

Part 6: Code and Protocols

6A: Member Code of Conduct

1.0 Introduction

The Council has a duty to promote and maintain high standards of conduct by members and co-opted members of the Council, and formally adopt a code of conduct, in accordance with the *Localism Act 2011*.

2.0 Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of the Councillor and in Local Government.

3.0 Definitions

For the purposes of this Code of Conduct, a “Councillor” means a member or co-opted member of the local authority. A “co-opted member” is defined in the *Localism Act 2011 Section 27(4)* as “a person who is not a member of the authority but who

- 3.1 is a member of any committee or sub-committee of the authority, or;
- 3.2 is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

4.0 General Principles of Councillor Conduct

Everyone in public office and all who serve the public or deliver public services, including Councillors and local authority officers, should uphold the Seven Principles of Public Life, also known as the Nolan Principles, (see Appendix A).

Building on these principles of selflessness, objectivity, accountability, openness, honesty and integrity and leadership, the following general principles have been developed specifically for

the role of Councillor.

In accordance with the public trust placed in Councillors, on all occasions a Councillor shall:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of Councillor.
- impartially exercise their responsibilities in the interests of the local community
- not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently in accordance with the local authority's requirements and in the public interest.

These general principles have been incorporated into the obligations of the Code of Conduct as set out below.

5.0 Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

The Code applies to all forms of communication and interaction, including at face-to-face meetings, at online or telephone meetings, in written communication, in verbal communication, in non-verbal communication and in electronic and social media communication, posts, statements and comments.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

6.0 Standards of Councillor Conduct

This section sets out the obligations (in bold below), which are the minimum standards of conduct required of a Councillor. Should a Councillor's conduct fall short of these standards, a complaint may be made against them, which may result in action being taken.

Guidance is also included below each obligation to help explain the reasons for the obligations and how they should be followed.

6.1 Respect

A Councillor:

6.1.1 Shall treat everyone, including other Councillors and members of the public with respect.

6.1.2 Shall treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from everyone. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the relevant social media provider and/or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor / Officer protocol.

6.2 Bullying, Harassment and Discrimination

A Councillor:

6.2.1 Shall not bully any person.

6.2.2 Shall not harass any person.

6.2.3 Shall promote equalities and not discriminate against any person.

Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Legislation places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

6.3 Impartiality of Officers of the Council

A Councillor:

6.3.1 Shall not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral, (other than political assistants where applicable). They should not be coerced or persuaded to act in a way that would undermine their neutrality. A Councillor may question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, a Councillor must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

6.4 Confidentiality and access to information

A Councillor:

6.4.1 Shall not disclose information either given to them in confidence by anyone or acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless -

- i. they have received the consent of a person authorised to give it; or**
- ii. they are required by law to do so; or**
- iii. the disclosure is made to a third party for the purpose of obtaining professional legal 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 also made in good faith and in compliance with the reasonable requirements of the local authority and consultation with the Monitoring Officer has taken place prior to its release.**

6.4.2 Shall not improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of themselves, their friends, family members, employer or business interests.

6.4.3 Shall not prevent anyone from getting information that they are entitled

to by law.

6.4.4 When making decisions on behalf of, or as part of, the Council shall have due regard to any professional advice provided by the Council's Officers.

6.5 Disrepute.

A Councillor:

6.5.1 Shall not bring their role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions.

6.6 Use of position

A Councillor:

6.6.1 Shall not use, or attempt to use, their position improperly to the advantage or disadvantage of anyone.

A Councillor should not take advantage of opportunities, responsibilities and privileges to further their own or others' private interests or to disadvantage anyone unfairly.

6.7 Local authority Resources and Facilities

A Councillor:

6.7.1 Shall not misuse council resources.

6.7.2 Shall, when using the resources of the local authority or authorising their use by others, act in accordance with the local authority's requirements; and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which they have been elected or appointed.

A Councillor may be provided with resources and facilities by the local authority to assist them in carrying out their duties as a Councillor. Examples may include office support, stationery, equipment such as phones, computers and transport and access and use of local authority buildings and rooms.

6.8 Compliance with the Code of Conduct

A Councillor:

- 6.8.1 Shall undertake Code of Conduct training as required by the local authority.**
- 6.8.2 Shall cooperate with any Code of Conduct assessment, investigation, hearing and/or determination.**
- 6.8.3 Shall not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 6.8.4 Shall comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.**

It is extremely important for a Councillor to demonstrate high standards, to have your actions open to scrutiny and not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with the Monitoring Officer.

7.0 Registering and Declaring Interests

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

7.1 Disclosable Pecuniary Interests

A Councillor must, within 28 days of taking office as a member or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State (see Appendix B), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You must disclose the interest at any meeting of the Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'. If it is a 'sensitive interest', you must disclose the fact that you have an interest but do not have to disclose the nature of it. (A sensitive interest is an

interest which, in the opinion of the Monitoring Officer, if disclosed, could lead to the Councillor, or a person connected with them, being subjected to violence or intimidation.) You are personally responsible for deciding whether or not you should disclose an interest in a meeting.

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

Unless dispensation has been granted, by the Monitoring Officer, you may not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

Where you have a disclosable pecuniary interest on a matter to be considered or being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

You must ensure that your register of interests is kept up to date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Appendix B is a criminal offence under the Localism Act 2011.

7.2 Other Registerable Interests

You must also register your other registerable interests with the Monitoring Officer within 28 days of taking office and ensure these are kept up to date by notifying any changes within 28 days.

Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Appendix C), you must disclose the interest. Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person's quality of life, either positively or negatively, is likely to affect their wellbeing. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have an Other Registerable Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

7.3 Non-Registerable Interests

Where a matter arises at a meeting which **directly relates** to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests at 7.1 above), or the financial interest or wellbeing of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a sensitive interest you do not have to disclose the nature of the interest.

Where a matter arises at a meeting which **affects** your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under Other Registrable Interests as set out at 7.2 above and appendix C you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

Where a matter affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Where you have a Non-Registerable Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

8.0 Gifts and Hospitality

A Councillor:

- 8.1 Shall not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 8.2 Shall register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 8.3 Shall register with the Monitoring Officer any significant gift or hospitality that they have been offered but have refused to accept.**

The presumption should always be not to accept significant gifts or hospitality but there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.

You do not need to register gifts and hospitality which are not related to your role as a Councillor.

It is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor.

Appendix A – The Seven Principles of Public Life

The principles are:

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 their friends. They must disclose and resolve any interests and relationships.

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 so doing.

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 wherever it occurs.

Appendix B: Disclosable Pecuniary Interests

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her 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 made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

<p>Land and Property</p>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<p>Licenses</p>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.</p>
<p>Corporate tenancies</p>	<p>Any tenancy where (to the councillor's knowledge)—</p> <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.

<p>Securities</p>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 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 councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issues share capital of that class.</p>
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* ‘Director’ includes a member of the committee of management of an industrial and provident society.

* ‘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 C: Disclosure of Other Registrable Interests

You must register as an Other Registrable Interest:

- a) any unpaid directorships
- b) any Body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any Body
 - (i) exercising functions of a public nature
 - (ii) directed to 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

6B: Member/Officer Protocol

Preamble

1. Mutual respect and trust between Members and Officers may seem obvious, but what happens when relationships go awry? Where can members and officers turn for guidance? What mechanisms exist for addressing concerns? How can matters be improved?
2. Such questions point to the need for a written guide to the basic elements of the relationship between members and officers:
 - to promote trust, openness, fairness and honesty by establishing some ground rules;
 - to define roles so as:
 - to clarify responsibilities (that is, who does what);
 - to avoid conflict; and
 - to prevent duplication or omission;
 - to secure compliance with the law, codes of conduct and a Council's own practices; and
 - to lay down procedures for dealing with concerns by members or officers.
3. This protocol should be recognised both as a central element of the Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation.
4. Members and officers must at all times observe this protocol. It should not be considered simply a list of do's and don'ts but also as guidance on cultural and behavioural matters to ensure that the Council benefits from good working relationships and achieves its full potential in delivering services to the community it serves.
5. In addition to this protocol all staff are required to comply with Publica's Business Conduct Policy.

Definitions

6. Unless the context indicates otherwise, references to the term "Council" includes Full Council, the Executive, all Committees, subcommittees and task/working groups.
7. Unless the context indicates otherwise, the terms "member" and "members" includes co-opted members as well as elected councillors.
8. "Officers" and "staff" mean all persons employed by the Council and Publica

"Senior officer" is as defined within the Constitution

“Designated Finance Officer” means the Chief Finance Officer (section 151 Officer) exercising the duties prescribed by law for the financial administration of the Council

“Monitoring Officer” means the officer exercising the duties prescribed by law for the ethical and legal administration of the Council.

The role of members

9. Members have a number of elements within their role:

- as politicians with political values and support for the policies of the group to which they belong;
- as representatives of all the electorate of the Council’s administrative area, and their ward in particular;
- as community leaders for the whole population of the administrative area;
- as an elected member with responsibility for the administration and service delivery to the community as a whole; and
- in personal life where they may have to live and/or work in the area in which they serve.

There is a need for members to be alert to the potential for conflicts of interest, which may arise within their role. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.

10. Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget. In particular, members should: Define the core values of the Council as an organisation, and with assistance from officers, identify the priority objectives

11. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.

12. Every elected-member represents the interests of, and is an advocate for, their Ward and individual constituents. They represent the Council in the Ward, respond to the concerns of constituents, meet with partner agencies, and often serves on local bodies.

13. Some members have roles within the Council relating to their position as members of the Executive, scrutiny committees or other committees and subcommittees of the Council

- a. The Leader and Executive collectively decide the day-to-day operational issues not delegated to officers and recommend framework policies and strategies to Council.
- b. Members serving on scrutiny and review committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues.
- c. Members who serve on other committees and sub-committees collectively have delegated responsibilities, for example, deciding quasi-judicial matters that, by law, are excluded from the remit of the Executive.

14. Some members may be appointed to represent the Council on local, regional or national bodies.

15. As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest. The political party values and aspirations should not be formally exercised by a political whip on members undertaking the scrutiny function.

16. Members will endeavour to give responses within a reasonable time, for example, 5 working days to enquiries from members of the public.

The rights and duties of members

17. Members have no authority to instruct officers other than:

- through the formal decision-making process of the Executive, the committees and Council; and
- to request the provision of consumable resources provided by the Council for members' use;

18. Unless authorised by this Constitution under the Executive system individual members cannot authorise nor initiate actions nor certify financial transactions, nor enter into a contract on behalf of the Council. However, members who are appointed to certain positions may have to sign authorisations as required by secondary legislation or other requirements of this Constitution.

19. Members must avoid taking actions, which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer and/or the Chief Finance Officer.

20. A member should not criticise the conduct or capability of an officer at any meeting of Council or committee. Neither should a member write letters or give interviews to the press criticising officers. This is because of the long-standing convention in public service that officers do not have the same means of responding to such criticisms in public. If a member has a concern regarding an officer this should be addressed to a senior officer.

21. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that officers change their professional advice. Members must respect that the officers have a duty to correct information given to Members during the decision-making process.

22. At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not members are not bound by the members' code of conduct. They do not have the same rights to Council information as members.

23. Members have a duty under their code of conduct:

- To promote equality by not discriminating unlawfully against any person, and
- To treat others with respect.

24. Under the code, a member must not when acting as a member or in any other capacity:

- Bring the Council or their position as a member into disrepute; or
- Use their position as a member improperly to gain an advantage or disadvantage for themselves or any other person.

The role of officers

25. Officers should work in partnership with members to deliver the services to the community, to the standard set by the Council. Officers should be committed to the Council as a whole and must not show any bias, partiality or allegiance to any political group or grouping. Officers must always provide advice and information in an impartial and professional manner and in a manner that does not compromise their political neutrality.

26. Officers are employed to undertake the functions of the Council (including management responsibilities) and to help members attain their policy goals. Where operational decisions are delegated to the officers, they must exercise that authority in accordance with the adopted policy and values of the Council. Officers are responsible for giving advice to members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors and have a duty to advise members that certain courses of action desired by members cannot be adopted. Officers must not enter into a debate during the decision-making process unless to correct factual information or in response to a chair's request for an opinion.

The rights and duties of officers

27. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

28. Officers must be alert to issues, which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public. Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

29. Officers must also:

- a. Respond to members' requests for information promptly but within 5 working days (either with the information or an explanation why the period will be longer).
- b. Act with honesty, respect, dignity, courtesy and integrity at all times.
- c. Provide support and learning and development opportunities for members to assist members perform their various roles, and
- d. Respect confidences.

The relationship between members and officers: general

30. Members and officers should inform the Monitoring Officer of any relationship which might be perceived as unduly influencing them in their respective roles.

31. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where

conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision that directly affects the officer on a personal basis, or vice versa.

32. There are particular characteristics of the use of e-mails, notably its immediacy, which can create a greater sense of 'bombardment' or 'harassment'. Practical guidance for members and officers on the use of emails is referred to later in this protocol under the heading "Correspondence".

33. Officers' work priorities are set and managed by senior managers' not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be unduly disrupted or asked to exceed the bounds of authority they have been given by their managers. Meetings should be arranged to a timescale that enables officers to complete tasks assigned to them and not at a frequency which disrupts other tasks set by the Council. Except when the purpose of an enquiry is purely to seek factual information on day-to-day matters, members should normally direct their requests and concerns to a senior officer, at least in the first instance.

34. Officers will do their best to give timely responses to members' enquiries within 5 working days but should not have an unreasonable volume of requests placed on them.

35. Officers shall not discuss with a member personal matters concerning themselves or another individual employee. This does not prevent an officer raising, on a personal basis, and in their own time, a matter relevant to a Council function with their ward member.

Relationships between Officers and Executive Members, Chair's of Committees and the Leader

36. It is important to the efficient discharge of the Council's functions that there should be a good working relationship between Members of the Executive, Chief Executive and Senior Officers and between the Chair of a committee and officers. However, such relationships should never be allowed to become close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.

37. Officers frequently write reports having undertaken background research and professional and technical appraisals of proposals.

38. These reports are then presented by the Executive Member with Portfolio, with the assistance of officers where necessary.

39. Members must accept that in some situations officers will be under a duty to submit an opinion or advice in a report on a particular matter. In those situations the officer will always be fully responsible for those elements of a report submitted in the Member's name.

40. The principles set out in paragraphs 41 and 42 below apply to such elements of the report.

41. Where an officer wishes to consult an Executive Member or Chair as part of the preparation of a report to a decision-making body under the Council's constitution, the following principles will apply. The Executive Member or Chair may ask the report author:

- To include particular options;
- To clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;
- To check or correct any error or omission of any matter or fact including

- statements of summaries of policy or budget;
- To check any estimate of costs or savings.

42. The Executive Member or Chair may not ask officers:
- To exclude any option contained in the draft report;
 - To exclude or alter the substance of any statement in the draft report of any officer's professional opinion;
 - To alter the substance of any recommendation that compromises the officer's integrity or would result in illegality;
 - To exclude any report, comments or representations arising from consultations, publicity or supply of information to the community.
43. Certain statutory functions are undertaken by officers. Their reports on such matters are then their own full responsibility.

Scrutiny Arrangements

44. Executive arrangements raise particular issues for local authority employees because:
- The advice which officers have given to the Executive, its Members or to any group may be subject to scrutiny and examined by a Scrutiny Committee.
 - Officers may have written reports for presentation by an Executive Member with Portfolio or provided advice to the Executive. Where such a decision is subject to scrutiny by a Scrutiny Committee, or when a decision is called-in, an officer may provide information or advice to a Scrutiny Committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.
 - The Scrutiny Committee's and their members will need active assistance from officers if they are to perform their role of scrutinising the Executive effectively.

These factors will require understanding by Members of the role that officers have to perform.

Overview and Scrutiny

45. The scrutiny role of the Council is performed by three Scrutiny Committees and the Audit and Governance Committee. Senior Officers may need to attend Scrutiny Committees to give evidence and assist in its scrutiny.
46. Where an employee /Senior Officer is required to attend before a Scrutiny Committee, to report to it or provide evidence for it, it is the employee's duty to do so, or to explain why he or she is unable or unwilling to do so. If after considering that explanation the committee insists on the information being provided the employee must do so.
47. Where a Scrutiny Committee has resolved to undertake a review it is the duty of Senior Officers to co-operate fully with the review. This duty extends beyond merely answering the Committee's questions and involves a requirement to assist the Committee in addressing the right questions and seeking the information which may be required to help them in their work.

Party group meetings and Officers

48. Party Group Meetings play an important role in the political management of the Council. They provide a useful forum to keep Members up to date with Council and Group business. They can assist in the smooth running of meetings especially in agreeing questions and motions for Full Council Meetings.

49. Senior officers may properly be asked to provide advice and information on matters concerning Council business by party groups but should not contribute to deliberations of the group. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on their behalf. In their dealings with party groups, officers must treat each group in a fair transparent and even-handed manner. If one group requests particular support then other groups will be offered the opportunity to have similar support.

50. Officers have the right to refuse such requests, and will not attend a meeting of a party group where some of those attending are not members of the Council, unless specific authority has been given by the Chief Executive who has the discretion to discuss the request with other group leaders.

51. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

52. Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer does not confer formal status on such meetings in terms of Council business and must not be interpreted as doing so.

53. Where officers provide factual information and advice to a party group in relation to a matter of Council business, this will not be a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

54. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because they have attended or provided information to the meeting of the group.

55. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

56. Members must not do anything which compromises or is likely to compromise officers' impartiality. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if they feel it is no longer appropriate to be there.

57. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.

Local members and officers

58. To enable them to carry out their ward role effectively, members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the

requirement to keep local members informed, thus allowing members to contribute to the decision-making process and develop their representative role. Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.

59. This requirement is particularly important:

- during the formative stages of policy development, where practicable;
- in relation to significant or sensitive operational matters;
- whenever any form of public consultation exercise is undertaken; and
- during an overview and scrutiny investigation.

60. Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meeting as a matter of course.

61. If a local member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they should inform the relevant officer. Provided the meeting has not been arranged on a party political basis:

- an officer may attend but is not obliged to do so, and
- the meeting may be held in Council-owned premises.

