



Constitutional Review Committee

To All Members of the Constitutional Review Committee on Friday, 27 May 2022

Date of meeting: Wednesday, 08 June 2022

Time: 18:30

Venue: The Council Chamber

The Symington Building, Adam and Eve Street, LE16 7AG

The meeting will also be open to the public.

Agenda

1 Election of the Chairman for the Year 2022/23

2 Appointment of the Vice Chairman for the Year 2022/23

3 Apologies for Absence and Notification of Substitutes.

4 Declarations of Members' Interests

5 Minutes

To approve as a true record the Minutes of the previous Meeting.

**Minutes of the Constitutional Review Committee Meeting - 9th 3 - 6
March 2022**

6 Proposed Amendments to the Constitution

Report - Proposed Amendments to the Constitution - 08.06.2022 7 - 15

**7 Review of Arrangements for Dealing with Complaints Under the
Members' Code of Conduct – Part 5 of The Constitution**

**Review of Arrangements Report - Constitutional Review 16 - 59
Committee 8 June 22**

8 Updates to Part 3: Responsibility for Functions

Updates to Part 3 Responsibility for Functions

60 - 69

9 Any Urgent Business

To be decided by the Chairman.

LIZ ELLIOTT
INTERIM CHIEF EXECUTIVE AND HEAD OF PAID SERVICE
HARBOROUGH DISTRICT COUNCIL

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Circulate to: Barry Champion - Member, Paul Dann - Member, Barbara Johnson - Member, Phil King - Chairman, Sindy Modha - Member, Geraldine Robinson - Member, Julie Simpson - Member

HARBOROUGH DISTRICT COUNCIL
MINUTES OF THE MEETING OF THE CONSTITUTIONAL REVIEW COMMITTEE

Held at The Council Chamber,
The Symington Building, Adam & Eve Street,
Market Harborough, LE16 7AG
On Wednesday 9th March 2022
commencing at 6.30pm

Present:

Councillors: Champion, Dann, Johnson, King (Chairman), Modha, Mrs Robinson and Mrs Simpson.

Officers present: A. Eastwood, L. Elliott, S. Green, N. Kwasu, and B. Morris (remote).

The Chairman welcomed everyone to the meeting and introduced the Officers present.

1. APOLOGIES FOR ABSENCE AND NOTIFICATIONS OF SUBSTITUTIONS

There were none.

2. DECLARATIONS OF MEMBERS' INTERESTS.

There were none.

3. MINUTES

RESOLVED that the minutes of the Constitutional Review Committee meeting held on 9th November 2021 be approved and signed by the Chairman as a true record.

4. REVIEW OF KEEPING WARD MEMBERS INFORMED

The Interim Monitoring Officer presented the report the purpose of which was to remind Members of the current Access to Information provisions in the Constitution and to note the other existing communication channels available to Members in their Ward duties. Members had the opportunity to question the officers. The Chairman MOVED to add an additional recommendation (iv) as per the suggestion of a possible new channel detailed on page 7 of the report. The Interim Chief Executive AGREED to communicate to all service managers that they need to be appropriately contacting their ward members in line with the suggested changes. It was also noted that under the Monitoring Officer's delegation to make minor amendments to the Constitution that the duplication of points 9 and 10 on page 14 of the Appendix (Part 4: Procedure Rules (STANDING ORDERS) be removed.

Following the discussion it was,

RESOLVED;

- (i) To note the Report and to remind members of the existing communication channels and Constitutional Provisions.**
- (ii) To determine if any additional mechanisms for Ward Member communication channels need to be provided.**
- (iii) That the amendment to the Constitution set out in the report, in relation to Part 5, Section 3: Section 10 of the Protocol on Member and Officer Relations, is considered and recommended to Council for approval, and all references to the "Sensitive Issues Procedure" in the Constitution are deleted;**

10. Involvement of Ward Councillors

10.1 It is essential that in order for Members to carry out their duties they need to be kept fully informed about matters on which they may be required to make decisions or which affect their Wards.

10.2 It is vital all relevant staff are aware of the requirement to keep Members informed and that the timing of such information allows Members to contribute to those decisions. Local Ward Members shall also be kept informed about significant matters affecting their Ward.

10.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward(s) affected should as a matter of course be invited to attend the meeting.

10.4 Similarly, whenever the Council undertakes any form of consultative exercise, the Local Ward Member(s) should be notified immediately prior to the outset of the exercise.

- (iv) To add a numbered series of briefings that are circulated to Members and posted to the intranet as a central place for all briefings.**

5. REVISION TO CONTRACT PROCEDURE RULE 4

The Interim Chief Executive presented the report the purpose of which was to consider proposed amendments to the Constitution to reflect recent updates to the project management governance and guidance.

Members had the opportunity to question the officers and following the discussion it was,

RESOLVED;

- 1. That the amendments to the Constitution set out in Appendix B are referred to Council for adoption.**

6. VERBAL DISCUSSION ON PLANNING CALL-IN PROCEDURES

The Chairman introduced the item which followed on from a discussion at a previous meeting of the Constitutional Review Committee on 29th June 2021. The Development Planning Manager noted that the concerns related to the ability to “Call In” a Planning Application to Planning Committee in Part 3, Section B Para 3.2 of the Council’s Constitution. It had been suggested that this be amended in order to improve the clarity of the provisions with the additional wording that;

‘Requests should be made to the Development Planning Manager in writing (which includes email) and set out the planning reasons (such as Highway safety, or the character of the surrounding area) for the request and should clearly state the impact of the development. The Development Planning Manager will subsequently consider the request and inform the Member of the decision.’

The Committee discussed the wording at length and MOVED that the additional wording be added in relation to the planning reasons to add more rigor to the call-in procedure, but that the second section would not be included and that the Development Planning Manager would be not given the discretion to refuse a Member call-in. It was further AGREED that adding in the first section of wording could be implemented through the Monitoring Officer’s delegation to make minor amendments to the Constitution and would not therefore need to be referred to Council for approval. Following the discussion it was;

RESOLVED that additional wording be added to Part 3, Section B Para 3.2 of the Council’s Constitution to read,

‘Requests should be made to the Development Planning Manager in writing (which includes email) and set out the planning reasons (such as

Highway safety, or the character of the surrounding area) for the request and should clearly state the impact of the development.'

7. ANY URGENT BUSINESS

There was none.

The Meeting closed at 19.28.

**REPORT TO THE MEETING OF THE CONSTITUTIONAL REVIEW
COMMITTEE ON 8th June 2022**

Status:	Public and Not Exempt
Report Title:	Proposed Amendments to the Constitution
Report Author:	Clive Mason: Director; Finance, ICT and Assets
Appendices:	Appendix A: Proposed amendments to the Financial Procedure Rules Appendix B: Proposed amendments, Sealing of Documents
Recommendation:	That the amendments to the Constitution set out in Appendix A and B are considered and recommended to Council for approval and adoption.

1 Purpose of Report

Background

- 1.1 As a living document, the Constitution is reviewed regularly to ensure that it remains up to date to reflect good governance as well as any legislative changes that may impact on the interpretation of the Constitution.

Governance

- 1.2 At the meeting of the Audit & Standards Committee (ASC) held on the 2nd March 2022, the Committee considered an Exempt report, entitled “Assets Review”. This review recommended a number of changes to the Constitution in respect of the Acquisition and Disposal procedures (Part 4, Paragraph O) – these changes are detailed in **Appendix A**.

Sealing of Documents

- 1.3 The attesting of the common seal is delegated to “....the Head of Paid Service, or some other person authorised by him or her....” (Constitution, Part 2, Para 14.05), but the Constitution has not been updated to reflect this at Part 5 (a) and (b), the Chairman’s and Vice-Chairmans Protocols respective. These changes are detailed in **Appendix B**.

2 Reasons for Recommendations

- 2.2 The Council has to ensure that it has in place a robust Constitution and that it should be reviewed regularly to ensure that all decisions are taken effectively and efficiently within the principles of open and accountable local government. The proposals put forward in this report in respect of:

- Governance (1.2) are as a result of recommendations accepted by the ASC, and
- Sealing of Documents removes an inconsistency within the Constitution and will enable the Council to deliver more efficient services through being able to have more flexible arrangements in the attesting of the common seal which in turn will mean that the decision-making processes will be quicker and more effective.

3 Corporate Priorities

- 3.1 These changes to the Constitution will support Councillors and Officers in the governance of all Council services, thereby the delivery of all the Councils priorities as shown in the [Corporate Plan](#).

4 Financial Implications

- 4.1 None as far as this report is concerned.

5 Risk Management Implications

- 5.1 To ensure sound decision making the authority needs to have in place a robust Constitution.

6 Environmental Implications

- 6.1 None as far as this report is concerned.

