



Buckinghamshire Council

Standards and General Purposes Committee

Agenda

Date: Thursday 8 October 2020

Time: 2.00 pm

Via Video Conference

Venue: Accessible to members of the public at
<https://buckinghamshire.publici.tv/core/portal/home>

Membership: J Waters (Chairman), H Mordue (Vice-Chairman), B Adams, S Adoh, M Appleyard, J Bloom, A Collingwood, C Etholen, G Harris, M Knight, S Lambert, G Moore, L Smith BEM and M Stannard

Independent Persons: A Austin, S Boyce and T Dobson

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1 APOLOGIES		
2 MINUTES To approve as a correct record the Minutes of the meeting held on 2 July, 2020.		3 - 14
3 DECLARATIONS OF INTEREST Members to declare any interests.		
4 CSPL REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS To consider the attached report. Contact Officer: maria.damigos@buckinghamshire.gov.uk		15 - 64
5 GUIDANCE ON REQUESTS FOR DISPENSATIONS To consider the attached report. Contact Officer: maria.damigos@buckinghamshire.gov.uk		65 - 74
6 LOCAL GOVERNMENT OMBUDSMAN COMPLAINT REPORT To consider the attached report. Contact Officer: lucy.pike@buckinghamshire.gov.uk		75 - 90

- 7 STANDARDS COMPLAINTS (UPDATE)** **91 - 94**
To consider the attached report.
- Contact Officer: maria.damigos@buckinghamshire.gov.uk
- 8 CONSTITUTION REVIEW UPDATE**
The Service Director: Legal and Democratic will provide a verbal update.
- Contact Officer: nick.graham@buckinghamshire.gov.uk
- 9 ELECTORAL REVIEW MEMBERS' WORKING GROUP (UPDATE)** **95 - 100**
To consider the attached report.
- Contact Officer: nick.graham@buckinghamshire.gov.uk
- 10 WORK PROGRAMME 2020/21**
To consider the Committee's work future work programme:
- 10 December 2020**
1. Protocol on the Role of the Monitoring Officer
 2. Review of Social Media Guidance for Councillors
 3. Review of Member Induction and Training on standards of conduct
 4. Bucks Electoral Review: Member Working Group update
- 25 February 2021** (subject to Member approval at agenda item number 9)
1. Council's final submission to the Local Government Boundary Commission for England (LGBCE) on Council size numbers.
- 8 April 2021**
1. Annual Review of Code of Conduct and Complaints Procedure
 2. Standards Complaints Monitoring Report 2020/21
 3. LGO Annual Report
 4. Bucks Electoral Review: Member Working Group update
 5. Draft Work programme for 2021/22

If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

For further information please contact: Craig Saunders on 01296 585043, email craig.saunders@buckinghamshire.gov.uk.



Standards and General Purposes Committee

Minutes

MINUTES OF THE MEETING OF THE STANDARDS AND GENERAL PURPOSES COMMITTEE HELD ON THURSDAY 2 JULY 2020 IN VIRTUAL MEETING (MS TEAMS), COMMENCING AT 2.00 PM AND CONCLUDING AT 4.20 PM

MEMBERS PRESENT

B Adams, S Adoh, M Appleyard, A Collingwood, C Etholen, G Harris, M Knight, S Lambert, H Mordue, L Smith BEM, M Stannard and J Waters.

APOLOGIES: J Bloom and G Moore.

INDEPENDENT PERSONS: S Austin and T Dobson.

Agenda Item

1 ELECTION OF CHAIRMAN

It was proposed by Councillor Mordue, seconded by Councillor Collingwood, and

RESOLVED –

That Councillor Waters be elected Chairman of the Standards and General Purposes Committee for the ensuing year.

2 APPOINTMENT OF VICE CHAIRMAN

It was proposed by Councillor Waters, seconded by Councillor L Smith, and

RESOLVED –

That Councillor Mordue be appointed Vice Chairman of the Standards and General Purposes Committee for the ensuing year.

3 VIRTUAL MEETING PROCEDURE RULES

RESOLVED –

That the procedural rules and guidance for conducting virtual meetings of the Standards and General Purposes Committee, as detailed at pages 3-7 of the agenda pack, be noted.

4 COMPLAINTS PROCEDURE AND PROTOCOL ON THE ROLE OF THE INDEPENDENT PERSON

The Committee was informed that the Localism Act 2011 governed the arrangements for local authorities in respect of ethical standards. This included the Code of Conduct for Councillors, Registers of Interests and the handling of complaints. The Standards and General Purposes Committee was responsible for exercising the Council's functions under the Localism Act 2011 in relation to ethical standards and had oversight and responsibility for the Code of Conduct and the Arrangements for Dealing with Standards Complaints.

As background, following the change to a unitary council there were currently 196 Buckinghamshire Councillors (reducing to 147 after the May 2021 elections) and over 1000 Town and Parish Councillors across the Buckinghamshire Council administrative area. The Monitoring Officer was responsible for dealing with complaints against councillors but it was expected that the majority of this work would be passed onto the Deputy Monitoring Officers. In the interests of fairness to both complainants and Members a consistent approach in both procedure and decision making was considered best practice. This could be achieved by having more detailed guidance for complaints and clarity on the role of the Independent Person.

The Councillor Code of Conduct applicable to the councillors of Buckinghamshire Council was set out in the Council's Constitution at Part H Section 2. The Code of Conduct also included the requirements for registration of interests. Part H Section 3 contained the Arrangements for Dealing with Complaints against Councillors. The Code of Conduct had been drafted so it would be sufficiently high level to cover any relevant situation and also provide clarity in certain circumstances (e.g. in relation to interests). This Committee had oversight of the Code but as it was contained within the Constitution any changes had to be recommended to full Council.

Whilst there was an overview of the arrangements for dealing with complaints in the Constitution it was considered that as the practical application of the arrangements were an operational matter, they could be subject to circumstances at the time and technology or resources might change their operation, the detailed arrangements would be better dealt within a guidance document. As such, as the Guidance was not contained within the Constitution it did not need to be approved by the Council making its practical application easier to update where necessary.

The Localism Act provided that a Council must appoint at least one Independent Person (IP) whose views were to be sought and taken into account before the Council made a decision following the investigation of a complaint that a Member or a Town or Parish Councillor had failed to comply with their Code of Conduct. The Monitoring Officer could also consult an IP when making a decision on how to progress a complaint. Members who were the subject of a complaint also had the right to consult an IP if a complaint was made about them.

IPs could also be involved in other aspects of a complaint such as whether to agree to keep a complainant's identity confidential. They could also be on a Panel considering the dismissal of a statutory officer and could be consulted about dispensations to be granted to our councillors. They provided an independent balance on decision making in this area. Due to the importance of the role of the IP and the Guidance on ethical standards it was considered appropriate to

have both of these documents approved by the Committee.

The Committee report detailed further information on:

- The Code of Conduct – that was split into 3 parts, with a section on general / high level obligations, and 2 further Sections relating to interests, their effect on participation in Council business and registration and disclosure of interests.
- Appendix A to the Code of Conduct – which sets out disclosable pecuniary interests, and the requirements relating to the registration of gifts and hospitality.
- The arrangements for dealing with complaints against Councillors – the process was split into 4 parts, initial assessment on whether it was appropriate to progress the complaint, then 3 stages to deal with the complaint, namely:
 - obtaining the Subject Member’s response to the complaint and checking if this is satisfactory to the complainant.
 - If not, Stage 2 was formal consideration of the complaint by the Monitoring Officer or allocated Deputy Monitoring Officer to determine if to progress the complaint. Depending on the seriousness of the alleged behaviour this stage could involve consultation with the IP and/or the Chairman of the Standards and General Purposes Committee.
 - The last stage was investigation and where appropriate a referral to the Sub-Committee who could decide that a formal hearing was necessary.
- Each complaint was considered on its own merits, however the Referral Criteria list the factors could be taken into account. These were detailed at paragraph 3.11 of the Arrangements.

The draft guidance on dealing with Member complaints was attached at Appendix 1 to the agenda, and contained guidance for complainants on how to make a complaint and included the practical aspects of how it would progress. The draft Guidance was being used as a basis to progress current complaints apart from the forms as detailed. The Guidance also sets out how a complaint would be dealt with as well as more detail on the process and procedures such as confidentiality and the procedures for investigations, hearings and committees.

Amendments to the Guidance were reserved to the Committee but the Chairman of the Hearings Sub-Committee could, following consultation with the IP, depart from the detailed procedures where appropriate. It was considered that the Guidance would supplement and explain the Arrangements detailed in the Constitution. The Committees views on the Guidance were sought and subject to those views it was recommended that the Guidance should be approved to ensure consistency of approach and fairness across the Council.

The Committee was informed that, as mentioned, IPs could be consulted by the Monitoring Officer, investigators or by Members subject to a complaint, and they could be asked to provide their view to the Committee or Sub-Committee if a complaint progressed. The Protocol on the role of the IP set out the roles in each of these scenarios as well as other matters which they might be involved in.

The Protocol also set out rights which were given to the IPs including addressing full Council with

any concerns as well as rights of access to Council premises and information. The relationship between the IPs and this Committee was also clearly set out. Three IPs had been appointed. Two training sessions with the IPs had taken place and a third session dealing with procedures had been scheduled for 23 June.

The Protocol provided clarity to both the IPs and Subject Members on their role and their rights as an IP. Members sought further information on the draft guidance on dealing with Member complaints and on the Protocol on the role of the IP and were informed:-

- (i) That where a complaint received was of a very minor nature, or was not actually a complaint, and did not progress to Stage 1, then it was not the intention for individual Members to be informed of this.
- (ii) An explanation was provided on how the arrangements for dealing with Member complaints worked in relation to Members who might be subject to politically motivated or malicious complaints.
- (iii) Stage 2 (No. 6) – it was requested that the Chairman and Vice Chairman be kept updated on all complaints, not just serious alleged behaviour, so that they were aware of any particular trends.
- (iv) that in some instances it would be appropriate to involve the political Group Leaders as part of the resolution process.

RESOLVED –

- (1) That the arrangements for dealing with complaints against Councillors be noted.
- (2) That the draft Guidance on dealing with Member complaints, subject to the comment at (iii) above, be approved.
- (3) That the draft Protocol on the Role of the Independent Person be approved.
- (4) That a summary report on standards complaints be submitted to the next meeting in October 2020, and then at future meetings as considered appropriate by the Committee.

