



# Uttlesford District Council

Chief Executive: Dawn French

## Council

**Date:** Tuesday, 04 April 2017  
**Time:** 19:30  
**Venue:** Council Chamber  
**Address:** Council Offices, London Road, Saffron Walden, CB11 4ER

**Members:** All members of the Council.

### Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days' before the meeting.

## AGENDA PART 1

### Open to Public and Press

- 1 Apologies for absence and declarations of interest**  
To receive any apologies for absence and declarations of interest.
  
- 2 Minutes of the Meeting 23 February 2017** 5 - 16  
To consider the minutes of the meeting held on 23 February 2017.
  
- 3 Chairman's announcements**  
To receive any announcements from the Chairman

- 4 Reports from the Leader and members of the Executive**  
To receive matters of report from the Leader and members of the Executive
- 5 Matters received from the Executive (standing item)**  
To consider items referred from the Executive
- 6 Members' questions to the Leader, members of the Executive and chairmen of committees (up to 15 Minutes)**  
To receive members questions
- 7 Matters received about joint arrangements and external organisations**  
Matters concerning joint arrangements and external organisations
- 8 Matters received from committees and working groups (standing item)**  
  
To consider items received from committees and working groups.
- 8i Review of Standards Code of Conduct and Procedure** 17 - 62  
To consider a recommendation from the Standards committee.
- 8ii Member Officer Protocol** 63 - 82  
To consider a recommendation from the Constitution Working Group.
- 8iii Appointment of Substitutes on Committees** 83 - 86  
To consider a recommendation from the Constitution Working Group.
- 8iv Proposal for changes to Audit and Performance Committee** 87 - 94  
To consider a recommendation from the Constitution Working Group.
- 8v Pilot Youth Council Report April 4th 2017** 95 - 98  
To consider a report from the Youth Engagement Working Group.
- 9 Review of Political Balance** 99 - 104  
To consider the report on the political balance of the council.

**10 Appointments to fill vacancies on Committees and Working Groups**

To fill vacancies on the following committees:

Licensing and Environmental Health - 2 vacancies

Performance and Audit - 1 vacancy

Scrutiny - change of membership required to accommodate change in political balance - 1 vacancy

Constitution Working Group - 1 vacancy

Youth Engagement Working Group - 1 vacancy

**11 Indemnity for the Returning Officer**

105 - 108

**12 Nominations for the posts of Chairman and Vice-Chairman of the Council 2017/18**

To receive nominations for the posts of Chairman and Vice-Chairman of the Council for the year 2017/18.

**13 Any other items which the Chairman considers to be urgent**

To consider any items which the Chairman considers to be urgent.

**14 Consideration of an item containing exempt information within the meaning of para 3 of schedule 12A of the Local Government Act 1972**

**PART 2  
Exclusion of the Public and Press**

**15 Investment Opportunity (Part 2)**

- Information relating to the financial or business affairs of any particular person (including the authority holding that information);

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The agenda is split into two parts. Most of the business is dealt with in Part I which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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**COUNCIL MEETING held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 23 FEBRUARY 2017 at 7.30pm**

Present: Councillor J Davey – Chairman  
Councillors A Anjum, H Asker, G Barker, S Barker, R Chambers, A Dean, P Fairhurst, T Farthing, M Felton, M Foley, R Freeman, N Hargreaves, E Hicks, S Howell, D Jones, T Knight, G LeCount, P Lees, M Lemon, B Light, J Lodge, A Mills, S Morris, J Parry, V Ranger, J Redfern, H Rolfe, G Sell and L Wells

Officers in attendance: D French (Chief Executive), R Harborough (Director of Public Services), A Knight (Assistant Director Finance), S Pugh (Interim Head of Legal Services), P Snow (Democratic and Electoral Services Manager) and A Webb (Director of Finance and Corporate Services)

**C58 ELECTION OF COUNCILLORS LECOUNT AND LEES**

The Chairman referred to the recent election of Councillors Garry LeCount and Petrina Lees at the Elsenham and Henham by-election held on 16 February. He congratulated them on their successful election and welcomed them to their first Council meeting.

**C59 FORMER COUNCILLOR DAVID GREGORY**

The Chairman referred to the recent death of former councillor David Gregory who had represented the Felsted ward from 1991 to 2007 and acted as Chairman of the Council for the year 2001/02. He invited Councillor Dean to say a few words about his former colleague.

Councillor Dean said that David Gregory had died on 29 December 2016 a short time after being diagnosed with bowel cancer. His Christian faith had sustained him during his life and he had visited every church in the district during his year of office as Chairman. David had a great concern for ordinary people, especially those disadvantaged and marginalised in society, and always displayed a great deal of natural industry and determination.

Members then stood in silent tribute to the memory of David Gregory.

**C60 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillors Davies, J Freeman, Goddard, Gordon, Harris, Loughlin, Oliver and Ryles.

**C61 MINUTES OF THE MEETING ON 8 DECEMBER 2016**

The Minutes of the meeting held on 8 December 2016 were received, approved and signed as a correct record.

## C62 CHAIRMAN'S ANNOUNCEMENTS

The Chairman summarised his busy schedule of engagements in the period since the last meeting, mentioning especially the civic dinner held at Bishop's Stortford golf club on 26 January and he was pleased to report this had been well attended.

## C63 REPORTS FROM THE LEADER AND MEMBERS OF THE EXECUTIVE

The Leader commenced his remarks by paying tribute to the memory of former councillor David Gregory and also welcomed newly elected councillors LeCount and Lees.

He reported the allocation of £3.5m from the Local Growth Fund for the planned technology and skills tertiary college at Stansted Airport and the £6.8m of funds allocated to this worthwhile project from other sources. Money had also been allocated for the work needed at Junction 8 of the M11 and he emphasised the importance of the planned improvements for the district.

Turning to other matters, the Leader said that devolution was effectively now dead in Essex. However, much of the work behind the devolution project was still continuing as in the three key areas of economic growth, the skills agenda and in health and social care.

Andrew Sentence was continuing to chair the Essex Economic Committee which had issued a report forecasting good prospects for the Essex economy. He outlined a number of the themes emerging from this process. The geographical location of Uttlesford within part of the M11 corridor and the continuing development of life sciences and IT technology were all factors driving the local economy forward.

Councillor Redfern in her capacity as the portfolio member for housing and economic development reported on the progress of a number of projects within the district. These included:

- Projects at Chesterford Business Park
- Progress on the availability of superfast phase 3 broadband
- Saffron Walden town team's proposal for a Business Improvement District
- Developments in the housing of refugees (only one family had been allocated to Uttlesford to date)
- Housing projects at Frambury Lane, Newport; Sheds Lane and Hatherley in Saffron Walden; phase 1 of Reynolds Court in Newport was on target with phase 2 to follow later in the year; in addition there had been an opening ceremony at Catons Lane, Saffron Walden; and the Mead Court development in Stansted had finally been completed with the provision of 29 new homes

Councillor S Barker referred to the Great British Spring Clean on 30 March and asked members to become involved in litter picking at a local level.

C64

## **MEMBERS QUESTIONS**

Councillor Loughlin congratulated Councillor Redfern on her success in the building of council houses and commented that the provision of new housing was a major concern for Uttlesford. The Council's policies were effectively at odds with central Government which had taken a position of ideological opposition to council house building. She asked for further updates on progress being made to defend against the right to buy policy for social housing.

Councillor Redfern confirmed there was not much the Council could do in terms of the Government's right to buy policy and her position was that everyone had the right to own their own home. The Council had lobbied the Government that TRB provisions were wrong and she intended to examine the Housing Revenue Account to explore ways of structuring it to accommodate further council house building.

The Council had to fund a debt of £88.4m over 30 years on the basis that no repayments would be made over the first five years. A rent reduction of 1% would be applied over a four year period so that a future plan was needed to finance the loss of income.

Councillor Foley agreed with these comments and referred to a recent meeting with Thaxted residents which had highlighted some heart-wrenching stories. The present restrictions were causing great difficulties and he asked for these matters to be passed up the line to central Government.

Councillor R Freeman said that a number of properties currently available for social housing use would be lost to the Council as a result of the policy. There was a caveat on the sale that the property must be offered to the Council at market value but once sold it was unlikely a house would be replaced.

Councillor Redfern responded that there was a provision to clawback the discount offered if the house was sold within five years. Uttlesford was an expensive area and the housing market position was tough for local people.

Councillor Mills commented that there had been 15 right to buy sales in the past year providing some perspective in the light of the Council's existing stock of 2,798 houses.

C65

## **CORPORATE PLAN 2017-2021**

The Leader presented for adoption the Corporate Plan covering the period from 2017 to 2021. The plan had been considered both by Cabinet and by the Scrutiny Committee.

The proposed new plan emphasised the theme of community leadership to describe the key value that councils can bring to their locality. The Council was at the centre of the wheel with spokes going out to parishes and voluntary bodies and finally to the greater population at the outer rim.

The vision was encapsulated as “Working together for the well being of our community and to protect and enhance the unique character of the District” as covered by the following four themes:

- Promote thriving, safe and healthy communities
- Protect and enhance heritage and character
- Support sustainable business growth
- Maintain a financially sound and effective Council

Appendix B of the report contained the detailed delivery plan for 2017/18.

Councillor Parry pointed out the report contained a duplication of paragraph numbers.

RESOLVED to approve the Corporate Plan for 2017-21 including the Council’s vision and priorities.

C66

### **BUDGET 2017/18**

Councillor Howell presented the series of reports comprising the 2017/18 budget as the executive member for finance and administration.

First, the Chairman invited Councillor Dean to present the views of the Scrutiny Committee. Councillor Dean said that his Committee had taken the opportunity to review all of the papers. He welcomed the delivery plan for the Corporate Plan.

He went through all of the reports and commented on them in turn. On the adequacy of reserves he said the planning reserve had added funds drawn down for the Local Plan. Regarding the Medium Term Financial Strategy the planned budget surpluses had drawn a line between being prudent and over cautious and he felt that financial forecasting had improved in accuracy.

Councillor Dean commented that his Committee’s view was that the capital programme was unambitious and contained a great many routine programmes such as the acquisition of new refuse vehicles. He questioned whether the programme was sufficiently ambitious.

He asked whether zero based budgeting would be used in future years as had sometimes been the case previously.

In relation to the Housing Revenue Account he referred to the cost of support services for sheltered housing tenants. Most of the costs were in the benefits system and this was a good move from officers. He said the enforced rent reductions would impact on the Council’s ability to invest.

Finally, turning to the General Fund and Council Tax he commented on the planned budget surplus of £564k. He supported the proposed pay increases to staff. However, he had questions about whether this would lead to uncontrolled cost increases but noted the increases would be performance related. He wanted more action in supporting the Police and for the provision of PCSOs.



Councillor Ranger commented that the Scrutiny Committee had implied the Local Plan cost increases were caused by the pause in the process but this was not the case as they were due to work required to develop the Local Plan for adoption.

Councillor Howell then offered a brief summary before turning to the detail of the budget reports. He thanked Mr Webb, Ms Knight and their team for the hard work they had put in to prepare the 2017/18 budget. The progress made had been slow because of the need to seek the views of the Scrutiny Committee and Cabinet during February. Mr Webb and Ms Knight had attended meetings of all three political groups and been available to answer questions at every stage. As a result he assumed that all members had read the papers and then proceeded to deal with each separate budget paper in turn.

C67

### **ROBUSTNESS OF ESTIMATES AND ADEQUACY OF RESERVES 2017/18**

In presenting this report, Councillor Howell said the Section 151 officer had offered his formal advice in the Section 25 report and this was summarised in the report before members. The minimum safe contingency level for the working balance was assessed as £1.266m. It was being recommended that the Council approve the risk assessment relating to the robustness of estimates. Officers had looked at the risks and opportunities and it was clear there were significant uncertainties involved. The risks were outlined in the report.

The reserves strategy was set out in pages 53 to 68 of the report. In spite of the uncertainties, the Council was in a far stronger position than most of its peer group. The ring-fenced reserves were set out in the report. The Council could not spend these reserves outside of the stated purpose. There were a number of earmarked reserves set aside for predicted future events. There were real challenges around New Homes Bonus and the expected loss of Revenue Support Grant, and these must be taken into account when setting the reserves strategy.

A sum of £3.5m had been allocated towards the cost of a new waste depot site. This was necessary because of the long term need to move the depot location. A total of £1m had been allocated as the MTFs reserve and £1.8m for the transformation reserve.

He proposed the recommendation in the report and this was seconded by Councillor Rolfe.

Councillor Hargreaves commented on the planning reserve which had been reduced over a period of three years. This reserve was needed to pay for work on the Local Plan and to cover the cost of defending planning appeals. An application in Newport had been refused on a majority committee vote and would be taken to appeal. He questioned whether the reduced reserve would be sufficient to fight all future planning appeals and whether the Council would commit funding to fight all such appeals.

The Leader gave an assurance that the reserve would be sufficient to defend planning appeals but the second question was more complicated. Appeals would not always be defended if the Planning Committee went against the officer recommendation.

Councillor Hargreaves asked whether this meant the Council would not defend the democratic decisions of the Planning Committee.

The Leader said this would depend on each individual case. In some cases the decision would have to be defended by members.

Councillor R Freeman commented that this highlighted a weakness in the planning process set against the democratic will of elected members. If officers were to recommend one way and members the other way, and the Council did not then support those decisions there might as well not be a planning committee at all.

The Chief Executive commented that this was not directly a budget matter and she would clarify soon by way of a protocol the position regarding the defending of planning appeals.

Councillor R Freeman said this did not help as developers had access to substantial funds not available to the Council.

The Chief Executive then clarified that the protocol would set out clearly how proper support could be offered to members engaged in the defence of planning decisions.

Councillor Howell then summed up the debate and clarified that the safe contingency reserve should be set at £1.266m.

A vote was taken and the recommendation was adopted by a substantial majority.

RESOLVED to adopt the following policies:

1. The Council would take account of the advice in the report when determining the 2017/18 General Fund budget and Council Tax.
2. Approve the risk assessment relating to the robustness of estimates as detailed in the report.
3. To set the minimum safe contingency level for 2017/18 at £1.266m
4. Adopt the Reserves Strategy in the report.
5. Agree that no transfers to or from the Working Balance should be built into the 2017/18 budget.

C68

## **MEDIUM TERM FINANCIAL STRATEGY**

In presenting the Medium Term Financial Strategy (MTFS) Councillor Howell said there were a number of unknown factors including the future position relating to New Homes Bonus as outlined in the report. There would be a new round of consultation following the original consultation in 2016.

The introduction of 100% business rates retention was still expected to be implemented in 2019/20. It was thought this would have a fiscally neutral impact but it was unclear what assets would become the Council's responsibility and be returned by the Government. A full summary was included in the report.

Efficiencies and income opportunities in the region of £690k were expected in 2018/19 and £1m by 2021/22. The position was that if these efficiencies did not materialise there would be a rising deficit.

A balanced budget was being set next year but there would be a growing deficit thereafter. This was a challenge that must be met in future years. A plan had been developed to meet this challenge and there was a period of 12 months to implement it.

Councillor Howell then proposed adoption of the recommendation in the report and the motion was seconded by Councillor Chambers.

Councillor Dean asked whether there were matters that should be brought to members' attention in terms of the Council's ability to continue normal service delivery.

Councillor Howell gave an assurance that front line services would continue to be protected. There was a well understood process of monitoring through Cabinet, Scrutiny and Performance and Audit Committees.

Councillor S Barker asked about the impact of proposed changes to the rateable value of businesses many of which would pay no business rates after April 2017.

Councillor Howell said he would give Councillor Barker a written answer.

RESOLVED to approve the Medium Term Financial Strategy.

## C69 **TREASURY MANAGEMENT STRATEGY 2017/18**

Councillor Howell proposed the recommendation in the report to approve the Treasury Management Strategy including the approved counterparty list.

RESOLVED that the following items be approved:

- Treasury Management Strategy 2017/18
- Prudential Indicators set out in Appendix A
- Minimum Revenue Provision (MRP) Statement set out in Appendix B
- Economic Forecast set out in Appendix C

## C70 **CAPITAL PROGRAMME 2017/18**

Councillor Howell said that the capital programme was the real meat of the meeting. It was essential that the Council's finances were run effectively and with proper investment decisions being taken. Earlier in the meeting Councillor

Dean had referred to the capital programme as being unambitious. He took issue with that comment as a sum of £56.5m was being invested in capital projects in the five year period including the outturn from 2016/17, of which £14.2m was being invested in the Revenue Fund. A sum of £1.37m was being invested in the vehicle replacement programme in 2017/18 and £4.77m over the five year period.

The capital programme underpinned the successful waste and recycling strategy which had proved very effective. There was also planned significant investment in superfast broadband with match funding initiatives.

He proposed the adoption of the capital programme and this was seconded by Councillor Rolfe.

Councillor Knight said that reserves had supported the proposed sports complex at Carver Barracks with a £500k allocation and this had been bolstered by match funding secured by the Army. She was dismayed to discover that this sum had been taken out of the reserves based on an assumption that the base may close in 10-15 years' time. The planned investment was good value for the area and was a relatively small sum compared to the entire budget.