7 Legal Implications

- 7.1 The Council is required to have in place a constitution and to ensure that it is up to date and fit for purpose.

8 Equality Implications

- 8.1 None as far as this report is concerned.

9 Community Implications

- 9.1 None as far as this report is concerned.

10 Data Protection Implications

- 10.1 None as far as this report is concerned.

11 Consultation

- 11.1 The changes noted in **Appendix A** have been considered by the Councils Internal Audit Manager and she has confirmed that these meet the requirements of the Asset Review report that was presented to ASC on the 2nd

March 2022. In respect of **Appendix B**, the current Chairman and Vice-Chairman have been consulted and they see this as an improvement in the decision-making process. They made the point that the documents will have been through all the appropriate internal due diligence processes and therefore it is an unnecessary bureaucracy for members to have to make special journeys to sometimes sign one document. They also understand that some local authorities changed this process many years ago.

12 Options Considered

- 12.1 The Council has an obligation to keep its constitution under review. The Committee does not have to recommend any of the proposals set out in **Appendix A** or **B** to Council for consideration and adoption.

13 Background Papers/Previous Reports

- 13.1 Constitution October 2021, and “Assets Review” Exempt report to Audit & Standards Committee, 2nd March 2022.

Information Issued Under Sensitive Issue Procedure: ~~Y~~/N

Ward Members Notified: ~~Y~~/N/NA

APPENDIX A CHANGES TO CONSTITUTION: PART 4, SECTION 6: FINANCIAL PROCEDURE RULES FOR OFFICERS – RULE O: Acquisition and Disposal of Property Interests

Rule O2 currently states: The acquisition and disposal of any interest in land and buildings or any other property will be in accordance with the delegations to the Corporate Property Officer as set out in O3 below in , the Constitution, the Corporate Property Strategy, the Acquisitions and Disposals procedures and other supporting policies.

Rule O2 to be updated to state: The acquisition and disposal of any interest in land and buildings or any other property will be in accordance with the delegations to the Corporate Property Officer as set out in O3 below in , the Constitution, the Corporate Property Strategy, the Disposals, Acquisitions & Community Asset Transfer Policy, and other supporting policies.

The changes required to the Disposals, Acquisitions & Community Asset Transfer Policy is detailed below:

Current Requirement		Proposed Requirement		Reason for Change
Disposals, Acquisitions & Community Asset Transfer Policy				
Part A Disposals Point 3 General	3.7 For disposals, the Corporate Asset Manager will assemble all relevant information and a report will be submitted to Executive with recommendations.	Part A Disposals Point 3 General	3.7 For disposals, all relevant information including a written formal report and independent valuations for each property related disposal prior to any legal obligation or disposal must be completed and should be compliant with the RICS Red Book standard. Where the report is recommending a disposal to Executive then the independent valuation report must accompany the report. Appropriate informal advice shall be obtained	As recommended by Audit & Standards Committee in respect of the Assets Review (Recommendation 1: Valuations).

Current Requirement		Proposed Requirement		Reason for Change
Disposals, Acquisitions & Community Asset Transfer Policy				
			prior to that to assist with assessing options and recommendations.	
Part B Acquisitions Point 14 Independent Valuation	14.1 A written formal report compliant with the RICS Red Book shall be obtained before any legal obligation or purchase is completed. Appropriate informal advice shall be obtained prior to that to assist with assessing options and recommendations.	Part B Acquisitions Point 14 Independent Valuation	14.1 A written formal report and independent valuation must be acquired for each property related acquisition prior to any decision to acquire, and such valuations should be compliant with the RICS Red Book standard. Appropriate informal advice shall be obtained prior to that to assist with assessing options and recommendations.	
Part B Acquisitions Point 16 Council Decision Making	16.1 The Constitution sets out the powers and duties in respect of decision making relating to acquisition, which requires all acquisitions to be considered by Cabinet. All decisions shall be in accordance with the Council's Financial Procedure Rules.	Part B Acquisitions Point 16 Council Decision Making	16.1 The Constitution sets out the powers and duties in respect of decision making relating to acquisition, which requires all acquisitions to be considered by Cabinet. Where the report is recommending an acquisition by Cabinet then the independent valuation report must accompany the report to Cabinet.	

Current Requirement		Proposed Requirement		Reason for Change
Disposals, Acquisitions & Community Asset Transfer Policy				
			All decisions shall be in accordance with the Council's Financial Procedure Rules.	
Part B Acquisitions Point 11 Property Search	11.1 Once a property requirement has been approved by Executive, the Corporate Asset Manager in association with key services will carry out a search to establish whether suitable land or property is available to fulfil the requirements of the Council. This includes utilisation of existing assets and opportunities with potential Partner organisations. Where a number of potentially suitable properties exist in the marketplace, comparisons will be made to establish which is the most suitable for the Council's needs. Criteria against which such decisions will be made include: <ul style="list-style-type: none">• Extent of Suitability• Price• Condition of property• Availability (in terms of timing)	Part B Acquisitions Point 11 Property Search	As current requirement, but in addition to include: Searches conducted and all findings noted and acted upon must be provided in all acquisition proposals and this should be verified via the management/project governance structure to ensure assurances are informed and reliable. Where necessary, appropriate sensitivity analysis to be undertaken to determine the range of risk in the acquisition.	As recommended by Audit & Standards Committee in respect of the Assets Review (Recommendation 4: Compliance with Good Practice).

Current Requirement		Proposed Requirement		Reason for Change
Disposals, Acquisitions & Community Asset Transfer Policy				
	<ul style="list-style-type: none">• Nature of tenure being offered (freehold or leasehold)• Location advantages (where a strategic acquisition is under consideration)• Return on investment (where a revenue generating asset is being considered)• Restrictive covenants / easements etc• Costs in-use for premises for Operational purposes• Cost to build, adapt or improve any premises and other costs relevant to the purpose			
Part B Acquisitions Point 13 Due Diligence	13.1 Appropriate investigations will be undertaken into matters relating to: <ul style="list-style-type: none">• The legal title of the property• Planning and Building Regulation compliance for the existing use and proposed purpose• Energy Performance Certificate	Part B Acquisitions Point 13 Due Diligence	As current requirement, but in addition to include: Searches conducted and all findings noted and acted upon must be provided in all acquisition proposals and this should be verified via the management/project governance structure to ensure assurances are informed and reliable. Where	

Current Requirement		Proposed Requirement		Reason for Change
Disposals, Acquisitions & Community Asset Transfer Policy				
	<ul style="list-style-type: none">• Other relevant statutory consents• Pollution• Existing construction and mechanical and electrical plant		necessary, appropriate sensitivity analysis to be undertaken to determine the range of risk in the acquisition.	

APPENDIX B CHANGES TO CONSTITUTION: PART 5, Section 5 (a) Chairman's and (b) Vice-Chairman's Protocols

Current Requirement		Proposed Requirement		Reason for Change
Part 5, Section 5(a): Chairman's Protocol	<p>The Chairman's Role: Job Description: Duties and Responsibilities:</p> <p>9. Sealing of documents to be executed on the Council's behalf. The Vice-Chairman is authorised to sign in the Chairman's absence.</p>	Part 5, Section 5(a)	<p>The Chairman's Role: Job Description: Duties and Responsibilities:</p> <p>Delete Requirement 9. and correct subsequent paragraph numbering accordingly.</p>	<p>To remove inconsistency within the Constitution in respect of the Sealing of Documents; where:</p> <p>Part 2, Para 14.05 delegates sealing of documents to the Head of Paid Service, but the protocols relating to the roles of Chairman and Vice-Chairman of Council were not updated at the same time.</p>
Part 5, Section 5(a): Chairman's Protocol	<p>11. Sealing of Documents</p> <p>11.1 It is a duty of the Chairman's office to sign documents to be executed on the Council's behalf and the Chairman's Office will arrange accordingly.</p> <p>11.2 The Vice-Chairman is authorised to sign in the Chairman's absence.</p>	Part 5, Section 5(a): Chairman's Protocol	<p>Replace with the following, this will ensure that the remaining paragraph numbering is not affected.</p> <p>11. Section deleted</p>	
Part 4, Section 5(b): Vice-Chairman's Protocol	<p>4. Sealing of Documents</p> <p>The Vice-Chairman is authorised to sign in the Chairman's absence.</p>	Part 5, Section 5(b): Vice-Chairman's Protocol	<p>Replace with the following, this will ensure that the remaining paragraph numbering is not affected.</p> <p>4. Section deleted</p>	

**REPORT TO THE MEETING OF CONSTITUTIONAL REVIEW
COMMITTEE ON 8 June 2022**

Status: Public

Title: Review of Arrangements for Dealing with Complaints Under the Members' Code of Conduct – Part 5 of The Constitution

Originator: Babs Morris (Interim Monitoring Officer)

Where from: Review following adoption of New Model Code of Conduct at Council on 21 February 2021

Where to next: Council - 20 June 2022

1 Purpose of Report

- 1.1 To seek approval to amend the Arrangements for Dealing with Complaints Under the Members' Code of Conduct contained in Part 5 of the Council's Constitution.