62. No such meetings should be arranged or held in the immediate four week run-up to Council elections, i.e. within the period following a declaration of an election or of a vacancy.

63. Officers must never be asked to attend ward or constituency political party meetings. Whilst support for members' ward work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:

- the surgeries must be open to the general public, and
- officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.

64. It is acknowledged that some Council staff may receive and handle messages for members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

65. In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale, and may need to seek instructions from their managers.

Members' access to documents and information

66. This part of the protocol should be read in conjunction with the [access to information rules](#).

67. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- it is in the public domain, and
- it is not barred by the Data Protection Act from being given.

68. It will be the task of senior officers to ensure that adequate systems to communicate information etc. are in place and other officers are made aware of the need to provide the information. If a member has need of specific information, other advice or particular support, this should be channelled through the senior officer.

69. Every member of a committee has a right to inspect documents about the business of that committee or subcommittee.

70. A member who is not a member of a specific committee or subcommittee may have access to any document of that specific part of the Council provided:

- the document is in the public domain; or
- they can demonstrate a reasonable need to see the documents in order to carry out their role as a member (the "need to know" principle); or
- the documents do not contain "confidential" or "exempt" information as defined by the law, e.g. personal information covered by the Data Protection Acts; and
- the subject matter is one in which they do not have a personal or prejudicial interest as defined in the members' code of conduct.

71. Disputes as to the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek their advice if in any doubt about the reasonableness of a member's request.

72. Members may approach any Senior Officer for information, explanation or advice about that group's functions, as they may reasonably need to know in order to assist them in discharging their role as members of Council, being aware that personal information may not be disclosed without proper authorisation.

73. Information that is of a sensitive nature, e.g. personal data, commercially confidential, etc. which is given to a member or officer must only be used for the purpose for which it was requested, i.e. the better performance of Council duties, and should not be used for personal benefit, including benefit to family, friends and business. Information, which is restricted in circulation, for example, confidential, commercially sensitive or exempt, must not be disclosed by the member to any other party. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.

74. When requested to do so, officers will keep confidential from other members advice requested by a member, save the Monitoring Officer if the matters involve maladministration but in that case the source of the information will be kept confidential.

75. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

Media relations

76. Press releases or statements issued by the Council will be factual and consistent with Council policy. They cannot be used to promote a party group. Officers will keep relevant members

informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

77. If a member is contacted by, or contacts, the media on an issue, they should:

- never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist;
- not divulge advice given personally to that member by an officer; and
- not jeopardise the necessary trust between officers and members by making statements apportioning blame to officers for decisions made by members or personally criticise the officer for the advice he gave. Qualified privilege may not apply to defamatory statements made against officers.

Emails

78. Emails between an individual member and an officer should not be copied to another member unless there is a genuine need to do so. Where correspondence is copied, this should always be made explicit, i.e. there should be no "blind" copies. Officers may forward copies to other (relevant) officers where specific action is required to be taken or explained.

79. The content of all emails should be checked to ensure that it does not offend in its tone and that it is clear and unambiguous.

80. Emails which are capable of creating legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.

Access to premises

81. Members and officers have a right of access to Council owned land and premises to fulfil their duties. Members have no right of access to any other private land, save that they own.

82. When invited to attend at any premises, members should:

- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit; and
- take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

Use of Council resources

83. Officers and members must comply with the Information Security Policy and [Use of Resources Policy](#).

Interpretation, complaints and allegations of breaches

84. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Chief Executive, Monitoring Officer or Deputy Monitoring Officer.

85. Members must not criticise, personally attack, or abuse officers in a public forum. A member who is unhappy about the actions taken by, or conduct of, an officer should follow the adopted internal procedures.

86. The Chief Executive is responsible for the disciplining of retained staff and processes have been agreed with the trade unions, which allow a fair and thorough review of conduct. It is important that these procedures are adhered to in cases where an officer's conduct gives cause for concern. Publica has its own arrangements in place for the disciplining of Publica employees which will be applied when required.

87. Officers who have concerns about a member's conduct should initially refer the issue to their line manager, the Chief Executive, Monitoring Officer or a Senior Officer who will (where appropriate) attempt to resolve the matter informally. If the issue remains unresolved, or informal action is not suitable, the Chief Executive, Monitoring Officer or Senior Officer will take appropriate action via the Council's internal processes, including the Member Code of Conduct and this Protocol.

6C: Appointments of Members to Outside Bodies

There may be occasion where members are appointed to outside bodies.

Where such appointments are made the member appointed is required to provide an annual written report to Council setting out the work undertaken by the organisation. The report may include items such as; the continuing benefit of personal representation, an analysis (not necessarily a financial assessment) of the achievements of the organisation, and its effectiveness in delivering the outcomes/outputs required by the Council.

This report should be submitted to Democratic Services in March each year and will be circulated to all members of the Council.

Any member may refer these reports, or issues raised by the reports, to the appropriate overview and scrutiny committee if further consideration is felt necessary.

6D: Protocol on the Use of Council Facilities and Resources by Councillors

1. Introduction

- 1.1 The Council provides facilities and resources to assist members in carrying out their duties as councillors or as holders of an office within the Council.
- 1.2 The Members Code of Conduct makes some provision regarding the use of resources.
- 1.3 This protocol seeks to build on the Code of Conduct and explain the limitations placed on the use by Members, of the Council's facilities and resources.

2. Use of facilities and resources

- 2.1 Members may use Council facilities and resources for political purposes, in connection with the following business;
- (a) holding ward surgeries;
 - (b) dealing with correspondence from constituents;
 - (c) communication group activities;
 - (d) meetings between group members
- 2.2 The Council is prohibited from publishing any material of a party political nature and Members should ensure that when using or authorising the use by others of the Council's facilities and resources, that such facilities and resources are not used for purely political purposes and that the use of Council premises is restricted to premises available to the public generally and paid for at the full hire costs.
- 2.3 A Member's use of Council facilities and resources must not extend to political parties more generally. Use of Council owned premises for party political purposes (where such meetings are used to further the political aims and objectives of the party concerned) must be restricted to premises available to the public generally and paid for at the full hire costs.
- 2.4 In cases where 2.3 does not apply, such as political group meetings where the purpose includes Council business and is not solely to further political aims and objectives, then Members can make use of rooms available at the Council Offices, without charge provided that:
- (a) rooms are available for the required time;
 - (b) meetings are restricted to the facilities opening hours. If Members want to hold meetings outside of these days/times then it must be agreed in advance with the Chief Executive and any expenses incurred must be met by the political party's funds and not Council funds;
 - (c) Third parties may attend political group meetings held in the Council's offices, provided that the primary purpose of the meeting is the consideration of business relevant to West Oxfordshire District Council and not the political party.

2.5 Members must not use any Council facilities and/or resources for purely political purposes, including designing and distributing party political material produced for publicity purposes and support of any political party or group activity or elections and campaigning.

3. Private/Personal Use

3.1 As a general rule, facilities and resources paid for by the public purse and provided for use in Council business should only be used for Council business.

3.2 Members are required to adhere to the Council's Information Security Policies.

4. Complaints and allegations of breaches of this protocol

4.1 Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with.

5. Further Guidance

5.1 Further advice or clarification can be sought from the Monitoring Officer.

6E: LOCAL PETITION SCHEME

1.0 PETITIONS

The Council welcomes petitions and recognises that petitions are one way in which people can let the Council know of their views and concerns.

Petitions may be submitted to the Council either by post, or electronically, or by being physically presented to the Council at a meeting of the full Council.

Petitions sent by post should be sent to the Monitoring Officer, c/o Democratic Services, West Oxfordshire District Council, Woodgreen, Witney, Oxfordshire, OX28 1NB.

Petitions can also be created, signed and submitted online to the Monitoring Officer at democratic.services@westoxon.gov.uk.

Petitions can be presented to a meeting of the full Council. (The dates of such meetings can be found at www.westoxon.gov.uk). If you would like to present your petition to the Council, or would like your Councillor to present it on your behalf, please contact Democratic Services on 01993 861522 at least 10 working days before the meeting and they will talk you through the process. Your petition will be accepted by the Council and you will be advised in writing, following the meeting, of the next steps. You will not have any right to address Council at a meeting where the petition is presented.

The Council will treat something as a petition, subject to it meeting the criteria at paragraph 2.0 below, if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

2.0 CRITERIA FOR A PETITION

Petitions submitted to the Council must include:

- a minimum of 500 signatories; and
- a clear and concise statement covering the subject of the petition. It should specifically state what action the petitioners request the Council to take; and
- the name, postcode and signature of any person supporting the petition, with the exception that signatures are not required on electronic petitions; and
- the contact details, including full name, address and email for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

Petitions which are considered, by the Monitoring Officer, to be vexatious, abusive or otherwise offensive or inappropriate, will not be accepted and the petition organiser will be informed of that fact together with reasons.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Monitoring Officer will write to the petition organiser to explain the reasons.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply, and the petition will not be accepted or dealt with in accordance with this scheme. Further information on all these procedures and how you can express your views is available at www.westoxon.gov.uk

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

3.0 THE COUNCIL'S PROCEDURE FOR DEALING WITH A PETITION

All petitions to the Council, regardless of how submitted, will receive an acknowledgement, from the Monitoring Officer to the petition organiser, within 10 working days of receipt. This acknowledgement will set out what the Council plans to do with the petition.

