing, where you are a tenant of your authority provided that those functions
 - ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay;
 - iv) an allowance, payment or indemnity given to Members;
 - v) any ceremonial honour given to Members; and

- vi) setting Council Tax or a precept under the Local Government Finance Act 1992

4. Interests arising in relation to the Overview and Scrutiny function

You also have a personal interest in any business before an overview and scrutiny committee of your authority (or a sub-committee) where

- a) that business relates to a decision made (whether implemented or not) or action taken by the Executive, or another committee of the authority; and
- b) at the time the decision was made or action was taken, you were a Member of the Executive, or committee, and you were present when that decision was made or action was taken.

5. Effect of Prejudicial Interests on Participation

- 1) Subject to paragraphs 2 and 3 below, where you have a prejudicial interest in any matter in relation to the business of the authority
 - a) you must not participate, or participate further, in any discussion of the matter at any meeting, or participate in any vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the matter is being held
 - i) in a case where paragraph 2 below applies, immediately after making representations, answering questions or giving evidence;
 - ii) in any other case, whenever it becomes apparent that the matter is being considered at that meeting;unless you have obtained a written dispensation from the Monitoring Officer or Standards Committee
 - b) you must not exercise Executive functions in relation to that matter; and
 - c) you must not seek improperly to influence a decision about that matter.
- 2) Where you have a prejudicial interest in any business of your authority which is not a disclosable pecuniary interest as described in paragraph (2.1(5)), you may attend a meeting (including a meeting of the Overview and Scrutiny committee) but only for the purposes of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- 3) Where you can have a prejudicial interest which is not a disclosable pecuniary interest as described in paragraph (2.1(5)), arising solely from membership of any body described in (2.1 (3)(a)(i)) or (2.1(3)(a)(ii)(a)) then you do not have to withdraw from the room or chamber and may make representations to the committee but may not participate in the vote.

Part 3 - Registration of Interests

3.1 Registration of Members' Interests

- 1) Subject to section 2 below, you must, within 28 days of
 - a) this Code being adopted by the authority; or

- b) your election or appointment to office (where that is later), register in the register of Members' interests details of –
 - i) your personal interests where they fall within a category mentioned in paragraph (2.1)(3)(a) and
 - ii) your personal interests which are also disclosable pecuniary interests where they fall within a category mentioned in paragraph (2.1)(5)

by providing written notification to the Monitoring Officer

- 2) You must, subject to section 2 below, within 28 days of becoming aware of any new personal interest falling within paragraph (3.1(1)(b)(i)) or (3.1(1)(b)(ii)) or any change to a personal interest registered under paragraph (3.1(1)(b)(i)) or (3.1(1)(b)(ii)), register details of that new personal interest or change by providing written notification to the Monitoring Officer.

3.2 Sensitive Information

- 1) Where you consider that the information relating to any of your personal interests is sensitive information, and the Monitoring Officer agrees, the Monitoring Officer shall not include the details of the interest on any copies of the register of Members' interests which are made available for inspection or any published version of the register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- 2) You must, within 28 days of becoming aware of any change of circumstances which means that information.
- 3) In this Code, 'sensitive information' means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

Part 4 – Dispensations

- 1) The Standards Committee, or the Monitoring Officer may, on written request made to the Monitoring Officer by a Member, grant a dispensation relieving the Member from either, or both, of the restrictions in paragraph (5 (1)(a)) (restrictions on participating in discussions and in voting), in cases described in the dispensation.
- 2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Standards Committee or the Monitoring Officer
 - a) considers that without the dispensation, the number of persons prohibited by paragraph 12 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 area of the authority
 - d) considers that without the dispensation each Member of the Executive (where the matter is an Executive function) would be prohibited by part 2 (3) from participating in any particular business to be transacted by the Executive; or
 - e) considers that it is otherwise appropriate to grant a dispensation.

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- 3) A dispensation must specify the period for which it has effect, and the period specified may not exceed 4 years.
- 4) Part 2 (3) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

Part 5 – Council Tax Arrears

- 1) Section 106 of the Local Government Finance Act 1992 restricts the rights of Members who are two months or more in arrears with their Council Tax payments. Any such Member must disclose the fact and must not vote at any meeting on decisions being taken which might affect the level of Council Tax or the arrangements for administering it. Failure to comply is a criminal offence.