5 CSPL REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS AND LGA CONSULTATION ON MODEL CODE

The Committee on Standards in Public Life (CSPL) advised the Prime Minister on ethical standards across the whole of public life in England. It monitored and reported on issues relating to the standards of conduct of all public office holders and promoted the 7 principles of public life. In 2018 the CSPL had carried out a review into the ethical framework for local authorities which included stakeholder consultation. Its report had been published in January 2019 and the Executive Summary and Recommendations were attached at Appendix 1 to the agenda.

The main findings, observations and conclusions were:-

- High standards of conduct in local government were needed to protect the integrity of decision-making, maintain public confidence and safeguard local democracy.
- Evidence supported the view that the vast majority of councillors and officers maintained high standards of conduct. Where there was misconduct most of the cases involved bullying or harassment or other disruptive behaviour.
- Having considered the need for a centralised body to govern and adjudicate on standards

the Committee had concluded that whilst the consistency and independence of the system could be enhanced, there was no reason to reintroduce a centralised body and local authorities should retain ultimate responsibility for implementing and applying the 7 principles of public life in local government.

- There was considerable variation in the length, quality and clarity of code of conduct and many codes failed to address adequately important areas of behaviour, such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance consistency and quality of local authority codes.
- Any standards process needed to have safeguards in place to ensure that decisions were made fairly and impartially and that councillors were protected against politically-motivated, malicious or unfounded allegations of misconduct. The Independent Person was an important safeguard in the current system and this role should be strengthened and clarified.
- The current sanctions available to local authorities were insufficient. Party discipline whilst it had an important part to play in maintaining high standards, lacked the necessary independence and transparency to play the central role in the standards system.

The report made 26 recommendations, mainly to Government but also to the Local Government Association and Parish Councils in some cases. The key recommendations were that:-

- An updated Voluntary Model Code of Conduct be created by the Local Government Association in consultation with representative bodies of councillors and officers at all tiers of local government
- The register of interests should include categories of non-pecuniary interests.
- Current rules on declaring interests should be repealed and replaced with an objective test.
- Independent persons should have fixed terms of 2 years, renewable once and protection by legal indemnity put in place if their advice or views were disclosed
- Councils to be given discretion to establish decision-making standards committees with voting independent members and voting members from dependant parishes.
- Councils to be given the power to suspend councillors for up to 6 months, to include parish councillors, if an Independent Person agrees to the suspension.
- Councillors should be given the right to appeal against suspension to the Local Government Ombudsman.
- The criminal offences relating to disclosable pecuniary interests should be abolished.
- Parish councils should be required to adopt the code of their principal authority (or the new model code) and a principal authority's sanctions for a parish councillor should be binding.
- Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards to parish councils. Clerks should also hold an appropriate qualification.
- Political groups should set clear expectations of behaviour by their members and senior officers should maintain effective relationships with political groups.
- Political groups should require their members to attend code of conduct training provided by local authorities and write this into national party model group rules.

The CSPL also made 15 best practice recommendations shown in the Table below which were directed at local authorities. The Committee expected that any local authority could and should implement these recommendations. The Table indicated the current position at Buckinghamshire Council in terms of compliance with these recommendations.

	Recommended Best Practice	Current Position	RAG
1	Prohibition on bullying and harassment included in code of conduct together with a definition and a list of examples of the behaviour this covers	The Code includes bullying. Guidance for members refer to definition and examples of the behaviour	
2	Codes should require councillors to comply with any formal standards investigation and prohibit trivial or malicious allegations by councillors	Tit for tat complaints discouraged in complaints procedure	
3	Codes should be reviewed annually and where possible, views sought from the public, community organisations and neighbouring authorities	Reviews due to be carried out annually but external consultation is not currently proposed	
4	Codes should be readily accessible to councillors and the public in a prominent position on the council's website and available in council premises	Included in the Council's Constitution and accessible when searching under complaints	
5	Council's should update their gifts and hospitality register at once a quarter and publish it in an accessible format, such as CSV	Gifts and hospitality of £25 or more registrable under the code of conduct and published with the member's register of interests. Separate register not currently kept.	
6	Council's should publish a clear and straightforward public interest test against which allegations are filtered	Assessment criteria listed in complaints procedure	
7	Councils should have access to at least 2 Independent Persons	The Council appoints 3 IPs	
8	Independent Person should be consulted on whether to undertake a formal investigation and be given the option to review and comment on allegations which the MO is minded to dismiss as being without merit, vexatious or trivial.	These provision were included in the adopted complaints procedure	
9	Decisions following a formal investigation should be published as soon as possible on the Council's 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.	Complaints procedure provides for decision to be published	
10	Councils should have straightforward and accessible guidance on their website on how to make a complaint under the code, the process for handling complaints, the estimated timescales for investigations and	Guidance on the complaints procedure to be considered by the Committee on 2 July 2020	

	outcomes		
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or the parish council as a whole, rather than the clerk in all but exceptional circumstances	This is a matter for parish councils to adopt	
12	MO roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within their area. MOs should be provided with adequate training, corporate support and resources to undertake this work	The council's complaints procedure applies to complaints about parish and town councillors and these will be investigated if the relevant assessment criteria are met	
13	Councils should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps include asking the MO from a different council to undertake the investigation.	Complaints procedure allows for an external investigator to be appointed which addresses any potential conflicts of interest.	
14	Councils should report on separate bodies they have set up as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by Councils should abide by the Nolan principles and publish their board agendas, minutes and annual reports in an accessible place.	Details of separate bodies are included in the Council's annual governance statement Publication of board agendas, minutes and reports is subject to the Constitution and procedure rules of each body and relevant statutory provisions	
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues	Meetings are held informally as and when required	

The Committee was informed that most of the best practise recommendations were already in place. Members were invited to consider whether to ask the monitoring officer to bring a report on the outstanding areas to a future meeting of the committee for further consideration.

One of the CSPL recommendations addressed to the Local Government Association (LGA) was to review their model code of conduct. The LGA have undertaken this review, holding an event on Civility in Public Life with a range of stakeholders at the end of 2019 and three consultation workshops at the beginning of 2020. Their consultants also examined examples of good practice, both in local government and other professions. The result of this initial work was a consultation on a draft model code of conduct, attached at Appendix 2 to the agenda. The LGA also intended to create additional guidance, working examples and explanatory text to go alongside the model code.

Consultation on the code ran until 17 August 2020 and consultees were asked to respond by completing the questionnaire attached at Appendix 3 to the agenda. Members were advised that the LGA would particularly like to know if the model code stood up to the new ways of working that have been introduced and gave enough of a steer on social media and online

activity. The Committee was therefore invited to consider and comment on the model code and authorise the Service Director for Legal and Democratic Services to submit a final response in consultation with the Chairman of the Committee.

Members sought additional information and were informed:-

- (i) (Table with current position at Buckinghamshire Council against the 15 best practice CSPL recommendations that local authorities should implement) – it was explained that the current position (8 green, 7 amber) on implementation was an assessment taken at the establishment of the new Council. It was confirmed that a report could be submitted to a future meeting on the progress being made in implementing all of the best practice recommendations.
- (ii) (CSPL recommendation 3) – that it had been recommended that the Localism Act 2011 be amended to presume that Councillors were acting in an official capacity in their public conduct, including statements on publicly-accessible social media.

Members also commented:

- (CSPL recommendation 12) – that given the number of Town/Parish Councils in the Council's area, Members were supportive with representation from dependent parishes being involved to decide some allegations.
- (CSPL recommendation 18) – Members were supportive on the criminal offences in the Localism Act 2011 relating to DPs being abolished.
- (CSPL recommendation 20) – Members were supportive of parish councils having to adopt the code of conduct of their principal authority, amended as necessary.

RESOLVED –

- (1) That the Standards in Public Life (CSPL) recommendations on Local Government Ethical Standards, attached as Appendix 1 to the agenda, be noted.
- (2) That a report on the progress made in implementing the CSPL best practice recommendations (amber ratings) be reported to a future meeting.
- (3) That the model member code of conduct proposed by the Local Government Association, attached as Appendix 2 to the agenda, be noted.
- (4) That the Service Director for Legal and Democratic Services be authorised, in consultation with the Chairman of the Standards and General Purposes Committee, to submit a formal response to the LGA's consultation questions on the model code attached at Appendix 3, having regard to the Committee's comments made at this meeting.

6 LOCAL GOVERNMENT BOUNDARY COMMISSION FOR ENGLAND - ELECTORAL REVIEW OF BUCKINGHAMSHIRE COUNCIL

The Committee received a report and were informed that the Local Government Boundary Commission for England (LGBCE) had indicated that it intended to conduct an electoral review of the newly established Buckinghamshire Council. Preliminary discussions had taken place with the Chairman and Chief Executive of the LGBCE to understand the arrangements for such a review. Through these discussions, it had been established that:

- the model of 147 members would remain in place for the 2021 elections, with the wards based on the former County Council divisional boundaries.
- the electoral review would examine Buckinghamshire Council's electoral arrangements

and cover the following areas:

- the total number of members to be elected to the Council.
 - the number and boundaries of future electoral divisions.
 - the number of councillors representing each electoral division; and
 - the name of each electoral division.
- the outcome of the Electoral Review would take effect from the 2025 elections, although the precise timeframe for the stages of the Reviews were yet to be confirmed.

It was explained that the principal aim of the review was to deliver electoral equality across the local authority area by ensuring that all councillors represented a similar number of voters. The LGBCE had published detailed technical guidance for those who wished to participate in the review. The LGBCE was required by law to be impartial, with its decisions based on evidence and reason. The representations of all those taking part in the review would be treated equally and without bias.

The Committee report contained a table that gave an indication of the timescales the LGBCE normally worked to when conducting Reviews, which included:-

- Preliminary Period – informal dialogue with Local Authority – up to 6 months.
- Council size decision – consultation period leading to a ‘minded to’ decision on the council size, i.e. number of Councillors – 5 weeks.

Formal Review

- Consultation on future Warding / Division arrangements – 12 weeks.
- Development of draft recommendations – 12 weeks.

The Standards and General Purpose Committee had been delegated authority to deal with election arrangements, however, the LGBCE’s guidance had made it clear that the Council would need to prepare extensive information for consideration by the LGBCE and facilitate the involvement of all relevant stakeholders. It was therefore suggested that the Committee should establish a Member Working Group to oversee the preparation of the relevant information and a communication and engagement plan. The draft terms of reference for the Member working group were attached at Appendix 1 to the agenda.

The submission of the relevant information required by the LGBCE would be approved by the Standards and General Purposes Committee.

Members were also informed that the role of the LGBCE in the creation, abolition or amendments to the external boundaries of Parish Councils was limited. The LGBCE Technical Guidance indicated that Parish Councils were crucial in the work of the LGBCE in conducting a review and it was important that Parish Councils’ involvement in the Electoral Review was actively encouraged.