2 Recommendations:

- 2.1 **To recommend to Council the amendment of the Arrangements for Dealing with Complaints Under the Members' Code of Conduct in accordance with Appendix A to this Report.**

3 Summary of Reasons for the Recommendations

- 3.1 An embedded framework exists in the Council's Constitution to deal with arrangements for dealing with District and Town and Parish Council Standards Complaints against Councillors in respect of allegations of breach of the Code of Conduct which the Council has adopted. It is necessary to amend these arrangements following adoption of a new model code of conduct and to bring it in line with good practice.

4 Impact on Communities

- 4.1 Good governance and all that entails is expected by the Community. The highest level of conduct is therefore expected by the public from their democratically Elected Members together with having the assurance that the Council has in place procedures to deal with allegations of misconduct should they arise.

5 Key Facts

- 5.1 At the Council Meeting on 21 February 2022 Council resolved to adopt a New Leicestershire wide Model Code of Conduct.

The Constitution

In light of the adoption of a new Code of Conduct there is a need to amend the Guidance that supports it which is set out in Part 5 of the Council's Constitution, in particular the Arrangements for Dealing with Complaints Under the Members' Code of Conduct.

The suggested amendments can be seen in Appendix 1 as tracked changes.

Members attention is drawn to the fact that in future Standards Complaints against Harborough District Council Members will not automatically be referred by the Monitoring Officer to the Standards Sub-Committee for them to decide if the complaint should be investigated. As with Town and Parish Complaints, the Monitoring Officer will assess the complaint against the Assessment Criteria and after consultation with the Independent Person take a decision as to whether a formal investigation merited. This will enable Complaints that do not meet the Assessment Criteria to be dealt with quickly and therefore concluded without the need to convene the Standards Sub-Committee which entails significant time and resources.

Other suggested amendments relate to the inclusion of additional timescales and a provision which ensures that clarity as to who is the Complainant is established at the earliest point in the procedure.

6 Legal Issues

- 6.1 Good arrangements for dealing with Standards complaints are an essential part of achieving good governance and should always be reviewed to ensure they are fit for purpose.

7 Resource Issues

- 7.1 None in respect of amending the Arrangements.

8. Equality Implications

- 8.1 Any changes to the Arrangements take into account the Council's duties under the Equality Act 2010 and carry out an Equalities Needs Assessment.

9 Impact on the Organisation

- 9.1 Enables strong governance to be maintained.

10 Community Safety Implications

- 10.1 None
 - 11. Carbon Management Implications
 - 11.1 None
 - 12. Risk Management Implications
 - 12.1 None
 - 13. Consultation
 - 13.1 None
 - 14. Options Considered
 - 14.1 None
 - 15. Background Papers
 - 15.1 None
-

Previous report(s): *None*

Information Issued Under Sensitive Issue Procedure: *N*

Ward Members Notified: *N*

Appendices:

1. Arrangements for Dealing with Complaints Under the Members' Code of Conduct – Part 5 of The Constitution



Part 5, Section 1(a): Arrangements for Dealing with Complaints Under the Members' Code of Conduct and Ethical Governance Allegations Under the Localism Act 2011

1. Context

These "Arrangements" set out how to make a complaint that an elected or co-opted Member of this Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.

Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or co-opted Member of a Parish or Town Council in the area against whom an allegation has been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for its Members, which is available for inspection on the Council's Website and on request from Reception at the Council Offices.

Each Parish and Town Council is also required to adopt a Code of Conduct. This is a matter for each individual authority to consider.

3. Making a complaint

If you wish to make a complaint, please complete the Model Complaint Form at Appendix 1. The Complaint should be made by the Complainant unless, after discussions with the Council's Monitoring Officer, it is agreed there are exceptional circumstances that a third party can make it on the Complainant's

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behalf. These exceptional circumstances could include for example ill health, disability, or vulnerability.

At this stage, please do not submit any additional documents. If further information is thought necessary to enable your complaint to be processed, you will be asked to produce it.

Please send your completed form to:

"The Monitoring
Officer" Harborough
District Council
The Symington Building, Adam and Eve
Street Market Harborough
LE16 7AG
Or democratic.services@harborough.gov.uk

The Monitoring Officer is a Senior Officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of Member misconduct and is the Council's Proper Officer for such matters.

In order to ensure that we have all the relevant information which we need to be able to process your complaint, please complete the Model Complaint Form at Appendix 1, which can be downloaded from the Council's Website, next to the Code of Conduct, and is available on request from Reception at the Council Offices.

At this stage, we would ask that you confine your comments to the Model Complaint Form and do not submit any additional documents. If on consideration of your complaint, further information/documentation is thought necessary, you will be asked to provide it and, if your complaint is the subject of investigation, the Investigating Officer will afford you the opportunity to provide further information/documentation in support of your complaint.

Please provide us with your name and a contact address or email address so we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this and the reason why, in the space provided on the Model Complaint Form.

As a matter of fairness and natural justice, a Member should usually be told who has complained about them. However, there may be exceptional circumstances where a complainant's identity should be withheld from disclosure such as where the complainant has reasonable grounds for believing they will be at risk of physical harm if their identity is disclosed or their employment may be placed at risk or there is a risk that any investigation may be impeded or interfered with. In such cases, the Monitoring Officer will refer the issue of disclosure to the Standards Sub Committee who, in reaching a decision on the issue, will carefully balance the public interest in ensuring that the Member complained of is aware of who has complained against them against the complainant's wish that their

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identity be withheld. The Council does not normally investigate anonymous complaints save where it considers the provisions in the Assessment Criteria at Appendix 3 on such complaints are met.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it. A full copy of your complaint will, subject to any ruling on disclosure, ordinarily be sent to the Member complained of inviting their written comments within 10 working days. Thereafter, arrangements will be made for your complaint to be assessed as soon as practicable in accordance with the procedures detailed in paragraph 4.

It should be noted that complaints which allege that Members may have committed a criminal offence in breaching the “disclosable pecuniary interest” provisions under Section 34 of the Localism Act 2011, will be referred by the Monitoring Officer to Leicestershire Police for consideration, in accordance with the Protocol at Appendix 8.

4. Will your complaint be investigated?

For complaints concerning Members of Harborough District Council and Parish and Town Councils, ~~where these Members are not also Members of Harborough District Council,~~ **ordinarily** the Monitoring Officer will assess such complaints against the Assessment Criteria at Appendix 3 and, after consultation with the Independent Person, take a decision as to whether a formal investigation is merited.

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The Monitoring Officer may, however, in his/her discretion refer complaints to the Standards Sub Committee to assess where he feels it reasonable and appropriate to do so such as where the Monitoring Officer has had prior involvement in the complaint.

~~For complaints concerning Members of Harborough District Council (or W~~where the Monitoring Officer has exercised his/her discretion to refer a District or Parish and Town Council related complaint) ~~either in their capacity as Parish or Town Council Members or as Members of the Council,~~ the Standards Sub Committee will assess whether the complaint should be investigated. In considering the matter, the Standards Sub Committee shall consult and consider the views of the Independent Person and apply the Assessment Criteria.

Decisions on whether a complaint will be investigated will normally be taken within 28 days of receipt of the complaint, except in exceptional circumstances. A formal notice of decision will be issued in each case. The decision of the Monitoring Officer or Standards Sub Committee is final and is not subject to a right of appeal.

Where the Monitoring Officer or the Standards Sub Committee requires additional information in order to come to a decision, you may be contacted and asked to provide within 14 days such further information, as may the Member against whom your complaint is directed.

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Where your complaint relates to a Member of a Parish or Town Council, the Monitoring Officer may also inform the Clerk of the Parish or Town Council concerned of your complaint and seek the views of the Parish or Town Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer or Standards Sub Committee ~~will~~may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology or the complaint maybe considered suitable for mediation or such other remedial action by the Council on the recommendation of the Monitoring Officer. Where the Member concerned makes a reasonable offer of informal resolution such as an apology or agrees for the complaint to be mediated but you are not willing to accept that offer, the Monitoring Officer or the Standards Sub Committee will take this into account in deciding whether the complaint merits formal investigation.

5. How is the investigation conducted?

If the Monitoring Officer or Standards Sub Committee decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another Senior Officer of the Council, an Officer of another Council or an external investigator.

Ordinarily the Council would hope that investigations will take no more than 6 months to complete from the date the decision to investigate is taken. This will very much depend on the facts, availability and willingness of the individuals involved to engage in the process and the weight of evidence of each complaint. ~~and~~ Some investigations maybe concluded earlier and others may take longer.