If the Council can do what the petition asks for, the acknowledgement may confirm that the Council has taken the action requested and the petition will be closed.

The Petition will be accepted, provided it meets the criteria of paragraph 2.0 above, and will be published on the Council's website. The contact details of the petition organiser will not be so published. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

3.1 The Council's response to a petition

The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;

- holding a meeting with petitioners;
- referring the petition for consideration to one of our Scrutiny Committees;
- calling a referendum;
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If your petition is about something over which the Council has no direct control, or that a different Council is responsible for, the Monitoring Officer will advise the Petition Organiser to whom the representations should be directed to, or the Council may consider making representations on behalf of the community to the relevant body. More information about the services for which the Council is responsible can be found at www.westoxon.gov.uk.

3.2 Petitions with over 500 but less than 1,500 signatories

In circumstances where a petition contains more than 500 signatures, and so qualifies as a petition, but has insufficient signatories to trigger a Council debate, the Leader of the Council will determine what action will be taken in response to the Petition.

The Petition will be referred to the Leader of the Council, together with an Officer report, which will be published for 5 working days on the Council's website, before the Leader makes their decision. The decision will be contained in a Decision Notice which will be sent to the petition organiser and published on the Council's website.

The Leader may take whatever professional Officer advice, and undertake whatever consultation they deem appropriate, in reaching their decision.

3.3 Petitions with over 1,500 signatories

If the petition has 1,500 signatures it will trigger a Council debate. The acknowledgment will confirm this and advise the petition organiser when and where the meeting will take place. The Council will endeavour to consider the petition at its next meeting, or as soon as practicable thereafter. If the petition needs more investigation, we will tell you the steps we plan to take.

At the relevant Council meeting, the petition organiser will be given five minutes to present the petition to Councillors. Councillors will receive an Officer report with the petition, setting out various options and recommendations. Councillors will consider the petition, debate it, in accordance with the usual rules of debate, and make a resolution as to how to respond to the Petition. The Council may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one within the remit of the Council's Executive, the Council will refer the matter to the Executive for a decision but may make recommendations to the Executive to inform their decision.

The petition organiser will receive written confirmation of the Council's resolution regarding the petition. This confirmation will also be published on our website.

3.4 E-petitions

E-petitions can be accessed and submitted via our website www.westoxon.gov.uk

4.0 REVIEW OF PROCESS

If you feel that the Council has not dealt with your petition properly, you should contact the Monitoring Officer who will review the process, and respond to you within 10 working days.

6F PROTOCOL ON CONFERMENT OF HONORARY TITLES

1.0 INTRODUCTION

The Council may, under section 249 of the Local Government Act 1972, confer the title of Honorary Alderman or Honorary Alderwoman on Councillors who have, in the opinion of the Council, rendered eminent service to it, as former Members of the West Oxfordshire District Council.

2.0 PROCEDURE

The Chair of the Council, the Leader of the Council, or any Leader of a Political Group of the Council, may bring a motion to Council seeking a resolution that the Council agree to convene a Special Council meeting to consider conferring the honorary title upon any former Member.

Such motions should be brought to the Annual Council meeting. Consultation should be undertaken in advance with all Political Group Leaders, who shall consult with their Group, and any non-grouped Members.

Nominations should be restricted to former Members of the Council who have retired as Councillors and chosen not to stand for re-election to West Oxfordshire District Council. Nominations should be in respect of former Members who it is understood are unlikely to stand for election again in the future and intend to retire from political life.

Such a decision to confer such a title, may only be made at a specially convened Council meeting for that purpose. Such a resolution may only be made at the specially convened Council meeting, to confer the title, if passed by not less than two thirds of the members voting and present at that meeting.

3.0 CRITERIA

Consideration, by the Council, of conferring the title of Honorary Alderman or Honorary Alderwoman upon a former Member, will be in accordance with this Protocol.

Two thirds of Members present and voting at the specially convened Council meeting for conferring the title, must be satisfied that the former Member has provided eminent service to West Oxfordshire District Council.

In reaching this conclusion, Members may take into account various issues including, but not limited to, length of service to the Council, roles appointed or elected to within the Council, and any other notable contribution made.

Any conferment of such honorary title can only be made if the Council indicates, by a vote of not less than two thirds of members present and voting, that it considers the former Councillor has provided eminent service to the West Oxfordshire District Council.

Any former Member who has the title of Honorary Alderman conferred upon them by the Council, is entitled to attend Council meetings, other than when the Council has resolved to go into private session. They do not have a right to speak, participate in a debate or vote on any item at Council meetings.

6G MONITORING OFFICER PROTOCOL

1.0 The Monitoring Officer

The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations but also has specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality.

The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

2.0 Introduction

The Council recognises that an effective Monitoring Officer, positively engaged in the discharge of the Council's business, is essential to the effective running and sound governance of the Council.

Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility to:

- Report on actual, and anticipated, illegality within the Councils;
- Report cases where the Ombudsman has found maladministration on the part of the Council;
- Maintain the Register of Members' Interests; and
- Administer, assess and investigate complaints to Members' misconduct.

The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

3.0 Appointment

The Monitoring Officer is appointed by Council, and may or may not be an employee of West Oxfordshire District Council. Where the Monitoring Officer is an employee of the Council and leaves that employment, they automatically cease to be the Monitoring Officer for the Council. The Council may appoint an Officer as Interim Monitoring Officer pending a permanent appointment.

The Monitoring Officer is a Statutory Chief Officer in line with Part 5K of the Constitution and is a direct report of the Chief Executive. Their appointment must therefore be made in accordance with the Officer Employment Procedure Rules at Part 5K of the Constitution.

4.0 Personal Responsibility

The Monitoring Officer is required to carry out the statutory functions of their post personally, with the exception that:

- The Monitoring Officer, (not the Council), will nominate an Officer as Deputy Monitoring Officer, with the power to act as Monitoring Officer where they are unable to act as a result of absence or illness; and
- In respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external lawyer to conduct a particular investigation.
- Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any Officer to assist them in the discharge of any non-statutory functions.

5.0 Functions

The functions of the Monitoring Officer are as follows:

5.1 Statutory Functions

- To report to the Council in any case where they are of the opinion that any proposal, decision or omission by the Council or any of its Committees, Sub-Committees, or any Member or Officer, has given rise to, or is likely to give rise to any illegality, in accordance with section 5(2)(a) Local Government and Housing Act 1989.
- To report to the Council in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any of its Committees, Sub-Committee, or any Member or Officer, has given rise to maladministration or injustice, in accordance with section 5(2)(b) Local Government and Housing Act 1989.
- To maintain the Register of Member's Interests in accordance with section 81(1) Local Government Act 2000 and section 29 Localism Act 2011.
- To administer, assess and investigate complaints of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.

5.2 Non-Statutory Functions

- Ensure that the Council has effective governance arrangements in place.
- Providing an effective, robust and ongoing programme of elected member training and development.
- Contribute to the corporate management of strategic risks.
- Provide and lead effective scrutiny of the Council.
- To monitor and uphold the Constitution.
- To act as principal Legal Advisor to the Council and the Executive.
- To act as principal Legal Advisor to the Standards Sub-Committee, in particular when sitting as a Local Hearing Panel, to determine allegations of breach of Code of Conduct.
- To provide advice to Members on conduct and ethics matters generally.
- To consult regularly with the Chief Executive, the Chief Finance Officer and Auditors to identify areas where the probity of the Council can be improved or better protected and to take appropriate action.

- To investigate any applications for dispensation from a Member and to report and recommend to the Council as appropriate.
- To report to the Council on resources which they consider they require for the discharge of their functions.
- Responsibility for the service areas of Legal Services, Democratic Services, Member Development and Elections.

6.0 Advice and Decisions

The Monitoring Officer's responsibilities fall into 3 distinct categories:

6.1 Advice

A Member may seek advice from the Monitoring Officer, for example concerning their interests. The Monitoring Officer will provide their advice but ultimately it is for the individual Member to take their own decision as to their conduct in the light of that advice.

6.2 Decisions

Where the proposal, action or omission would cause the Council to act unlawfully, the Monitoring Officer may be required to decide whether there is any illegality that they are required to report to Council which would have the effect of suspending implementation of the action or decision until their report has been considered.

6.3 Advice and Decision

In some case, for example a Member conduct matter, the Monitoring Officer may be obliged to advise a Member whilst also being required to take action as Monitoring Officer.

7.0 Seeking the Advice of the Monitoring Officer

The Monitoring Officer will be most effective if they are able to advise on any issue at an early stage of policy formulation or implementation. Officers and Members should therefore routinely consult the Monitoring Officer in respect of new policy proposals and action programmes.

Members and Officers of the Council may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission. Wherever possible, the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative means of achieving the objective or rectifying any deficiency. The Monitoring Officer will only make a report on illegality public where the relevant Officer or Member progresses the matter despite having been advised not to by the Monitoring Officer. Before reporting to Council on any illegality or maladministration, the Monitoring Officer will consult with the Chief Executive and Chief Finance Officer.