The Committee was advised that the LGBCE guidance on Community Governance Reviews (CGR) stated that while it might be appropriate for a local authority to undertake a CGR at the same time as an electoral review, this could also cause administrative difficulties and confusion for local people. As such, any authority contemplating this approach was strongly advised to discuss this with the LGBCE in advance.

On 7 January, 2020, the Shadow Authority for Buckinghamshire had considered a CGR for High Wycombe and decided to defer the decision until the establishment of the new Unitary authority, acknowledging that further consultation might well be necessary. In discussion with the LGBCE, they had given strong advice that the Council should wait until the Electoral Review had been completed before conducting any CGRs. The reason for this was that the LGBCE would

need to ensure that the boundaries of parish wards and unitary council wards were coterminous. If the Council completed a CGR and decided parish wards in advance of the Electoral Review, it was likely that they would need to change again. Waiting for the outcome of the Electoral Review and having certainty about the boundaries of the new unitary wards would be the best way of ensuring that any CGR outcomes were sustainable in the longer term. In the light of the LGBCE's Guidance, it was recommended to the Committee that the decision on the CGR for High Wycombe be postponed until after the Electoral Review or until such time as the LGBCE considered it appropriate.

Longwick-cum-Ilmer Parish Council had also requested a CGR to seek to increase the number of councillors from 7 to 9 to reflect the increase in housing and population. Again, for the reasons detailed to the Committee, it was not considered that the proposal for this CGR met the test as advised by LGBCE and it was recommended that a decision on commencing this CGR was deferred until the outcome of the Electoral Review.

It was further recommended to Members that any further requests received for CGRs should be considered in the light of the LGBCE advice that such reviews would ordinarily be deferred and should only be acceded to in very exceptional circumstances.

Members commented as follows:-

- it would be important for the Electoral Review, and subsequent CGRs, to ensure that Town/Parish boundaries were co-terminus with Buckinghamshire Council boundaries.
- Given that the first CGRs in relation to the High Wycombe had been submitted 2 years ago, it would be important the CGRs were finalised as soon as possible following the Electoral Review. It was also suggested that, if possible, the CGR should look at the viability of elections for a High Wycombe parished area being held in 2022 or 2023, rather than waiting until 2025.
- it was important for the Electoral Review to be Member-led and, as such, recommendations 2 and 5 should be re-worded to authorise the Members' Working Group, in consultation with the Monitoring Officer, to agree the actions.
- they were supportive of the membership of the Members' Working Group being increased from 5 to 9 Members (7 Conservative Group, 2 Alliance Group).
- they had some concerns with the new Council rushing to undertake an Electoral Review before the initial elections had even been held, and that it might be more appropriate to show a bit of caution in this regard. (Members were informed that the review process was largely driven by the LGBCE, rather than the Buckinghamshire Council).

It was proposed by Councillor Collingwood, seconded by Councillor G Harris, and

RESOLVED –

- (1) That the indication from the Local Government Boundary Commission for England's (LGBCE) that it proposed to undertake an Electoral Review of Buckinghamshire be noted.
- (2) That the Members' Working Group, in consultation with the Monitoring Officer, be authorised to agree the proposed timetable for the Review process with the LGBCE.
- (3) That a Member Working Group of 9 Members be established oversee the work of officers in the preparation of the statistical and other information required by the LGBCE and to approve the Terms of Reference for that working group (at Appendix 1).
- (4) That Officers be authorised, in consultation with the Working Group, to develop a

communication and engagement plan for Members, Parish Councils, residents and other stakeholders to maximise participation in the Electoral Review.

- (5) That the Members' Working Group, in consultation with the Monitoring Officer, be authorised to prepare the necessary submissions to the LGBCE for consideration and approval by the Standards & General Purpose Committee.
- (6) That consideration of the decision for the Community Governance Review for High Wycombe and Longwick-cum-Ilmer be deferred until the completion of the Electoral Review or until such time as the LGBCE considered it appropriate, whichever is the sooner.
- (7) That, in accordance with the LGBCE advice, consideration of any future Community Governance Review requests should only be approved in very exceptional circumstances during the period of the Electoral Review.

7 PROCEDURES FOR INQUORATE PARISH COUNCILS

The Committee received a report seeking adoption and approval by Buckinghamshire Council of a procedure so that it could carry out its powers to appoint temporary members to inquorate parish councils. This included authority for the Service Director Legal and Democratic to make Orders under the legislation.

Members were informed that a Parish Council had to be quorate in order to operate and make decisions. A quorum for parish councils was defined as being one third of its membership, but not less than three. There were occasions where due to resignations or lack of applications for vacancies at an election, a parish council was unable to operate because it was inquorate. The inability to operate would extend to making all decisions including the co-option of sufficient councillors to fill vacancies.

Under section 91 of the Local Government Act 1972 the Council had power to make an Order appointing temporary members to a parish council where, due to the number of vacancies, the council could not function. The exercise of functions in relation to parish councils had been delegated to the Standard and General Purposes Committee. The appointees would usually be appointed from the ward members of the principal authority and it was good administrative practise to adopt a procedure for delegating these appointments and the making of the necessary Order to a senior officer, so they can be made promptly, where necessary.

The Committee was informed that It had been necessary for Cabinet to adopt a procedure and authorise the Deputy Chief Executive to make such an Order in relation to Kingsbrook Parish Council, which had been created by the Aylesbury Vale (Community Governance Review) Order 2020. The new parish of Kingsbrook had been established with effect from 7 May 2020. However, due to the emergency measures introduced following the outbreak of coronavirus, it had not been possible to hold local elections to elect Councillors to the new Parish Council. This had left Kingsbrook Parish Council inquorate and unable to function.

In order to enable Kingsbrook Parish Council to start operating, Cabinet on 21 April 2020 had approved the procedure set out at Appendix 1 and authorised the Deputy Chief Executive to make an Order under section 91 to appoint a sufficient number of parish councillors on a temporary basis to enable Kingsbrook Parish Council to start operating.

On 13 May 2020, an Order had been made under section 91, a copy of which is attached as

Appendix 2, to appoint 4 Buckinghamshire Councillors as temporary Kingsbrook Parish Councillors. The first meeting of Kingsbrook Parish Council had been held on 18 June 2020 and had successfully co-opted 5 people as Parish Councillors. The appointments under the section 91 Order have therefore now ceased and the co-opted members can now sit and make decisions as the new Parish Council which will include the co-option of 4 further members.

Members sought additional information and were informed that Officers would consult with local Members and Group Leaders before any making any Section 91 orders.

RESOLVED –

- (1) That the procedure set out in Appendix 1 for making appointments to inquorate parish councils under Section 91 of the Local Government Act 1972 be approved and adopted.
- (2) That the current position in relation to Kingsbrook Parish Council be noted, including that an Order under Section 91 of the Local Government Act 1972 had been made on 13 May, 2020, to appoint temporary Parish Councillors to that Parish Council.

8 WORK PROGRAMME FOR 2020/21

The Committee received a report on their future work programme, which was updated during the course of the meeting.

RESOLVED –

That the future work programme be approved, as follows:

8 October 2020

1. Update on draft LGA Model Code of Conduct.
2. Guidance on Requests for Dispensations.
3. LGO Complaint Report
4. Standards Complaints (Update)
5. Constitution Review Report
6. Electoral Review Members' Working Group (update)

10 December 2020

1. Protocol on the Role of the Monitoring Officer.
2. Review of Social Media Guidance for Councillors.
3. Review of Member Induction and Training on standards of conduct
4. Electoral Review Members' Working Group (update)

8 April 2021

1. Annual Review of Code of Conduct and Complaints Procedure.
2. Standards Complaints Monitoring Report 2020/21.
3. LGO Annual Report.
4. Electoral Review Members' Working Group (update)
5. Draft Work programme for 2021/22.



Report to Standards and General Purposes Committee

Date: 8 October 2020

Title: Update on CSPL Recommendations on Local Government Ethical Standards

Author and/or contact officer: Maria Damigos Principal Solicitor and Deputy Monitoring Officer (Aylesbury Vale team) maria.damigos@buckinghamshire.gov.uk

Ward(s) affected: none specific

Recommendations:

The Committee is asked: -

- 1. To note the progress made in implementing the best practice recommendations of the Committee on Standards in Public Life (CSPL) on Local Government Ethical Standards**
- 2. To approve the proposed actions on the recommendations attached at Appendix 1 including updating the Guidance on Dealing with Member Complaints as proposed at Appendix 2**

Reason for decision: To ensure the Council acts in accordance with current best practice in relation to ethical standards.

Content of report

- 1.1.** The Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders and promotes the 7 principles of public life. In 2018 the CSPL carried out a review into the ethical framework for local authorities which included stake holder consultation.

- 1.2. On 2 July 2020 this Committee considered a report relating to the CSPL review. The main findings, observations and conclusions of the CSPL were summarised and set out in the report. It also included the 15 best practice recommendations directed at local authorities together with details of the current position at Buckinghamshire Council in terms of compliance with these recommendations and RAG rating.
- 1.3. After consideration it was resolved that a report on the progress made in implementing the CSPL best practice recommendations (amber ratings) be reported to the Committee.
- 1.4. Appendix 1 sets out each of the recommendations, position and RAG rating at the time of the report and details the proposed action(s) and comments/explanation. All recommendations have been included to provide an overview. It should also be noted that whilst recommendation 8 is considered to be complied with already, some amendments have been made to provide clarity.
- 1.5. The Constitution is to be reviewed in April 2021 and this will include a review of the Code of Conduct. It is also anticipated that a Model Code of Conduct will be introduced. In view of this the proposed actions in Appendix 1 are interim measures pending a full review. The proposed actions mainly relate to updating the Guidance on Dealing with Member Complaints. The proposed amendments to the Guidance to implement the relevant best practice recommendations are detailed in Appendix 2 as tracked changes.
- 1.6. The Guidance on Dealing with Member Complaints was also approved by this Committee on 2 July 2020 and the Committee has the power to update it as appropriate.
- 1.7. Whilst it would be preferable to have the actions and measures dealt with in the Code of Conduct itself, it is considered that the proposed changes to the Guidance are sufficient to ensure that best practice is followed until such time as the Code of Conduct is updated by Council.

Other options considered

- 1.8 Implementing the best practice recommendations within the Code of Conduct and the Arrangements for Dealing with Complaints against Councillors in the Constitution would require a recommendation to full Council. Given the current circumstances and that a review is to take place shortly in any event the Committee is invited to adopt the updated Guidance which, it is considered, will still result in best practice being followed.