It is vital to the timely completion of investigations that you, as the complainant, and the subject Member under investigation, comply with the reasonable requirements of the Investigating Officer in terms of interview attendance and supplying relevant documents. If you, as the complainant, do not, the Investigating Officer may deem that you no longer wish to proceed with the complaint and refer the matter back to the Monitoring Officer or Standards Sub Committee for direction as to whether the investigation should be terminated. Similarly, if the subject Member does not comply, the Investigating Officer will proceed to determine the investigation in the absence of their contribution and may draw an adverse inference from their non-cooperation.

As an initial step, and subject to any ruling on disclosure, the Investigating Officer ~~may~~will write to the subject Member at the beginning of the investigation to see if the subject Member still wishes to contest the complaint.

At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of the draft report, in confidence, to you and to the Member concerned to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration. These responses should be sent within 14 days unless agreed otherwise by the

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Investigating Officer.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

It should be noted that at any time during an investigation, the Investigating Officer may, following consultation with the Independent Person, refer the matter back to the Monitoring Officer or Standards Sub Committee for re-consideration as to whether the investigation should proceed if the Investigating Officer considers that the Re-consideration Criteria in Appendix 3 are satisfied.

6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and consult with the Independent Person thereon. If having done so the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned and to the Parish or Town Council on which the Member serves, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to re-consider his/her report.

7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and after consulting the Independent Person will consider whether Local Resolution should be attempted or the matter proceed direct to hearing before the Standards Sub Committee.

7.1 Local Resolution

The Monitoring Officer will consult with the Independent Person and with you as complainant and seek to resolve the complaint in a way that helps to ensure higher Ethical Governance of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology or the complaint being referred for mediation or such other remedial action as is considered appropriate in the circumstances. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Sub Committee and the Member's Council for information but will take no further action.

However, if the Member concerned does not accept that the matter should be resolved in such a manner, the Monitoring Officer will refer the matter for a hearing

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before the Standards Sub Committee.

7.2 Standards Sub Committee sitting as Hearings Committee

If the Monitoring Officer considers that Local Resolution is not appropriate or the Member concerned does not accept that the matter should be resolved in such a manner, then the Monitoring Officer will report the Investigating Officer's report to the Standards Sub Committee which will conduct a Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the failure.

In readiness for the convening of the Standards Sub Committee, the Monitoring Officer will conduct a written "pre-hearing process," [seven days prior to that Hearing.](#) requiring the Member concerned to give their response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing.

If, through the "pre-hearing process," the Member concerned accepts the Investigating Officer's report, they will be given the opportunity to provide a statement of mitigation which they may invite the Standards Sub Committee to consider in their absence. Alternatively, they may elect to attend a Standards Sub Committee to present their mitigation. In either case, the "uncontested" hearing procedure will be followed as set out at Appendix 5.

Where, following the "pre-hearing process," the Investigating Officer's report remains in contention, the matter will be set down for a "contested" hearing before the Standards Sub Committee. The "contested" hearing procedure will be followed as set out at Appendix 6. In essence, at the Hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you, as the complainant, to attend and give evidence to the Standards Sub Committee. Unless called to do so by the Investigating Officer, you do not have the right to address the Standards Sub Committee of your own volition. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Sub Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct. The Member may be represented legally or otherwise at the Standards Sub Committee.

The Standards Sub Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct and so dismiss the complaint. If the Standards Sub Committee concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Standards Sub Committee will then consider what action, if any, the Standards Sub Committee should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Standards Sub Committee will give the Member an opportunity to make representations to the Committee and will consult the Independent Person but will then decide what action, if any, to take in respect of the matter.

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8. What action can the Standards Sub Committee take where a Member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Sub Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of ethical governance. Accordingly, the Standards Sub Committee may –

- 8.1 Write to the Member over their conduct;
- 8.2 Publish its findings in the local media in respect of the Member's conduct;
- 8.3 Report its findings to the Council or to the Parish or Town Council concerned;
- 8.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to, or recommend to the Parish or Town Council concerned that it, arrange training for the Member;
- 8.7 Recommend removal, or recommend to the Parish or Town Council concerned removal, of the Member from all outside appointments to which he/she has been appointed or nominated by the Council or the Parish or Town Council;
- 8.8 Withdraw, or recommend to the Parish or Town Council concerned that it withdraws, facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 8.9 Recommend that any aspects of the complaint that are considered suitable be referred for mediation between the parties; or
- 8.10 Exclude, or recommend to the Parish or Town Council concerned that it excludes, the Member from the Council's Offices or other premises with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee Meetings.

The Standards Sub Committee has no power to suspend or disqualify the Member or to withdraw a Member's basic allowance or any special responsibility allowances.

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9. What happens at the end of the Hearing?

At the end of the Hearing, the Chair will state the decision of the Standards Sub Committee as to whether the Member has failed to comply with the Code of Conduct and as to any action which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Standards Sub Committee and send a copy to you, to the Member and to any Parish and Town Council concerned and make such decision notice available for public inspection. If the matter relates to a Town or Parish Councillor the decision will be referred as a recommendation to the relevant Town or Parish Council.

The decision of the Standards Sub Committee is final and is not subject to a right of appeal.

The Independent Person's views are sought and taken into consideration before the Monitoring Officer or Standards Sub Committee takes any decision on whether a complaint should be investigated. The Standards Sub Committee will seek the Independent Person's views on whether a Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

10. Who is the Independent Person?

The Independent Person is a person who has applied for the Post following advertisement of a vacancy for the Post and is then appointed by a positive vote from a majority of all the Members of the Council.

A person cannot be "independent" if he/she –

10.1 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of the Council;

10.2 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of a Parish or Town Council within the Council's area; or

10.3 Is a relative or close friend of a person defined at paragraph 10.1 or 10.2 above. For this purpose, "relative" means –

10.1.1 Spouse or civil partner;

10.1.2 Living with the other person as husband and wife or as if they were civil partners;

10.1.3 Grandparent of the other person;

10.1.4 A lineal descendent of a grandparent of the other person;

10.1.5 A parent, sibling or child of a person defined at paragraphs 10.3.1 or 11.3.2;

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10.1.6 A spouse or civil partner of a person defined at paragraphs 10.3.3, 10.3.4 or 10.3.5; or
10.1.7 Living with a person defined at paragraphs 10.3.3, 10.3.4 or 10.3.5 as husband and wife or as if they were civil partners.

11. Revision of these arrangements

The Standards Sub Committee may amend these arrangements.

The Chair of the Standards Sub Committee may, following consultation with the Independent Person, depart from the procedures detailed herein where he/she considers it is expedient to do so in order to secure the effective and fair consideration of any matter, including the convention of an external panel where Members are conflicted.

If the Monitoring Officer considers that he may be conflicted in the discharge of these arrangements, he may delegate such matters to a Deputy Monitoring Officer to discharge.

12. Appeals

There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or the Standards Sub Committee.

If you feel that the Council has failed to deal with your complaint in accordance with these arrangements, you may make a complaint to the Local Government Ombudsman.

Appendix 1 Model Complaint Form
Appendix 2 Member Code of Conduct
Appendix 3 Assessment Criteria
Appendix 4 Reconsideration Criteria
Appendix 5 "Uncontested" hearing procedure
Appendix 6 "Contested" hearing procedure
Appendix 7 Overview of process

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COMPLAINT FORM MEMBER(S) CONDUCT

Complainants ~~Your~~ details

1. Please provide us with your name and contact details:

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)
- the council's Independent Person (if required)
- members of the Standards Sub Committee convened to consider your complaint
- **officers involved in mediation (if applicable)**

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We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 5 of this form.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted member of an authority
- ☐ Member of Parliament
- ☐ Local authority monitoring officer
- ☐ Other council officer or authority employee
- ☐ Other, please specify

Equality Monitoring

The Council's Equality Monitoring Questionnaire is attached. The completion of this form is voluntary and any information will be treated as confidential, and will not be disclosed when your complaint is considered.

Making your complaint

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

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4. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Standards Sub Committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please indicate which paragraphs of the Code of Conduct you consider the member(s) to have breached by ticking the appropriate box(es).

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

5. Additional Help

Complaints must be submitted in writing. This includes electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

The Council has access to a language line and can assist you to complete this

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form if English is not your first language. If you require any assistance please contact democratic.services@harborough.gov.uk

If you require any general queries about the completion of this form, please contact the Monitoring Officer at democratic.services@harborough.gov.uk

Only complete this next section if you are requesting that your identity is kept confidential.

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reasons to believe that it falls within the Council's criteria for considering such requests as set out in the Council's Arrangements for dealing with standard's allegations under the Localism Act 2011 which is available on the Council's website.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

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Appendix 2

HARBOROUGH DISTRICT COUNCIL **MEMBER CODE OF CONDUCT**

BACKGROUND TO THIS CODE OF CONDUCT

This section sets out general interpretation and background to the Code of Conduct, including definitions used within the code, the purpose of the code, the principles the code is based on and when the code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.