Annex to this code – definitions

'Authority' means Reigate and Banstead Borough Council

'Code' means this Code of Conduct

'Committee' includes any sub-committee, or other body, howsoever named, discharging the function of a Committee for the timebeing

'co-opted member' means a person who is not a member of the authority but who:

- a) is a member of any committee or sub-committee of the authority
- b) is a member, and represents the authority on, any joint committee of the authority

and who is entitled to vote on any question that falls to be decided at any meetings of that Committee

'meeting' means any meeting of

- a) the authority;
- b) the executive of the authority;
- c) any meeting of the authority's or its executive's committees, sub-committees, joint committees, joint-sub committees, or area committees

'Member' includes a co-opted Member

'register of Members' interests' means the authority's register of Members' pecuniary and other interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

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Reigate and Banstead Borough Council

Procedures for Dealing with Complaints Under the Member Code of Conduct



Introduction

1. The Council takes all allegations of Member misconduct extremely seriously and seeks to secure the highest standards of conduct at all times.
2. The Council's Standards Committee is responsible for dealing with allegations that a Member may have failed to observe the Council's Member Code of conduct and has introduced procedures to ensure fairness and transparency whilst, at the same time, providing proportionate, cost effective and timely action.
3. The Committee has therefore introduced the following four stage procedure:
 - initial consideration by the Monitoring Officer (Stage 1)
 - local resolution (Stage 2)
 - referral to an Assessment Panel (Stage 3)
 - determination by a Hearings Sub-Committee (Stage 4)

(Note: All stages may not be required. See also paragraph 5 below).
4. The aim is to resolve complaints within 3 months of receipt although in complex cases requiring investigation this may not always be possible. All interested parties will be kept informed of progress in dealing with the complaint through the above stages.
5. In advance of the four stages referred to under paragraph 3 above, it is open to any person who is concerned about a Member conduct issue, to contact the Council's Monitoring Officer for informal confidential advice.

Criteria for Complaints

6. Complaints must:
 - relate to a serving Member or co-opted Member of the Council
 - name who the complaint is against
 - relate to conduct within the last six months
 - relate to conduct that occurred at a time when the person against whom a complaint is made was a Member of the Council
 - explain the alleged breach of the Member Code of Conduct
 - be made in writing and, where appropriate, provide relevant documentation

6. Complaints must not:
- be vexatious, frivolous or politically motivated
 - be anonymous
 - relate to the Members private life

Initial Consideration by the Monitoring Officer (Stage 1)

7. All allegations of Member misconduct must be referred to the Council's Monitoring Officer to consider and determine whether:
- the criteria set out above is met
 - no further action is required
 - the complaint appears to show a breach of the Code
 - a local settlement is appropriate or
 - referral of the allegation to an Assessment Panel, if necessary
8. Complaints will be acknowledged in writing within five working days of receipt. At the same time the Member against whom the allegation is made will be provided in writing with details and his or her initial views sought. The Member involved will also be informed of his/her right to consult with an Independent Person.
9. The Monitoring Officer will consult with one of the Council's Independent Persons giving an initial indication that the complaint is either to be rejected ("no further action"); or accepted as meeting the required criteria leading to local resolution (Stage 2) or referral to the Assessment Panel (Stage 3). Having consulted the Independent Person the Monitoring Officer will determine what course of action is to be taken and notify in writing the Independent Person accordingly.
10. Interested parties will also be notified in writing of the proposed action, procedures involved, where appropriate, and the reasons for the decision. Determinations under this delegation will be reported to the Standards Committee by the Monitoring Officer on a quarterly basis. In the case complainants the decision of the Monitoring Officer is final. Information about the complaint may be shared by the Monitoring officer with the Leader of the Council and relevant group leaders.

Local Settlement (Stage 2)

11. The Standards Committee is aware that the formal investigation of complaints is both costly and time consuming. Whilst formal investigation may be necessary in some cases, it may be possible for complaints to be dealt with more rapidly and effectively through early informal resolution of the matter.