She had received a communication from the commanding officer at the barracks as he had heard there was a possibility of the money being stopped. The Army had donated money from their own coffers and there were further pledges of money to come. Councillor Artus had explored whether the land could be purchased with the help of a grant but this seemed unlikely if the Council's support was withdrawn.

For these reasons, Councillor Knight asked for the £500k to be reinstated to the capital reserve, if necessary transferred from other areas to accommodate this vital project.

The Leader confirmed the Council was supportive of the project but it was considered imprudent to make a financial commitment if it was not certain to proceed. The key difference was the Army's announcement that the base may close. Councillors Artus and Knight had both been involved in these developments every step of the way but the project must be provided for the benefit of local residents on the basis of a shared facility over a 20/30 year period. This was now in question because of the recent announcement. The Council would need to retain some interest in the land and the matter had to be tied up in a secure fashion.

Councillor Knight responded that the barracks would not have closed by 2020 and for ten years' of use the level of investment concerned was not a great deal of money. Funds had been raised on the basis of match funding and this certainty must be restored.

The Director of Finance and Corporate Services commented that there had never been a separate reserve for this project and the matter had never been discussed by either the Cabinet or Council. The funds were held in the Strategic

Initiatives Reserve and could be allocated but there was not presently a sufficient demonstration that the project would go ahead.

Councillor Dean pointed out that the Liberal Democrat group had proposed three amendments including a proposal to establish a £500k capital fund for a large community infrastructure initiative in an attempt to make the capital programme more ambitious. This sum would come from the Strategic Initiative Fund Reserve. He proposed this item as an amendment to the capital budget proposal in the papers before the meeting.

Councillor Sell said this allocation of funds would benefit a number of projects and there could be later discussion about the precise allocation.

Councillor Ranger commented that his ward could spend £500k but it was unclear for what purpose the money was being allocated. Councillor S Barker said that there were a number of funds for various purposes including CCTV provision and there were plenty of ways to bid for funds to benefit the community. It was not a good idea to allocate money for an unknown purpose.

Councillor Rolfe said he would support what Councillor Dean was proposing if the business case was robust but the budget had to be managed on the basis of clear fiscal funds.

Councillor Chambers supported these comments. The last few years had seen difficult financial times and the Council at one time had not been financially sound. Over a nine year period the Council had recovered to a position of financial stability and he would not support any proposal that would put that position at risk. Reserves should be allocated only where a strong case could be put forward.

In summing up the debate, Councillor Howell said that he was reluctant to identify specific money for an unknown project. Councillors should come back with a specific purpose in mind.

The following amendment was then put to the vote:

“Approve the Capital Programme and associated financing of the programme as set out in the report, subject to the establishment of a £500,000 capital fund for a large community infrastructure initiative(s) in the district. This would be funded from the Strategic Initiatives Fund Reserve.”

The amendment was declared lost by 19 votes against to three in favour.

The substantive motion was then put to the vote and carried.

**RESOLVED** to approve the Capital Programme and associated financing of the programme as set out in the report.

C71

## **HOUSING REVENUE ACCOUNT 2017/18**

Councillor Howell proposed the recommendation in the report and the motion was seconded by Councillor Redfern. The HRA budget assumed a rent reduction of 1%. The average rent would be reduced from £99.81 to £98.80, a reduction of £1.01 per week. The capital investment in the HRA was £42.35m over a five year period. This included £3.25m in major repairs and £6.6m to be invested in major redevelopments.

The motion was carried with no votes against.

RESOLVED to approve the HRA Revenue Budget and Five Year Financial Strategy

C72

## **GENERAL FUND COUNCIL TAX 2017/18**

Councillor Howell said that the General Fund and Council Tax report brought the whole budget for 2017/18 together. He drew attention to the priorities identified in the consultation of local residents and businesses which had helped to frame the budget. The proposal was for a 1.9999% increase on the average band D equivalent. He said that Uttlesford was the lowest cost council in Essex.

He highlighted a number of matters included in the budget proposals. These included the Local Council Tax Support at a rate of 12.5%; a continuation of support for the Local Plan and financing for two PCSOs.

Turning to fees and charges he said that most of these were unchanged but some change was being proposed to charges at the Lower Street car park in Stansted.

Overall, the budget was prudent and sensible with the overriding objective of running services efficiently.

He proposed adoption of the budget and this was seconded by Councillor Chambers. Members were reminded that a recorded vote was required in accordance with legislation and Procedure Rule 14.7.

Councillor Hargreaves referred to constant central government tinkering with local government finances. A 2% increase was not a great deal and in line with the movement in general earnings and his group would support the proposal.

He thanked the finance team for their efforts. They had produced a work of art and completed a difficult job well.

Councillor Hargreaves referred to the survey of 500 local people and the priorities identified. In relation to the priority to empty litter and dog bins, he drew attention to a recent case in Liverpool where a reward had been offered for each successful conviction. He suggested keeping an eye on this development with a view to introducing a similar scheme in Uttlesford.

The Leader agreed with these comments. He said that £300k was being spent on litter picking. He felt that dog mess was less of a problem than it used to be and this had resulted from peer pressure and the position was the same with litter.

In introducing the Liberal Democrat budget amendments, Councillor Sell informed members of successful schemes in East Hertfordshire to keep more PCSOs on the streets and said this was an integral part of safe neighbour policies and enhanced enforcement activities. The amendment was carefully worded and was subject to match funding. Stansted Parish Council already part funded a PCSO in the parish and he would like to see this initiative extended. Policing priorities in Essex were different to those in Hertfordshire. Nick Alston saw PCSOs as a vital part of local policing but priorities had changed. The visibility of policing was a big local issue and the voice of local communities should be heard.

Councillor Sell proposed the first Liberal Democrat amendment and it was seconded by Councillor Dean.

The Leader said he was warm to the proposed amendment and there were clear differences between policing in Essex and Hertfordshire. He would nevertheless be grateful if members would not change the budget. A planned parish forum on 15 March would consider planning and enforcement. He felt a better dialogue with town and parish councils would help in co-operative working with local police to identify what extra capacity might be available in this area to provide for a robust recruitment programme.

He said he would support the second amendment as well relating to Neighbourhood Plan support.

Councillors Morris and Fairhurst asked for guidance as to whether they could vote for this proposal as members of Saffron Walden Town Council and were advised that there was no conflict in doing so.

Councillor Ranger spoke to reinforce the intention to take these proposals forward for consideration at the parish forum.

Councillors Howell and Redfern both said they were supportive in principle on the basis that any proposals would come back to the Council for consideration.

Councillor Sell asked for an assurance that if he withdrew the amendments the proposals would not be kicked into the long grass and would be listened to.

Councillor Rolfe said he felt it would be a good idea to put two extra PCSO posts in the budget if town and parish councils were to demonstrate interest in providing local funding in support. He said in principle he would want to get behind such a proposal.

Councillor Sell then withdrew his amendment.

Councillor Foley asked about the second Liberal Democrat amendment to extend officer support for neighbourhood planning to two days a week. The Leader said he was warm to the idea and would look sympathetically at the principle involved. He would prefer not to take this matter to the vote at this meeting as there was a need to work through the detail.

Councillor Sell said he was prepared on that basis to withdraw the second amendment as well.

The original proposal to approve the General Fund Council Tax requirement for an increase of 1.9999% was then put to a recorded vote and the outcome was as follows:

*For the motion: Councillors Anjum, Asker, G Barker, S Barker, Chambers, Davey, Dean, Fairhurst, Farthing, Felton, Foley, R Freeman, Hargreaves, Hicks, Howell, Jones, LeCount, Lees, Lemon, Lodge, Mills, Morris, Parry, Ranger, Redfern, Rolfe, Sell, Wells*

*Against the motion: no votes were recorded against the motion*

*Abstained: Councillor Light*

*The motion was passed by 28 votes to none against with one abstention.*

RESOLVED to approve:

- a) The General Fund Council Tax requirement of £5,034,621 summarised in paragraphs 16-22 of the report, an increase of 1.9999% on the average band D equivalent.
- b) The schedule of fees and charges as per appendix F.
- c) The Council Tax Resolution as set out in Appendix A of the report.

### **C73 PAY POLICY 2017/18**

Councillor Howell proposed adoption of the Pay Policy as set out in Appendix A of the report. He said that people were the Council's most important asset and there should be a consistently applied pay policy as was being proposed. The proposed pay scales would be the subject of consultation with staff.

Councillor Rolfe seconded the motion.

RESOLVED to approve the Pay Policy as set out in Appendix A of the report.

### **C74 TIMETABLE OF MEETINGS 2017/18**

RESOLVED to approve the timetable of meetings for 2017/18

The meeting ended at 9.45pm.



<b>Committee:</b>	<b>Council</b>	<b>Agenda Item</b>
<b>Date:</b>	<b>Tuesday 4<sup>th</sup> April 2017</b>	<b>8 (i)</b>
<b>Title:</b>	<b>Review of Standards Code of Conduct and Procedure</b>	
<b>Author:</b>	<b>Simon Pugh</b>	Item for decision: yes

## Summary

1. This report brings before members the work of the Standards Committee and two task groups which have been reviewing the Council's Code of Conduct and the procedure for considering complaints.
2. The draft Code and Procedures attached to this report are recommended by the Standards Committee for adoption by the Council. The Standards Committee has recommended that the proposals are received by the Council on 4 April and are considered for adoption at the Annual Meeting on 16 May.
3. The Standards Committee meeting on 20 March made some minor changes to the "final draft" it considered. These are shown as tracked changes.
4. The report to the Standards Committee meeting 20 March is attached to this report which, together with the attachments, set out the background, summarise the proposals and identify the issues.

## Recommendations

5. That members receive the proposals set out in this report and in the report to the Standards Committee on 20 March.
6. That members decide whether to adopt the proposed Code of Conduct and associated Procedure (Annexes D and E) at its meeting on 16<sup>th</sup> May.

## Financial Implications

7. The Members' Allowances Panel would take account of the role of substitutes in considering any amendments to the allowances scheme.

## Background Papers

8. There are no background papers to this report.

## Impact

- 9.

Communication/Consultation	Detailed consideration by the Standards Committee including the Independent Persons based on the work of its two task groups. .
Community Safety	None
Equalities	The Code and Procedure take account of equalities issues. The main issue is whether the Procedure accommodates those who, by reason of disability or otherwise, would find it more difficult to exercise rights under the Procedure.
Health and Safety	None
Human Rights/Legal Implications	The proposed Code and Procedure are compliant with the Council's legal obligations under the Localism Act 2011 and the Human Rights Act, 2000.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Risk Analysis

10.

Risk	Likelihood	Impact	Mitigating actions
<p>That members act in a manner not compatible with the principles of conduct set out in s.28(1) Localism Act 2011</p> <p>That the Council suffers reputational damage and that confidence in elected members and local government is undermined.</p>	2.	3.	<p>The adoption of a Code of Conduct and Procedure that are clearly drafted and that are proportionate and fair.</p> <p>Ensuring that members understand and accept their obligations under the Code and are able to seek advice about its application.</p>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

**Committee: Standards Committee**

**Agenda Item**

**Date: 20 March 2017**

**8 (i)**

**Title: Review of Standards Code of Conduct and Procedure**

**Author: Interim Head of Legal Services**

Item for decision:  
yes

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## **Summary**

1. The Standards Committee met on 3 February to consider proposals for revising the Council's Code of Conduct for Members and its Procedure for dealing with allegations that the Code has been breached. This followed the work of the two teams of the Task Group, one dealing with the Code and one with the Procedure.
2. A meeting on 16 December of the full Task Group agreed its final proposals, which were considered on 3 February. The covering report to that meeting, but not the appendices are annexed to this report. (Appendix A.)
3. Most aspects of the revised Code and Procedure found favour with the meeting on 3 February but two aspects proved contentious. These could not be resolved at the meeting and are summarised in this report.
4. The meeting on 3 February approved some drafting changes to the Code and Procedures. These are included in the revised versions out in in Appendices B and C to this report.

## **Recommendations**

5. That the Standards Committee decides how it wishes to approach:
  - a. The relationship between the Nolan Principles and the requirements of the Code; and
  - b. The inclusion of rights of appeal. recommends the revised Code and Procedure annexed to this report to Council for adoption.
6. That the Standards Committee recommends a revised Code and Procedure for adoption by the Council on 4 April 2017.

## **Financial Implications**

7. None.

## **Background Papers**

8. Report to Standards Task Force meeting on 16 December 2016. The current Code and procedure are annexed to this report.

9. The Annexes to this report are:

- A. Report to Standards Meeting on 3 February (Pages 5-8) **(now 9-12)**
- B. Current Code of Conduct. (Pages 9-16) **(now 13-20)**
- C. Current Standards Procedure. (Pages 17-21) **(now 21-25)**
- D. Draft Code of Conduct updated following meeting on 3 February. (Pages 22-30) **(now 26-34)**
- E. Draft Standards Procedure updated following meeting on 3 February. (Pages 31-40) **(now 35-44)**
- F. Solihull Metropolitan Borough Council Code of Conduct. (Pages 41-43) **(now 45-47)**

**Impact**

10.

Communication/Consultation	None yet but this needs to be considered by the Standards Committee.
Community Safety	None
Equalities	The Code and Procedure take account of equalities issues. The main issue is whether the Procedure accommodates those who, by reason of disability or otherwise, would find it more difficult to exercise rights under the Procedure.
Health and Safety	None
Human Rights/Legal Implications	The proposed Code and Procedure are compliant with the Council's legal obligations under the Localism Act 2011 and the Human Rights Act, 2000.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

**Situation**

11. The draft Code of Conduct sets out the Nolan principles for good governance in the first paragraph. The Localism Act 2011 requires the Council to adopt a code of conduct which, when viewed as a whole, is consistent with the following principles—

- (a) selflessness;

- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership.

12. The strong point of contention at the meeting on 3 February was whether breach of these principles should be a direct breach of the Code. On the one hand, the principles are of high importance and should inform the conduct of those in public life. It was argued that failure to incorporate these directly would weaken the Code and would not allow action to be taken in respect of matters that should fall within the Code. On the other hand, the principles are set out in general terms and are not rules. Their direct incorporation could lead to uncertainty for members and an increase in complaints that were not, in substance, about the ethical behaviour of councillors. However, the principles are accompanied by explanatory text in the draft Code.

13. Cllr Artus has supported the inclusion of a provision in the Code as a new paragraph 2, stating that

*"You must comply with the principles set out in the first paragraph of this Code."*

14. Mr Pearl has proposed an alternative paragraph 2:

*"Section 27 of the Localism Act 2011 places a duty on local authorities to ensure that its members maintain high standards of conduct as set out in the seven principles of public life (above in paragraph 1) and to require such authorities to adopt a Code of Conduct for their members."*

*"Section 28 requires a relevant authority to adopt a Code whose contents must be consistent with the seven principles of public life"*

*"This Code and the Code of Conduct Procedure are both consistent with the seven principles, and the authority has adopted this Code to ensure compliance with the conduct that is expected of members when they are acting in that capacity."*

15. Annex F to this report sets out the Code of Conduct adopted by Solihull Council. This is an example of a Code that incorporates the principles more directly, subject to qualifying text that is more specific than the text in paragraph 1 of the draft Code.

16. There was discussion at the last meeting about rights of appeal. On the one hand, rights of appeal are, in principle, desirable and, whilst judicial review and review by the Ombudsman may be remedies for procedural unfairness and illegality, they do not provide an appeal on the merits. On the other hand, a complaint will only be considered by a hearing panel if an external investigator has concluded that a member is in breach of the Code of Conduct and this view is supported by the Monitoring Officer after consulting an Independent Person. In this respect it differs

from, say, a Magistrates' Court prosecution, for which the prosecutor's test is whether prosecution is in the public interest and whether there is a reasonable prospect of conviction. There are also practical difficulties about how a right of appeal might be given. There is no scope for an external appeal on the merits and there is no reason to believe that an internal appeal would result in a more authoritative outcome than the decision made by the hearing panel.

## Risk Analysis

17.

Risk	Likelihood	Impact	Mitigating actions
<p>That members act in a manner not compatible with the principles of conduct set out in s.28(1) Localism Act 2011</p> <p>That the Council suffers reputational damage and that confidence in elected members and local government is undermined.</p>	2.	3.	<p>The adoption of a Code of Conduct and Procedure that are clearly drafted and that are proportionate and fair.</p> <p>Ensuring that members understand and accept their obligations under the Code and are able to seek advice about its application.</p>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Annex A

**Committee:** Standards Committee

**Agenda Item**

**Date:** 3 February 2017

**8 (i)**

**Title:** Review of Standards Code of Conduct and Procedure

**Author:** Interim Head of Legal Services

Item for decision:  
yes

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**Summary**

18. The Standards Committee appointed a Standards Task Group to review the Council's Code of Conduct for Members and its Procedure for dealing with allegations that the Code has been breached. The Task Group has been working in two teams, one dealing with the Code and one with the Procedure.
19. A meeting on 16 December of the full Task Group agreed its final proposals. The revised Code and Procedure developed by the Task Group are set out in Appendices C and D to this report.
20. The Procedure has a wider application, in that it would also apply to complaints against parish councillors. The Council's Code has been widely adopted by parish councils, which may wish to bring their codes in line with changes made by Uttlesford DC.