All councils are required to have a local Member Code of Conduct.

Definitions

For the purposes of this Code of Conduct, a "member" means a member or co-opted member of Harborough District Council ('the Council').

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

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

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a member, 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 members, Council officers and the reputation of the council and local government. It sets out general principles of conduct expected of all members 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 member and local government.

General Principles Of Member Conduct

Everyone in public office at all levels; i.e. all who serve the public or deliver public services, including ministers, civil servants, members and council officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles, which are set out in Appendix A.

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Building on these principles, the following general principles have been developed specifically for the role of member and these principles underpin the obligations in the Code of Conduct that follows.

In accordance with the public trust placed in you, you should:

- 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 member.

In undertaking your role you should:

- impartially exercise your responsibilities in the interests of the local community
- do not improperly seek to confer an advantage, or disadvantage, on any person
- avoid conflicts of interest
- exercise reasonable care and diligence;
- ensure that public resources are used prudently in accordance with your Council's requirements and in the public interest; and
- uphold high standards of conduct, show leadership at all times and not misuse your position when acting as a member

Application of the Code of Conduct

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

This Code of Conduct applies to you when you:

- act in your capacity as a member or co-opted member of the Council; and
- conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council:

- on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings

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- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct which you are unsure of. Town and parish members are encouraged to seek advice from their Clerk (who may refer matters to the Council's Monitoring Officer).

THE CODE OF CONDUCT

Standards Of Member Conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a member. Should your conduct be perceived to fall short of these standards or the Nolan Principles, a complaint may be made against you, which may result in action being taken.

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

General Conduct

1. Respect

As a member:

1.1 I will treat other members with respect.

1.2 I will treat council officers, employees and representatives of partner organisations and those volunteering for the council 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 member, 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 members.

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In return, you have a right to expect respectful behaviour from the public. 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 notify them to the Council, the relevant social media provider or the police. This also applies to fellow members, where action could then be taken under the Member Code of Conduct, and council officers where concerns should be raised in line with the council's member-officer protocol.

2. Bullying, harassment and discrimination

As a member:

2.1 I will not bully any person.

2.2 I will not harass any person.

2.3 I will promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as 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.

Unlawful 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. The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the Council

As a member:

3.1 I will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the council.

Officers work for the council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example,

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their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you 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.

4. Confidentiality and access to information

As a member:

4.1 I will not disclose information:

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - 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:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the Council; and
 3. I have consulted the Council's Monitoring Officer (or the Clerk in respect of Town and Parish Councils) prior to its release.

4.2 I will not improperly use knowledge gained solely as a result of my role as a member for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I will not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a member:

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5.1 I will not bring my role or Council into disrepute or conduct myself in a manner which could reasonably be regarded as bringing my role or Council into disrepute.

As a Member, 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 members and/or the Council and may lower the public's confidence in you or the Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You are able to hold the Council and fellow members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a member:

6.1 I will not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

6.2 I will not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

As a member you need to be able to act impartially in the exercise of your responsibilities and ensure that you make decisions in the interests of the local community. You should therefore avoid any financial or other obligations to outside individuals or organisations whose influence may prevent you from acting impartially.

7. Use of Council resources and facilities

As a member:

7.1 I will not misuse council resources.

7.2 I will, when using the resources of the Council or authorising their use by others:

- a. act in accordance with the Council's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to**

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facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a member.

Examples include:

- office support
- stationery
- equipment such as phones, iPads, dongles, computers etc.
- transport
- access and use of council buildings and rooms.

These are given to you to help you carry out your role as a member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the council's own policies regarding their use.

8. Making decisions

As a member:

8.1 When reaching decisions on any matter I will have regard to any relevant advice provided to me by officers and professional third parties.

8.2 I will give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

8.3 I will make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit

8.4 I will be as open as possible about my decisions and actions and the decisions and actions of the authority and will be prepared to give reasons for those decisions and actions, notwithstanding my other obligations under this Code.

To assist members in acting lawfully, officers may give advice from time to time. It is important that as a member you have due regard to any such advice given and consider it fully, even if (for good reason) you may choose not to follow that advice.

In making any decisions, giving reasons helps instil public confidence in the role of the member and can be a legal requirement in certain situations. You should ensure that you always give reasons in accordance with any specific requirements and having

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regard to the benefits of transparency generally.

As a member you must act impartially and not improperly seek to confer an advantage, or disadvantage, on any person. It is therefore important that when you are making decisions that involve choosing one party over another, that you do so based on independent merit. You should be open and transparent about the decisions that you have made and the actions of the authority.

9. Complying with the Code of Conduct

As a Member:

9.1 I will undertake Code of Conduct training provided by my Council.

9.2 I will cooperate with any Code of Conduct investigation and/or determination.

9.3 I will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

9.4 I will comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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

Protecting Your Reputation And The Reputation Of The Council

10. Interests

As a member:

10.1 I will register and disclose my interests in accordance with the provisions set out in Appendix B

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 need to register your interests so that the public, Council employees and fellow members 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 members

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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.

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

The provisions of this paragraph 10.1 shall be applied in such a manner as to recognise that this Code of Conduct should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision-making at one local authority will not by itself normally prevent you from taking part in discussion and decision-making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to an interest which might lead to bias in exceptional circumstances.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer, or from the clerk in the case of town and parish councils.

11. Gifts and hospitality

As a member:

- 11.1 I will 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 on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- 11.2 I will register with the Monitoring Officer (or the Clerk in respect of Town and Parish Councils) any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 11.3 I will register with the Monitoring Officer (or the Clerk in respect of Town and Parish Councils) any significant gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.

In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. The presumption should always be not to accept significant gifts or hospitality. However, 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. However, you do not need to register gifts and

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hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a member. If you are unsure, do contact the Monitoring Officer or Clerk for guidance.

12. Dispensations

As a member:

- 12.1 I may request a dispensation from the Monitoring Officer (or the Clerk in respect of Town and Parish Councils) for one meeting only.**
- 12.2 I must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.**
- 12.3 I must make my request 5 days prior to the meeting at which the Dispensation is required.**
- 12.4 If I wish to make a further request for dispensation, this must be made to the Monitoring Officer (or the Clerk in respect of Town and Parish Councils).**
- 12.5 I will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.**

Appendix B sets out the situations where a Member's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.

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Appendices

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.

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Appendix B – Interests

3 Definitions

“**Disclosable Pecuniary Interest**” means any interest described as such in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a member, 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 member or his/her spouse or civil partner or the person with whom the member 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.
Land and Property	Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the member's knowledge)— (a) the landlord is the council; and the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member is living as if they

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	were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— a) that body (to the member's knowledge) has a place of business or land in the area of the council; and b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or 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 member, or his/ her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- '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.

"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.

"Other Registerable Interest" is a personal interest in any business of your authority which relates to or is likely to affect:

- any body of which you are in general control or management and to which you are nominated or appointed by your authority; or
- any body
 - exercising functions of a public nature
 - any body 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)

"Registrable Interests" are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

"Non-Registrable Interests" are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

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A “**Dispensation**” is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix B.

A “**Sensitive Interest**” is as an interest which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.2 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest. In such circumstances you just have to disclose that you have an interest.

A matter “**directly relates**” to one of your interests where the matter is directly about that interest. For example the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter “**affects**” your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

2. Registering Interests

2.1 Within 28 days of becoming a member or co-opted member or your re-election or re-appointment to office you must register with the Monitoring Officer any Disclosable Pecuniary Interests and any Other Registerable Interests.

2.2 Where you have a Sensitive Interest you must notify the Monitoring Officer with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

2.3 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.

3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

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3.1 Disclosable Pecuniary Interests

3.1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests:

- a. you must disclose the interest;
- b. not participate in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.2 Other Registerable Interests

3.2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests:

- a. you must disclose the interest;
- b. 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
- c. must not remain in the room unless you have been granted a Dispensation.

3.2.2 The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances'

3.3 Non-Registerable Interests

3.3.1 Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

- a. you must disclose the interest;
- b. 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
- c. must not remain in the room unless you have been granted a Dispensation.

3.3.2 Where a matter arises at a meeting which does not directly relate to but **affects**

- a. a financial interest or the well-being of yourself or of a friend, relative or close associate; or

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- b. a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs **Error! Reference source not found.** and **Error! Reference source not found.** should be applied.

- 3.3.3. Where a matter under paragraph **Error! Reference source not found.** affects the financial interest or well-being or body:

- a. to a greater extent than it affects the financial interests or wellbeing 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 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.