12. The Monitoring Officer is therefore authorised, upon receipt of a complaint, to consider and, if appropriate, explore the potential for local resolution to the satisfaction of the complainant, to avoid the need for referral to the Assessment Panel. Any attempt at local resolution at this stage does not take away the complainant's right to have the complaint of Member misconduct considered by the Assessment Panel.
13. In dealing with a complaint and whether it is capable of local resolution, the Monitoring Officer will consult an Independent Person appointed for this purpose. A key factor in local resolution will be the nature and complexity of the allegation and, typically, whether an apology and/or training would bring matters to a close. Local resolution is not, however, solely limited to these remedies.
14. The decision to proceed with local resolution rests with the Monitoring Officer following consultation with the Independent person and with the agreement of the complainant and the Member involved. This decision will be confirmed in writing to all parties.

Referral to an Assessment Panel (Stage 3)

15. Where local settlement cannot be achieved or is not appropriate (having regard to the nature and complexity of the allegation) the Monitoring Officer must arrange for referral to and consideration by an Assessment Panel.
16. The Assessment Panel shall be chaired by the Chairman or Vice-Chairman of the Standards Committee (but not both), and comprise the Chairman together with two other Members of the Committee. In the event that a complaint relates to a Parish Councillor from Horley Town Council or Salfords and Sidlow Parish Council one of the members of the assessment panel shall be a member of the other Parish Council.
17. Interested parties will be advised of the date time and location of the Panel and given the opportunity to provide written representations in advance of the meeting. No parties will be invited to the Assessment Panel at this stage. This is to ensure that the assessment of complaints is undertaken swiftly; additionally it is not expected that all the facts of the case need be considered in full at this preliminary stage.
18. The Panel (only) will be provided with a report by the Monitoring Officer, which will include the following:
 - details of the complaint
 - details of the Member's response to the complaint
 - any evidence which is available without the need for investigation
 - the outcome of consultation with the Independent Person
 - details of any attempt to negotiate a local settlement
 - written representations from any interested party
 - such other papers as the Monitoring Officer considers appropriate

19. Proceedings are at the discretion of the Chairman (upon advice from the Monitoring Officer or his/her nominated representative) but generally will be conducted as follows:
- introduction of Panel Members and others in attendance
 - outline of purpose of the meeting and how it will proceed
 - the Panel is not bound by the Access to Information rules and will not take place in public unless there are exceptional circumstances which dictate otherwise
 - the Panel will consider the Monitoring Officer's report and determine whether or not, on the basis of the complaint, there appears to have been a breach of the Code
 - in the light of these considerations, the Panel will recommend to the Monitoring Officer one of the following courses of action:
 - close the case on the basis that the evidence does not disclose an apparent breach of the Code of Conduct.
 - request that the complaint be formally investigated (on the basis that the alleged conduct appears sufficiently serious to merit the imposition of a penalty/sanction against the Member) leading to consideration by a Hearings Sub-Committee
 - other appropriate action short of formal investigation, for example requiring an apology, providing formal training (either individual or Council wide), securing conciliation or mediation or reviewing procedures to minimise conflict. This is not an exhaustive list and, in the main, will apply to less serious cases and where the parties involved are willing to engage in an amicable resolution.
20. The decision whether to close the case or take further action is delegated to the Monitoring Officer based on the recommendation of the Panel. The Monitoring Officer will write to all parties within 10 working days to advise them of his decision based on the outcome of the Assessment Panel.

Determination by a Hearings Sub-Committee (Stage 4)

21. Where a formal investigation has been undertaken, the Monitoring Officer must arrange for the relevant report to be considered by a Hearings Sub-Committee. The Monitoring Officer can appoint an independent investigator or a senior officer of the Council for the purposes of conducting the investigation.
22. The Hearings Sub-Committee shall comprise the Chairman or Vice-Chairman of the Standards Committee (but not both), together with two other Members of the Committee. As far as possible, the Sub-Committee must reflect the political balance of the Council. In the event that a complaint relates to a Parish Councillor from Horley Town Council or Salfords and Sidlow Parish Council one of the members of the assessment panel shall be a member of the other Parish Council.
23. The conduct of Sub-Committee meetings shall be in accordance with the Council's Constitution as supplemented by these procedures.

Pre-hearing Process

24. Upon receipt, the draft Investigator's report shall be sent to the complainant and relevant Member so that they can comment on any matters of fact. Parties will have two weeks in which to comment. Absence of response will be taken as meaning that there is no disagreement on facts in the draft report.
25. Once the Investigator's final report has been submitted, the Monitoring Officer or an informal meeting of the Hearings Sub-Committee may conduct a pre-hearing process in order to narrow the issues between the parties and make appropriate provision for the smooth running of the Hearing. Where this happens the Monitoring Officer will provide a letter to all parties outlining the issues to be determined and the arrangements for progressing all such matters.