**Recommendations**

21. That the Standards Committee recommends the revised Code and Procedure annexed to this report to Council for adoption.
22. That the Standards Committee considers the timing and form of the recommendation to Council. (See paragraph 13.)

**Financial Implications**

23. None.

**Background Papers**

24. Report to Standards Task Force meeting on 16 December 2016. The current Code and procedure are annexed to this report.

**Impact**

- 25.

Communication/Consultation	None yet but this needs to be considered by the Standards Committee.
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Community Safety	None
Equalities	The Code and Procedure take account of equalities issues. The main issue is whether the Procedure accommodates those who, by reason of disability or otherwise, would find it more difficult to exercise rights under the Procedure.
Health and Safety	None
Human Rights/Legal Implications	The proposed Code and Procedure are compliant with the Council's legal obligations under the Localism Act 2011 and the Human Rights Act, 2000.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

26. The Task Force was set up to review the current Code of Conduct and Procedure. Its membership is: Cllrs Artus, Asker, Dean, Derek Jones and Knight, and the Council's three Independent Persons for Standards – Georgina Butcher, David Pearl and Catherine Wellingbrook-Dodswell. It was constituted to propose a revised Code and Procedure that:

- Meet the Council's legal obligations under the Localism Act, 2011;
- Are fair and proportionate; and
- Are clearly drafted and easily understood.

The current Code and Procedure are attached to this report as Appendices A and B respectively. The Task Force's proposed Code and Procedure are attached as Appendices C and D.

27. Whilst many of the differences between the two sets of documents are intended to bring clarity, rather than to make substantive changes, there are some important differences between them and members should read them carefully.

28. In respect of the Code, differences include:

- The provisions for disclosure of "disclosable pecuniary interests" is set in law and no substantive changes are proposed. However, the current code distinguishes between "other pecuniary" and non-pecuniary" interests. The proposed revision groups these together as "personal interests".

- The current code applies a “prejudicial interest” test to “other pecuniary” interests but not to “non-pecuniary” interests. The proposed revision applies a prejudicial interest test to personal interests, whether they are financial in nature or not. If a member has an interest that is prejudicial in nature (i.e. it is so significant that it is likely to prejudice their judgment of the public interest) then they should not participate, whether the interest is financial or not (in the author’s view).
- The current code contains a section dealing with “Conflicts of interest for members of the Executive”. Its deletion is proposed to simplify the code. Its scope is unclear, the inclusion of separate provisions for members of the Executive is unusual and it is difficult to see what this adds to the other provisions of the Code.
- The proposed Code increases the threshold for declaring receipt of hospitality from £25 to £50. The £25 threshold has been in place for a number of years and Task Force members felt that it should be updated.

29. In respect of the Procedure, differences include:

- The proposed Procedure clarifies the role of the Monitoring Officer and seeks to avoid the Monitoring Officer acting as investigating officer and adviser to the Standards Hearing Panel.
- Under the present Procedure, a complaint has to be referred to a Hearing Panel where an investigation finds that a member has breached the Code. The proposed Procedure allows some flexibility in this. A formal hearing may not be necessary, for instance, if the subject member accepts the findings of an investigation and is prepared to offer an apology. In these circumstances, the outcome would be reported to the Standards Committee for information.
- Under the present Procedure, where the Investigating Officer finds that the subject member has not breached the Code, any member of the Standards Committee can “call in” the complaint for a hearing by a Panel. The proposed Procedure deletes this call-in where the Monitoring Officer and Independent Person accept a finding that a member is not in breach of the Code.
- The proposed Procedure is intended to deal more clearly with the process to be followed at hearings.

30. Changes to the Code and Procedure need to be approved by full Council. The next Council meeting is on 23 February, followed by the meeting on 4 April. It would be prudent to consult and inform all members about what is proposed before the Council makes a decision to address concerns and to provide clarification. Council will then have a clear picture of what is before it when it meets. The short gap between this Standards Committee and full Council on 23 February does not allow a lot of time to do this. It might therefore be better to take this to Council on 4 April. An alternative approach put forward by the Task Force is to report this to Council on 23 February but to ask Council to defer making a

decision on adoption until its meeting on 4 April. The views of the Standards Committee are sought, along with ideas on the best ways to engage other councillors in this.

31. There is also a need to consider parish councils, as the Uttlesford Code of Conduct has been widely adopted and UDC's Procedure applies when considering complaints against parish councillors. Parish councils could be informed of proposals to revise the Code and Procedure and invited to comment.
32. The Task Force is keen that the new procedures should be illustrated by a flowchart of the Procedure from Complaint to calling a Hearing and by a diagram showing a 'standardised' room setup for a hearing. More work is needed on these but they can be developed in consultation between members and officers. They do not need formal member approval, as they are illustrative.

### Risk Analysis

33.

Risk	Likelihood	Impact	Mitigating actions
<p>That members act in a manner not compatible with the principles of conduct set out in s.28(1) Localism Act 2011</p> <p>That the Council suffers reputational damage and that confidence in elected members and local government is undermined.</p>	2.	3.	<p>The adoption of a Code of Conduct and Procedure that are clearly drafted and that are proportionate and fair.</p> <p>Ensuring that members understand and accept their obligations under the Code and are able to seek advice about its application.</p>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## **THE COUNCILLORS' CODE OF CONDUCT Part 1**

### **General Provisions**

#### **1. Introduction and Interpretation**

This is the code of the conduct expected of members of Uttlesford District Council adopted under s.27 (2) Localism Act 2011. Uttlesford District Council considers that this code viewed as a whole is consistent with the principles contained in s.28 (1) of that Act which are set out in the Appendix to this Code.

This Code applies to you as a member of your authority. It is your responsibility to comply with the provisions of this Code.

In this Code:

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or a relevant person (alone or jointly with others) to occupy the land or to receive income

“meeting” means any meeting of your authority or of the cabinet or of any committee or sub-committee of your authority or its cabinet or of any joint committees, joint sub-committees, area forums, task groups or working groups.

“relevant authority” means the Council of which you are a member  
“relevant period” means the period of 12 months ending with the day on which you give notification of a disclosable pecuniary interest to the Monitoring Officer

“relevant person” means you or your spouse or your civil partner or a person you are living with as if they were your spouse or civil partner

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

#### **2. Scope**

You must comply with this Code whenever you conduct the business of your authority (which includes the business of the office to which you are elected or appointed) or act, claim to act or give the impression you are acting as a representative of your authority.

#### **3. General Obligations**

3.1. You must treat others with respect.

3.2. You must observe any protocols or codes of practice adopted by your authority.

### 3.3. You must not:

- 3.3.1. do anything which may cause your authority to breach the Equality Act 2010.
  - 3.3.2. bully any person;
  - 3.3.3. intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;
  - 3.3.4. do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
  - 3.3.5. 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:
    - 3.3.5.1. you have the consent of a person authorised to give it;
    - 3.3.5.2. you are required by law to do so;
    - 3.3.5.3. 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
    - 3.3.5.4. the disclosure is reasonable and in the public interest; and is made in good faith and in compliance with the reasonable requirements of the authority;
  - 3.3.6. prevent another person from gaining access to information to which that person is entitled by law.
  - 3.3.7. conduct yourself in a manner which could be reasonably regarded as bringing your authority or your office into disrepute
  - 3.3.8. use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage
- 3.4. You must, when using or authorising the use by others of the resources of your authority:
- 3.4.1. act in accordance with your authority's reasonable requirements;
  - 3.4.2. ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - 3.4.3. have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## **Part 2**

### **Members' Interests**

#### 4. Disclosable Pecuniary Interests

- 4.1. You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 4.2 below and is an interest of a relevant person and in the case of a relevant person other than yourself you are aware that that other person has the interest

4.2. “Disclosable pecuniary interests” are defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are:-

Employment, office, trade, profession vocation	Any employment, office, trade, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member or towards your election expenses. This includes any 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 executed; and b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority
Licences	Any licence (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 your 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 where – a) that body (to your 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 £25000 or one hundredth of the total issued 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 one hundredth of the total issued share capital of that class

## 5. Other Pecuniary Interests

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

- 5.1 it relates to or is likely to affect any person or body who employs or has appointed you or
- 5.2 a decision in relation to that business might reasonably be regarded as affecting your financial position or the financial position of a related person to a greater extent than the majority of (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision or (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

## 6. Non-Pecuniary Interests

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

- 6.1. it relates to or is likely to affect:-
  - 6.1.1. 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
  - 6.1.2. any body:-
    - 6.1.2.1. exercising functions of a public nature;
    - 6.1.2.2. directed towards charitable purposes; or
    - 6.1.2.3. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management
  - 6.1.3. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25 or
- 6.2. a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing of a related person to a greater extent than the majority of:-
  - 6.2.1. (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

6.2.2. (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

## **7. "Related Persons"**

For the purposes of paragraphs 5.2 and 6.2 "related person" means:-

- 7.1. a member of your family or any person with whom you have a close association
- 7.2. any person who employs or has appointed such persons, any firm in which they are a partner or any company of which they are directors
- 7.3. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000.00 or one percent of the total issued share capital (whichever is the lower)
- 7.4. any body of which such persons are a member or in a position of general control or management and to which you are appointed or nominated by your authority
- 7.5. any body of a type described in paragraph 6.1.2 of which such persons are members or in a position of general control or management

## **8. Disclosure of Interests**

- 8.1. Subject to paragraph 8.2 where you or a relevant person have a disclosable pecuniary interest, any other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered you must disclose to that meeting the existence and the nature of the interest if you are aware or ought reasonably to be aware of it.
- 8.2. Where you or a relevant person have an interest in any business of your authority which would be disclosable by virtue of paragraph 8.1 but by virtue of paragraph 12 (sensitive interests) details of the interest are not registered in your authority's published register of members' interests you must disclose to the meeting the fact that you have an interest and that the interest is a disclosable pecuniary interest (if that is the case) but need not disclose the nature of the interest to the meeting.
- 8.3. Where you or a relevant person have an interest in any business of your authority which would be disclosable by virtue of paragraph 8.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest and for the purposes of this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under s.22 Local Government Act 2000.

## **9. Effect of interests upon participation in meetings**

- 9.1. If you have a disclosable pecuniary interest in any business of your authority and are present at a meeting of the authority at which such business is to be considered or is being considered you must:-
  - 9.1.1. disclose the existence and nature of the interest in accordance with paragraph 8.1 (but subject to paragraph 8.2)



- 9.1.2. withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from your authority
- 9.1.3. not participate or participate further in any discussion of the matter at the meeting
- 9.1.4. not participate in any vote or further vote taken on the matter at the meeting
- 9.2. if a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself) unless you have obtained a dispensation from your authority permitting you to do so
- 9.3. If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-
  - 9.3.1. disclose the existence and nature of the interest in accordance with paragraph 8.1 (but subject to paragraph 8.2)
  - 9.3.2. unless you have obtained a dispensation from your authority withdraw from the room or chamber where the meeting considering the business is being held in a case where paragraph 9.4 applies immediately after making your representations or in any other case when the business is under consideration
- 9.4. Where you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority unless you hold a dispensation you may attend a meeting for the purpose of making representations only

## **Part 3**

### **Registration of Members' Interests**

#### **10. Disclosable Pecuniary Interests**

##### 10.1. Under the Localism Act 2011:-

- 10.1.1 you are required to notify your authority's monitoring officer of any disclosable pecuniary interests as referred to in paragraph 4 which you have at the time notification is given before the end of 28 days beginning with the day on which you become a member or co-opted member of the authority.
- 10.1.2 you are also to notify your authority's monitoring officer of any disclosable pecuniary interest as referred to in paragraph 4 which is not entered in your authority's register of interests and is not subject of a pending notification before the end of 28 days beginning from the date of disclosure of that interest at a meeting of your authority

- 10.1.3 if a function of your authority may be discharged by a member acting alone and you are exercising such a function you are also required to notify your authority's monitoring officer of any disclosable pecuniary interest as referred to in paragraph 4 which is not entered in your authority's register of interests and is not subject of a pending notification before the end of 28 days beginning from the date you become aware that you have a disclosable pecuniary interest relating to the matter being to be dealt with or being dealt with in the course of discharging that function
- 10.2. Notifications of disclosable pecuniary interests to the monitoring officer under paragraph 10.1 shall be in writing
- 10.3. Notwithstanding the provisions of the Localism Act 2011:-
- 10.3.1 before the end of 28 days beginning from the date upon which this Code takes effect or within 28 days of your election or appointment to office (whichever is later) you must register in your authority's Register of Members' Interests maintained under s.29 Localism Act 2011 your disclosable pecuniary interests as referred to in paragraph 4
- 10.3.2 you must within 28 days of becoming aware of any new disclosable pecuniary interest or change to any disclosable pecuniary interest registered under paragraph 10.1 or paragraph 10.2 register details of that new disclosable pecuniary interest or change by providing written notification to your authority's monitoring officer

## **11. Other Pecuniary Interests and Non-Pecuniary Interests**

- 11.1. Before the end of 28 days beginning from the date upon which this Code takes effect or within 28 days of your election or appointment to office (whichever is later) you must register in your authority's Register of Members' Interests maintained under s.29 Localism Act 2011 your pecuniary interests of a description referred to in paragraph 5.1 and your non-pecuniary interests of a description referred to in paragraph 6.1 by providing written notification to your authority's monitoring officer
- 11.2. You must within 28 days of becoming aware of any new interest registerable under paragraph 11.1 or change to any interest registered under that paragraph register details of that new interest or change by providing written notification to your authority's monitoring officer

## **12. Sensitive interests**

Where you have an interest registerable under paragraphs 10.1, 10.2, 10.4 or 11.1 and the nature of the interest is such that you and your authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register shall not include details of the interest but may state that you have an interest details of which are withheld under s.32(2) Localism Act 2011 and/or this paragraph

## **Part 4**

### **13. Conflicts of interest for members of the Executive**

- 13.1 This part applies only to members of the Council's executive (cabinet)
- 13.2 For the purpose of this part a "conflict of interest" includes (but is not limited to) disclosable pecuniary interests, other pecuniary interests and non-pecuniary interests
- 13.3 Where a member of the executive is present at a meeting of the council or a committee or sub-committee of the council or at a meeting of the executive or a committee or sub-committee of the executive and the member has a disclosable pecuniary interest, another pecuniary interest or a non-pecuniary interest the provisions of paragraphs 8 and 9 of this Code shall apply.
- 13.4 Where a member of the executive is present at a meeting of the executive or at a meeting of a committee or sub-committee of the executive and the member has a conflict of interests which is not a disclosable pecuniary interest, another pecuniary interest or a non-pecuniary interest the member concerned shall declare the existence and nature of that interest to the meeting at the commencement of the meeting or when the item to which the interest relates comes under consideration.
- 13.5 The Council's head of paid service or those authorised by him may grant a dispensation to a member of the executive allowing him to speak and/or vote on issues where a member has such a conflict of interests as is referred to in paragraph 13.4 of this Code
- 13.6 Where a member of the executive has any conflict of interest and is not a decision maker with regard to an executive function but is consulted by another member of the executive or by an officer who is to make an executive decision then the member with such a conflict of interest shall declare the existence and nature of the interest and shall not take part in the consultation unless he has a dispensation from :-
- 13.6.1 the authority under the Localism Act 2011 in the case of a conflict of interests with is either a disclosable pecuniary interest or another pecuniary interest or
- 13.6.2 The head of paid service or those authorised by him in the case of any other conflict of interest.

### **APPENDIX TO CODE OF CONDUCT**

#### **THE PRINCIPLES CONTAINED IN s.28 (1) LOCALISM ACT 2011**

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

## **Annex C: Current Procedure**

### **PROCEDURE FOR DEALING WITH COMPLAINTS TO THE STANDARDS COMMITTEE**

1. The Standards Committee can only investigate complaints of a breach of the Code of Conduct by individual members. It cannot investigate complaints against the whole council, the cabinet, committees or council officers.
2. Complaints must be in writing. If a complainant is unable to make a complaint in writing personally council officers will assist. The council will supply a complaints form to assist complainants in making their complaint but its use is not compulsory and a letter or e-mail complaint will suffice.
3. Upon receipt of a complaint an acknowledgement will be sent to the complainant. The subject member will be informed that a complaint has been made and be told the substance of the complaint unless in the opinion of the Monitoring Officer to do so could prejudice a fair investigation.
4. The complainant will be offered the opportunity to advance reasons why his or her name should not be disclosed to the subject member and will be informed that if no response is received within 10 working days the subject member will be informed of the complainant's identity. In the event that the complainant does advance reasons as to why his or her name should not be revealed to the subject member at that time the Monitoring Officer will consult with an independent person. In the event that following such consultation the Monitoring Officer decides that the complainant's identity should be revealed then the complainant will be notified of that decision and will be given a period of 5 working days to decide whether to proceed with the complaint. If the complaint is not withdrawn the subject member will be informed of the complainant's name.
5. The Monitoring Officer or his or her deputy will consult with an independent person with regard to all complaints received. Such consultation may be at a meeting, by telephone or in writing. Following such consultation the Monitoring Officer or his or her deputy will take one of the following decisions:-
  - a. To take no action
  - b. To take action other than an investigation (e.g. to ascertain whether the subject member may be willing to apologise, undergo training or undergo mediation)
  - c. To require an investigation

Whilst the Monitoring Officer is solely responsible for taking the decision, where the independent person has expressed a view that the allegation should be

investigated the Monitoring Officer may refer the matter to the Standards Committee if he or she is of a view that an investigation is unnecessary and the Standards Committee will then determine how the allegation should be dealt with.