The Monitoring Officer is responsible for advising Members on conduct and ethics matters and any Member can seek the confidential advice of the Monitoring Officer about their own position. Subject to any conflict of interest with the Council, the Monitoring Officer will advise whether in their view the conduct would amount to a breach of the Code, and will not disclose that advice unless required to do so by law or as part of an investigation into an alleged breach of the code. Members are encouraged to seek the advice of the Monitoring Officer concerning the conduct of another Member, prior to making a formal complaint, and they should do so in writing. The Monitoring Officer may make contact with the Member complained of, before responding.

8.0 Investigation

The Council expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration or breach of code of conduct.

Where the Monitoring Officer is considering a complaint of a breach of the code of conduct they will follow the Council's procedures and arrangements set out for the assessment and investigation of such complaints.

Where the Monitoring Officer considers a complaint of illegality or maladministration and determines that the proposal, act or omission does, or would, give rise to maladministration or illegality, they shall seek to agree an alternative and lawful course of action and/or make a statutory report.

Upon receiving any complaint of illegality, maladministration or breach of the code of conduct, the Monitoring Officer will, where appropriate, seek to resolve the matter amicably and informally, but there may be circumstances where the matter is not appropriate for local resolution, is incapable of so being resolved, or if of such seriousness that a statutory report is the only appropriate response.

9.0 Reporting

Where the Monitoring Officer is of the opinion that illegality or maladministration has occurred or will occur, they will, after consulting with the Chief Executive and Chief Finance Officer, report to Council. Alternatively, to negate the need for a separate statutory report, they are also able to add their written advice to the report on the matter by any other Council officer, and/or to provide oral advice at any meeting of the Council.

10.0 Advice to Individual Members

Wherever possible the Monitoring Officer will provide advice to individual Members to support them in the discharge of their responsibilities as a Councillor. The Monitoring Officer will not however provide advice to a political group of the Council. The Monitoring Officer is designated as statutory officer to the Council, rather than to any individual Member or group of Members. Where the Monitoring Officer considers that providing advice to a Member is incompatible with their role as advisor to the Council, they may decline to provide such advice but can, at their discretion, secure such advice from an independent source at the Council's expense.

11.0 Monitoring and Interpreting the Constitution

The Monitoring Officer will monitor, and review on a regular basis, the effectiveness and operation of the Council's constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the Council to discharge its functions effectively.

In order to conduct such monitoring and review, the Monitoring Officer may:

- Consult any Member or Officer, other organisations and stakeholders.
- Observe meetings of Members and/or Officers at any level.
- Undertake an audit trail of a sample of decisions.

- Record and analyse issues raised with them by Members, Officers, the public or stakeholders.
- Compare practices in this Council with those in other comparable authorities, or national examples of best practice.
- Consider any relevant reports and recommendations of the Auditors and other regulatory agencies.

The Monitoring Officer will maintain an up to date copy of the Constitution and ensure that it is accessible to Members, Officers and the public and will make such amendments to the Constitution as are necessary to reflect changes of law, decisions made by Council and any other minor and consequential amendments.

The Monitoring Officer is responsible for advising on the interpretation of the Constitution.

12.0 Resources

The Council is required by statute to provide the Monitoring Officer with the resources which they consider are necessary for the fulfilment of their statutory duties.

For the purpose of carrying out their functions, the Monitoring Officer shall be provided with the following resources:

- The right of access to all documents and information held by or on behalf of the Council;
- The right of access to any meetings of Members or Officers of the Council, other than political group meetings.
- The right to require any Officer or Member of the Council to provide an explanation of any matter under investigation.
- A right to report to the Council and to the Executive, including the right to present a written report and to attend and advise verbally.
- The right of access to the Chief Executive and the Chief Financial Officer.
- The right, following consultation with the Chief Executive and the Chief Financial Officer, to notify the Police, the Council's auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
- The right to obtain legal advice at the Council's expense from an independent external source.

6H OFFICER DECISION MAKING PROTOCOL

1.0 INTRODUCTION

This document sets out the legal framework for decision making and establishes a system to document decisions taken by Officers under delegated authority, to ensure a robust process of accountability, to promote transparency and to ensure legal compliance.

2.0 TYPES OF OFFICER DECISIONS

The significance, in terms of value or impact, of decisions taken under delegated authority will vary and Officers authorised to make delegated decisions will need to exercise judgment in determining whether decisions are significant enough to require placing in the Executive Work Programme (if they are Executive) and whether they are significant enough to require formal recording.

To assist in this process, decisions are defined as either Key, Major or Administrative.

A key Executive decision should be included in the Executive Work Programme, regardless of whom the decision maker may be. This must be published for 28 days prior to the decision being made.

Key and major decisions, regardless of whether they are Executive or not, must be properly recorded in accordance with this protocol. Where such decisions are Executive, it is a legal requirement to formally record them, and they may be challenged through the call in process. Where they are non-Executive, it remains necessary to formally record them as, although they cannot be called in, they could be challenged externally through an appeals process, the Courts and Tribunals or the Local Government and Social Care Ombudsman.

2.1 Key Decision

A key decision is defined in Part 3A of this Constitution.

A key decision is an Executive decision that is likely to:

- Result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
- Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the authority.

The Council has decided that something is financial significant for these purposes if it is an Executive decision which requires a budget expenditure of £150,000 or more, or generates income or savings of £150,000 or more.

In considering whether a decision is likely to be 'significant', the decision maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the Council to a significant number of people living or working in the locality affected. The following should be considered:

- The effect on businesses and communities.
- The expectation of the public and councillors as to whether the decision should be taken by the Executive.
- The anticipated interest of the public and of councillor's
- The effect on other council services and function.

It is for the Chief Executive, having taken advice from the Monitoring Officer, to decide which decisions should be treated as Key Decisions.

2.2 Major Decisions

Major Decisions are all those that are not categorised as either Key Decisions or Administrative Decisions.

2.3 Administrative Decisions

Administrative decisions are decisions that are ancillary to the delivery of the function such as the:

- Ordering of stationery;
- Publication of statutory notices; or
- Deployment of staff.

As a guideline, administrative decision will often relate to expenditure, income or savings, of less than £10,000, but before determining the type of decision, it is also necessary to consider the impact, risk and consequences, as well as value.

3.0 AUTHORITY TO MAKE AN OFFICER DECISION

Before taking any decision, an Officer should ensure that they have appropriate delegated authority in writing, and reference should be made to the Scheme of Officer Delegations in Part 4 of the Constitution. Alternatively a specific delegation may have been made to an Officer via a specific resolution of the Executive, the Council or one of its Committees.

4.0 NOTICE OF THE MAKING OF AN OFFICER KEY DECISION

In accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, all proposed key decisions need to be published on the Council's website, as part of the Executive Work Programme for at least 28 clear days prior to

the date on which the decision is made. Officers proposing to make a key decision and needing to place an item on the Council's website should provide details to Democratic Services via email at democratic.services@westoxon.gov.uk at least 30 days prior to the date on which the decision is to be made.

There may be occasions where it has not been possible to give notice of a key decision. When this occurs the following process must be followed:

- At least 5 clear working days before the decision is to be made the Monitoring Officer must inform (by written notice) the Chair of the Finance and Management Overview and Scrutiny Committee, the Chair of the Economic and Social Overview and Scrutiny Committee and the Chair of the Climate and Environment Overview and Scrutiny Committee.
- A copy of the notice must be placed on the website and made available for public inspection.
- The Monitoring Officer will prepare and publish a notice on the website setting out the reasons why the item did not appear on the Executive Work Programme.

If it has not been possible to give 5 clear working days' notice of a key decision, the agreement of the Chair of the Finance and Management Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision may be made. The decision notice, in such circumstances, must include their views, together with an explanation as to why the matter is urgent, why it cannot await the next edition of the Executive Work Programme and why it missed the last edition.

5.0 OFFICER REPORT

A key officer decision should only be taken after consideration of an internal report, which should at the very least include:

- The Wards affected by the proposed decision;
- The name and title of the Officer writing the report;
- The title of the report;
- The designation as a key decision;
- Whether the report contains exempt or confidential information;
- Details of any consultation taken and representations received;
- The Officer's recommendations and reasons;
- Any alternative options considered;
- Any professional advice from legal or finance officers.

There is no requirement for any such Officer report to be published, although it is good practice to retain a copy of it for a complete audit trail of the decision making process.

6.0 PRINCIPLES OF OFFICER DECISION MAKING

The authorised Officer must take into account the principles of decision making as set out in Part 2H of the Constitution (Article 8 – Decision Making), which are equally applicable to Officers and Members. They must take into account all relevant considerations and no irrelevant considerations and they must have due regard to professional advice.

7.0 CONSULTATION

Sometimes delegated authority to an Officer is given with the restriction that the authority may only be exercised in consultation with a specified Member or Members. In such cases, consultation is mandatory to comply with the terms of the delegation. However, consultation may also be appropriate in other circumstances, and an Officer making a decision should always consider any consultation that may be beneficial and inform their decision. The decision maker has a duty to ensure that effective consultation takes place.