Hearings Procedure

General

26. All interested parties will be:
 - notified in writing (no less than two weeks in advance) of the date, time and place of the Sub Committee (and Hearing)
 - provided with the Agenda and related reports for the Sub Committee (and Hearing)
 - allowed representation at the Hearing and given the opportunity to request the attendance of witnesses
27. The Investigator will be in attendance at the Hearing and will be given the opportunity to request the attendance of witnesses. The Council will be represented by the Monitoring Officer or his/her nominated representative. A representative of Democratic Services will be present.
28. Following election, the Chairman will:
 - introduce Members of the Sub-Committee and others in attendance
 - explain the purpose of the meeting and how it will proceed
29. The Monitoring Officer or his/her nominated representative will advise the Chairman whether the Hearing should be in public or private. The Access to Information Rules apply. In order to give confidence to the public it is expected that the Sub-Committee will take place in public unless there are exceptional circumstances which dictate otherwise.
30. The Sub-Committee will resolve any other issues or disagreements about how the Hearing should continue, which have not been resolved during the pre-hearing process.

Disagreements about facts

31. The Investigator will be invited to make representations to support the findings of his/her report and call supporting witnesses. The Member or their representative will be entitled to challenge the evidence given by any witness after each witness has completed their evidence.
32. Any Member of the Sub-Committee may then ask questions.
33. The Member or their representative will then be invited to make representations and give evidence to support their version of events. The Investigator will be entitled to challenge that evidence after the Member or representative has completed their evidence.
34. Any Member of the Sub-Committee may then ask questions.
35. The Member or their representative will then call any supporting witnesses in turn and may question them to ensure that their evidence on the facts is clear.

36. The Investigator will be entitled to challenge that evidence, after each witness has completed their evidence.
37. Any Member of the Sub-Committee may then ask questions.

Disagreement over facts that have not been identified by the Member in advance of the Hearing

38. The Sub-Committee will not allow the Member to raise a disagreement with the facts, which was not raised prior to the Hearing, unless the Member satisfies the Sub-Committee there are good reasons for not raising the disagreement before.
39. After considering the position and the Member's explanation for not raising the disagreement at an earlier stage the Sub-Committee may:
 - (a) continue the Hearing, relying on the information in the Investigator's report;
 - (b) allow the Member to make representations about the issue and invite the Investigator to respond and call any witnesses necessary; or
 - (c) adjourn the Hearing.

Determining whether the Member has failed to follow the Code

40. The Member or their representative will be invited to make representations as to why the Sub-Committee should not decide the Member has failed to follow the Code.
41. Any Member of the Sub-Committee may then ask questions.
42. The Investigator will be asked to make representations as to why the Sub-Committee should find there has been a breach.
43. Any Member of the Sub-Committee may then ask questions.
44. The Member or their representative will be invited to make any final points.
45. The Sub-Committee will adjourn and in private, with the Monitoring Officer or his/her nominated representative, consider its decision based on the facts presented.
46. The Hearing will reconvene and the Chairman will announce the Sub-Committee's findings of fact and whether the Member has failed to follow the Code of Conduct.

Procedure where there is a finding that the Code has been breached

47. The Investigator and then the Member or their representative will be invited to make representations as to:
 - (a) whether or not the Sub-Committee should set a penalty/sanction; and
 - (b) what form any penalty/sanction should take.
48. Any Member of the Sub-Committee may then ask questions of the Investigator or Member or his/her representative; and take advice from the Monitoring Officer or his/her representative.
49. The Sub-Committee will adjourn and in private, with the Monitoring Officer or his/her nominated representative, consider what if any, penalty/sanction should be imposed on the Member presented.

50. The Sub-Committee will reconvene and announce its decision(s) and confirm that a full written summary with the decision will be sent to all interested parties as soon as possible and in any event within the following ten working days.
51. The full written summary and decision will be placed on the Council's web for a period of four years or until the Councillor involved ceases to be a Member of the Council.

Withdrawing a Complaint

54. A complaint can be withdrawn at any stage by the complainant unless in the opinion of the Monitoring Officer it is in the wider interests of the Council that it be determined.