6. Not all complaints will be passed for action. The subject of the complaint must have been a member of the council at the time the facts alleged occurred. The Code of Conduct must also apply to the acts complained of. Members are only bound by the Code of Conduct when they are conducting the business of the council (including acting as a councillor) or when they are acting, claiming to act or give the impression that they are acting as a representative of the council. Conduct by members in their private capacity does not engage the Code of Conduct. The complaint, if proved, must also be capable of amounting to a breach of the Code of Conduct. No findings of fact are made at this stage. The decision as to whether to investigate a complaint is made on the assumption that the facts as alleged are true. Findings of fact are only made after an investigation and report to a sub-committee.
7. Even when the aforementioned conditions are satisfied this does not necessarily mean that a case will be passed for action. There is a balance to be struck between the desirability of ensuring that issues regarding the Code of Conduct are dealt with appropriately against the costs involved of carrying out an investigation and hearing. The Standards Committee are of the view that there is little public benefit in investigating allegations which are not sufficiently serious, politically motivated, malicious or vexatious. In reaching a decision whether to refer a case for action the following criteria will be applied:-
  - a. Complaints which are not supported by sufficient information are unlikely to be referred.
  - b. If the complaint has been or should be investigated or dealt with elsewhere further action is unlikely to be justified.
  - c. Stale complaints are unlikely to be referred. The Standards Committee expects that complainants would normally make their complaint within six months of the relevant facts coming to light.
  - d. Regard will be had to the very high degree of protection given to freedom of expression by Article 10 of the European Convention on Human Rights
  - e. Where a member who is the subject of a complaint has acknowledged the breach of the Code and made a sincere apology the complaint is unlikely to be referred unless it is considered that such apology would be insufficient.
8. Where a case is accepted for investigation the Monitoring Officer will arrange for an investigation to be carried out.
9. At the conclusion of the investigation the investigating officer may prepare a draft report which he sends to the complainant and the subject member for comment. The investigating officer may or may not amend the report in the light of representations received. Alternatively the investigating officer may in his or her sole discretion proceed to a final report.

10. In the final report the investigating officer will set the facts which have been agreed and any conflicting evidence he has received from the complainant, the subject member and any witnesses. The investigating officer will make any findings of fact and state whether in his or her opinion the facts as found constitute a breach of the Code of Conduct.
11. Where there has been a finding on no breach of the Code of Conduct the report shall be circulated to all members of the Standards Committee. Any member shall be entitled to make a request to the Monitoring Officer that a meeting of the Standards Committee be convened for the purpose of a hearing to consider the report. If no member of the Standards Committee requests a hearing within 10 working days of the report being circulated the findings of the investigating officer become final and the decision stands.
12. In the event that a member of the Standards Committee does request a hearing the hearing the public and press shall be excluded from the hearing under s.100I and paragraphs 1 and 2 Schedule 12A Local Government Act 1972 unless the subject member requests otherwise it being generally considered in the public interest to apply the exemption as the member's right to privacy until such time as the findings of the investigating officer have been reversed outweigh the public interest in making the information available.
13. Where the investigating officer finds that there has been a breach of the Code of Conduct or where a member of the Standards Committee has requested a hearing under paragraph 12 above there will be a hearing to consider the complaint and the investigating officer's report. Unless paragraph 12 above applies the hearing will normally be held in public.
14. The procedure for a hearing will be as follows:
  - a. The investigating officer will usually have interviewed all relevant witnesses and a summary of their evidence will appear in the report
  - b. Live evidence will not usually be called by the Investigating Officer at the hearing
  - c. The subject member may apply for permission to call live rebuttal evidence. The Monitoring Officer (or his or her deputy if the Monitoring Officer carried out the investigation) shall determine with the Chairman of the Standards Committee (or another voting member of the Standards Committee in the absence of the Chairman) whether live witness evidence will be permitted.

- d. Any request for permission to call live evidence shall be in writing, state the name of the witness concerned and give a summary of the evidence the witness is likely to give.
  - e. Where a witness has given evidence which is referred to in the investigating officer's report and the subject member wishes that person to be subject to cross examination at the hearing the subject member may request the investigating officer to endeavour to arrange for that witness's attendance. The subject member should however be aware that witnesses cannot be required to attend Standards Committee hearings. Further the investigating officer may decide not to request the witness to attend. In either event the evidence is admissible but when evidence is in dispute and is no subject to cross examination the Committee will need to determine what weight to give to it.
  - f. The subject member will have the opportunity of attending and addressing the hearing and calling evidence if having first been given permission to do so.
15. Having received evidence and hearing submissions the Committee will announce its findings of fact, its findings as to whether there has been a breach of the Code of Conduct and what sanction (if any) should apply.
16. The range of sanctions available is:-
- a. To find that no further action is required.
  - b. To censure the member (this is the only sanction available if the member is no longer a councillor at the date of the hearing)
  - c. To recommend that a member's access to council premises or the use of council resources be restricted providing that such restrictions do not prevent the member performing his functions as a councillor
  - d. To recommend that the member makes a written apology in a form acceptable to the Standards Committee.
  - e. To recommend that the member undertakes specified training.
  - f. To recommend that the member undertakes specified conciliation or mediation.

- g. To recommend that the member be removed from a committee or committees of the Council (this can only be done by Full Council and if the member is a member of a recognised political group on the Council with the consent of his or her group leader)
  - h. To recommend that the member be removed from an outside body or bodies to which the member has been appointed by the Council (this can only be done by Full Council and if the member is a member of a recognised political group on the Council with the consent of his or her group leader)
  - i. To recommend that the member be removed from the Cabinet (this can only be done by the Leader of the Council)
  - j. To require the decision of the Standards Committee to be published.
17. A finding that there has been no breach of the Code of Conduct (whether by the investigating officer or by the Standards Committee) shall only be published if the subject member requests that this should be done.



## **Annex D: Draft revised code of conduct. (Updated THE COUNCILLORS' CODE OF CONDUCT Part 1**

### **Introduction and Interpretation**

1. This is the Code of Conduct adopted by Uttlesford District Council. It sets out standards of conduct expected of elected and co-opted members of the Council. It is also intended to promote the adherence by members to the following principles:

- *Selflessness*: Holders of public office should act solely in terms of the public interest.
- *Integrity*: Holders of public office 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 friends.
- *Objectivity*: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- *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.
- *Openness*: Holders of public office 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 doing so.
- *Honesty*: Holders of public office should be truthful.
- *Leadership*: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour when it occurs.

### **What does the Code cover?**

2. The Code covers three main areas:

- It sets out some general obligations regarding the behaviour of elected and co-opted members.
- It explains how members should behave if they have a personal interest in an item of Council business.
- It sets out rules requiring registration of interests for public inspection.

## **When does the Code apply?**

3. You must comply with this Code whenever you are carrying out your Council duties for which you were elected or appointed. The Code also applies when you act, claim to act or give the impression you are acting as a representative of the Council. It does not apply to your conduct in your private life. However, conduct that falls short of the high standards expected of those in public life can damage the reputation of the Council and its members, even if it is not within the scope of the Code. The Code applies to elected councillors and it also applies to co-opted members.

## **General obligations regarding behaviour**

4. You must treat others with respect.
5. You must observe any protocols or codes of practice adopted by your authority.
6. You must not:
  - a. Do anything which may cause the Council to breach the Equality Act 2010 or otherwise act unlawfully.
  - b. Bully any person;
  - c. Intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct;
  - d. Do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
  - e. Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
    - i. You have the consent of a person authorised to give it;
    - ii. You are required by law to do so;
    - iii. The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- iv. The disclosure is reasonable and in the public interest; and is made in good faith and in compliance with the reasonable requirements of the authority;
  - f. Prevent another person from gaining access to information to which that person is entitled by law.
  - g. Conduct yourself in a manner which could be reasonably regarded as bringing the Council or your office into disrepute
  - h. Use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage
7. You must, when using or authorising the use by others of the resources of your authority:
- a. Act in accordance with your authority's reasonable requirements;
  - b. Ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - c. Have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

## **Members' Interests in Council Business**

### **Disclosable pecuniary interests.**

8. Disclosable pecuniary interests (DPIs) are defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. An explanation of what is a DPI is set out in Appendix A to this Code. It is very important that members understand what amounts to a DPI, that they identify carefully all the DPIs relevant to them and that they take the action required by law. Breach of the requirements related to DPIs may amount to a criminal offence.

### **Personal Interests**

9. Personal interests are interests you have in business considered by the Council that do not fall within the definition of a disclosable personal interest but which should be declared in the interests of transparency. They are defined in Appendix B to this Code.

### **Personal and Prejudicial interests.**

10. To decide whether a personal interest is prejudicial, members should apply the following test:

*“Would a member of the public with knowledge of the relevant facts reasonably regard my interest as so significant that it is likely to prejudice my judgement of the public interest?”*

If the answer is “yes”, then you should treat your interest as “personal and prejudicial”.

### **Disclosure of Members’ Interests**

11. If you are present at a Council meeting that is considering business in which you have an interest, you must disclose the existence and nature of the interest to the meeting. Council meetings for this purpose also include:

- Meetings of committees, sub-committees, working groups and panels.
- Meetings of the Cabinet and of committees and sub-committees of the Cabinet.

This provision only applies if you are aware or ought reasonably to be aware of the interest.

### **Decisions made by Cabinet members**

12. If you are a Cabinet member with an interest in any business of the Council which would be disclosable by virtue of paragraph 11 and you have made a decision on behalf of the Cabinet in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest. This applies to decisions made on behalf of the Cabinet outside meetings as well as to those made at meetings.

### **Disclosure of Sensitive Interests**

13. If details of your interest are not published in the Register of Members’ Interests because they have been classed as “sensitive”, you must disclose the fact that you have an interest and the type of interest (disclosable pecuniary or personal) but need not disclose the nature of the interest.

### **Participation in meetings if you have an interest**

14. If you have a **disclosable pecuniary interest** in any Council business then, unless you have a dispensation from the Council’s Monitoring Officer, you must:

- Withdraw from the room or chamber where the meeting considering the business is being held.
- Not participate or participate further in any discussion of the matter at the meeting.
- Not participate in any vote or further vote taken on the matter at the meeting.

15. If you have a **personal and prejudicial interest** in any Council business then, unless you have a dispensation from the Council's Monitoring Officer:
- You may attend a meeting for the purpose of making representations only.
  - You must not participate or participate further in any discussion of the matter at the meeting.
  - You must not participate in any vote or further vote taken on the matter at the meeting.
16. If you have a **personal interest that is neither a disclosable pecuniary interest nor a prejudicial interest**, you may participate in discussion of the matter and may vote.
17. If a Council function may be discharged by a member acting alone and you have a disclosable pecuniary interest in such a matter, you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself) unless you have obtained a dispensation from the Monitoring Officer permitting you to do so.

## **Registration of Members' Interests**

### ***Disclosable Pecuniary Interests***

18. You are required to notify The Council's monitoring officer of any disclosable pecuniary interests as follows:
- You must give notice of all disclosable pecuniary interests within 28 days of being elected or appointed as a member of the Council.
  - If you are re-elected or reappointed, you must give notice within 28 days of re-election or re-appointment of any disclosable pecuniary interests that are not already entered in the Register of Members' Interests
  - If you are obliged, at a meeting or as part of a record of an executive decision, to declare a disclosable pecuniary interest which is not entered on the Register of Members' Interests, you must notify the Council's Monitoring Officer within 28 days of the declaration.
  - Notify the Monitoring Officer of new disclosable pecuniary interests within 28 days of becoming aware of them.

### ***Personal Interests***

19. You are required to notify The Council's monitoring officer of any personal interests that are not registrable as disclosable pecuniary interests as follows:
- The name of 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 the Council.

- The name of any body:
  - exercising functions of a public nature; or
  - directed towards charitable purposes; or
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
 of which you are a member or in a position of general control or management
- The name of any person or body from whom you have received a gift or hospitality with an estimated value of at least £50.

**Sensitive interests**

20. Where you have an interest that is registrable and the nature of the interest is such that you and The Council’s monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority’s register then copies of the register available for inspection and any published version of the register shall not include details of the interest but may state that you have an interest details of which are withheld under s.32(2) Localism Act 2011 and/or this paragraph.

**APPENDIX A: DISCLOSABLE PECUNIARY INTERESTS**

A1. You have a disclosable pecuniary interest in any business of the Council if:

- it is of a kind described in A2 below;
- it is an interest held by you or by another “relevant person” as set out in A3 below; and
- in the case an interest held by another “relevant person”, you are aware that the other person has the interest.

A2. The table below sets out the nature of “disclosable pecuniary interests”. As an elected or co-opted member, you fall within the description “relevant person”, as well as others described in A3 below.

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 financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member or towards your election expenses.  This includes any 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

	<p>the Council-</p> <p>a) under which goods or services are to be provided or works are to be executed; and</p> <p>b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the Council's area.
Licences	Any licence (alone or jointly with others) to occupy land in the Council's area for a month or longer.
Corporate tenancies	<p>Any tenancy where to your knowledge -</p> <p>a) the landlord is the Council; and</p> <p>b) the tenant is a body in which the relevant person has a beneficial interest</p>
Securities	<p>Any beneficial interest in securities of a body where -</p> <p>a) that body (to your knowledge) has a place of business or land in the Council's area; and</p> <p>b) either -</p> <p>(i) the total nominal value of the securities exceeds £25000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 one hundredth of the total issued share capital of that class.</p>

A3 As explained, you will have a disclosable pecuniary interest if you or another "relevant person" has an interest described in A2. The following are "relevant persons":

- You, as an elected or co-opted member of the Council.
- Any of the following:
  - Your spouse or civil partner,
  - A person with whom you are living as husband and wife,
  - A person with whom you are living as if you are civil partners.

A4. You will only have a disclosable pecuniary interest through another person if you are aware that the other person has that interest.

A5. The following are statutory definitions to be used for the interpretation of the table in A2:

"body in which the relevant person has a beneficial interest"	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
"director"	includes a member of the committee of management of a

	registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union
“land”	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
“member”	includes a co-opted member;
“relevant period”	means the period of 12 months ending with the day on which a member gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Localism Act;
“securities”	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**APPENDIX B: PERSONAL INTERESTS**

Even if an interest does not amount to a disclosable pecuniary interest, you will have a personal interest in an item of Council business in these circumstances:

B1. The item of business relates to or is likely to affect any person or body who employs or has appointed you. Or

B.2A decision in relation to that business might reasonably be regarded as affecting your financial position or wellbeing or that of a related person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision. Or

B.3 The item of business relates to or is likely to affect:

- 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 the Council.
  -
- Any body of which you or a related person are a member or in a position of general control or management which does one or more of the following:
  - exercises functions of a public nature;
  - is directed towards charitable purposes; or
  - seeks, as one of its principal purposes to influence public opinion or policy (including any political party or trade union)
- The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50.

B.4 “Related Persons”. The following are “related persons” in determining whether you have a personal interest:



- A member of your family or any person with whom you have a close business or personal association.
- Any person who employs or has appointed such persons, any firm in which they are a partner or any company of which they are directors.
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000.00 or one percent of the total issued share capital (whichever is the lower)

## Annex E: Draft revised Code of Conduct procedure

### Uttlesford District Council Procedure for Considering a Complaint under the Code of Conduct for Councillors

Our Code of Conduct for Councillors is available on our website at [address]. A paper copy may be obtained on request to the Council's Monitoring Officer.

If you wish to make a complaint under our Code of Conduct, or under the Code of Conduct for one of the town or parish councils within Uttlesford, please send your complaint in writing to:

[Name], Monitoring Officer, [email address] or Council Offices, London Road, Saffron Walden, CB11 4ER.

#### 1. Purpose of the Code of Conduct procedure

This procedure covers the following topics:

- Some definitions.
- The sort of complaints we can consider.
- Making a complaint.
- Assessing the complaint.
- Investigating the complaint.
- Considering the Investigating Officer's report.
- The procedure for hearings before a Hearing Panel of the Standards Committee.
- What sanctions can be imposed if a complaint is upheld.