Legal and financial implications

- 1.9 The best practise recommendations made by the CSPL do not have the status of statutory guidance. They therefore do not have to be implemented but by including them as interim measures they are still being followed. It is anticipated that the proposed changes and implementation can be done as part of the day to day work of the officers.

Corporate implications

- 1.10 There are no direct links to the Council's main policy objectives. But the Council has a duty under the Localism Act 2011 to promote and maintain high standards of conduct by its members. Ensuring that the Council adopts best practise and that all members understand their obligations under the Council's code of conduct is a matter of good governance and is important in preserving the confidence of local communities

Next steps and review

If approved the Guidance will be updated. Actions which do not require updating the Guidance will continue to be implemented.

Background papers

Local Government Ethical Standards: A review by the Committee on Standards in Public Life January 2019

Local Government Association Consultation on Model Member Code of Conduct June 2020

CSPL Report on Local Government Ethical Standards and LGA Consultation on Model Code Report to Standards and General Purposes Committee 2 July 2020

Appendix 1

Update of Code of Conduct Recommendations from CSPL

	Recommended Best Practice	Current Position	RAG as at 2 July	Proposed Action	Comments
1	Prohibition on bullying and harassment included in code of conduct together with a definition and a list of examples of the behaviour this covers	Code includes bullying. Guidance for members refer to definition and examples of the behaviour		<ul style="list-style-type: none"> Expand the Guidance to include harassment, definitions and examples so no further reference required. Ensure examples are not exhaustive 	Consider harassment is a form of bullying anyway but including it within the guidance will ensure no challenges. Examples only ensure that not limiting behaviour to that detailed.
2	Codes should require councillors to comply with any formal standards investigation and prohibit trivial or malicious allegations by councillors	Tit for tat complaints discouraged in complaints procedure		<ul style="list-style-type: none"> Have formal acknowledgment that non-compliance with formal standards investigation is considered a breach of the Leadership Principle Explain expect robustness from councillors regarding trivial complaints Set out details in Guidance 	This will provide a reason for councillors to comply. Until further sanctions available will not result in any other prejudice if they still don't comply. Including details in guidance will ensure councillors are aware of parameters.
3	Codes should be reviewed annually and where possible, views	Reviews due to be carried out annually but external		<ul style="list-style-type: none"> Include review with PCs, councillors, IPs and S&GP Committee 	Future action to be included when review takes place.

	sought from the public, community organisations and neighbouring authorities	consultation is not currently proposed		<ul style="list-style-type: none"> Consider informal review with MO group for alternatives 	Constitution is to be reviewed April 2021 which will include the Code of Conduct, however the position with the proposed Model Code may affect this.
4	Codes should be readily accessible to councillors and the public in a prominent position on the council's website and available in council premises	Included in the Council's Constitution and accessible when searching under complaints		<ul style="list-style-type: none"> Review to include accessibility and review of web pages 	Future action to be undertaken.
5	Council's should update their gifts and hospitality register at once a quarter and publish it in an accessible format, such as CSV	Gifts and hospitality of £25 or more registrable under the code of conduct and published with the member's register of interests. Separate register not currently kept.		<ul style="list-style-type: none"> Current register allows registration of gifts and hospitality by councillors on ongoing basis Implement regular reminders to councillors to review and update or notify MO/Democratic Services Ensure how to guide available 	Although there is provision for gifts and hospitality to be registered believe should be made higher profile and ensure councillors are aware of their obligations in this regard (gifts and hospitality may affect interests).
6	Council's should publish a clear and straightforward public interest test against	Assessment criteria listed in complaints procedure		No further action required	

	which allegations are filtered				
7	Councils should have access to at least 2 Independent Persons	The Council appoints 3 IPs		No further action required	
8	Independent Person should be consulted on whether to undertake a formal investigation and be given the option to review and comment on allegations which the MO is minded to dismiss as being without merit, vexatious or trivial.	These provision are included in the adopted complaints procedure		<ul style="list-style-type: none"> Strengthen Guidance to ensure IP is given option to view and comment on complaint which is being considered for dismissal in circumstances stated. 	The Arrangements and Guidance allow for the IP to be consulted and it is considered this recommendation has been complied with. However do consider that the specific circumstances should be set out in the Guidance for clarity.
9	Decisions following a formal investigation should be published as soon as possible on the Council's 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.	Complaints procedure provides for decision to be published		No further action required	

10	Councils should have straightforward and accessible guidance on their website on how to make a complaint under the code, the process for handling complaints, the estimated timescales for investigations and outcomes	Guidance on the complaints procedure approved by Committee.		<ul style="list-style-type: none"> Publish guidance on website with new complaints forms – in process 	Guidance and complaints forms with web team for publication. If updated Guidance approved will need to ensure correct version is published. In meantime, copy Guidance can be provided and/or attached with correspondence with complainants and subject members. Forms are tailored to whether Subject Member is a town or parish councillor or a Buckinghamshire Councillor but otherwise the same.
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or the parish council as a whole, rather than the clerk in all but exceptional circumstances	This is a matter for parish councils to adopt	N/A	<ul style="list-style-type: none"> Include details within Guidance to advise clerks to refer such matters to the parish council/chair except in exceptional circumstances 	To ensure clerks are aware of the requirements when considering making a complaint.
12	MO roles should include providing advice, support and	The council's complaints procedure applies		No further action required	

	management of investigations and adjudications on alleged breaches to parish councils within their area. MOs should be provided with adequate training, corporate support and resources to undertake this work	to complaints about parish and town councillors and these will be investigated if the relevant assessment criteria are met			
13	Councils should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps include asking the MO from a different council to undertake the investigation.	Complaints procedure allows for an external investigator to be appointed which addresses any potential conflicts of interest.		No further action required	
14	Councils should report on separate bodies they have set up as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies	Details of separate bodies are included in the Council's annual governance statement Publication of board agendas, minutes and reports is subject to the		<ul style="list-style-type: none"> Annual Governance Statement is dealt with by Internal Audit therefore liaise and notify of requirements to ensure compliance 	Now completed.

	created by Councils should abide by the Nolan principles and publish their board agendas, minutes and annual reports in an accessible place.	Constitution and procedure rules of each body and relevant statutory provisions			
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues	Meetings are held informally as and when required		<ul style="list-style-type: none"> Set up regular meetings or agenda items for standards issues 	Now completed.

BUCKINGHAMSHIRE COUNCIL

Guidance on Dealing with Members Complaints

1. Context

In accordance with section 28 of the Localism Act 2011 Buckinghamshire Council has adopted arrangements for dealing with allegations that members have failed to comply with the Council's Code of Conduct. These arrangements also apply to allegations that members of Parish and Town Councils in the area have failed to comply with their respective Council's code of conduct.

The arrangements set out how to make a complaint and how complaints will be investigated. They must also provide for the Council to appoint at least one Independent Person whose views must be sought before the Council takes a decision on an allegation which it has decided to investigate, and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

The arrangements are included in Part H of Buckinghamshire Council's Constitution which is published on the council's website at :-

<https://www.buckinghamshire.gov.uk/your-council/council-and-democracy/our-constitution/>

This document provides guidance about making a complaint and further information about how complaints will be dealt with.

2. The Code of Conduct

The Council has adopted a Code of Conduct for its Members. This is attached at Annex 2 and is available for inspection on the Council's website and on request by emailing the monitoring officer at: monitoringofficer@buckinghamshire.gov.uk

3. Making a complaint

The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and administers the procedure for dealing with complaints of Member misconduct.

To ensure the Monitoring Officer has all the information necessary to process your complaint, please complete the Complaint Form at Annex 1A for complaints about Buckinghamshire councillors or Annex 1B for complaints about parish councillors. These forms can be downloaded from the Council's website at <https://www.buckscc.gov.uk/services/contact-and-complaints/complain-about-a-councillor/> and are also available on request from the Monitoring

Officer by email to monitoringofficer@buckinghamshire.gov.uk.

Please provide your name and a contact address or email address so your complaint can be acknowledged and we can 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 Complaint Form. Please note that we do not deal with anonymous complaints.

Before making a complaint you should read the Code of Conduct and this Guidance. Please note in particular the following points on the interpretation of the Code of Conduct and the Arrangements for Dealing with Complaints against Councillors:

- When considering complaints, behavior which is intended to hurt someone either physically or emotionally or is unwanted conduct that has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading or humiliating environment for that person including causing them distress or fear, whether repeated or not will be used as the definition of bullying in the Buckinghamshire Council Code of Conduct. Examples of such conduct include but is not limited to: undermining someone; personalizing or constant criticism; making threats or being threatening; overbearing supervision; misuse of position or power.
- Failure to comply with the standard process and any investigation without substantial reason is likely to be considered to be a breach of the Nolan Principle of Leadership and specifically 2.7.a. and 2.7.i. of the Code of Conduct. The process will continue but failure to engage may result in adverse inferences being made and further breaches being found to have taken place.
- Due to the inherent nature of Councillors it is expected that they will be subject to robust challenge and part of heated debates provided these are confined to the issues in question. Without further aggravating circumstances complaints about such matters are likely to be viewed as trivial, malicious, politically motivated or tit for tat and may therefore be rejected under the 'Referral Criteria'.
- Where it is alleged that a Town or Parish Councillor is behaving or has behaved towards their clerk in such a way as to breach their Code of Conduct, it is expected that the issue would be raised with the Chairman and/or the Town or Parish Council formally for them to make a formal complaint if appropriate. A complaint from the clerk directly will however still be accepted where there are exceptional circumstances.

Please send your completed Complaint Form and any relevant documents by email to:

Monitoringofficer@buckinghamshire.gov.uk or

By post to: Monitoring Officer
Buckinghamshire Council
The Gateway, Gatehouse Road
Aylesbury HP19 8FF

4. What Happens Next

The Monitoring Officer, or one of the Deputy Monitoring Officers' will acknowledge receipt of your complaint within 5 working days. If your complaint is **not** about member conduct then the Monitoring Officer will not consider it but will, where possible, refer you to any relevant procedure available.

For example the following are not covered by this complaints procedure:

- Complaints about the conduct of councillors when acting in their personal capacity i.e. not acting as an elected or co-opted member of the Council
- Dissatisfaction with a decision or action of the Council or one of its committees
- Complaints about a service provided by the Council
- Complaints about the Council's procedures
- The actions of people employed by the Council

If a complaint alleges that Members may have committed a criminal offence by breaching the "disclosable pecuniary interest" provisions under Section 34 of the Localism Act 2011, it will be referred to Thames Valley Police for consideration.