- 3.3.4 Where a matter under paragraph **Error! Reference source not found.** does not affect the financial interest or well-being or body:

- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or
- b. a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest;

you may remain in the room, speak if you wish to and take part in any discussion or vote on the matter, provided you have disclosed your interest under paragraph **Error! Reference source not found.**

4. Single-Member-Decision-Making

- 4.1 Some local authorities operate single-member-decision-making where their constitutions allow. In the event that you are making a decision as a single member the following section applies in relation to any interests you may have. For the avoidance of doubt, parish councils do not operate single-member decision-making and this section does not apply to them.

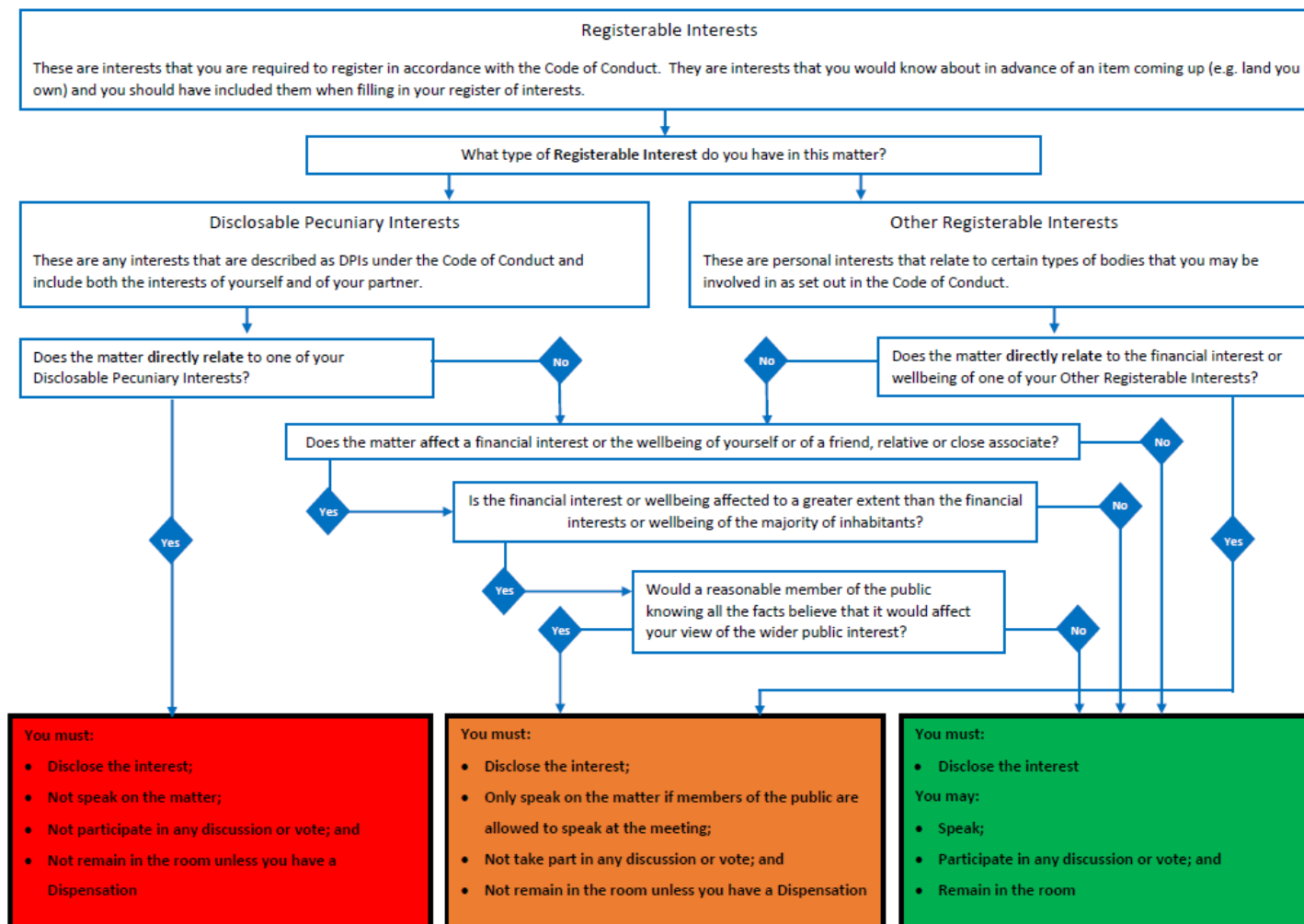
- 4.1.1 Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e. single-member-decision-making) and the interest is:

- a. A Registrable Interest; or
- b. A Non-Registrable Interest that falls under paragraph 3.3.3 above;

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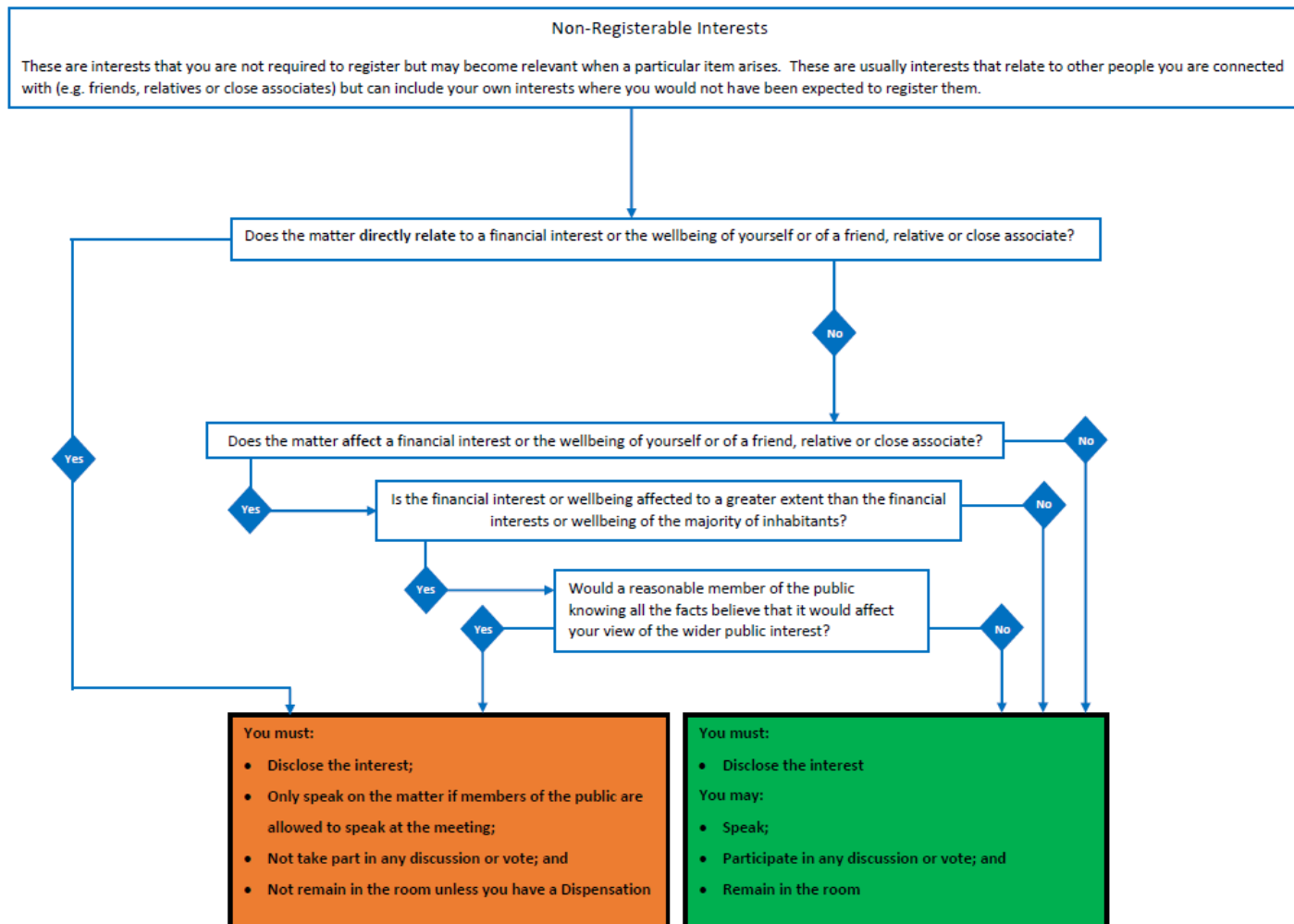
you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

- 4.1.2 Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e. single-member-decision-making) and the interest is a Non-Registrable Interest that falls under paragraph **Error! Reference source not found.**, you must make sure that any written statement of that decision records the existence and nature of your interest.



Version: 2021

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Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

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

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

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

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

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

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

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

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

Best practice 9: Where a local authority makes a decision on an allegation of misconduct

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following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

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

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

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

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

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

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

The LGA has committed to reviewing its Model Code on an annual basis to ensure it is still fit for purpose.