#### 2. Some definitions

**2.1 "Assessment Panel":** Assessment panels meet to decide on how to proceed with a complaint in cases where this is not agreed between the Monitoring Officer and the Independent Person assigned to a complaint. Assessment panels are made up of three members of Uttlesford District Council who are also members of its Standards Committee.

**2.2 "Code of Conduct":** Local councils, including Uttlesford District Council and parish councils within its area, must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. The Code is expected to promote principles of

selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These principles are explained in the Code itself.

**2.3 “Hearing Panel”:** Hearing panels meet to consider complaints that members have breached the code of conduct. Hearing panels are made up of three members of Uttlesford District Council who are also members of its Standards Committee, together with a non-voting Independent Person.

**2.4 “Independent Person”:** This is a statutory role established by the Localism Act 2011. Uttlesford District Council is obliged to appoint at least one “independent person”. In fact, it has appointed three.

- The An Independent Person’s views must be sought, and taken into account, by UDC before it makes decisions on allegations that it has decided to investigate.
- The An Independent Person’s views must also be sought in the circumstances set out in this procedure.
- The views of an Independent Person may also be sought by a member or co-opted member of UDC or of one of the parishes in its area if that member’s behaviour is the subject of an allegation.
- One of the Independent Persons will participate in hearing panels alongside elected members.

**2.5 “Investigating Officer”:** This is a person appointed by UDC to investigate a complaint against a member or a co-opted member.

**2.6 “Member”:** This term is used in this procedure to refer to an elected councillor or co-opted member of UDC or of one of the town or parish councils in its area.

**2.7 “Monitoring Officer”:** This is a statutory role provided for by the Local Government and Housing Act, 1989. UDC is obliged to designate one of its officers as Monitoring Officer.

- The Monitoring Officer has an oversight role in ensuring that local authorities act lawfully and address instances of maladministration.
- In the context of this procedure, the role of the Monitoring Officer is not to carry out formal investigation of complaints but to make some decisions on how to respond to complaints, in consultation with an Independent Person, and to provide advice and support to Hearing Panels.
- The Monitoring Officer is responsible for initiating steps towards the informal resolution of a complaint where informal resolution is identified as appropriate by the Monitoring Officer and the Independent Person who is advising on the complaint.
- The Monitoring Officer is also responsible for keeping a clear and auditable record of how complaints are considered.

**2.8 “Standards Committee”:** This is a committee made up of elected members of Uttlesford District Council. Its main role is to promote and maintain high standards

of conduct by councillors and co-opted members. The membership of Hearing Panels is drawn from UDC's Standards Committee.

### **3. The sort of complaints we can consider.**

- 3.1 This procedure applies to complaints that a member has acted in a way that breaches the Code of Conduct. Uttlesford District Council ("UDC") has a code of conduct for councillors and so do most town and parish councils. Some parish councils have the same code of conduct as UDC but some have their own codes.
- 3.2 The Code of Conduct only applies to councillors when they are conducting council business or are acting, claiming to act or are giving the impression that they are acting as a representative of the council to which they are elected. The Code of Conduct does not apply to their private lives.
- 3.3 We cannot consider complaints under this procedure that do not allege a breach of the Code. It is not a way simply of challenging decisions with which someone disagrees. There may be other ways of pursuing complaints or challenges to actions or decisions taken by councillors that do not relate to the Code of Conduct; for instance through a council's complaints procedure, by complaining to the Local Government Ombudsman or through a statutory appeal process.
- 3.4 We can only consider complaints about councillors elected to UDC or to one of the town or parish councils within Uttlesford.

### **4. Making a complaint**

- 4.1 Complaints should be made in writing, which includes email. They should be addressed to UDC's Monitoring Officer and set out full details of the complaint.
- 4.2 If a member of the public has difficulty in putting a complaint in writing, the Monitoring Officer shall arrange other means to record and register the complaint. If the scope or nature of a complaint is not clear, the Monitoring Officer may ask for more detail. In these circumstances the Monitoring Officer must ask the complainant to confirm that the complaint has been accurately recorded.
- 4.3 The Monitoring Officer will offer advice and assistance but will remain impartial between the complainant and the councillor who is the subject of the complaint.
- 4.4 'Anonymous' complaints will not normally be accepted. If a complainant requests anonymity, they must explain why. The Monitoring Officer will consult an Independent Person before deciding whether to accept a complaint on an anonymous basis. The Monitoring Officer shall record the reason for granting anonymity, if allowed.

- 4.5 Within 5 working days of receipt of the complaint in final form the Monitoring Officer shall acknowledge the complaint and provide a copy of the Code of Conduct and this procedure to the complainant.
- 4.6 Once a complaint is in final form, the Monitoring Officer shall send a copy of the complaint to the member who is the subject of the complaint. The Monitoring Officer will aim to do this within 5 working days. However, the Monitoring Officer may decide not to do this if this might prejudice the investigation. The Monitoring Officer shall consult an Independent Member of the Standards Committee before withholding a copy of the complaint from the member who is the subject of the complaint.
- 4.7 If, at any stage, a complainant wishes to withdraw a complaint, the Monitoring Officer shall consult the Independent Person and may consult the member who is the subject of the complaint. Ordinarily consideration of a complaint would cease if the complainant wished to withdraw it. However, there may be circumstances in which it would be appropriate, in the public interest, to pursue a complaint despite the wishes of the complainant.
- 4.8 In the event that the Monitoring Officer receives a complaint that a councillor has failed to declare a disclosable pecuniary interest (“DPI”) and there is evidence that a serious potential DPI offence may have been committed, they will make immediate contact with the Police through a nominated single point of contact. In these circumstances this procedure under the Code will be suspended pending consideration of the complaint by the Police. For the avoidance of doubt there is no requirement for the Monitoring Officer to refer cases to the Police where it appears there may have been a genuine error or oversight by the member concerned and no advantage has been secured by them.

## **5. Assessing the Complaint**

- 5.1 Once the substance of a complaint is clear, the Monitoring Officer shall consult the Independent Member about how to proceed. Options at this stage include:
- No further action.
  - Informal resolution.
  - Formal investigation.
    - The Monitoring Officer shall, where appropriate, ascertain if the complainant and the member who is the subject of the complaint are prepared to attempt resolution of the complaint by informal means. Informal means may include mediation. In the event that informal resolution is not possible, the formal procedure will continue. Informal resolution may not be appropriate where a serious breach of the Code is alleged, where third party rights may be adversely affected or where there is a wider public interest in pursuing a formal investigation.

5.2A number of factors, not limited to those below, will inform the Monitoring Officer's decision.

- Whether the alleged action relates to a breach of the code of conduct.
- When the action complained about occurred. (Complaints should be made in a timely manner and should usually be made within three months of the alleged breach.)
- Whether the alleged action is considered to be serious or minor/trivial.
- Whether the complaint appears to be politically motivated, vexatious or retaliatory.
- Whether the allegations relate to actions occurring whilst the member was acting in their official capacity or in their private capacity.
- Whether it is in the public interest to investigate.
- Whether the matter is considered suitable for alternative resolution and if so whether the member and the complainant are prepared to consider this alternative.
- Whether the complaint should be pursued by other means; e.g. through a parish or town council complaints procedure, through an appeals process or through complaint to the Local Government Ombudsman.
- Whether there is sufficient information on which to consider the complaint.
- In deciding whether to investigate a complaint, careful regard will be had to the right of members to freedom of expression and their role in contributing to political debate.
- Regard will also be had to whether an investigation is appropriate if a member has admitted the breach and has offered a sincere apology.
  - If the Monitoring Officer and Independent Member cannot agree on how to proceed, an assessment panel of the Standards Committee shall decide.

## **6. Investigating the Complaint**

6.1 When there is a decision to investigate a complaint, the Monitoring Officer shall formally appoint an investigating officer with appropriate skills and experience. The appointment shall take account of any potential 'conflict' between the Investigating Officer and Member. If there is no suitable internal appointee, an

officer from another authority or an external investigator may be appointed. The Investigating Officer must be prepared to attend any subsequent hearing.

6.2 On appointment, the Investigating Officer shall contact, and where possible meet, the complainant, to ensure a full understanding of the nature and substance of the complaint. The Investigating Officer shall acquire a copy of any documentation offered or referred to as evidence, and take details of any witness or witnesses prepared to provide evidence. At this point, the Complainant may not extend the scope of the complaint but may clarify any matters.

6.3 The Investigating Officer shall contact witnesses and either obtain signed and dated statements from them concerning the complaint, or interview them and obtain a signed and dated record of the interview from them.

6.4 Witnesses should generally be prepared to attend a hearing, and have their evidence examined and cross-examined.

6.5 Throughout the investigation process, any interviewee, including the complainant and the member, has the right for a 'friend' to attend. The 'friend' shall not normally act in a legal capacity.

6.6 After interviewing the parties and witnesses and considering the evidence, the Investigating Officer shall produce a draft report summarising the investigation and making provisional findings of fact. The draft report shall also indicate whether the Investigating Officer considers that there has been a breach of the Code of Conduct, with reasons.

6.7 The Investigating Officer shall send a copy of the draft report to both the complainant and the member, marked 'In Confidence', and invite the parties to identify anything in the report with which they disagree, or which they believe requires further consideration. The Investigating Officer shall receive and take account of any comments. If necessary, in the interests of accuracy and justice, this process may be repeated.

6.8 The Investigating Officer shall then submit a final report to the Monitoring Officer.

## **7. Considering the Investigating Officer's report.**

7.1 The Monitoring Officer shall, on receipt, review the report and seek any clarifications necessary.

7.2 The Monitoring Officer will then send a copy of the final report to the Independent Person, to the complainant and to the member.

7.3 If the report concludes that the member has not breached the Code of Conduct, and the Monitoring Officer and the Independent Person accept the finding, the Monitoring Officer shall send all members of the Standards Committee a copy of the report for information.

7.4 If the report finds that the member has breached the Code of Conduct, the Monitoring Officer may consider that the matter does not require a formal hearing and informal resolution may resolve it. In this case, the Monitoring Officer shall consult the Independent Person and may propose a fair resolution that helps to ensure higher standards of conduct in the future. This may require the Member to acknowledge that their conduct was unacceptable. It may include a requirement for any of an apology, a process of conciliation, training or some other remedial action.

7.5 If informal resolution is not appropriate or proves not to be possible, the Monitoring Officer shall refer the matter for a formal hearing.

7.6 If the complaint is resolved informally, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action.

7.7 In all other circumstances, the Monitoring Officer shall refer the Investigating Officer's report to a panel of the Standards Committee for a formal hearing.

## **8. The procedure for hearings before a Hearing Panel of the Standards Committee.**

8.1 Formal hearings will be conducted by a panel of three councillors drawn from membership of the Standards Committee on the basis of availability plus one of the Independent Persons.

8.2 A member of the Standards Committee, against whom a Code of Conduct complaint has been made, shall not be selected as a member of a Hearings Panel until consideration of the complaint has been concluded.

8.3 Agendas for hearings panels shall be published and hearings panels shall be held in public unless:

- This would involve disclosure of exempt information as defined by Schedule 12A, Local Government Act, 1972; and
- In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

8.4 Before a hearing panel meets, the Monitoring Officer shall write to the member and to the complainant, asking each:

- Whether they accept the finding in the report
- Whether they dispute any factual part of the report, identifying any areas of dispute.



- Whether they wish to call any witnesses at the hearing. (Only witnesses identified to the Investigating Officer by the complainant or by the member may be called as witnesses. In law, witnesses do not have to attend a hearing panel.
- Whether the complainant wishes to be present at the hearing. (The complainant shall be invited, but is not obliged, to attend the hearing. If the complainant is not present, the procedure below shall be adapted accordingly.)
- Whether they wish to be accompanied at the hearing.

8.5 In advance of a meeting of a Hearing Panel its members shall seek to agree who will chair the hearing. The Chair may issue directions about the conduct of the hearing. A member of a Hearing Panel shall not act as Chair unless they have received relevant training.

8.6 Subject to the discretion of the Chair, the hearing shall be conducted as follows:

- a. The Investigating Officer will be invited to present their report and to call witnesses. The complainant, the member and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the Investigating Officer and any witnesses.
- b. The complainant will be invited to comment on the report and its findings and to call witnesses. The Investigating Officer, the member and the Panel, in that order, may ask questions or seek clarification both of the complainant and any witnesses.
- c. The member will be invited to comment on the report and its findings and to call any witnesses. The Investigating Officer, the complainant and the Panel, in that order, may ask questions or seek clarification both of the member and any witnesses.
- d. The Investigating Officer, the complainant and the member will be invited, in that order, to make brief concluding remarks.

8.7 The Chair and Panel, including the Independent Person, may ask for advice at any stage from the Monitoring Officer.

8.8 Once the hearing has been concluded, the Hearing Panel, with the Independent Person, will retire to consider its decision. It may call on the Monitoring Officer to provide advice and guidance. The Hearings Panel is required to do the following: (i) to decide on the facts, (ii) to decide on whether these facts constitute a breach of the Code of Conduct, and (iii) to decide on the appropriate sanction.

8.9 In deciding whether or not to uphold the complaint the Hearing Panel must apply, as the standard of proof, the balance of probability, with the burden of proof

resting on the Investigating Officer. The Hearing panel may only make an adverse finding if satisfied, on this basis, that the member has breached the Code of Conduct.

- 8.10 The Hearing Panel will then return and announce its findings on whether there has been a breach of the Code, with reasons.
- 8.11 Following announcement of the Hearing Panel's findings, the complainant and the member will be invited to make submissions, if necessary, regarding remedies or sanctions.
- 8.12 The Hearing Panel will then consider what, if any, sanction it wishes to impose. It shall retire whilst it considers this. It will then announce its decision and give reasons.
- 8.13 Following the hearing, the Monitoring Officer shall draft a record of the decision for approval by the Hearing Panel. Once the record of decision has been settled, a copy shall be sent to each of the parties.

## **9. Appealing a Decision about a Complaint**

- 9.1 There is no right of appeal against a decision on a Code of Conduct complaint. If the complainant or the member considers that the complaint has not been considered properly by UDC, they may be able to complain to the Local Government Ombudsman or seek permission for judicial review.

## **10. Sanctions available to a Hearings Panel**

- 10.1 The Hearings Panel has powers to take action in respect of individual councillors as necessary to promote and maintain high standards of conduct.
- 10.2 The Hearings Panel may do one, or a combination, of the following:
- a. Issue a formal Censure or Reprimand to the Member
  - b. Report its findings to Council (or to the Parish or Town Council) for information
  - c. Recommend the Member's Group Leader (or in the case of ungrouped members, recommend the Council or Committees) to remove the Member from appointments to Committees or Sub-Committees of the Council
  - d. Recommend the Leader of the Council to remove the Member from any appointment to the Cabinet, or from particular Portfolio responsibilities
  - e. Instruct the Monitoring Officer to (or recommend that the Parish or Town Council) arrange training for the Member

- f. Recommend to the Council (UDC) or its Cabinet, or to the Parish or Town Council that all outside appointments to which he has been appointed or nominated by that Authority are removed
- g. Exclude (or recommend that the Parish or Town Council exclude), the Member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings
- h. If relevant, recommend that the Council removes the Member from the post of Leader of the Council.
- i. Publish its findings in respect of the Member's conduct.

In cases where a Hearings Panel makes an adverse finding against a Member, its decision will be published on the Standards Committee pages of the Council's website. This includes decisions relating to members of Town or Parish councils.

Annex F: Solihull Council Code of Conduct

- 
- **Solihull Metropolitan Borough Council**
- **Code of Conduct for Councillors**
- I .....

.....

▪ **being a duly elected Councillor/Co-opted Member for Solihull Metropolitan Borough Council hereby declare that I will undertake my duties as follows:**

1. I will represent the interests of the whole community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

2. **As a holder of public office** and as required by law I will behave in a manner that is consistent with the following principles to achieve best value for all our residents and maintain public confidence in the Council and any other body to which I am appointed by the Council and the office of councillor.

- **a. SELFLESSNESS:** I will act solely in terms of the public interest. I will not act in such a way as to gain financial or other material benefits for myself, my family, or my friends.
- **b. INTEGRITY:** I will not place myself under any financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.
- **c. OBJECTIVITY:** I will make choices on merit, in carrying out public business, including when making public appointments, awarding contracts, or recommending individuals for rewards and benefits.
- **d. ACCOUNTABILITY:** I will be accountable for my decisions and actions to the public and will submit myself to whatever scrutiny is appropriate to my office.
- **e. OPENNESS:** I will be as open as possible about all the decisions and actions I take. I will give reasons for my decisions and restrict information only when the wider public interest or the law clearly demands.
- **f. HONESTY:** I will declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interests.
- **g. LEADERSHIP:** I will promote and support these principles by leadership and example.