As a matter of fairness and natural justice we believe members who are complained about have a right to know who has made the complaint and to be provided with full details of the complaint.

We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that to do so would be contrary to the public interest, would prejudice any subsequent investigation or you have reasonable grounds for believing you or any witness in the matter would be at risk.

The Member will still be informed that a complaint has been made - and unless doing so would lead to the disclosure of your identity, will be informed of the paragraphs of the Code which they are alleged to have been breached and as much detail about the complaint as possible. However, your details and a full copy of the complaint will be withheld until your request has been considered.

The assessment of a request for confidentiality will be considered against the following criteria – but with the balance always being in favour of disclosure unless exceptional circumstances exist to determine otherwise:

- 1) The complainant has reasonable grounds for believing that they will be at risk of physical or other serious harm if their identity is disclosed.
- 2) The complainant is an officer who works closely with the Subject Member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed.
- 3) The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence may be required to be submitted).
- 4) Any other very special circumstances put forward by the complainant which identify reasonable grounds for believing that disclosure of details would result in the complainant or witnesses being intimidated or lead to evidence being compromised or destroyed or some other reasons justifying the grant of confidentiality.

Please note that requests for confidentiality or requests for suppression of complaint details will

not automatically be granted. The Monitoring Officer may consult with the Independent Person to consider your request alongside the substance of your complaint. If your request for confidentiality is not granted, you will be asked whether you wish the Council to continue to consider your complaint.

An initial assessment will be undertaken to decide whether to accept your complaint. This looks at whether the behaviour complained about would, if proved, be a breach of the code of conduct and whether the Member was acting as a councillor at the time. The referral criteria will also be considered. If your complaint is accepted after the initial assessment, it will then be considered in 3 Stages with the aim of reaching a satisfactory resolution. Under Stages 1 and 2 only the details contained in the Complaint Form will be considered. Therefore, it is important that you set out your complaint clearly and provide all the information you wish to be considered at the outset.

5. Stage 1

We will tell the Member that is the subject of your complaint that we have received a complaint and provide them with a copy of your complaint or a summary (unless your request for confidentiality has been agreed in which case only non-identifying details will be provided).

The Member will be invited to respond within 20 working days – including in their response any suggestion to resolve the complaint.

This response will be made available to you and you will be asked if you are satisfied – if yes, no further action will be taken or the action proposed by the Member will proceed – or you will be asked if you wish your complaint to be considered further under Stage 2.

6. Stage 2

Your complaint will then be assessed by the Monitoring Officer, or a Deputy Monitoring Officer, having regard to the Referral Criteria at Annex 3 and will decide whether or not to progress the complaint to an investigation. The Chairman/Vice-Chairman of the Council's Standards and General Purposes Committee will be informed of all complaints considered under Stage 2 and if appropriate due to the seriousness of the alleged behaviour may be consulted and their views taken into account. The Independent Person (whose views will be taken into account) will also be consulted if it is considered that the complaint cannot be resolved informally (ie will proceed to an investigation under Stage 3) and will be given the option to view and comment on all complaints which are being considered for dismissal as without merit, vexatious or trivial. This will happen within an average of 20 working days from the commencement of Stage 2.

When a decision has been made you will be notified in writing. The Monitoring Officer will also write to the member(s) you have complained about. These letters will be sent within 5 working days of a decision being reached. The decision is made available for public inspection once the member concerned has been given a copy of the decision unless the member requests non-publication where it is found that the Code of Conduct has not been breached.

The decision of the Monitoring Officer or their deputy is final and there is no right of appeal.

In appropriate cases, the Monitoring Officer 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 will take this into account in deciding whether the complaint merits formal investigation.

7. Stage 3

If the decision at Stage 2 is to investigate the complaint 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.

The investigator's report will be considered by the Hearings Sub-Committee of the Council's Standards and General Purposes Committee, or in some cases by the full Committee.

The Council has adopted a model procedure for the investigation of complaints, which is attached at Annex 4 together with an explanatory flowchart. Details of the both the investigation procedure and the procedure if the matter proceeds to a hearing are explained further below.

8. How is the investigation conducted?

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 of each complaint and some investigations may be 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 co-operate the Investigating Officer will contact the Monitoring Officer 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.

The Investigating Officer will normally carry out the investigation in accordance with the model procedure detailed at Annex 4 although may decide to depart from this if the circumstances of the complaint warrant it.

As an initial step, and subject to any ruling on disclosure, the Investigating Officer may write to the Subject Member at the beginning of the investigation to see if the Subject Member still wishes to contest the complaint. Subject to this the investigation will normally follow the model procedure at Annex 4.

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 Subject 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.

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 for re-consideration as to whether the investigation should proceed if the Investigating Officer considers that the Re-consideration Criteria in Annex 3 are satisfied.

9. 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 about its contents and refer the report to the Hearings Sub-Committee.

If having done so the Hearings Sub-Committee is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Subject Member notifying you 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, the Investigating Officer may be asked to re-consider his/her report.

10. 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 refer the matter to the Hearings Sub-Committee. The Sub-Committee will decide whether (i) the evidence clearly shows a breach has taken place and if so the appropriate remedy; (ii) a formal hearing is necessary to determine whether a breach has occurred and/or the appropriate remedy or (iii) if and what further action is appropriate. In particular, the Sub-Committee will consider whether Local Resolution should be attempted.

- 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 standards of conduct for the future.

Such resolution may include the Subject 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 Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards and General Purposes Committee. However, if the Subject Member concerned does not accept that the matter should be resolved in such a manner, the Monitoring

Officer will refer the matter back to the Hearings Sub-Committee.

- Hearings Sub-Committee

In readiness for convening a meeting of the Hearings Sub-Committee, the Monitoring Officer will consider whether to conduct a written “pre-hearing process”, requiring the Subject 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 meeting or Hearing.

If, through the “pre-hearing process”, the Subject 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 Hearings Sub-Committee to consider in their absence. Alternatively, the Subject Member may elect to attend a Hearings Sub-Committee to present their mitigation. In either case, the “uncontested” hearing procedure will be followed as set out at Annex 5. If the evidence available clearly shows that a breach has taken place the “uncontested” hearing procedure will also be followed.

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 Hearings Sub-Committee and the hearing procedure set out at Annex 6 will be followed.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as considered necessary and make representations to substantiate the conclusion that the Subject 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. Unless called to do so by the Investigating Officer, you do not have the right to address the Hearings Sub-Committee of your own volition.

The Subject Member will then have an opportunity to give evidence, to call witnesses and to make representations about why they consider they did not fail to comply with the Code of Conduct. The Subject Member may be represented legally or otherwise.

The Hearings Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the Subject Member did not fail to comply with the Code of Conduct and so dismiss the complaint.

If the Hearings Sub-Committee concludes that the Subject Member did fail to comply with the Code of Conduct, the Chairman will inform the Subject Member of this finding and the Hearings Sub-Committee will then consider what action, if any, should be taken. In doing this, the Hearings Sub-Committee will give the Subject Member an opportunity to make representations to them and will consult the Independent Person before deciding what action, if any, to take in respect of the matter.

11. What action can the Hearings Sub-Committee take where a Subject Member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards and General Purposes Committee its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Sub-Committee may -

- Write to the Subject Member over their conduct;
- Publish its findings in the local media in respect of the Subject Member's conduct;
- Report its findings to the Council;
- Recommend to the Subject Member's Group Leader (or in the case of un-grouped Subject Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- Instruct the Monitoring Officer to arrange training for the Subject Member;
- Recommend removal of the Subject Member from all outside appointments to which he/she has been appointed or nominated by the Council;
- Withdraw facilities provided to the Subject Member by the Council, such as a computer, website and/or email and Internet access;
- Recommend that any aspects of the complaint that are considered suitable be referred for mediation between the parties; or
- Exclude the Subject 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;
- Any other action considered appropriate given the circumstances of the breach or failure.

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

12. What happens at the end of the Hearing?

At the end of the hearing, the Chairman will announce the Sub-Committee's decision as to whether the Subject Member has failed to comply with the Code of Conduct and as to any action which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Sub-Committee and send a copy to you and to the Subject Member concerned and make such decision notice available for public inspection and report the decision to the next convenient meeting of the Standards and General Purposes Committee. If, however, there is found to be no failure to comply with the Code of Conduct the Subject Member can request that the decision notice is not published.

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

13. What is the Hearings Sub-Committee?

The Hearings Sub-Committee is made up of 3 elected Members of the Council's Standards and General Purposes Committee.

An Independent Person is invited to attend all meetings of the Hearings Sub-Committee and their views can be sought and taken into consideration 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.

14. Who is the Independent Person?

An Independent Person is someone who has been appointed by the Council under Section 28 of the Localism Act 2011.

Independent Persons are appointed through a process of public advertisement, application and appointment. The first appointments of Independent Persons by Buckinghamshire Council is by the Chairman of the Audit and Governance Committee in consultation with the Head of Paid Service. Future appointments will be by a positive vote of a majority of all members of the Council i.e. by full Council.

A Person is considered not to be 'independent' if they are, or have been in the previous 5 years:

- an elected or co-opted member or officer of the Council or any Parish in the area
- an elected or co-opted member of any committee or sub-committee of the Council or any Parish in the area

or they are a relative or close friend of a current elected or co-opted member or officer of the Council or any Parish or Town Council the area – or any elected or co-opted members of any committee or sub-committee of such a Council.

15. Revision of this Guidance

The Standards and General Purposes Committee may amend this guidance.

The Chairman of any Hearings Sub-Committee may, following consultation with the Independent Person, depart from the procedures detailed above where he/she considers it is expedient to do so in order to secure the effective and fair consideration of any matter.

If the Monitoring Officer considers that he/she may be conflicted in the discharge of these arrangements, or it is otherwise expedient to do so they may delegate such matters to a Deputy Monitoring Officer to discharge.

16. Appeals

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

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

Annex 1A	Complaint Form Buckinghamshire councillors
Annex 1B	Complaint Form Parish councillors
Annex 2	Buckinghamshire Council's Code of Conduct
Annex 3	Assessment and Re-Assessment Criteria
Annex 4	Procedure for Investigations
Annex 5	Uncontested hearing procedure
Annex 6	Contested hearing procedure
Annex 7	Protocol between Buckinghamshire Monitoring Officers and Thames Valley Police

Member Complaints Guidance V2 13.07.20

BUCKINGHAMSHIRE COUNCIL

COMPLAINT FORM MEMBER(S) CONDUCT (BUCKINGHAMSHIRE COUNCILLORS)

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 council's Independent Person (if required)
- an investigating officer appointed to investigate your complaint (if applicable)
- members of the Hearings Sub-Committee convened to consider your complaint
- officers involved in mediation (if applicable)

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 6 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

Making your complaint

Once your complaint has been received a decision will be taken in accordance with the council's published arrangements as to what action, if any, should be taken on it. You will not have the opportunity to attend a meeting at this stage. It is important that you provide all the information that you want taken into account as part of your complaint.