ASSESSMENT CRITERIA***Stage 1 Criteria***

Before the assessment of a complaint begins, the Monitoring Officer or Standards Sub Committee must be satisfied that the complaint meets the following requirements: -

- (i) It is a complaint against one or more named Members of the Council or a Parish or Town Council within the area;
- (ii) The named Member or Members were in Office at the time of the alleged conduct and acting in their official capacity; and
- (iii) The complaint, if proven, would be a breach of the Council's Code of Conduct in force at the relevant time.
- (iv) Confirmation of the name and address and contact details of the Complainant.

If the complaint fails any one of these tests, it cannot be investigated as a breach of the Council's Code of Conduct and the complainant must be informed that no further action can be taken in relation to the complaint. If it passes all ~~four~~^{three} tests then it can be assessed according to the criteria set out below.

Stage 2 Criteria

The Monitoring Officer or Standards Sub Committee is/are unlikely to refer a complaint for investigation where it falls into any of the following categories: -

- (a) The complaint appears to be vexatious, malicious, politically motivated, relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be in the public interest.
- (b) The same, or substantially similar, complaint has already been the subject of assessment or investigation and there is nothing more to be gained by further action being taken.
- (c) It appears that the complaint concerns or is really about dissatisfaction with a Council decision or policy rather than a breach of the Code of Conduct.
- (d) There is not enough information currently available to justify a decision to refer the matter for investigation.
- (e) The complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and therefore it is not in the public interest to pursue.
- (f) Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter and it is considered in the public interest that it be investigated.

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(g) Where the event/s or incident/s took place more than 6 months prior to the date of complaint being received or where those involved are unlikely to remember the event/s or incident/s clearly enough to provide credible evidence.

(h) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain.

(i) If it is considered that the subject Member has **offered** a satisfactory remedy to the complainant (for example by apologising) or the complaint is capable of other informal resolution **such as mediation** and the Member complained of is amenable to such approach.

(j) If it is satisfied that having regard to the nature of the complaint and the level of its potential seriousness, the public interest in conducting an investigation does not justify the cost of such an investigation.

(k) Where the allegation discloses a potential breach of the Code of Conduct but it is considered that the complaint is not serious enough to warrant any further action and:

- the Member and Officer resource needed to investigate and determine the complaint is wholly disproportionate to the matter complained about; or

- **in** all the circumstances there is no overriding public benefit or interest in carrying out an investigation.

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Appendix 4

RECONSIDERATION CRITERIA

The Investigating Officer may, following consultation with the Independent Person, refer an investigation to the Standards Sub Committee for reconsideration as to whether the investigation should proceed where:

- As a result of new evidence or information, the Investigating Officer is of the opinion that the matter is materially less serious than may have seemed apparent to the Monitoring Officer or Standards Sub Committee when the decision was made to refer the complaint for investigation, and a different decision may have been made had either the Monitoring Officer or Standards Sub Committee been aware of the new evidence or information;
- The Member who is the subject of the allegation has died, is seriously ill or has resigned from the Council concerned and in the circumstances the Investigating Officer is of the opinion that it is no longer appropriate to proceed with the investigation; or
- Other circumstances arise, which in the reasonable opinion of the Investigating Officer, render it appropriate in the public interest for the investigation to be referred to the Standards Sub Committee for reconsideration.

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Appendix 5

STANDARDS SUB COMMITTEE OUTLINE PROCEDURE FOR HEARINGS (UNCONTESTED)

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Breach of the Code of Conduct

4. Monitoring Officer (or his/her representative) to present summary report, including the findings of fact made by the Investigating Officer, and refer to outcome of pre-hearing process.
5. Views of the Independent Person sought.
6. Members of the Panel to raise/clarify issues.
7. The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back to the meeting by the [Monitoring or Deputy Monitoring Officer](#). ~~Director Law and Governance.~~

Action to be taken

8. Monitoring Officer (or his/her representative) to outline possible sanctions.
9. Investigating officer to make submissions on appropriate sanction, if any.
10. Member or (his/her representative) to present statement of, or provide oral, mitigation, including on what sanction, if any, should be imposed.
11. Views of the Independent Person sought.
12. Members of the panel to raise/clarify issues.
13. The Panel will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Panel's decision will be reported back to the meeting by the [Monitoring or Deputy Monitoring Officer](#). ~~Director Law and Governance.~~

Close of Hearing

**STANDARDS SUB COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS (CONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Findings of Fact

4. Monitoring Officer (or his/her representative) to present summary report and refer to outcome of pre-hearing process.
5. Investigating Officer to present report and call such witnesses as he/she considers necessary to substantiate his/her conclusion(s) within the report.
6. Member (or his/her representative) to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
7. Members of the Panel to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
8. Member (or his/her representative) to present their case and call such witnesses as he/she considers necessary.
9. Investigating Officer to raise/clarify issues with the Member (or his/her representative), including the questioning of the Member's witnesses.
10. Members of the Panel to raise/clarify issues with the Member (or his/her representative), including the questioning of the Member's witnesses.
11. Views of the Independent Person sought.
12. Members of the Panel to raise/clarify issues with the Independent Person.
13. The Panel will retire, along with the Monitoring Officer, to determine its findings of fact. The Panel's decision will be reported back to the meeting by the [Monitoring or Deputy Monitoring Officer](#). ~~Director Law and Governance~~.

Breach of the Code of Conduct

14. The Panel will need to consider whether or not, based on the facts it has found, the Member has breached the Code of Conduct.
15. Investigating Officer to address the Panel on whether the facts found constitute a

Part 5: Codes and Protocols

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breach of the Code of Conduct.

16. Member (or his/her representative) to address the Panel as to why the facts found do not constitute a breach of the Code of Conduct.

17. Views of the Independent Person sought.

18. Members of the Panel to raise/clarify issues.

19. The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back to the meeting by the [Monitoring or Deputy Monitoring Officer](#). ~~Director Law and Governance.~~

(If the Panel determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Panel determine that there has been a breach of the Code of Conduct, the procedure at paragraph 20 will apply).

Action to be taken

20. The Panel will need to determine what sanction, if any, should be imposed as a result of the Member's breach of the Code of Conduct.

21. Monitoring Officer (or his/her representative) to outline possible sanctions.

22. Investigating officer to make submissions on appropriate sanction, if any.

23. Member (or his/her representative) to make submissions on whether any sanction should be imposed.

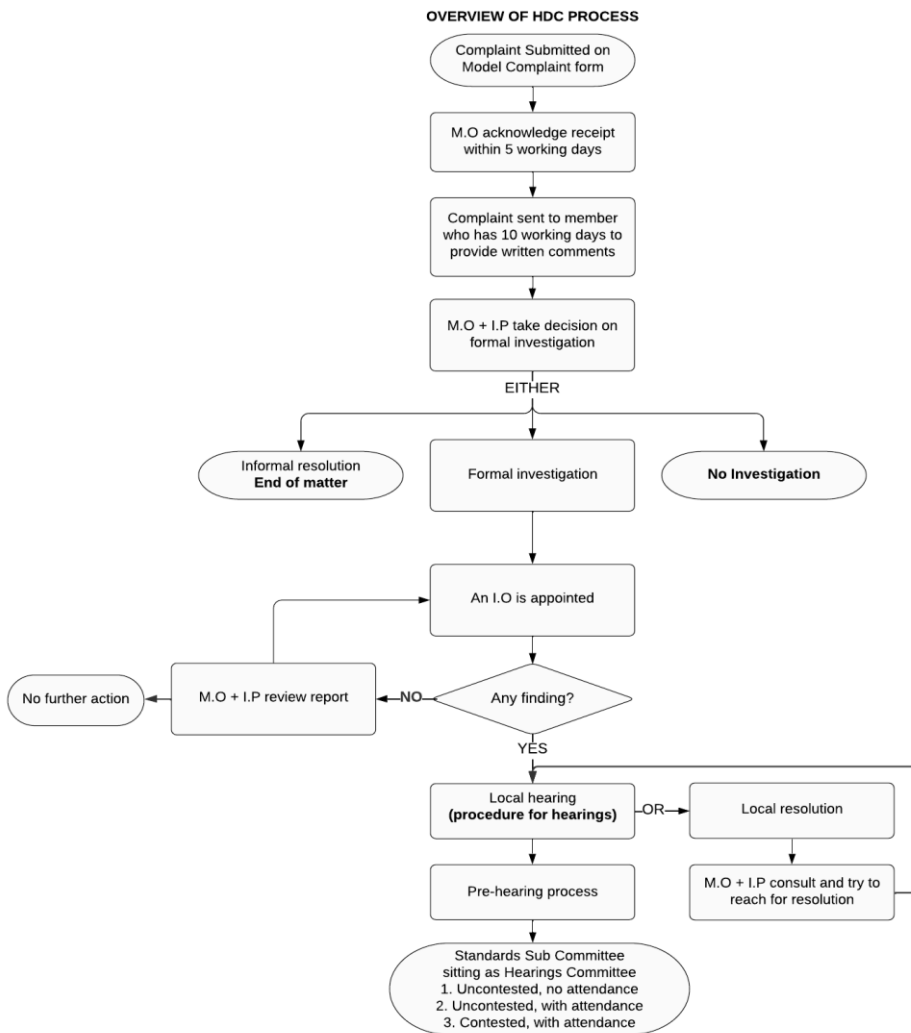
24. Views of the Independent Person sought.