3. As a Member of the Council I will act in accordance with the principles in paragraph 2 and, in particular, I will

- a. Champion the needs of the whole community and all my constituents, including those who did not vote for me, and put the public interest first.
- b. Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- c. Not allow other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Council or the good governance of the Council in a proper manner.
- d. Exercise independent judgement and not compromise my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a Member/Co-opted Member of the Council.
- e. Take account of all relevant information, including advice from statutory and other professional officers. I will remain objective and make decisions on merit.
- f. Be accountable for my decisions and cooperate when scrutinised internally and externally, including by local residents.
- g. Contribute to ensuring that decision-making processes are as open and transparent as possible to ensure the community understands the reasoning behind decisions and are informed when holding me and other Members to account.
- h. Behave in accordance with all my legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources.
- i. Under no circumstances will I disclose confidential information (be that confidential by virtue of legislation or otherwise) unless I have express authority to do so and/or the law so requires.
- j. Value my colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- k. Always treat people with respect, including the organisations and public I engage with, fellow members and those I work alongside.
- l. Provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Council.

4. I will register and disclose those interests that I am required by law to declare. I will do this by completing and submitting a signed declaration of my interests to the

Monitoring Officer of the Council. I will keep the register updated and acknowledge that its contents are open to the public to inspect.

5. I will comply with any code of conduct for councillors that is properly established by the Council.

- Signed:.....
- Full name:.....
- Date:.....
-

**Committee:** Council  
**Date:** Tuesday 4<sup>th</sup> April 2017  
**Title:** Member Officer Protocol  
**Author:** Simon Pugh

**Agenda Item**

**8 (ii)**

Item for decision:  
yes

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## Summary

This report proposes a revision of the Member Officer protocol, which sets some ground rules for the relationship between members and officers. The revised protocol has been considered by the Constitution Working Group, which recommends its adoption. The version attached to this report incorporates changes requested by the Working Group.

## Recommendation

That the Council adopts the Member/Officer protocol in Appendix B to this report in place of the current Protocol (Appendix A).

## Financial Implications

1. None.

## Background Papers

2. There are no background papers to this report.

## Impact

- 3.

Communication/Consultation	One of the objectives in revising the Protocol is to improve communications and consultation between officers and members..
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None, provided that substitutes are properly appointed..
Sustainability	None.
Ward-specific impacts	The revised protocol encourages officers to

	keep members informed about issues in the ward they represent. .
Workforce/Workplace	This will affect Council employees, who will need briefing about revisions to the Protocol. .

## Situation

4. As part of its constitution, the Council has a member/officer protocol. This is designed to ensure clarity of roles between members and officers, to set out some rules of behaviour and to provide a mechanism for dispute resolution.
5. The Monitoring Officer has been reviewing the Member/Officer Protocol and has prepared a revised version. The revision is intended:
  - To address some issues raised by members and by officers;
  - To place more emphasis on partnership working between members and officers.
6. The two versions are not radically different. As mentioned, the proposed version places greater emphasis on members and officers working in partnership. It also makes more explicit their roles and expectations, with particular emphasis on the role of members as ward councillors. The proposed version also encourages members to visit officers by appointment and to avoid contacting them outside office hours.
7. There is an overlap between the CWG and the Standards Committee, and members of the Standards Committee have expressed interest in the revision of the Protocol. The draft is being shared with the Standards Committee as well as the CWG and Standards Committee members have been invited to comment on the draft and to attend the CWG meeting.
8. The current protocol is attached as Appendix A and the proposed version forms Appendix B.

## Risk Analysis

9.

Risk	Likelihood	Impact	Mitigating actions
Meetings are not quorate if members are unable to attend and the Council has not appointed	2.	1	Meetings may have to be rearranged.



<p>substitutes.</p> <p>That substitutes, if appointed, will not have the knowledge or training to make proper decisions.</p>	<p>2.</p>	<p>2.</p>	<p>Ensure that substitute members receive agendas and are invited to briefings. Require substitute members to meet the same training requirements as principal members.</p>
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## Appendix A CURRENT MEMBER/OFFICER PROTOCOL

### 1. Introduction

- 1.1 The purpose of this Protocol is to promote positive relationships between members and officers of the Council so as to ensure the smooth running of the Council. It is not a statutory requirement and therefore has the status of guidance. However, adoption of this protocol by the Council demonstrates commitment to its principles and the Council expects all members and officers to comply with it. The protocol may also be taken into account by Standards Committee when considering complaints.
- 1.2 Given the variety and complexity of member/officer relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.

### 2. Role of Members/Officers

- 2.1 The Council's Code of Conduct for Members sets out a number of general, mandatory obligations including the following:
- 2.2 A member must treat others with respect and must not:
  - 2.2.1 do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - 2.2.2 bully any person;
  - 2.2.3 intimidate or attempt to intimidate any person who is or is likely to be:
    - 2.2.3.1 a complainant,
    - 2.2.3.2 a witness, or
    - 2.2.3.3 involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including him/herself) has failed to comply with the Council's Code of Conduct;
  - 2.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
- 2.3 Members undertake many different roles. Broadly these are:
  - 2.3.1 As politicians - expressing political values and supporting the policies of the group to which they belong;

- 2.3.2 As representatives and advocates - representing the ward and the citizens who live there;
  - 2.3.3 As decision makers - on Full Council, the executive, committees or on partnership organisations;
  - 2.3.4 As policy makers - developing and reviewing policy and strategy;
  - 2.3.5 Providing scrutiny and overview – monitoring and reviewing policy implementation and service quality;
  - 2.3.6 As regulators - regulating certain activities e.g. planning, licensing;
  - 2.3.7 As employers - responsible for the employment conditions and policy direction of the paid workforce;
  - 2.3.8 As community leaders and networkers - through active partnerships with other organisations.
- 2.4 In broad terms, officers have the following main roles:
- 2.4.1 managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services and for proper practice in discharging their responsibilities;
  - 2.4.2 providing advice to the Council, the executive, committees, sub-committees and members in respect of its services;
  - 2.4.3 initiating policy proposals as well as implementing agreed Policy;
  - 2.4.4 ensuring that the Council always acts in a lawful manner.
- 2.5 Officers thus give professional advice to members who then make decisions for which they are accountable. Members' decisions are collective. They should not expect to receive information about decisions relating to individual residents except where the constituent has raised a concern with the member.

### **3. Relations between Members and Officers**

- 3.1 The General Principles of Conduct in Local Government also includes respect for others. Members should respect the impartiality and integrity of the authority's statutory officers, and its other employees.
- 3.2. These principles of the objectivity of officers and the mutual respect of roles are paramount. It is vital that any dealings between members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 3.3. Officers serve the Council through the executive, committees and sub-committees of the council or the executive and working groups. They work to the instructions of their senior officers - not individual members of the Council, whatever office the member may hold. It follows, therefore, that officers must not be asked to exceed the bounds of authority they have been given by their manager nor should they have unreasonable demands placed on them in terms of support to an individual member (or members).

- 3.4. It is not enough to avoid actual impropriety. Members and officers should, at all times, avoid any occasion for suspicion and any appearance of improper conduct. Members should declare to the Chief Executive any relationship with an officer, which might be seen as influencing their work as a member or vice-versa. This includes any family, business or close personal relationship. It is not possible to define exactly the range of relationships that would be considered as close or personal. Examples, however, would include a family or sexual relationship or regular social mixing such as holidays or meals together.

#### **4. Complaints or Concerns about Officers or Services**

- 4.1 Members have the right to criticise reports or the actions taken by officers but they should always:
- avoid physical or personal attacks on or abuse of officers,
  - ensure that criticism is constructive and well founded, and
  - take up an individual concern with the officer privately, where possible.
- 4.2. Members should not raise matters relating to the conduct or capability of an officer at Cabinet and committee meetings or in any public forum. This could be damaging both to effective working relationships and to the image of the Council. An officer has no means of responding to such criticisms in public.
- 4.3. If a member feels he has not been treated with the proper respect, courtesy or has any concerns about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, he should raise the matter with the appropriate Director or the Assistant Chief Executives. The Director or the Assistant Chief Executives will look into the matter and report back to the member. If the member continues to feel concern, they should then report it to the Chief Executive who will look into the matter afresh. A complaint about a Director or an Assistant Chief Executive should be raised with the Chief Executive. A complaint about the Chief Executive should be raised with the Leader and/or the chief officers. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's disciplinary rules and any statutory provisions which may apply.
- 4.4. Where an officer feels that he has not been properly treated with respect and courtesy by a member, the aim should be to try to resolve the matter informally. If he feels able, the officer should in the first instance discuss it with the member concerned. He may then wish to raise the matter with his line manager, Director, Assistant Chief Executive or the Chief Executive as appropriate. In these circumstances line manager, Director, Assistant Chief Executive or the Chief Executive will take appropriate action by approaching the individual member and/or group leader. If it does not prove possible to resolve the matter informally the officer may make a complaint to the Standards Committee in accordance with the normal procedures for complaints about members.
- 4.5. Members and officers have a duty to raise any issues where they have reason to believe fraud or corruption of any sort is involved. (See the Anti-Fraud Policy Statement below and the Council's whistleblowing procedure).

## **5. Officer Advice to Members and Party Groups**

- 5.1. It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.
- 5.2. There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. This means that, on occasions, information requested by one group will in fact be provided to all.
- 5.3. The support provided by officers can take many forms, including a briefing meeting with the executive or an executive member or the Chairman/Vice-Chairman of a committee prior to a committee meeting or a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 5.4. Certain points must, however, be clearly understood by all those participating in this type of process, members and officers alike. In particular:
  - 5.4.1 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed.
  - 5.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
  - 5.4.3 Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the executive, executive member or relevant committee when the matter in question is considered.
- 5.5. Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons officers may not attend and give information and advice as they would to a members-only meeting.

- 5.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they must not relate the content of any such discussion to another party group.

## **6. Officer/Executive Members/Chairman Relationships**

- 6.1 It is clearly important that there should be a close working relationship between executive members and the Chairmen of committees and the officers who report to or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other members and other party groups. It is good practice for the lead officer for to brief an executive member or committee Chairman in advance of a meeting and similarly to brief an opposition spokesperson as required.
- 6.2. In respect of committees of the Council, lead officers are identified in respect of each committee and that officer is responsible for drawing up the agenda for committee meetings. The officers will always be fully responsible for the contents of any report submitted in their name. It is essential that any proposals from members in reports to committees are clearly identified as such.
- 6.3. At some committee meetings, a resolution may be passed which authorises named officers to take action between meetings in consultation with a member. It must be recognised that it is the officer, rather than a member, who takes the action and it is the officer who is accountable for it.
- 6.4. It should be remembered that officers within a section are accountable to their Divisional Head and that whilst officers should always seek to assist an executive member, the Chairman of a committee (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Divisional Head.

## **7. Correspondence**

- 7.1. Correspondence between an individual member and an officer, particularly when it has been initiated by the member, should not normally be copied (by the officer) to any other member. Where it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, a system of "silent copies" should not be employed.
- 7.2. Where an officer is dealing with a specific local matter which has been raised by a member or could have significant local implications, the correspondence should be copied to the relevant ward member(s).

## **8. Media Liaison**

- 8.1 Communications with the media can be an important part of a member's workload - issuing press releases or responding to queries. In any media contact, members and officers should always have regard to the reputation of the Council. Generally, members provide comments and views and officers provide factual information. This factual information may well include explaining the Council's policy on a particular issue. If any member is unsure

about the facts of any issue he should contact the appropriate officer or ask the media representative to do so. Members should avoid being seen to anticipate decisions and should not criticise officers in the media.

- 8.2 If a member contacts or is contacted by the media he should indicate in what capacity he is speaking e.g. in a personal capacity, as a member of the executive, as a ward member, as Chairman of a committee, on behalf of the Council or on behalf of his political group. Members should avoid giving the impression they are speaking on behalf of the Council when expressing a personal view. It may be useful to advise the Communications Team or other appropriate officer, of the press release or discussion.

## **9. Conclusion**

- 9.1. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its members and officers.
- 9.2. Copies of the Protocol will be issued to all members along with other documentation (e.g. Procedure Rules) upon election.

## Appendix B: Proposed Draft

### 1. Introduction

Members and officers are indispensable to one another and mutual respect is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation. However, members and officers have different roles and different expectations.

This protocol is intended to:

- Ensure that there is a clear understanding of the respective roles of members and officers.
- Set out some principles governing the relationship between them;
- Establish some ground rules for the relationship.
- Encourage mutual respect and good communication.
- Allow for the constructive and amicable resolution of any conflict.

Overall, the aim of the protocol is to provide a framework to enable members and officers to work together for the benefit of people who live, work, visit, provide employment or provide services in Uttlesford.

### 2. Role of Members and Officers

#### 2.1 Members

Members are democratically elected and have a mandate to represent their ward and to contribute to decisions made by the Council. They are community leaders for their ward and will often be seen by their constituents as the local representative of the Council as a whole. If constituents are unhappy about Council services, they will expect their councillor to do something about it.

Members will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important, in ensuring that good decisions are made, and should be respected.

Members are usually, but not always, members of political groups. Political groups are a legitimate aspect of local government democracy.

Members are responsible for setting the budget and policy framework within which the Council works. Beyond this, members may have different roles. Some will be



members of the Cabinet and will have a wide ranging responsibility for making strategic and operational decisions on behalf of the Council. Some will be members of Committees which scrutinise and have oversight of policies and performance. Some will be members of regulatory committees; for instance, deciding applications for planning permission and ensuring compliance with licensing conditions.

## 2.2 Officers

Officers are employees of the Council. Their roles and responsibilities are set out in their contract of employment and job description. Some are mainly responsible for the delivery of services and work within the policies and standards set by the Council. Others will have a role in developing policies and strategies and in providing professional advice aimed at ensuring that the Council operates in an effective and lawful manner.

As employees, it is important that the Council complies with its legal obligations as employer and with good employment practice.

Officers are not politicians and their loyalty is to the Council as a whole. It is important that their professional integrity and impartiality is respected, especially where they are obliged to give advice that is not welcomed.

<b>What members can expect from officers:</b>
A commitment to the Council as a whole and not to an individual political group
A working partnership
A timely response to enquiries and complaints
Professional advice not influenced by political views or preference
Integrity, mutual support and appropriate confidentiality
Respect for their role as elected representatives.
<b>What officers can expect from members:</b>
Political leadership and direction
A working partnership
Compliance with ethical standards and probity requirements
Non-involvement in day-to-day management
Fairness
Respect for their position as employees of the Council.

## 3. Working Relationships

3.1 Officers and members will be guided by these behaviours in their working relationship:

<b>Do be:</b>	<b>Don't be:</b>
Positive	Unhelpful

Professional	Obstructive
Authoritative	Arrogant
Respectful	Discourteous
Constructive	Imprudent
Communicative	Evasive
Discreet	Secretive
Reliable	Disorganised
Friendly	Friends

3.2 Officers will provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents. They must not be requested to advise upon private matters.

3.3 Officers are employed by, and serve, the whole Council. They are politically neutral and must avoid being identified with any political party. Members must respect this.

3.4 The working relationship between senior officers and the Leader and Cabinet will be particularly close. This relationship, however, must not:

- compromise officers' duties to all Members of the Council;
- be so close as to give the appearance of partiality on the part of officers;
- undermine the confidentiality of any discussions within the Corporate Management Team or between senior officers and other Members;
- compromise officers' professional responsibility to advise Members that a particular course of action should not be pursued;
- undermine officers responsibility for action taken under delegated powers.

3.5 It is important that in any dealings between members and officers neither should seek to take unfair advantage of their position.

3.6 A member should not apply any pressure on an officer to do work outside of normal duties or normal working hours. A member should not, even in an emergency, contact officers, even if they have their mobile phone number. Particularly in an emergency or if a matter cannot wait until normal working hours, the correct course will be to call the Council's out of hours number (01223 849755), which will ensure a speedy and coordinated approach. Pressure should not be put on an officer to do anything that he or she is not empowered to do.

3.7 Similarly, an officer must not lobby or use influence on an individual member to make a decision in his or her personal favour. They should not:

- raise personal matters to do with their job;
- make claims or allegations about other officers;
- make negative comments on the competency of another officer or member.

3.8 In their dealings with officers (especially junior employees), members need to be aware that it is easy for officers to be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.

3.9 Members should approach officers of appropriate seniority when raising queries. Other than for routine service queries, this is likely to be at service manager level or above. If members wish to meet officers, they should generally make an appointment first. This is partly to allow officers to plan their work and partly because of the need to ensure that personal data, which may be visible in offices, is not inadvertently disclosed – for instance information relating to housing or benefit applications.

#### **4. Familiarity**

4.1 Close personal familiarity between individual members and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

4.2 Such familiarity could also cause embarrassment to other members and/or other officers and give rise to suspicions of favouritism.

4.3 Therefore care should be taken by individual members and officers in their relationship with each other. Members should declare to the Chief Executive any close family, business or personal relationship with an officer. Officers should make sure that their line manager is made aware of any similar relationship.

#### **5. Communication**

5.1 Officers should reply promptly and helpfully to correspondence, including emails, received from members. As a minimum, they should meet corporate standards for responses but should also recognise that it will sometimes be appropriate to give priority to correspondence from members. If an immediate reply is not possible, correspondence should be acknowledged and the member kept informed about progress.