Sufficient timescales should be provided to Members for consultation, and where appropriate sufficient time should be available to allow Members to consult with their constituents. Consultation should be carried out in writing, unless there is an urgency about the decision that makes such written consultation impractical, in which case the Officer shall confirm, in writing, to the Member their understanding of the Member's response to the consultation.

Regardless of any consultation, the Officer remains the decision maker and may not have their discretion fettered. If, after consultation, they consider they cannot make the decision in accordance with their professional opinion, they should not exercise their delegation.

8.0 REASONS

It is a statutory requirement arising from the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, that reasons are given in respect of all Executive decisions.

It is good practice to record reasons in any Officer decision and it supports the principles of good administration, as well as ensuring that controversial decisions are rooted in relevant considerations and with proper regard to legal powers.

9.0 RECORDING AND PUBLISHING AN OFFICER DECISION

Any Key or Major decision made by an Officer must be recorded, regardless of whether they are Executive or not. The decision should be recorded on an Officer Decision Notice, available on the intranet or from Democratic Services.

The Officer must provide a copy of the Officer report, together with the Officer Decision Notice to Democratic Services via email at democratic.services@westoxon.gov.uk as soon as practicable after making the decision.

Democratic Services will maintain a record of all Officer Decision Notices, including any reports upon which the decision was made. Subject to any exempt or confidential information, democratic services will publish Officer Decision Notices relating to key and major decisions on the Council's website.

The Officer Decision Notice must be clear and convey the decision taken. It shall, as a minimum, set out the following:

- A record of the decision;
- The date the decision was made;
- The reasons for the decision;
- Details of any alternative options considered and rejected with reasons for rejection
- A record of any conflict of interest and any relevant dispensation granted.

10.0 CALL IN

Key decisions made by Officers are subject to call in by the Overview & Scrutiny Committees and cannot be implemented until either the call in period has expired or the relevant Overview & Scrutiny Committee has made a decision regarding the call in, or call in has been waived by the relevant Chair of the Scrutiny Committee.

The call in procedure is set out at Part 5C of the Constitution in the Overview and Scrutiny Procedure Rules.

It should be noted that the call in period commences at the time of publication of the Officer Decision Notice, rather than at the time the decision was made.

11.0 SUB DELEGATION

Officers authorised to make decisions, whether by way of an Executive, Council or Committee resolution, or via the Scheme of Officer Delegations, are able to sub delegate that authority.

Any sub delegation made must be to an Officer with suitable experience and seniority. The original delegate remains responsible and accountable for the decision to sub delegate and for the exercise of the authority by a sub delegate.

Delegations to Officers are designed to enable Officers to take responsibility for decision where appropriate. However, there may be circumstances where the Officer considers that a particular decision should be referred to the body from whom the authority was delegated. Furthermore, the body making the delegation may, in particular circumstances, consider that the delegate should not exercise their authority, and require the decision to be made by the delegating body.

61 **PROTOCOL ON THE PRE-ELECTION PERIOD**

1.0 INTRODUCTION

- 1.1 The actions of the Councils, its Members and Officers are subjected to closer scrutiny in a pre-election period and many activities which would normally pass without comment, could become the subject of controversy.
- 1.2 This Protocol is intended to assist Officers and Members and covers rules on publicity, use of Council facilities, Council meetings, and use of premises during the pre-election period.
- 1.3 This Protocol aims to extend the principles underlying the conduct of Members and Officers and should be read in conjunction with the Council's Code of Conduct for Members, the Member / Officer Protocol, the Protocol on the Use of Council Facilities and Resources, and the Employee Code of Conduct. Also of relevance is any guidance note for Officers and/or Members that is issued by the Returning Officer for any particular election.
- 1.4 The pre-election period commences with the Notice of Elections and terminates the day after elections are concluded. The commencement date varies and the Returning Officer will notify all Members and Officers of the commencement date in advance of any pre-election period.

2.0 PUBLICITY

- 2.1 At any time the Councils are prohibited from publishing material which appears to be designed to affect public support for a political party. The Government's Code of Recommended Practice on Local Authority Publicity sets out the following key principles in relation to Local Authority communications and publicity generally:-
 - Publicity is defined in section 6 of the Local Government Act 1986, as amended, as: "*Any communication, in whatever form, addressed to the public at large or to a section of the public*". This definition is very wide and would include press releases, speeches, leaflets and newspaper articles issued by, or on behalf of, the Council as well as posters, sponsorships, events and displays.
 - Publicity about individual Members (whether or not they are, or may become, election candidates) should be objective and explanatory and should not be either party political or open to misinterpretation as such.
 - Publicity may include information about individual Members' views on issues, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. If views are expressed by, or attributed to,

individual Councillors that do not reflect the views of the Local Authority itself, such publicity should make this fact clear.

3.0 PUBLICITY DURING THE PRE-ELECTION PERIOD

3.1 The following additional guidelines apply to publicity during the pre-election period:-

- During the pre-election period all Council publicity should avoid the pro-active publicity of candidates and other politicians involved directly with the elections;
- There is a need to ensure that any publicity is objective, balanced, informative and accurate; concentrating on facts, explanations or both;
- Council publicity should, as far as possible, avoid controversial issues or report proposals which could be identified with individual Members or Groups. However, the Council may respond to any events and enquiries provided the answers are factual and not party political;
- Usually where an important unplanned event or emergency occurs during the pre election period, the Chief Executive, or their Deputy, would provide the response. However, where a Member level response is required this should either be from a Member holding a politically neutral position, such as the Chair of the Council, or alternatively an agreed response from all Group Leaders;
- Events providing photo and publicity opportunities should, where possible, be timed to avoid the pre-election period. Where this is not possible, candidates for election should not be involved.
- The timing of a publication is an important factor. The nearer the publication to the election, the more likely it is to be controversial and be perceived as designed to affect support for a particular party. Where possible, therefore, it is advisable to avoid publishing any controversial material near the elections.

4.0 CONTENT OF MEMBERS' PUBLICITY

4.1 The content of any publicity issued by Members who are election candidates is very much a matter for each Member and his or her Political Group. However, there will be circumstances when the Council's Code of Conduct may apply, even to an individual Member's own election publicity, and as such the Code must be borne in mind. As Members of a Local Authority, it is also necessary to take into account the general duties of Local Authorities under equalities and other legislation.

5.0 IMPACT ON COUNCIL MEETINGS AND ACTIONS DURING THE ELECTION PERIOD

5.1 In Local Government there is a broad convention that matters of political controversy, either locally or nationally, should not routinely be brought before Members if at all avoidable during a pre-election period. This can impact on, for example, items brought to Committees, Questions from the public or from Members, Petitions, or Notices of Motion at Council.

- 5.2 In addition to the accepted convention, there are practical reasons for this approach from a publicity point of view. Firstly, whereas the agendas and minutes of official Council meetings are protected by the Local Government Act 1986 from being “publicity”, press releases publicising those minutes are not. This presents the Council with difficulties in publicising any sensitive or controversial decisions during the pre-election period, even if in other circumstances such publicity would be merited by the level of public interest. Secondly, the more restrictive publicity regime during the pre-election period means that where an initiative would benefit from a public launch or immediate advertisement or consultation, this will rarely be possible during the pre-election period.
- 5.3 Therefore any working practices or protocols which include publicity and media arrangements will need to be interpreted in the light of the restrictions mentioned above.

6.0 CONSULTATION

- 6.1 Guidance contained in the 2021 Local Government Association Guidance recommends that no new public consultations should be launched during the election period, unless there is a statutory duty to do so or they are considered normal Council business, and nor should any findings from consultation exercises be reported during this period if they could be politically sensitive.

7.0 CODE OF CONDUCT FOR MEMBERS

- 7.1 The Code of Conduct for Members applies not only when a Member conducts the business of their Authority but also when acting, or giving the impression they are acting as a representative of the Authority. In this respect, certain elements of the Code are particularly relevant during the pre-election period. Members are reminded to be particularly aware of the following provisions of the code of conduct:
- Paragraph 6.3: Impartiality of Officers
 - Paragraph 6.5: Disrepute
 - Paragraph 6.6: Use of Position
 - Paragraph 6.7: Local Authority Resources and Facilities

8.0 GENERAL

- 8.1 The Council does not and cannot vet or comment on Members’ election publicity. Generally, Members would need to seek any specific advice in relation to such publicity externally from the Council, for example through their Political Group.

9.0 USE OF COUNCIL FACILITIES

- 9.1 The Council’s Code of Conduct for Members provides that a Member must ensure that Council resources and facilities are not used improperly for political purposes. Any

services or facilities provided by the Council for Members should be used exclusively for the purposes of Council business or to enable the Member concerned to discharge their function as a Councillor. This applies to all facilities including Council stationary, telephones, transport, photocopiers, officer time and ICT equipment. Further information can be found at Part 6D of the Constitution, Protocol on the Use of Council Facilities and Resources by Councillors.