Please refer to the council's published arrangements for dealing with complaints about members which explains the 3 Stage process for dealing with your complaint.

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

Title	First name	Last name

It is important that you provide a summary of the information you wish to have taken into account (within the space provided below) so a decision can be made, in accordance with the published arrangements, 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 stating that the member insulted you, you should give the exact words used.
- 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.

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

- a You must provide leadership to the Council and communities within its area by personal example
- b You must respect others and not bully any person
- c You must recognise that officers (other than political assistants) are employed by and serve the whole Council
- d You must respect the confidentiality of information which you receive as a councillor
- e You must not conduct yourself in a manner which is likely to bring the council into disrepute
- f You must use your position as a councillor in the public interest and not for personal advantage
- g You must act in accordance with the Council's reasonable rules on the use of the resources of the Council for private or political purposes
- h You must exercise your own independent judgment, taking decisions for good and substantial reasons
- i You must account for your actions, particularly by supporting the Council's scrutiny function
- j You must ensure the council acts within the law
- Failure to declare a disclosable pecuniary, personal or prejudicial interest

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the relevant parts of the Code of Conduct indicated above. 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.

Please provide us with details of your complaint (within the space provided or use separate sheets)

Please explain what steps, if any, you have taken to resolve this complaint directly with the member concerned?

Would you be prepared to engage in mediation with the member concerned, if considered appropriate, to try and resolve the complaint?

Yes

No

If you answered no please state reason why below:

Mediation is a way of resolving disputes with the assistance of an independent mediator who will try and help the parties reach a solution to the dispute that both parties are agreeable to. The independent mediator will avoid taking sides, making judgements or giving guidance. They are simply responsible for developing effective communications between the parties with a view to a common sense settlement being arrived at. Mediation is a voluntary process and will only take place if the parties agree and remains confidential to the parties involved.

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.

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:

7. Additional Help

Complaints must be submitted in writing. This includes email submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you need any support in completing this form, please let us know as soon as possible.

8. Contact Details

You can send this form to the Monitoring Officer at Buckinghamshire Council either by email to: monitoringofficer@buckinghamshirecouncil.gov.uk or by post to :-
The Gateway, Gatehouse Road, Aylesbury, Bucks HP19 8FF

BUCKINGHAMSHIRE COUNCIL

COMPLAINT FORM PARISH/TOWN COUNCILLOR(S) CONDUCT

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)
- an investigating officer appointed to investigate your complaint (if applicable)
- members of the Hearings Sub- Committee convened to consider your complaint
- officers involved in mediation (if applicable)

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 6 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

Making your complaint

Once your complaint has been received a decision will be taken in accordance with the council’s published arrangements as to what action, if any, should be taken on it. You will not have the opportunity to attend a meeting at this stage. It is important that you provide all the information that you want taken into account as part of your complaint.

Please refer to the council’s published arrangements for dealing with complaints about members which explains the 3 Stage process for dealing with 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

It is important that you provide a summary of the information you wish to have taken into account (within the space provided below) so a decision can be made, in accordance with the published arrangements, 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 stating that the member insulted you, you should give the exact words used.
 - 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.
4. Please list below which paragraphs of the Code of Conduct you consider the member(s) to have breached. You will find a copy of the Council's code on either on the Parish or Town Council's website or obtain a copy on request from the Clerk to the relevant Council.

Please list relevant paragraphs of the Parish or Town Council's Code

5. 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.

Please provide us with details of your complaint here or attach separate sheets

Please explain what steps, if any, you have taken to resolve this complaint directly with the member concerned?

Would you be prepared to engage in mediation with the member concerned, if considered appropriate, to try and resolve the complaint?

Yes

No

If you answered no please state reason why below:

Mediation is a way of resolving disputes with the assistance of an independent mediator who will try and help the parties reach a solution to the dispute that both parties are agreeable to. The independent mediator will avoid taking sides, making judgements or giving guidance. They are simply responsible for developing effective communications between the parties with a view to a common sense settlement being arrived at. Mediation is a voluntary process and will only take place if the parties agree and remains confidential to the parties involved

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.

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:

7. Additional Help

Complaints must be submitted in writing. This includes email submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you need any support in completing this form, please let us know as soon as possible.

8. Contact Details

You can send this form to the Monitoring Officer at Buckinghamshire Council either by email to: monitoringofficer@buckinghamshirecouncil.gov.uk or by post to :-
The Gateway, Gatehouse Road, Aylesbury, Bucks HP19 8FF

Buckinghamshire Council

2. Code of Conduct for Councillors – Adopted on 27 February 2020

Part 1 – General Provisions

Introduction

- 2.1 The Council has adopted this Code of Conduct pursuant to section 27 of the Localism Act 2011 (the Act) to promote and maintain high standards of behaviour by its councillors by its members and co-opted members whenever they conduct the business of the Council including the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.
- 2.2 This Code of Conduct complies with Section 28 of the Act and is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Scope

- 2.3 This Code of Conduct applies to you whenever you are acting in your capacity as a councillor of Buckinghamshire Council, including: –
- a. at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Panels;
 - b. when acting as a representative of the Council;
 - c. in taking any decision as a Cabinet Member or a Ward Councillor;
 - d. in discharging your functions as a Ward Councillor;
 - e. at briefing meetings with officers;
 - f. at site visits; and
 - g. when corresponding with the authority other than in a private capacity.
- 2.4 Where you act as a representative of the Council:-
- a. on another authority, you must when acting for that authority, comply with that other authority's code of conduct; or
 - b. on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- 2.5 Where you are acting as a co-opted member of a Council Committee or Sub-Committee or Board or Panel of the Council.
- 2.6 When using social media or the internet and/or in relation to your online presence if you refer in any way to your role as a councillor or co-opted member or could reasonably be perceived as acting in any of the above capacities when doing so.

General Obligations

- 2.7 You must:

- a. provide leadership to the Council and communities within its area, by personal example;
- b. respect others and not bully any person;
- c. recognise that officers (other than political assistants) are employed by and serve the whole Council;
- d. respect the confidentiality of information which you receive as a councillor or co-opted member and –
 - i. not disclose confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
 - ii. not obstruct third parties' legal rights of access to information;
- e. not conduct yourself in a manner which is likely to bring the Council into disrepute;
- f. use your position as a councillor or co-opted member in the public interest and not for personal advantage;
- g. act in accordance with the Council's reasonable rules on the use of the resources of the Council for private or political purposes;
- h. exercise your own independent judgement, taking decisions for good and substantial reasons –
 - i. attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups;
 - ii. paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Section 151 Officer and the Monitoring Officer; and
 - iii. stating the reasons for your decisions where those reasons are not otherwise apparent;
- i. account for your actions, particularly by supporting the Council's scrutiny function;
- j. ensure that the Council acts within the law.

Part 2 – Interests

Personal Interests

2.8 In addition to the statutory requirements under the Act in relation to Disclosable Pecuniary Interest's (DPI's) and as set out in Paragraph 2.22 and Annex A below and save for the subject interest already having been declared as a DPI and the statutory provisions complied with, the following Paragraphs 2.9 to 2.21 shall also apply.

2.9 You have a personal interest in any business of the Council where either-

- a. it relates to or is likely to affect –
 - i. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
 - ii. Any body –
 - Exercising functions of a public nature
 - Directed to charitable purposes; or

- One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Of which you are a member or in a position of general control or management;

- iii. Any person or body who employs or has appointed you;
 - iv. The interests of any person or body from whom you have received a gift or hospitality with an estimated value of at least £25;
 - b. A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.
- 2.10 In sub-paragraph 2.9 b. above, a relevant person is –
- a. A member of your family or any person with whom you have a close personal association; or
 - b. Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
 - c. Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - d. Any person or body of a type described in sub-paragraph 2.9 a.

Disclosure of Personal Interests

- 2.11 Subject to Paragraphs 2.12 to 2.15, where you have a personal interest in any business of the Council and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 2.12 Where you have a personal interest in any business of the Council which solely relates to a body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council, you need only disclose to the meeting the existence and nature of that interest if that interest is prejudicial (see Paragraphs 2.17 to 2.19).
- 2.13 Where you have a personal interest in any business of the Council of the type mentioned in Paragraph 2.9 a.iv, you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 2.14 Paragraph 2.11 only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 2.15 Subject to Paragraph 2.20, where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that personal interest.
- 2.16 Having declared a personal interest you may continue to speak and vote on the item of business concerned.

Prejudicial Interest Generally

- 2.17 Subject to Paragraph 2.18, where you have a personal interest in any business of the Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 2.18 You do not have a prejudicial interest in any business of the Council where that business—
- a. does not affect your financial position or the financial position of a person or body described in Paragraph 2.9;
 - b. does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in Paragraph 2.9; or
 - c. relates to the functions of the Council in respect of—
 - i. an allowance, payment or indemnity given to councillors;
 - ii. any ceremonial honour given to councillors; and
 - iii. setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial Interests Arising in Relation to Select Committees

- 2.19 You also have a prejudicial interest in any business before a Select Committee of the Council (or of a sub-committee of such a committee) where—
- a. that business relates to a decision made (whether implemented or not) or action taken by the Cabinet or another of the Council's committees, sub-committees, joint committees or joint sub-committees; and
 - b. at the time the decision was made or action was taken, you were a member of the Cabinet, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of Prejudicial Interests on Participation

- 2.20 Subject to Paragraph 2.21, where you have a prejudicial interest in any business of the Council—
- a. you must declare the existence and nature of your interest and withdraw from the room or chamber where a meeting considering the business is being held—
 - i. in a case where Paragraph 2.21 applies, immediately after making representations, answering questions or giving evidence;
 - ii. in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 - b. you must not exercise executive functions in relation to that business; and
 - c. you must not seek improperly to influence a decision about that business.
- 2.21 Where you have a prejudicial interest in any business of the Council you may attend a meeting (including a meeting of the relevant Select Committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations,

answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Disclosable Pecuniary Interest

- 2.22 A Disclosable Pecuniary Interest (DPI) is as defined in ‘The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012’ (The Regulations) and the categories of interest are set out in Annex A.
- 2.23 Councillors or co-opted members who have a Disclosable Pecuniary Interest in any item of business being considered at a meeting of the Council, its Committees, Sub-Committees, Joint Committees, Cabinet and/or Policy Advisory Groups, must leave the room or chamber including the public gallery during the whole of the consideration of that item except where a councillor or co-opted member is permitted to remain as a result of the grant of a dispensation.