5.2 Similarly, members should reply promptly and helpfully to communications from officers, especially where a member's view is sought before action is taken.

5.3 Written communication between members and officers should always be professional in tone, avoiding the appearance of over-familiarity. There is a particular risk with email of making inappropriate comments. Emails are a permanent record and may be held up to public scrutiny through, for instance,

disclosure under freedom of information legislation or in the course of legal proceedings. Officers and members should always be alert to how correspondence would appear if held up to public gaze.

5.4 Written communication may not be the appropriate first step where, for instance, the facts are uncertain or a matter is controversial. A telephone call or personal discussion should be considered instead. In all cases, the preferred communication method of individual councillors should be taken into account, if known.

5.5 If members raise issues on behalf of constituents, officers should reply in terms that will allow members to give explanations to constituents that are helpful and constructive. Whilst members will hold officers to account, members will, in turn, be held to account by their constituents for the actions of the Council.

5.6 Unless a member or officer requests confidentiality, it will be assumed that correspondence between a member and an officer is not confidential and may be shown to others. (An obvious exception is where an issue relates to an individual constituent and would normally be treated in confidence). If, in an officer's view, correspondence between an individual member and an officer is of interest to other members, to keep them fully informed, it should be made clear to the original member that copies have been sent to other members.

5.7 Where issues are raised by, or with, individual members relating to a matter of general interest in a ward, copies of correspondence may be sent to other members for the ward. However, a member may specifically request that correspondence is not copied to other members.

5.8 Official letters sent on behalf of the Council should normally be in the name of the appropriate officer, rather than in the name of a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a member, but this should be the exception rather than the norm.

## **6. Involvement of ward councillors**

6.1 Whenever a public meeting is organised by the Council to consider a local issue, all the councillors representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting with the maximum possible notice being given. Similarly whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should be consulted at the outset of the exercise.

6.2 Ward Councillors should be notified in advance about any issues likely to affect them. This would include press releases relating to a particular Ward or significant matters likely to affect a Ward.

6.3 Ward councillors should be copied into correspondence with town or parish councils within their ward unless there is a good reason not to.

6.4 Ward councillors should be consulted and involved in significant issues affecting their ward. They will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important in ensuring that good decisions are made and should be respected.

## **7. Requests for factual information**

7.1 Officers will use the Members' Bulletin as the primary means of providing factual information to members. There are other sources of information available to members, in particular the "Keep Me Posted/ Gov Delivery e-newsletter, to which members are encouraged to subscribe.

7.2 All members of the Council are entitled to request factual information from officers about a Council department or service and the information will be provided unless:

- there is a legal reason why it should not be disclosed (eg. the information is confidential or should not be disclosed under data protection principles.
- the request for information is for private purposes, rather than in connection with the member's elected role.
- the relevant Director or Assistant Director considers the request to be unreasonable in terms of the resources required to provide the information. In case of dispute, the request will be referred to the Chief Executive.

7.3 Members making requests for information should allow adequate time for officers to provide it. Requests relating to committee or Council meetings should be made well in advance. If officers are not given enough notice, they may not be able to supply information in time. Late requests can also divert officers from work of equal or greater importance or urgency. Giving timely attention to agenda papers can mitigate this risk.

7.4 Members do not need to rely on Freedom of Information rights to ask for information, as they have a statutory right of access to information held by the Council, subject to a "need to know" test. This is wider than the rights given to members of the public. In some cases (for instance, where it involves third party personal information) there may be a need for confidentiality. In case of doubt or dispute, the Monitoring Officer will provide advice.

## **8. Officers' reports and advice**

8.1 The Director/Senior Officer in whose name a report to the Council (or any part of its formal decision-making structure) is submitted will always be fully responsible for the contents of it. It is essential that any proposals from members in reports to committees are clearly identified as such.

8.2 A draft or final report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. Any dispute between a member and the officer responsible for the report which cannot be resolved shall be referred to responsible Director or to the Chief Executive for resolution.

8.3 On occasions, officers will need to express a professional view on a matter which may not support the view of members and/or senior officers. They must be allowed to do so without interference from, or victimisation by, members or officers.

8.4 At some committee meetings, a resolution may be passed which authorises named officers to take action between meetings in consultation with a member. It must be recognised that it is the officer, rather than a member, who takes the action and it is the officer who is accountable for it.

## **9. Officer advice to members and party groups**

9.1 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Council.

9.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business. Officers may properly be called upon to provide information to party groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual members, treat them in a fair and even-handed manner. This means that, on occasions, information requested by one group will in fact be provided to all.

9.3 The support provided by officers can take many forms, including a briefing meeting with the executive or an executive member or the Chairman/Vice-Chairman of a committee prior to a committee meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, support is available to all party groups.

9.4 Scrutiny committees have the power to require Cabinet Members and officers to appear before them and answer questions. As a matter of convention, the Council's scrutiny committees will only require the attendance of the Chief

Executive, Directors and Assistant Directors. However, to facilitate proper conduct of business, these senior officers may arrange, as necessary, for other officers to attend meetings to assist.

9.5 The Chief Executive, Directors and Assistant Directors may, in exceptional circumstances, be invited to attend political group meetings to explain or to advise on policies and/or issues provided that this facility is available to all political groups represented on the Council. Officer attendance at group meetings will usually be at Assistant Director, Director or Chief Executive level. More junior officers should not generally be asked to attend group meetings and, if they are, they should first obtain permission of a Director or the Chief Executive.

9.6 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business and should not be present when matters of party business are to be discussed.

9.7 Special care needs to be exercised if officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and confidential information should not be disclosed.

9.8 Officers must respect the confidentiality of any party group discussions at which they are present.

9.9 Party group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at group meetings are not Council decisions and should not be interpreted or acted upon as such.

9.10 Where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the executive, executive member or relevant committee when the matter in question is considered.

## **10. Constructive criticism & redress**

10.1 It is important that there should be mutual courtesy between Members and officers. It is important that there are reasonable standards of courtesy and no member or officer should seek to take unfair advantage of their position.

10.2 Members have the right to criticise reports or the actions taken by officers but they should:

- always avoid personal attacks on officers;

- ensure that criticism is constructive and well-founded;
- take up an individual concern with the officer privately, where possible;
- avoid criticising officers in the media or social media.

10.3 Members should not raise matters relating to the conduct or capability of an officer at Cabinet and committee meetings or in any public forum. This could be damaging both to effective working relationships and to the image of the Council. An officer has no means of responding to such criticisms in public.

10.4 If a member considers that he or she has not been treated with proper respect or courtesy, and fails to resolve it through direct discussion with the officer, he should raise the matter with the appropriate Director or Assistant Director. The Director or Assistant Director will look into the matter and report back to the member. If the member continues to feel concern, they should then report it to the Chief Executive who will look into the matter afresh. A complaint about a Director or an Assistant Director should be raised with the Chief Executive. A complaint about the Chief Executive should be raised with the Leader. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's disciplinary rules and any statutory provisions which may apply.

10.5 If an officer considers that he or she has not been treated with proper respect or courtesy, and a direct discussion is impractical or fails to resolve the matter, he or she should raise the matter with their line manager or Director without delay. In such circumstances, the Director will take such action as is appropriate either by approaching the individual and/or Party Group Leader. The Director will inform the Chief Executive if the Party Group Leader becomes involved, or in any other case where it is appropriate. Feedback should be given to the officer on the outcome.

10.6 The Council operates a confidential whistle-blowing policy. The Council is committed to the highest possible standards of operation, integrity, openness and accountability. It is expected that where an officer or member is concerned about potential unlawful conduct of an officer or member, they voice those concerns so that they can be dealt with effectively.

## **11. Officers' advice on declarations of interest**

11.1 The Council's Monitoring Officer will on request provide advice and information to Members on declarations of interest of a personal nature and whether or not such an interest might amount to a disclosable pecuniary interest or a prejudicial interest. However, Members will know the nature and extent of any interest they may have. It is the Member's responsibility, therefore, to decide whether any interest should be declared.



## **12. Officer decisions taken under delegated powers**

- 12.1 When making a decision under powers delegated to an officer, it must be recognised that it is the officer, and not any member, who takes the action and it is the officer who is accountable for it.

## **13. Media Liaison**

- 13.1 Communications with the media can be an important part of a member's workload, such as responding to queries. In any media contact, members and officers should always have regard to the reputation of the Council. Generally, members provide comments and views and officers provide factual information. This factual information may well include explaining the Council's policy on a particular issue. If any member is unsure about the facts of any issue he should contact the Communications Team or appropriate officer, or ask the media representative to do so. Members should avoid being seen to anticipate decisions and should not criticise officers in the media or via social media networks which may be accessible to the public.
- 13.2 If a member contacts or is contacted by the media he should indicate in what capacity he is speaking e.g. in a personal capacity, as a member of the executive, as a ward member, as Chairman of a committee, on behalf of the Council or on behalf of his political group. Members should avoid giving the impression they are speaking on behalf of the Council when expressing a personal view. If a member is contacted by the media, it may be useful to inform the Communications Team of the query or discussion; the Communications Team may offer guidance on the nature of the response where it is appropriate to do so.
- 13.3 It is the role of the Communications Team to publicise decisions and services, and to enhance and protect the reputation and profile of the Council. In this regard members should refer to the Council's Media Relations Protocol. The Media Relations Protocol provides guidance on the work undertaken by the Communications Team, and sets out the responsibilities of officers and members acting as media spokespeople in written and verbal communications. It also references the legal obligations of the Council in publishing material, and the Government's Code of Recommended Practice on Local Authority Publicity which covers the rules around content and style of publicity, distribution, advertising, promotion of individual councillors and restrictions during the election period.

## **14. Unresolved issues and amendments to this Protocol**

- 14.1 If there are any issues of concern which are not dealt with by this Protocol, then the relevant member or officer may discuss the matter with the Chief Executive with a view to advice being provided.

- 14.2 Should any Member or officer wish to suggest an amendment to this protocol, he/she is asked to contact either the Chief Executive or the Monitoring Officer.
- 14.3 Any amendments require approval of Council on the recommendation of the [Constitution Working Group]. The Standards Committee and any other relevant body may be consulted on issues raised by the Protocol and on proposed amendments when appropriate.

DRAFT

**Committee:** Council

**Agenda Item**

**Date:** Tuesday 4<sup>th</sup> April 2017

**8 (iii)**

**Title:** Appointment of Substitutes on Committees

**Author:** Simon Pugh

Item for decision:  
yes

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## Summary

1. This report considers the appointment of substitute members on Council committees and suggests a scheme to allow for this.
2. The proposal has been considered by the Constitution Working Group, which endorses it.

## Recommendations

3. That members adopt the scheme for substitute members set out in paragraph 11 of this report, to take effect from the Annual Meeting on 16<sup>th</sup> May 2017.
4. That the Monitoring Officer is given delegated authority to amend the wording of the Constitution to incorporate the scheme for substitute members.

## Financial Implications

5. The Members' Allowances Panel would take account of the role of substitutes in considering any amendments to the allowances scheme.

## Background Papers

6. There are no background papers to this report.

## Impact

7.

Communication/Consultation	None.
Community Safety	None.
Equalities	This might make it easier for councillors with caring or other commitments to take on committee membership knowing that they could call on a substitute if prevented from attending a meeting.
Health and Safety	None.
Human Rights/Legal	None, provided that substitutes are

Implications	properly appointed..
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

8. This report sets out how it might be possible to appoint substitute members who can act when principal members of committees are not available. Many councils operate substitute schemes.
9. Substitute members can be called on to act in the place of full members of a committee. They therefore need to be appointed to their role in the same way as full members. In the case of UDC, this would mean that substitute members should be appointed by the full Council.
10. There are various forms a scheme for substitute members might take:
  1. One substitute per member. This benefits from clarity but is cumbersome, involving the appointment of a large number of substitutes. It also means it is less likely that all substitutes will be up to speed with the issues and would add substantially to the member training needs for Licensing and Planning. It also makes the membership of the committee less readily identifiable to the public and result in a lack of continuity in decision-making.
  2. A number of substitutes per group on committees. This mitigates the issues which are identified above. However, the greater the number of substitutes, the more a scheme will have some of the disadvantages identified above, albeit in an attenuated form.
  3. One substitute per group per committee. This encourages substitution as a last resort, preserves the identity of the committee and ownership of its decisions, and permits the substitute more easily to be involved in briefings, training etc. However, it does mean that only one substitute is available, when more than one may be needed.
11. The following scheme is proposed with a view to gaining the best balance of advantage between the possible approaches:
  - The Council will appoint up to two substitutes per committee per group, on nomination in the usual way;

- Substitute members will receive agendas, be invited to briefings and otherwise be treated as principal members.
- Substitute members on Licensing and Planning Committees will be subject to the same training requirements as principal members.
- If a principal member is unable to attend a meeting and wishes to nominate a substitute, they must:
  - Make arrangements with the substitute to attend; and
  - Notify a Democratic Services Officer before the start of the meeting that they are to be substituted.
- If a substitute member attends a meeting in this capacity, they will take the place of the principal member for the duration of the meeting.

## Risk Analysis

12.

Risk	Likelihood	Impact	Mitigating actions
Meetings are not quorate if members are unable to attend and the Council has not appointed substitutes.	2.	1	Meetings may have to be rearranged.
That substitutes, if appointed, will not have the knowledge or training to make proper decisions.	2.	2.	Ensure that substitute members receive agendas and are invited to briefings. Require substitute members to meet the same training requirements as principal members.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**Committee:** Council

**Agenda Item**

**Date:** 4 April 2017

**8 (iv)**

**Title:** Proposal for changes to Audit and Performance Committee

**Author:** Simon Pugh

Item for decision:  
yes/no

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## Summary

1. This report sets out a proposal for changes to the status and remit of the Performance and Audit Committee. Whilst responsibility is assigned to Performance and Audit for audit matters, this is not really a scrutiny function. There is also no direct responsibility at committee level for corporate governance. The proposal is (a) for Performance and Audit Committee to take on responsibility for governance (with a working title of "Governance, Audit and Performance Committee"); (b) for the Committee to become an ordinary committee of the Council, rather than a scrutiny committee; and (c) for the Committee to take on the work of the Constitution Working Group and the Electoral Steering Group, with these two groups being wound up.
2. The proposals have been considered and endorsed by the Constitution Working Group.

## Recommendations

3. That Council adopts the proposal to constitute the Performance and Audit Committee as a committee of the Council, rather than as a scrutiny committee.
4. That members agree to the expanded remit of the Committee, subject to approval of detailed terms of reference at the Annual Council Meeting on 16 May 2017.
5. That the Committee is known as the Governance, Audit and Performance Committee.
6. That the roles of the Constitution Working Party and the Electoral Working Group are taken over by the GAP Committee from the date of the Annual Council Meeting and are dissolved.
7. That the Monitoring Officer is given delegated authority to make necessary consequential drafting changes to the Constitution.

## Financial Implications

8. None,

## Background Papers

9. There are no background papers.

## Impact

10.

Communication/Consultation	This report has been considered by the Constitution Working Group. The Chairman of the Audit and Performance Committee has been consulted..
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

### 11. The current position

- 7.1 Responsibility for Scrutiny within the Council is shared between the Audit and Performance Committee and the Scrutiny Committee.
- 7.2 There is no governance committee as such, although there is a Constitutional Working Group that makes recommendations to the Council about changes to the Constitution.

### 12. Legal requirements for scrutiny

- 8.1 The Council is obliged to have at least one scrutiny committee. The scrutiny committee (or scrutiny committees between them) must have power:
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
  - (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,



- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
- (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
- (e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area .

The Council's Scrutiny Committee discharges these functions and meets the Council's legal obligation to make provision for Scrutiny.

- 8.2 With limited exceptions, scrutiny committees may not take on a role that goes beyond these matters. Their role is that of scrutiny and not one of making decisions on behalf of the Council.

### **13. Performance and Audit Committee**

- 9.1 The terms of reference of the Performance and Audit Committee are, in summary:

- To monitor the performance of the Council and progress against improvement plans;
- To oversee the Council's internal audit and risk functions;
- To receive and approve external audit reports;
- To scrutinise and approve the annual statement of accounts;
- To make reports and recommendations to the executive, committees and the Council as a whole on its performance management and corporate governance as appropriate.

- 9.2 Whilst the first and fifth of these could be treated as scrutiny functions, they can also be carried out by an ordinary committee of the Council. However, the approval of external audit reports and the approval of the annual statement of accounts are not. They should be discharged either by full Council or by an ordinary committee of the Council acting under delegated powers.

- 9.3 The committee's role in making recommendations on corporate governance overlaps with that of the Constitution Working Group.