- 9.2 Subject to paragraph 12.1 below, no election candidate or a person associated with a political party is entitled to access Council premises. Members and Officers need to take extra care to ensure that election candidates or other persons associated with political parties who are not serving Councillors are not seen to have unauthorised access to Council offices or facilities.
- 9.3 In relation to ICT equipment, Members should not use ICT equipment for party political purposes. Members sending messages to chat rooms, social media platforms or forums will need to consider whether to use their Councillor email address or a personal address. The former could be appropriate for simply sending information as a Councillor, but the latter will be appropriate if engaging in political debate.
- 9.4 Council business and party political business are not always mutually exclusive, and therefore the particular circumstances of each event will need to be considered.

10.0 USE OF EMAILS

- 10.1 A Member's Council email address should not be used for political purposes, such as electioneering.
- 10.2 It is recognised that a local resident may contact their Ward Member about an election issue via that Member's Council email address, and it may be acceptable to respond to the email although it is political in nature. But Members should not initiate, or engage in extensive political discussions using Council provided email facilities.

11.0 USE OF TELEPHONE

- 11.1 In line with the position on emails, Members may use Council supplied telephones for non party-political purposes or where the call is not initiated by a Member.
- 11.2 Council email addresses and telephone numbers should be avoided for any party political literature. If Members wish to refer to the facility for purposes of constituency work, it should be made clear that it is for Ward casework only and it is better kept in a discrete part of the document.

12.0 USE OF COUNCIL PREMISES DURING THE PRE-ELECTION PERIOD

- 12.1 Between the Notice of Election being published and the day before the election, a candidate in the election is entitled to use Council meeting rooms to hold public meetings

for furtherance of their candidature. This includes committee rooms and rooms in schools in the candidate's electoral area. The use of these rooms is free of hire charge though the candidate may be required to cover expenses associated with using the premises. Further information on these arrangements may be obtained from the Electoral Services Office.

13.0 CONFIDENTIAL INFORMATION

- 13.1 Members are usually entitled to information not available to the public (exempt or confidential information) where that information is required by them to discharge their functions as Councillors. This may, for example, be the case if the information relates to an item coming before a Committee of which they are a Member. Exempt or confidential information cannot be used for electioneering purposes. It is for this reason that Officers, in the run up to an election, may seek to clarify the purpose for which a Member is seeking information. Members should not seek, nor may Officers provide, exempt or confidential information to help election campaigns.

14.0 MEMBER / OFFICER ROLES

- 14.1 In general terms, the role of Members is to set strategies, policies and frameworks within which the Councils will operate, to monitor performance and to represent those who live in their Wards. Officers are employed to advise, undertake the detailed preparation and implementation work, and provide the day to day running of services. It is particularly worth bearing in mind this broad split of functions at election time and, in the interests of good administration, the need to avoid roles becoming confused.

15.0 SPECIAL RULES RELATING TO OFFICERS

- 15.1 Officers at all levels should not engage in party political activity that compromises their neutrality and objectivity at work. Officers who hold politically restricted posts (generally Senior Officers and those who advise Members or speak on behalf of the Councils) are subject to additional restrictions.
- 15.2 If an Officer attends a political group meeting to brief Members on Council business, Members should ensure that the Officer is not present when political business is discussed. Any Officer attending such a meeting, should ensure that a similar briefing is offered to all political groups.
- 15.3 A central register of all posts which are Politically Restricted is held by Human Resources.

16.0 MEMBER / OFFICER PROTOCOL

- 16.1 Further information and advice on the working relationship between Members and Officers is contained in the Member / Officer Protocol at part 6B of the Constitution.

17.0 COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

- 17.1 Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with, but options include referring the matter to the Returning Officer for a particular election or referring to Thames Valley Police where there is evidence of an elections offence.

18.0 FURTHER GUIDANCE

Further advice or clarification can be sought from the Monitoring Officer or Returning Officer, or from the Electoral Commission or Local Government Association.

6J: SOCIAL MEDIA POLICY

1.0 INTRODUCTION

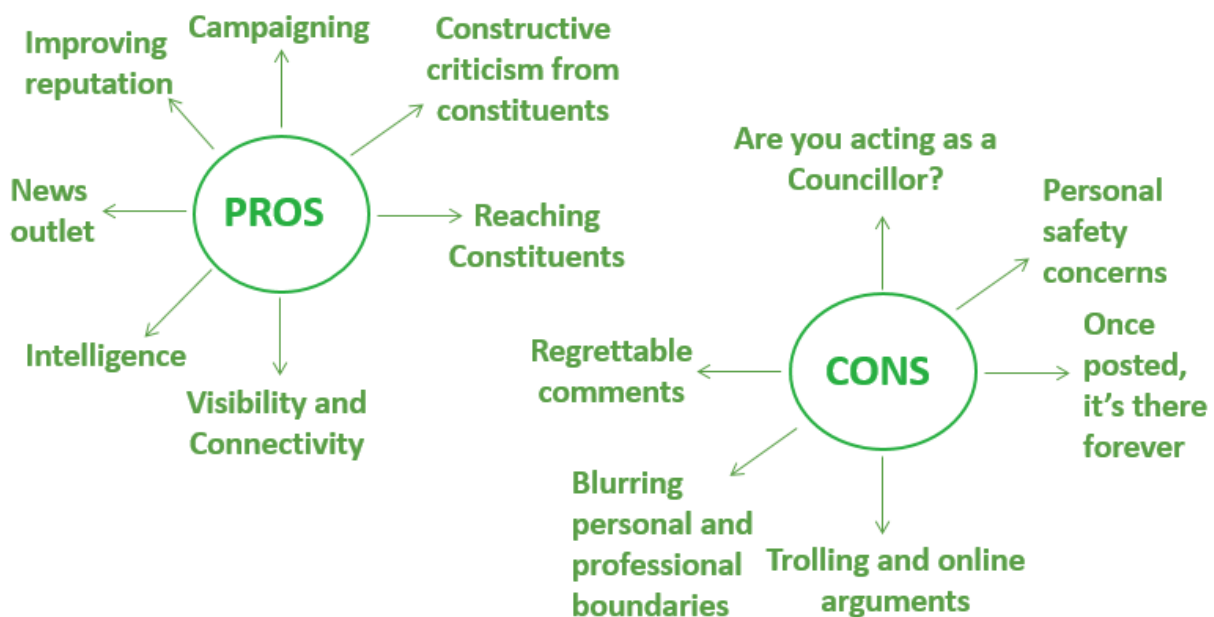
This Social Media Policy for Councillors is intended for use by all West Oxfordshire District Councillors and co-opted Members.

West Oxfordshire District Council has always been committed to innovation and creativity in the digital revolution which has taken place over recent years. We actively encourage the use of social media, which has become an integral part of everyday life for many of us as it is a useful way to communicate and connect with people all over the world.

This Policy on the use of Social Media by Councillors, does not seek to inhibit “freedom of expression”, and means that Councillors are generally free to talk about, or write about, or otherwise express, their ideas and opinions without any censorship or interference - subject only to a few exceptions.

In respect of Councillors, social media has many benefits including raising a Councillor’s profile, helping to deliver information to constituents in a fast and effective manner and for enhancing the reputation of the Council. However, there are also some pitfalls and some ways in which Councillors could use social media inappropriately, and this can have long lasting and significant consequences for the reputation of individual Councillors, their Political Groups and the Council as a whole.

2.0 ‘PROS’ AND ‘CONS’ OF SOCIAL MEDIA



3.0 SOCIAL MEDIA AND THE MEMBER CODE OF CONDUCT

The Social Media Policy for Councillors ('the Policy') is intended to assist Councillors when using social media, in a personal or professional capacity, to avoid potential breaches of their Code of Conduct and enable them to uphold the highest standards of conduct and ethics in their communications.

This Policy should be read in conjunction with the Council's Member Code of Conduct and sets out when certain types of conduct relating to the use of social media may be considered inappropriate by a Councillor.

Councillors are personally responsible for their conduct online and should always be mindful of the Code of Conduct and the Nolan Principles.

3.1 Acting in Capacity as a Councillor v Acting in Private / Personal Capacity

The Council's Member Code of Conduct (Part 6A of the Constitution) provides that a Councillor must comply with the obligations of the code when acting as a Councillor, which may include when a Councillor misuses their position or when a Councillor's actions would give the impression to a reasonable member of the public with knowledge of all the facts that they are acting as a Councillor. This is a subjective test. However, there are actions which increase the likelihood of a Councillor being found as 'acting in their capacity as a Councillor'. For example, by identifying that they are a Councillor on their profile page, by using social media to campaign or to share Council news/developments with the public.

Councillors are advised to keep separate social media and online accounts for professional Councillor matters and purely private and personal matters. Doing so enables a Councillor to separate posts about Council business or their role as a Councillor from personal posts.

However, while a Councillor may make a distinction on social media about what is a personal account or content, that does not mean that it would be considered by others to be personal. So, for example, if a Councillor posts on a personal social media platform about a matter that has sufficient nexus with their role as a Councillor, they may be deemed to be acting as a Councillor regardless of the fact that the post is on a purportedly personal account or is said to be from the individual acting in their personal capacity.

Further, while a Councillor may be clear on social media about what is personal content, such content could still be shared by other people in public forums or used by the media.

If a Councillor does decide to maintain only one social media account, there is increased risk around when they may be considered to be acting in capacity, and under the jurisdiction of the code, should a complaint be made.