Part 3 – Registration of Interests

Registration and Disclosure of Interests

- 2.24 Subject to Paragraph 2.28, you must, within 28 days of this Code of Conduct becoming applicable or your election or appointment to office register in the council’s register of members’ interests, maintained under Section 29 of the Act, details of any DPI which you or your spouse or civil partner (or person with whom you are living as spouse or civil partner) may have, together with your personal interests where they fall within a category mentioned in Paragraph 2.9 a., by providing written notification to the Council’s Monitoring Officer.
- 2.25 Failure to register or disclose any DPI in accordance with section 30(1) or 31(2), (3) or (7) of the Act, or participating in any discussion or vote in contravention of section 31(4) of the Act, or taking any steps in contravention of section 31(8) of the Act, is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a councillor for a period not exceeding 5 years.
- 2.26 Subject to Paragraph 2.28, you must, within 28 days of becoming aware of any new DPI and/or personal interest or change to any DPI and/or personal interest registered under Paragraph 2.24, register details of that new DPI and/or personal interest or change by providing written notification to the Council’s Monitoring Officer.
- 2.27 Subject to Paragraph 2.28, you are required to disclose the existence and nature of any DPI when it arises at a meeting even where already registered in the register or pending registration so the minutes can be duly noted.

Sensitive Interest

- 2.28 Where you consider that you have a sensitive interest (whether or not a DPI), and the Council’s Monitoring Officer agrees, if the interest is entered in the Council’s register, copies of the register that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the councillor or co-opted member has an interest the details of which are withheld under section 32 (2) of the Act) and any public declaration required need only state the fact an interest arises without further detail.

- 2.29 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under Paragraph 2.28 is no longer a sensitive interest, notify the Council's Monitoring Officer asking that the interest be included in the Council's register of members' interests.
- 2.30 In this Code, "sensitive interest" means an interest, the nature of which is such that you and the Council's Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

Dispensations

- 2.31 On a written request made to the Council's Monitoring Officer, the Council may grant a dispensation for you to participate in a discussion and vote on a matter at a meeting even if you have a DPI or a prejudicial interest and that you be relieved of the obligation to otherwise withdraw from the room in which the matter is being considered if the Council considers that the number of councillors or co-opted members otherwise prohibited from taking part in the meeting would be so great a proportion of the body transacting the business that it would impede the transaction of the business; or the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote on the business; or it is in the interests of the inhabitants in the Council's area to allow you to take part or that without the dispensation the Councils Cabinet would be prohibited from participating in the matter or it is otherwise appropriate to grant a dispensation.

Annex A

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a councillor or co-opted member has a DPI are set out in Chapter 7 of the Act.

DPI's are defined in the Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds

<i>Interest</i>	<i>Prescribed description</i>
	<p>£25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

For this purpose –

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

“director” includes a member of the committee of management of an industrial and provident society;

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

ASSESSMENT and RE-ASSESSMENT CRITERIA

Stage 1 Criteria

Before the assessment of a complaint begins, the Monitoring Officer must be satisfied that the complaint meets the following requirements:

- (i) It is a complaint against one or more named Members of the Council;
- (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.

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 three tests, then it can be assessed according to the criteria set out in the Constitution in the Arrangements for dealing with Complaints against Councillor and extracted below.

Referral Criteria

The Monitoring Officer will consider the following criteria to decide whether to accept a complaint and as factors for consideration at all stages of the complaint process: -

- (a) The public benefit in investigating the alleged complaint;
- (b) The availability and cost of resources with regard to the seriousness of the alleged matter;
- (c) whether the information submitted is sufficient to make a decision as to whether to refer for investigation;
- (d) Is the Subject Member complaint about still a serving councillor or co-opted member;
- (e) Is the complaint the same as or similar to a previous complaint;
- (f) The time passed since the alleged conduct occurred;
- (g) the complaint involves conduct too trivial to warrant further action;
- (h) Does the complaint appear to be vexatious, malicious, politically motivated or tit for tat; relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be in the public interest.
- (i) Whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered;
- (j) Steps taken or proposed to remedy the action complained of;
- (k) The complainant's view of the action taken or proposed.

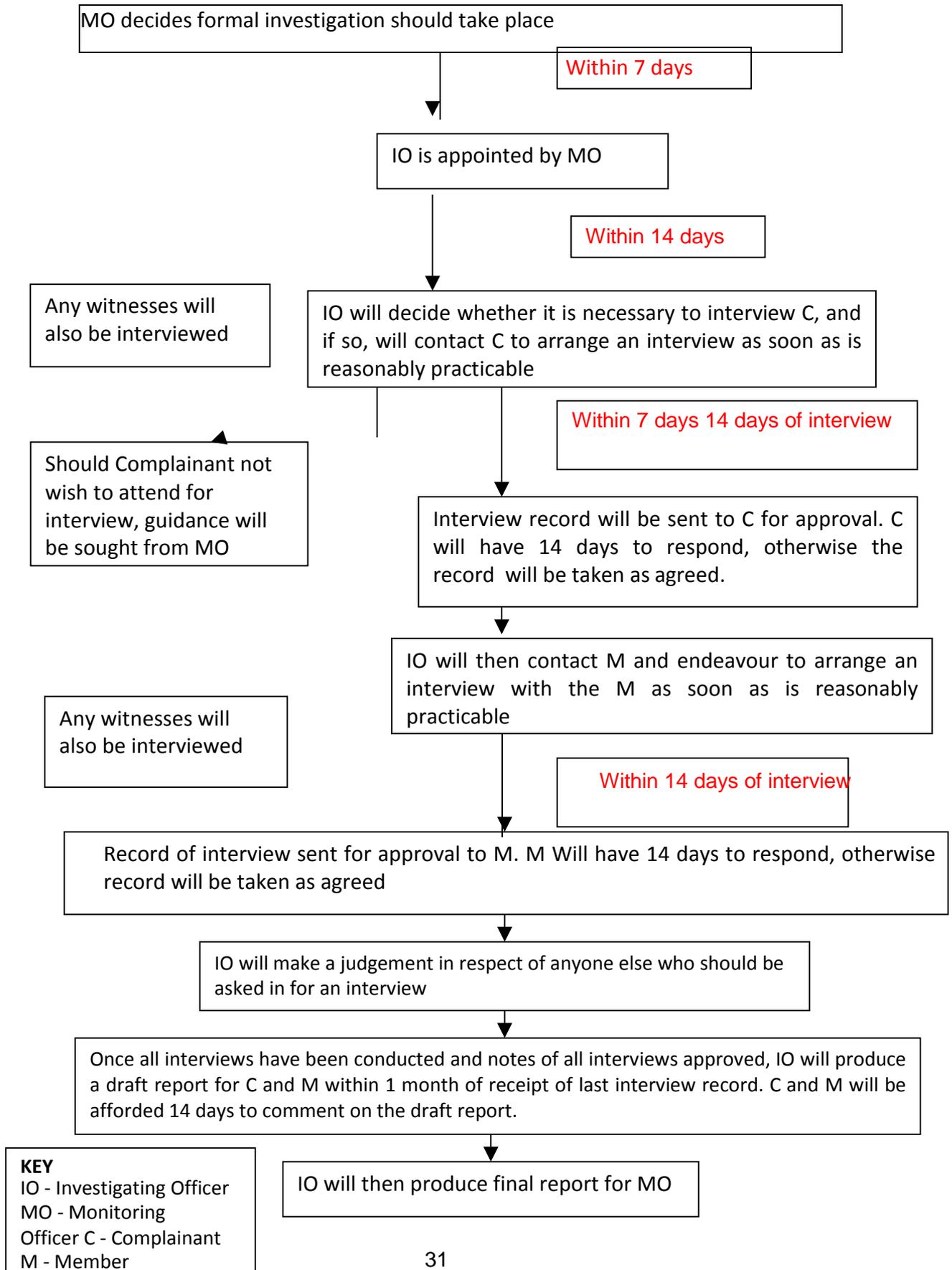
Re-consideration Criteria during Stage 3

The Investigating Officer may, following consultation with the Independent Person, refer an

investigation to the Monitoring Officer for re-consideration 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 when the decision was made to refer the complaint for investigation, and a different decision may have been made had the Monitoring Officer been aware of the new evidence or information;
- The Subject 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 for the investigation to be referred to the Monitoring Officer for re-consideration.

PROCEDURE FOR INVESTIGATIONS



**STANDARDS AND GENERAL PURPOSES COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS SUB-COMMITTEE (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 Sub-Committee to raise/clarify issues.
7. The Sub-Committee will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

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 Sub-Committee to raise/clarify issues.
13. The Sub-Committee will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Close of Hearing

**STANDARDS AND GENERAL PURPOSES COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS SUB-COMMITTEE (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. Subject 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 Sub-Committee to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
8. Subject 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 Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
10. Members of the Sub-Committee to raise/clarify issues with the Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
11. Views of the Independent Person sought.
12. Members of the Sub-Committee to raise/clarify issues with the Independent Person.
13. The Sub-Committee will retire, along with the Monitoring Officer, to determine its findings of fact.
14. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Breach of the Code of Conduct

15. The Sub-Committee will need to consider whether or not, based on the facts it has found, the Subject Member has breached the Code of Conduct.
16. Investigating Officer to address the Sub-Committee on whether the facts found constitute a breach of the Code of Conduct.
17. Subject Member (or his/her representative) to address the Sub-Committee as to why the facts found do not constitute a breach of the Code of Conduct.
18. Views of the Independent Person sought.
19. Members of the Sub-Committee to raise/clarify issues.
20. The Sub-Committee will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

(If the Sub-Committee determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Sub-Committee determine that there has been a breach of the Code of Conduct, the procedure at paragraph 21 will apply).