### **14. The Constitution Working Group**

- 10.1 The Constitution Working Group has two roles:

- To monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect; and

- To make recommendations to the Council concerning changes to the Constitution. The Constitution provides that changes to the constitution may only be made by the Full Council after consideration of the proposal by the Constitution Working Group.
- 10.2 These are both useful roles in terms of governance. However, as it operates as a working group, it does not operate under the full transparency rules that apply to a committee. Given the significant governance role of CWG, there is an argument that it should conduct its business as a committee, rather than as a working group.
- 10.3 As mentioned in para. 8.3, the role of the Constitution Working Group overlaps with that of the Performance and Audit Committee. Officers suggest that a reconstituted Governance, Audit and Performance Committee could take on the full role of the Constitution Working Group, which could be disbanded.

## 11. Electoral Working Group

- 11.1 The Electoral Working Group meets occasionally to advise the Council on matters relating to elections, electoral registration, boundary and polling station reviews and related matters. Electoral matters are an aspect of governance and the proposal is to bring them within the expanded remit of the Committee and to wind up the working group.

## 12. The Council

- 12.1 In the absence of a governance committee, full Council is directly responsible for a significant number of governance matters. These are set out in full in the appendix to this report. Whilst many of these functions may rest appropriately with the full Council, it will be difficult for full Council to give their discharge the sort of detailed consideration that is possible in committee.
- 12.2 Further work would be needed to prepare a scheme of delegation, indicating clearly the matters reserved to Council and those delegated to the Committee.

## Risk Analysis

15.

Risk	Likelihood	Impact	Mitigating actions
That the terms of reference of an expanded Governance, Audit and Performance Committee are insufficiently	2	3	Approval by the Council of detailed terms of reference and a scheme of delegation at a future meeting.

clear.			
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## **Appendix**

### **Functions of Full Council**

- 1 Duty to appoint an electoral registration officer
- 2 Power to assign officers in relation to the requisitions of the registration officer
- 3 Duty to appoint a Returning Officer for local government elections
- 4 Duty to provide assistance at European Parliamentary Elections
- 5 Power to pay expenses properly incurred by electoral registration officers
- 6 Power to make temporary appointments to parish councils
- 7 Power to submit proposals to the Secretary of State for a pilot scheme for local elections
- 8 Duty to consult on a change of scheme for elections
- 9 Power to alter the years of ordinary elections of parish councillors
- 10 Functions relating to the change of name of an electoral area
- 11 Power to change the name of the district
- 12 Power to confer the title of Honorary Alderman or to grant the freedom of the district
- 13 Power to petition for a charter to confer borough status
- 14 Power to make, amend, revoke, re-enact or enforce byelaws
- 15 Power to promote or oppose local or personal bills
- 16 Functions relating to local government pensions etc
- 17 Power to make standing orders including standing orders as to contracts
- 18 Power to appoint staff and to determine the terms and conditions upon which they hold office
- 19 Duty make arrangements for the proper administration of financial affairs etc under s.151 Local Government Act 1972
- 20 Power to appoint "proper officers"
- 21 Duties with regard to the appointment of a Head of Paid Service and Monitoring Office
- 22 Power to adopt a scheme permitting co-opted members of overview and scrutiny committees to vote under paragraphs 12 and 14 schedule 1 Local Government Act 2000
- 23 Power to make payments or provide benefits in cases of maladministration
- 24 Duty to adopt a code of conduct for members under the Localism Act 2011
- 25 Power to dissolve small parish councils

- 26 Power to make orders for grouping parishes, dissolving groups and separating parishes from groups
- 27 The division of the constituency into polling districts
- 28 Power to divide electoral divisions into polling districts at local government elections
- 29 Powers in respect of holding elections
- 30 Power to fill vacancies on parish councils in the event of insufficient nominations
- 31 Declaration of vacancy in office in certain cases
- 32 Giving notice of casual vacancies in office
- 33 Duties relating to publicity under the Local Government and Public Involvement in Health Act 2007
- 34 Duties relating to notice to the electoral commission
- 35 Power to change the name of a parish
- 36 All powers and duties exercisable in connection with community governance reviews and petitions



**Committee:** Full Council

**Agenda Item**

**Date:** 4 April 2017

**8 (v)**

**Title:** Pilot Youth Council Report

**Author:** John Starr, Community Development Officer  
01799 510559

Item for decision:  
yes

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### Summary

1. The Youth Engagement Working Group was formed to consider how the Council can better engage with young people in Uttlesford. A pilot Youth Council has been established and this report seeks approval for the proposal moving forward.

### Recommendations

2. That the Council supports the Pilot Uttlesford Youth Council on the basis outlined in the report with a view to considering more detailed recommendations for its operation in three months' time.

### Financial Implications

3. Finance for the next 3 month period will be by the Youth Initiatives working group which at its meeting of Thursday 24 November unanimously voted to endorse the formation of an Uttlesford Youth Council and allocated a sum of £2,000 to cover costs during the exploratory period.

Officer time to support this project will be approximately 1 day a week from Community Partnerships and secretarial support from Democratic Services for approximately 8 meetings a year.

### Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

### Impact

5.

Communication/Consultation	Extensive consultation with local schools and other local youth groups
Community Safety	N/A
Equalities	N/A

Health and Safety	Safe working practices will be adopted
Human Rights/Legal Implications	These aspects will be addressed in final proposals for how the Youth Council would work.
Sustainability	N/A
Ward-specific impacts	All wards
Workforce/Workplace	Some impact on two officers

## Situation

- 6 Councillors visited all secondary schools [Saffron Walden County High, Helena Romanes School Dunmow, Joyce Frankland Academy Newport, The Walden School, Forest Hall School Stansted] except Felsted School.
- 7 Meetings and repeat meetings were organised and each school was asked to put forward 4 to 8 [dependant on the size of the school] representatives. These representatives have formed the Pilot Uttlesford Youth Council.
- 8 The Pilot Uttlesford Youth Council had its first meeting on Saturday 18<sup>th</sup> March. 20 young people were in attendance representing 4 of the 5 secondary schools. The Pilot Youth Council elected a Chair and Vice Chair and had short debates around school busses, transport the environment and housing. They briefly discussed the structure of the Youth Council and resolved that it should meet 6 to 8 times a year in line with full council and would be non-political. They also resolved to request secretarial support from Democratic Services for these meetings. After setting up a transport working group to address the issue of school busses it was decided that the Pilot Youth Council would be in place for a period of three months during which the issues to be considered moving forward will be resolved. After this Pilot phase of 3 months a further more detailed recommendation will be submitted.
- 9 Issues to be considered moving forward include:

**Safeguarding** – Adopting safe working practice for meetings and transport.

**Selection / Mandate** – How will the young people be selected or [ideally] elected to the council? What is the most appropriate age range for youth councillors? How can those young people not in school be included?

**Mechanics** – How will it be structured? Where will the meetings take place? How can social media and technology be integrated into the process? How will it interface with town and parish councils?

How will it work with the Young Essex Assembly?

**Terms of Reference** – Must have a clear remit and terms of engagement with council.

**Partnership** – Work in partnership with Essex Youth Service and the Uttlesford Youth Initiatives working group.



**Risk Analysis**

10

Risk	Likelihood	Impact	Mitigating actions
1 that young people are not given the opportunity to participate	1 Unlikely given the extensive consultation undertaken	1 That the voice of young people is not heard	1 Ongoing engagement with young people in the district and provision of the support needed to maintain the youth council

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.



**Committee:** Full Council

**Agenda Item**

**Date:** 16 May 2017

**9**

**Title:** Political Balance on the Council

**Author:** Peter Snow, Democratic and Electoral  
Services Manager

Item for decision

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### Summary

- 1 This report considers the political composition of the Council and recommends that seats on the main committees be allocated to the three political groups as detailed in the report.

### Recommendation

That the Council reviews its political composition to achieve political balance and approves the allocation seats on its committees as detailed in the report.

### Financial Implications

None

### Background Papers

None

### Impact

Communication/Consultation	Political parties to consult within their groups to determine their views on the recommendation
Community Safety	n/a
Equalities	n/a
Health and Safety	n/a
Human Rights/Legal Implications	To comply with the Local Government and Housing Act 1989. In the event that members decide an allocation of seats which does not accord with the principles of political balance set out above this can only be achieved if no members attending the meeting dissent.
Sustainability	n/a
Ward-specific impacts	All
Workforce/Workplace	None

## Situation

- 2 Following changes in Council membership at the Elsenham and Henham ward election on 16 February 2017, a review of political balance has been formally requested by the Residents for Uttlesford group. Since then the previously independent Councillor Lemon has joined the Conservative group and Councillor Parry's resignation as one of the Newport ward councillors has created a further vacancy. This will now be filled at a by-election to be held on 4 May 2017.
- 3 There are outstanding vacancies on the Licensing and Environmental Health and Performance and Audit committees and the balance of committee allocations to groups will alter as a result of the changes mentioned in the above paragraph. This will require a further change in the composition of the Scrutiny Committee.
- 4 A full review of political balance and committee places will take place again at the Annual Council Meeting on 16 May (for details see paragraph 5 below and the tables in the report). By then the Newport vacancy will have been filled and allocations can be made at the meeting based on the revised council membership. In the meantime, the Council is required to review its political balance as it now stands and make appointments to any vacancies needing to be filled.
- 5 The Local Government and Housing Act 1989 requires local authorities to review the representation of the different political groups at the Annual Meeting or as soon as practicable thereafter (and in response to a valid request by a member wishing to join a group and the leader of that group). It further requires them to allocate the seats on their committees to political groups represented in accordance, so far as reasonably practicable, with the following four principles of proportionality:-
  - (a) that not all seats on the body concerned are allocated to the same political group;
  - (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
  - (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of an authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority;
  - (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all seats on that body as is borne by the number of members of that group to the membership of the authority.

## Current Situation

- 6 The number of seats on ordinary committees of the Council (excluding Standards) are as follows:-

<b>Committee</b>	<b>No of seats</b>
Planning	10
Licensing and Environmental Health	10
Scrutiny	10
Performance and Audit	10
<b>Total</b>	<b>40</b>

- 7 The current political composition of the Council is as set out below:

<b>Group</b>	<b>Members</b>	<b>Percentage</b>
Conservative	24	63.16%
Residents for Uttlesford	10	26.32%
Liberal Democrats	4	10.53%
	<b>38 (of 39 members as one vacancy)</b>	<b>100%</b>

- 8 Based on the 40 seats, the number of seats available to each group is as follows

<b>Group</b>	<b>Percentage</b>	<b>Calculated seats</b>	<b>No. of seats</b>
Conservative	63.16%	25.26	25
Residents for Uttlesford	26.32%	10.53	11
Liberal Democrats	10.53%	4.21	4
	<b>100%</b>	<b>40</b>	<b>40</b>

### **Allocation of Seats – Committees**

#### **(i) Licensing Committee**

- 9 The Council is not obliged to take the Licensing Committee into account for the purposes of the calculation because it was not established under the Local Government Act 1972. However, it is usual to offer the ten places to be allocated on the same basis of proportionality, and the Licensing Committee has therefore been included in the calculation of the number of seats.

#### **(ii) Standards Committee**

- 10 The Localism Act 2011 set out changes to the standards regime. There is no longer a statutory obligation to appoint a Standards Committee. However it was agreed in 2012 that the Council would not be an appropriate forum for dealing with individual allegations of breaches of the Code of Conduct and a Standards Committee was appointed to undertake this function.

- 11 In the absence of a separate statutory power, a Standards Committee is required to be appointed under the provisions of the Local Government Act 1972 and is subject to the rules of political balance.
- 12 Since the Localism Act changes, the Standards Committee has had an equality of representation between all political groups. The Council's Constitution recognises that the rules of political balance contained in the Local Government and Housing Act 1989 apply but acknowledges that a politically balanced Standards Committee would be undesirable. It provides that, subject to no member present voting against the proposal, each political group on the Council would have at least one member on the Standards Committee. Article 9 of the Constitution provides for each political group to have at least one member on the committee and for up to three nominations from each political group. The Council appointed a Standards Committee of 9 members at the last annual meeting and it is suggested that this should continue, unless fewer than three members are nominated by any one group.
- 13 If this committee was included within the calculations the result would be as set out on the next page:-

A total of 49 seats would be available and the number of seats allocated to each group would be:-

<b>Group</b>	<b>Percentage</b>	<b>Total Seats</b>
Conservative	63.16%	(30.95) 31
Residents for Uttlesford	26.32%	(12.90) 13
Liberal Democrats	10.53%	(5.16) 5

### **Proposal for allocation of seats**

- 14 Based on the principles outlined in paragraph 12, and the entitlement of each of the political groups to the committee places set out in paragraph 6, the allocation of the 49 seats (including the Standards and Licensing Committees) would be as follows:-

<b>Committees</b>	<b>Seats available</b>	<b>Conservative</b>	<b>Residents for Uttlesford</b>	<b>Liberal Democrats</b>
Planning	10	6/7*	2/3*	1
Licensing and Environmental Health	10	6/7*	2/3*	1
Scrutiny	10	6/7*	2/3*	1
Performance	10	6/7*	2/3*	1

and Audit				
Standards	9	3	3	3
<b>Total allocation of seats</b>	<b>49</b>	<b>28</b>	<b>14</b>	<b>7</b>

\* The precise allocation of seats is to be determined by Council. Each group has been invited to nominate members to fill the outstanding vacancies to achieve the overall number of seats shown in the above table.

- 15 Please refer to the following item on the agenda dealing with the appointment of councillors to committee places. In effect, to accommodate the overall entitlement of each group to committee places, three of the four standing committees (excluding Standards) will have an allocation of 6/3/1 and one committee will have an allocation of 7/2/1.
  
- 16 It is suggested that the 7/2/1 allocation of places should apply to the Licensing and Environmental Health Committee for the interim period between now and the annual meeting on 16 May. The three remaining committees will be allocated on the basis of a 6/3/1 split between the three party groups. Political balance and committee representation can then be reviewed again at the Annual Council Meeting in the light of the outcome of the Newport ward election.

### **Risk Analysis**

There are no risks associated with this report.





**Committee:** Council

**Agenda Item**

**Date:** 4 April 2017

**11**

**Title:** Indemnity for the Returning Officer

**Author:** Dawn French

Item for decision:  
yes/no

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## Summary

1. The Returning Officer carries personal liability for the conduct of elections as well as for their employees (whether or not they are also employees of the Council) and the public attending premises in connection with an election.
2. The Council pays the insurance premium in respect of these liabilities for the Returning Officer. However, it has been identified that there is an excess in relation to the insurance policies, which Council is requested to indemnify the Returning Officer for.

## Recommendations

3. That Council indemnifies the Returning Officer against any excess or liability not covered by the relevant insurance policies.

## Financial Implications

4. There is currently an excess of £1000 in respect of public liability and £5000 in respect of employer's liability; there is no excess relating to the conduct of elections for the Returning Officer.

## Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

None

## Impact

- 6.

Communication/Consultation	No relevant issues
Community Safety	No relevant issues
Equalities	No relevant issues
Health and Safety	The policies cover injuries arising in connection with the elections, for example at polling stations, incurred by staff and the

	public.
Human Rights/Legal Implications	The general powers of S112 of the Local Government Act 1972 and the Local Authorities (Indemnities for Members and Officers) Order 2004 provide for the Council to meet the costs of insurance applicable to the Returning Officer.
Sustainability	No relevant issues
Ward-specific impacts	No relevant issues
Workforce/Workplace	Some employees of the Returning Officer are also employees of the Council and would be covered by the policies referred to in the event of injury.

## Situation

7. The Returning Officer has personal liability for the conduct of elections; this includes liabilities arising in connection with their status of employer to all those working in connection with the election and to public liability. This liability is completely separate to the Returning Officer's role as Chief Executive. This means that any action taken to question the validity of the Returning Officer's decisions or the proper conduct of the election process will be taken against the Returning Officer personally.
8. The Returning Officer is therefore strongly recommended to have in place adequate insurance for the purposes of conducting elections and liabilities arising from accidents and injuries to the public. As the employer of election staff, it is a statutory duty for the Returning Officer to carry employers' liability cover.
9. The Council pays for this insurance cover on behalf of the Returning Officer. However, it has been identified that an excess of £1000 applies to any one event in relation to public liability and £5000 excess applies to any one event in relation to employer's liability. There is no excess relating to the conduct of elections, for example in the event that there is a challenge to the decision of the Returning Officer.
10. It has been identified that most, if not all other local authorities, indemnify their Returning Officers against these excesses and any other liabilities not covered by insurance.
11. In this report, reference to Returning Officer includes reference to Deputy and/or Acting Returning Officer, as appropriate.

## Risk Analysis

- 12.

Risk	Likelihood	Impact	Mitigating actions
<p>The risk that the Council has to pay the excess or for a liability not covered by the insurances held by the Returning Officer</p>	<p>2</p>	<p>2</p>	<p>Only one claim by a member of the public for personal injury, arising from the conduct of elections, can be recalled at Uttlesford.</p> <p>The Returning Officer takes all reasonable steps to minimise the likelihood of claims arising, including regular training, employment of competent staff and provision of training to them, undertaking proper project planning and risk assessments as well as arrangements to inspect every polling station.</p>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