If a Councillor wishes to keep just one account, they should be clear on what the account is used for. For example, if the account is personal, they should keep it private and refrain from using Council or Councillor terminology, referring to their role as a Councillor, or posting, sharing or commenting about Council business.

4.0 GENERAL RESPONSIBILITIES WHEN USING SOCIAL MEDIA

In addition to the Member Code of Conduct, Councillors should be mindful of the following responsibilities:

- Councillors should take particular care to ensure that, in any comment or post they create, they do not imply that they are speaking on behalf of the Council as a whole.
- Once a post is made on social media, it is there for the world to see. Even if it is deleted this does not mean that someone has not already saved a copy of it. Councillors should never post anything on social media that they would not be prepared to discuss in public meetings, with the local media, with their constituents, and with their friends and family. Councillors should think carefully before engaging in activity on social media.
- Councillors should be honest about who they are on social media and not impersonate anybody if it could lead to bringing the Council into disrepute.
- Councillors should be mindful of the safety of themselves, their families and others. Any information posted to social media is public including pictures, profile information, friends list and comments. Individuals will be able to see your information and link you to other people, which may include vulnerable children and adults.
- Councillors should only share accurate information from reliable sources and should be mindful of 'fake news' stories and outlets. It's evidenced that anonymous profiles can contribute to the spread of misinformation or fake news, as well as cyberbullying, trolling and hate crime.
- Councillors should be trustworthy and not use social media to divulge any confidential or exempt information which has been shared with them.
- Councillors should keep their social media accounts secure and protected by passwords. They should not allow anybody else access to any of their social media platforms.
- Councillors should remain professional and polite when conversing with members of the public. This includes the use of private messaging, commenting on posts or replying.
- Councillors should take care when providing opinions or sharing or commenting on posts that they do not use or share content that might be deemed offensive, bullying or discriminatory or might otherwise bring the Council into disrepute.
- Posts should not contain abuse, harassment, intimidation or threats of any form. Posts should not contain any form of discrimination – including racism, sexism, ageism, ableism, homophobia, transphobia or religious intolerance.

- The way we interact with people in person is not just limited to the things we say. Body language, expression, tone of voice and who we are speaking to are all contributing factors to interaction. Considering this, Councillors should always consider how any comment/post they make on social media could be construed.
- Councillors should be mindful of the public perception of using social media during Council meetings and consider whether it is appropriate, particularly in regulatory meetings.
- Councillors should give careful consideration when sharing the posts of others, or when reacting to posts as reactions including smiley faces, thumbs up, laughing emoji's are all forms of on line communication.

4.1 Dealing with Mis-Information

It is difficult not to engage when you are the subject of rumours, misinformation and smear campaigns. While it is always tempting to respond and clarify every rumour and falsehood circulated about you, it is also useful to think about the emotional, economic, time and costs of engaging; in many cases, rumours disappear as quickly as they emerged.

Some useful strategies to deal with such mis-information include:

Calmly try to understand who is behind the 'attack'. Most of the time, they are people with a clear agenda trying to gain control or to manipulate;

Correct the facts if you wish to do so; this can be done with a formal statement or if you can identify the source, then do it publicly by correcting their posts with facts and evidence. Remember that Officers are there to give advice, support and provide factual information;

Remember that rumours and misinformation are fed by repetition. It is good to defend your reputation but often the most efficient way is to do it once and then stop engaging this way;

Leave the environment the rumour is being spread within. A smear campaign tries to manipulate and gain control but no control can be gained if you do not participate. You may wish to advise your followers that you will be logging out of social media for a period of time, which gives the rumour time to calm down while protecting your own emotional and mental wellbeing;

Rumours and smear campaigns can be very stressful and at times, they can feel very isolating. Keep your self-confidence by talking to family, friends and others in your support network. Some may also feel able to counteract rumours with factual information;

If you can identify the source of the rumours and smear campaigns, you should document it and keep a record. This may be useful if further disciplinary or legal action is required;

The Council's Communications team is available to provide advice and support to all Councillors and can be consulted should a Councillor have a concern.

4.2 Potential Legal Issues

Councillors should be mindful that, in addition to a potential breach of the Code of Conduct, misuse of social media may give rise to other consequences.

The following issues, which may lead to criminal or civil legal proceedings, may also arise:

- Breach of Data Protection Legislation
- Publication of Obscene Material
- Incitement
- Copyright
- Harassment
- Discrimination
- Bias
- Defamation
- Judicial Review

5.0 TRAINING

Training on the use social media will be made available to Councillors by Democratic Services Officers. It is advised that Councillors undertake such training at least once in any term of office.

The Monitoring Officer, the Audit and Governance Committee or the Standards Sub-Committee, may also require a Councillor to undertake additional Social Media training as a result of concerns regarding their conduct.

If you are unsure, or have any questions about your social media use, contact the Monitoring Officer.

6.0 LOCAL GOVERNMENT ASSOCIATION GUIDANCE

The LGA has also published a Checklist for Councillors. This can be found at Appendix A.

Appendix A

The LGA refer to 5 rules for councillors when using social media, as follows:

- Rule 1 – debate and disagreement are welcome, but only if expressed with courtesy, respect and politeness
- Rule 2 – posts should not contain abuse, harassment, intimidation or threats of any form
- Rule 3 – posts should not contain any form of discrimination including racism, sexism, ageism, ableism, homophobia, transphobia or religious intolerance
- Rule 4 – posts should not spread false or unverified information
- Rule 5 – for transparency reasons, users should not post anonymously

LGA Checklist for Councillors

<https://www.local.gov.uk/our-support/guidance-and-resources/comms-hub-communications-support/digital-communications/social-1>

Be a person

In the words of Digital Specialist [Euan Semple](#), "Organisations don't tweet, people do". You are likely to be more effective if your social media profile is you (with a picture of you) rather than an organisation with a logo.

Don't worry about reaching everyone in your ward

Social media will be more effective in some wards than others. University towns, urban areas with good broadband and mobile connections, and a working age population tend to work best. Wards with an older population and poor internet connectivity tend not to be so effective at reaching your ward. However don't let this stop you as connections are getting continuously improving as we move towards a higher level of digital inclusion.

Don't let it replace your traditional work

To be an effective councillor you won't stop meeting people and posting leaflets simply because you are posting online. The traditional work of a councillor still has to be done. You will know your residents best—consider which channel works best for them to connect with you, online and offline.

Think about the platform you'll use

If people in your ward are keen Facebook users then think seriously about Facebook. Twitter is popular among politicians because it's easy to use and connects people really well. Whichever one you choose, learn one at a time before even thinking of trying something else. You will know your residents better than anyone else so ask them which channel works best for them.

See how other councillors use it

Watch and learn from other councillors who are using social media. Have a chat to them. You'll very often find they will be happy to talk. Even to those from different parties.

Don't be a slogan machine

There is a really important decision to be taken over how political to be. You may have been elected on a party political ticket. But you are also a rounded human being. Social media is a chance for you to show your human side. Just posting party political content is likely to switch many people off and you may be talking only to the party faithful.

Have a conversation

Social media works best as a two-way conversation connecting people and sharing information. Good councillors do this every day face-to-face with residents—social media should be no different to this.

Don't wait for people to come to you

You've got your Facebook profile or your Twitter profile. People won't just come flocking to you. Run a search on your chosen profile for the name of your ward or an issue. Make a connection. Join a Facebook group set-up by residents. Comment on a blog, a website or a video clip.

Think about times when you won't post

From experience, many elected members say that Friday and Saturday nights are not always the best time to post overtly political messages. You won't always get the most rounded debates. Many councillors post sparingly on religious holidays.

To post in meetings or not?

Some authorities frown on posting from social media in meetings. Check the situation where you are. Residents, residents' groups, journalists and bloggers are being encouraged to use social media from meetings. So adding your voice to the conversation may be a good thing as part of democracy. If you can post an update from a meeting and it doesn't hamper your role in that meeting then it's something to think about.

Don't have a row

Robust debate is fine from time-to-time and it's part of the cut and thrust of local politics. Most people can accept that. But remember how this debate is playing out to passers-by who are not interested in the detail of the issue. They are likely to be switched off. Take the row offline with a phone call or an email.

Don't be abusive

An absolute 'no no' is abusing people online. It doesn't work. It will make you look awful and is a sure-fire way to land you in trouble with your electorate, the party and the council. Be professional. Don't say anything you wouldn't be happy saying in a public meeting with the Press there.

Don't discuss case work detail

Case work can be reported to you on social media. Everything from uncollected rubbish and a cracked paving slab to concerns about child protection. As a good rule of thumb, ask residents to tell you the detail of an issue offline. Social media platforms usually have an easy-to-use way to talk one-to-one. Email and telephone can come into play too.

Pictures work

People respond really well to pictures. They don't have to be print quality. They don't have to be posed. If you are on a ward walk post some pictures. Include the people you are with if they are happy with that. Post pictures that show your human side too. That sunrise you just noticed. Your dog. Things that make you human.

Enjoy it

It's not meant to be scary. It's not meant to be hard work. Relax. Be yourself. Be a responsible elected member. Enjoy it.