25. Members of the panel to raise /clarify issues.

26. The Panel will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Panel's decision will be reported back to the meeting by the [Monitoring or Deputy Monitoring Officer](#). ~~Director Law and Governance.~~

Close of Hearing

Appendix 7



Harborough District Council

Report to the Constitutional Review Committee Meeting of 8 June 2022



Title:	Updates to Part 3: Responsibility for Functions
Status:	Public
Key Decision:	No
Report Author:	Babs Morris Monitoring Officer (Interim) democratic.services@harborough.gov.uk
Portfolio Holder:	Councillor Paul Dann
Appendices:	Appendix A – Part 3, Section B.2.1 Regulatory Committee, Harborough District Council Constitution

Executive Summary

The report requests the Constitutional Review Committee to consider, agree and recommend to Council the updated delegations, as noted in Appendix A, in relation to the Regulatory Committee, Section B of Part 3 of the Council's Constitution.

Recommendations

That the Constitutional Review Committee recommend to Council the updated delegations in section B.2.4, Part 3 of the Council's Constitution as noted in Appendix A.

Reasons for Recommendations

There is a need to update the delegations in section B.2.4 to reflect recent changes in the senior management team.

1. Purpose of Report

To consider and agree the updated delegations, as noted in Appendix A, in relation to the Regulatory Committee, Section B of Part 3 of the Council's Constitution.

2. Background

At its Annual meeting on 23 May 2022 the Council agreed the Scheme of Delegation, in line with Council Procedure Rule 1.1 h). It was noted at that time that further updates were required to the delegations in relation to the Regulatory Committee.



3. Details

Due to changes to the senior management team, it is suggested that the functions of the Regulatory Committee be updated to show delegation on to 'The Director responsible for Regulatory Functions.' These changes are shown as tracked changes at Appendix A. Should the Committee agree the changes, these will then go to the full Council meeting in June for approval.

4. Implications of Decisions

4.1. Corporate Priorities

These changes to the Constitution will support Councillors and Officers in the governance of all Council services, thereby the delivery of all the Councils priorities as shown in the [Corporate Plan](#).

4.2. Financial

None as far as this report is concerned.

4.3. Legal

As set out in the body of this report.

4.4. Policy

The Council needs to ensure that it has an appropriate scheme of delegation in place to ensure the efficient operation of the authority. This report relates to Council functions, as the delegation of Cabinet functions is a matter for the Leader to determine.

4.5. Environmental Implications including contributions to achieving a net zero carbon Council by 2030

None as far as this report is concerned.

4.6. Risk Management

None as far as this report is concerned.

4.7. Equalities Impact

None as far as this report is concerned.

4.8. Data Protection



None as far as this report is concerned.



5. Summary of Consultation and Outcome

No formal consultation has taken place, as the proposals are required to ensure the delegations within the Constitution are up to date.

6. Alternative Options Considered

Not to update the delegations is not considered appropriate.

7. Background papers

None.





Part 3, Section B: Responsibility for Council Functions

B.2.1 REGULATORY COMMITTEE

The primary purpose of the Regulatory Committee will be to exercise and undertake those licensing, registration and regulatory functions of the Council that may be delegated under S101 of the Local Government Act 1972 and are not:

- Executive or overview and scrutiny functions;
- already delegated elsewhere by the Council, or are statutory committee functions (such as those matters under the Licensing Act 2003);
- already delegated by the Council to Officers of the Council;
- exercisable only by the Council itself; or
- exercised in a way which breaches or has the effect of breaching policies, strategies and overall budgets approved by the Council or have adverse legal implications.

B.2.2 Membership

- a) **Appointment.** The Regulatory Committee will consist of nine Members, appointed by the Council at, or as soon as reasonably practicable after, the Annual Council meeting, in accordance with the proportionality rules of the Local Government and Housing Act 1989. There shall be no power to co-opt.
- b) **Chairman.** The Chairman and Vice-Chairman of the Committee shall be appointed annually by that committee at its first meeting following the Annual Council meeting and before proceeding to any other business.
- c) **Quorum.** Except where authorised by statute or ordered by the Council the quorum shall be one-quarter of the total membership of the Committee or three members, whichever is the greater.

B.2.3 Regulatory Panels (Sub-Committees)

- a) **Appointment.** The Regulatory Committee will appoint one or more Panels to act as sub-committees to undertake hearings for regulatory licensing functions, consisting of four members of the Committee. Delegated decisions shall not be subject to call-in procedures because this body hears evidence and makes its decision in quasi-judicial circumstances.

- b) **Chairman.** The Chairman shall be appointed at the first meeting following the Annual Council meeting, and before proceeding to any other business.
- c) **Quorum.** Except where authorised by a statute or ordered by the Council, business shall not be transacted at a meeting of the Committee unless at least three Members are present.

B.2.4 Functions

The Regulatory Committee will exercise the following functions and those matters which flow from them (which are not Executive functions by virtue of Schedule 1 or 2 to the Functions Regulations)

Function	Delegation on to:
A. General licensing and registration functions	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
2. Power to license the use of moveable dwellings and camping sites.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
3. Power to license hackney carriages and private hire vehicles.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
4. Power to license drivers of hackney carriages and private hire vehicles.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance

Function	Delegation on to:
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A. General licensing and registration functions	
5. Power to license operators of hackney carriages and private hire vehicles.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
6. Power to license sex shops and sex cinemas.	Reserved to Committee
7. Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
8. Power to license pleasure boats and pleasure vessels.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
9. Power to license market and street trading.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
10. Power to register and license premises for the preparation of food.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
11. Power to license scrap yards.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
12. Power to license premises for the breeding of dogs.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance

	Governance
13. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
14. Power to register animal trainers and exhibitors.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
15. Power to license zoos.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
16. Power to license dangerous wild animals.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
17. Power to license knackers' yards.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
18. Power to license persons to collect for charitable and other causes.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
Function	Delegation on to:
A. General licensing and registration functions	

19. Power to grant consent for the operation of a loudspeaker.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
20. Power to authorise erection of stiles etc. on footpaths or bridleways.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
21. Power to approve meat product premises.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
22. Power to approve premises for the production of minced meat or meat preparations.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
23. Power to approve dairy establishments.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
24. Power to approve egg product establishments.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
25. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
26. Power to approve fish products premises.	<u>The Director responsible for Regulatory</u>

	<u>Functions</u> Director, Law and Governance
27. Power to approve dispatch or purification centres.	<u>The Director</u> <u>responsible for</u> <u>Regulatory</u> <u>Functions</u> Director, Law and Governance
28. Power to register fishing vessels on board which shrimps or molluscs are cooked.	<u>The Director</u> <u>responsible for</u> <u>Regulatory</u> <u>Functions</u> Director, Law and Governance
29. Power to approve factory vessels and fishery product establishments.	<u>The Director</u> <u>responsible for</u> <u>Regulatory</u> <u>Functions</u> Director, Law and Governance
30. Power to register auction and wholesale markets.	<u>The Director</u> <u>responsible for</u> <u>Regulatory</u> <u>Functions</u> Director, Law and Governance
31. Duty to keep register of food business premises.	<u>The Director</u> <u>responsible for</u> <u>Regulatory</u> <u>Functions</u> Director, Law and Governance

Function	Delegation on to:
A. General licensing and registration functions	
32. Power to register food business premises.	<u>The Director</u> <u>responsible for</u> <u>Regulatory</u> <u>Functions</u> Director, Law and Governance

33. Power to register motor salvage operators.	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance
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Function	Delegation on to:
B. Powers relating to complaints about high hedges	<u>The Director responsible for Regulatory Functions</u> Director, Law and Governance

Function	Delegation on to:
C. Functions relating to health and safety	
Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, <i>which for the avoidance of doubt includes Section 19</i> , and Schedule 1 to that Act, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Chief Executive – who is authorised to appoint inspectors under the Health and Safety at Work Act to exercise the powers of an inspector for the purposes of the relevant statutory provisions and to institute, after consultation with the Director, Law and Governance <u>Monitoring Officer</u> , such proceedings as he or she considers necessary.