Action to be taken

21. The Sub-Committee will need to determine what sanction, if any, should be imposed as a result of the Subject Member's breach of the Code of Conduct.
22. Monitoring Officer (or his/her representative) to outline possible sanctions.
23. Investigating officer to make submissions on appropriate sanction, if any.
24. Subject Member (or his/her representative) to make submissions on whether any sanction should be imposed.
25. Views of the Independent Person sought.
26. Members of the Sub-Committee to raise /clarify issues.
27. The Sub-Committee will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Close of Hearing

PROTOCOL BETWEEN BUCKINGHAMSHIRE MONITORING OFFICERS AND THAMES VALLEY POLICE

Purpose

To agree a protocol for the reporting of potential criminal offences arising under Section 34 of the Localism Act 2011 concerning the registration and/or disclosure of Disclosable Pecuniary Interests (DPIs) (as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

1. If the Monitoring Officer receives a complaint regarding a potential DPI offence they will undertake an initial assessment of the allegation having regard to the following criteria: -
 - Has the alleged offence been committed in the last 3 years?
 - Was the Member concerned subject to the Localism Act 2011 at the time of the alleged offence?
 - Is it proportionate to conduct a criminal investigation rather than a code of conduct investigation for the alleged offence?
2. If the Monitoring Officer considers that the answer to each of the above criteria is “yes” the Monitoring Officer will make immediate contact with Thames Valley Police through the nominated single point of contact (see Appendix B for named Police contact).
3. Similarly, if Thames Valley Police receive a complaint from a member of the public they will inform the relevant Monitoring Officer of the receipt of that complaint. (Each authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time – see Appendix B for named Monitoring Officer contacts.)
4. Thames Valley Police will register the complaint and conduct an initial assessment of the complaint but may approach the relevant Monitoring Officer for background information on the complaint.
5. If Thames Valley Police decide not to prosecute the matter they will normally pass the relevant evidence to the relevant Monitoring Officer so that consideration can be given to a Code of Conduct breach being pursued. In the event that the relevant Council decides to pursue a Code of Conduct breach they will inform Thames Valley Police of their decision.
6. Both the relevant Monitoring Officer and Thames Valley Police will endeavour to keep complainants regularly updated as to the progress of complaints.

Signed on behalf of Thames Valley Police:

Signed on behalf of Buckinghamshire Council:

Signed on behalf of Buckinghamshire & Milton Keynes Fire Authority:

Signed on behalf of Royal Berkshire Fire Authority:

Signed on behalf of Milton Keynes Council:

NB: A signed version is retained by Legal Services. Signed and dated by all parties as of 2020

Appendix A – Extracts from Localism Act 2011

30 Disclosure of pecuniary interests on taking office

1. A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.
2. Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.
3. For the purposes of this Chapter, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either:
 - (a) It is an interest of M's; or
 - (b) It is an interest of:
 - i) M's spouse or civil partner;
 - ii) a person with whom M is living as husband and wife; or
 - iii) a person with whom M is living as if they were civil partners, and M is aware that that other person has the interest.
4. Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).

31 Pecuniary interests in matters considered at meetings or by a single member

1. Subsections (2) to (4) apply if a member or co-opted member of a relevant authority:
 - a) Is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority;
 - b) Has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
 - c) Is aware that the condition in paragraph (b) is met.
2. If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).
3. If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.
4. The member or co-opted member may not:
 - a) Participate, or participate further, in any discussion of the matter at the meeting; or
 - b) Participate in any vote, or further vote, taken on the matter at the meeting;

but this is subject to section 33.

5. In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1)(a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.
6. Subsections (7) and (8) apply if:
 - a) A function of a relevant authority may be discharged by a member of the authority acting alone;
 - b) The member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function; and
 - c) The member is aware that the condition in paragraph (b) is met.
7. If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.
8. The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
9. Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).
10. Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.
11. For the purpose of this section, an interest is "subject to a pending notification" if:
 - a) Under this section or section 30, the interest has been notified to a relevant authority's monitoring officer; but
 - b) Has not been entered in the authority's register in consequence of that notification.

32 Sensitive interests

1. Subsections (2) and (3) apply where:
 - a) A member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest); and
 - b) The nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

2. If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).
3. If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

33 Dispensations from section 31(4)

1. A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.
2. A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority:
 - a) Considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - b) Considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - c) Considers that granting the dispensation is in the interests of persons living in the authority's area;
 - d) If it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive; or
 - e) Considers that it is otherwise appropriate to grant a dispensation.
3. A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
4. Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

34 Offences

1. A person commits an offence if, without reasonable excuse, the person:
 - a) Fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7);
 - b) Participates in any discussion or vote in contravention of section 31(4); or
 - c) Takes any steps in contravention of section 31(8).
2. A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person:

- a) Knows that the information is false or misleading; or
 - b) Is reckless as to whether the information is true and not misleading.
3. A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
 4. A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
 5. A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
 6. Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
 7. But no such proceedings may be brought more than three years:
 - a) After the commission of the offence; or
 - b) In the case of a continuous contravention, after the last date on which the offence was committed.
 8. A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
 9. The Local Government Act 1972 is amended as follows.
 10. In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after "2000" insert "or section 34 of the Localism Act 2011".
 11. In section 87(1)(ee) (date of casual vacancies):
 - a) After "2000" insert "or section 34 of the Localism Act 2011 or"; and
 - b) After "decision" insert "or order".
 12. The Greater London Authority Act 1999 is amended as follows.
 13. In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after sub -paragraph (i) insert:

"(ia) under section 34 of the Localism Act 2011".
 14. In section 9(1)(f) (date of casual vacancies):
 - a) Before "or by virtue of" insert "or section 34 of the Localism Act 2011"; and
 - b) After "that Act" insert "of 1998 or that section".

Appendix B – Monitoring Officer/Police Contacts

Thames Valley Police

Detective Sergeant Conor Breen
Economic Crime Unit
Email: Conor.Breen@thamesvalley.pnn.police.uk

Buckinghamshire Council

Sarah Ashmead
Email: sarah.ashmead@buckinghamshire.gov.uk

Buckinghamshire & Milton Keynes Fire Authority

Graham Britten
Email: Gbritten@bucksfire.gov.uk

Royal Berkshire Fire Authority

Graham Britten
Email: Gbritten@bucksfire.gov.uk

Milton Keynes Council

Sharon Bridglalsingh
Email: : Sharon.Bridglalsingh@Milton-keynes.gov.uk



Report to Standards and General Purposes Committee

Date: 8 October 2020

Reference number: TBC

Title: Guidance for Dispensations

Author and/or contact officer: Maria Damigos Principal Solicitor and Deputy Monitoring Officer (Aylesbury Vale team) maria.damigos@buckinghamshire.gov.uk; 07980 968875

Ward(s) affected: none specific

Recommendations: The committee is asked to:-

- 1. Adopt the criteria for granting a dispensation set out in Appendix 1, the guidance to councillors set out in Appendix 2 and Application form in Appendix 3**
- 2. Give delegated authority to the Monitoring Officer in consultation with the Chairman of the Standards and General Purposes Committee to make minor amendments to the criteria, guidance and application form.**

Reason for decision: The adoption of the criteria, guidance and application form will ensure a consistent and transparent approach to the consideration and grant/refusal of requests for dispensations and therefore strengthen the trust and confidence in the Council.

Executive summary

- 1.1** This report seeks approval of the criteria for considering whether to grant a dispensation, guidance for members seeking a dispensation and the application form to request a dispensation.

Content of report

- 1.2** The Localism Act 2011 states that a councillor or co-opted member who has a disclosable pecuniary interest (DPI) cannot participate in a meeting for that item and cannot vote on the item. The Council's Code of Conduct also requires a member to withdraw from the meeting where they have a DPI.

- 1.3 If a member has a prejudicial interest the Council's Code of Conduct also requires withdrawal from the meeting, no participation and no voting on the item by the member.
- 1.4 These statutory requirements and rules are in place to ensure members take decisions in the public interest. There are however situations when it may be appropriate for a councillor or co-opted member to still take part in the debate or take part and vote on the matter.
- 1.5 The Localism Act 2011 sets out 5 instances when a dispensation for a DPI may be granted. These are set out as part of the Criteria (see Appendix 1). One of these instances must be found to apply in order for a dispensation to be granted.
- 1.6 The Council's Constitution gives the Monitoring Officer and this Committee delegated authority to grant dispensations. It is expected that for speed the majority of dispensations will be given by the Monitoring Officer. It is good practice to adopt criteria for considering dispensation requests to ensure consistency and approval of the criteria by the Committee will ensure appropriate oversight and transparency.
- 1.7 As each request for a dispensation should be considered on its own merits the criteria cannot be exhaustive therefore the criteria is deliberately high level to allow all applicable circumstances to be taken into account.
- 1.8 Alongside the criteria, the proposed Guidance for Members is at Appendix 2. The Guidance has the following sections:
- When it might be appropriate to request a dispensation
 - What are the circumstances in which I ask for a dispensation
 - What are the circumstances in which I ask for a dispensation
 - Does the request for a dispensation have to be granted
 - Are there any circumstances when a dispensation will not be granted
 - How do I make a request for a dispensation
 - How much notice is needed to consider my request
- 1.9 These sections give more detail on the criteria and will also be used as further guidance alongside the criteria when considering requests for dispensations.
- 1.10 The proposed application form at Appendix 3 has been drafted to ensure that requests contain all relevant information which the Monitoring Officer will need to consider requests.
- 1.11 It should also be noted that blanket or general dispensations can also be granted to cover all applicable members. This might apply in relation to a particular project or scheme which, due to its nature, is likely to engage a large proportion of members and

therefore engage one or more of the instances required in order to grant a dispensation in the Localism Act. In such a case, the criteria and guidance are still relevant, however councillors would not have to make individual requests. Although the current delegation to the Monitoring Officer would cover granting a blanket or general dispensation, it is expected that this would normally be referred to the Committee for decision or the Chairman would be consulted before making a decision.

Other options considered

- 1.12 It is an option for the Committee to not adopt criteria for granting dispensations, either as proposed or amended. The criteria and guidance can still be used as guides and this will therefore allow greater flexibility but also potentially less consistency.

Legal and financial implications

- 1.13 The requirement for a dispensation in certain circumstances is detailed in the Localism Act 2011 and the basic approval process is set out in the Council's Constitution. The content of this report seeks to provide further detail.
- 1.14 There are no financial implication as dealing with dispensation requests is already required as part of day to day matters already dealt with by the Monitoring Officer.

Corporate implications

- 1.15 The criteria and guidance will promote consistency when considering and granting dispensations for councillors and co-opted members and will help to promote confidence in the decisions of the Council.

Consultation and communication

- 1.16 As the criteria and process is based on statutory requirements there has been no consultation with members.

Next steps and review

If adopted the criteria would be used and the guidance and application form made available to all members.

Background papers

None

Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email democracy@buckinghamshire.gov.uk

BUCKINGHAMSHIRE COUNCIL

Criteria for Granting Dispensations

The provisions of section 33 of the Localism Act 2011 must be considered when deciding whether to grant a dispensation. Under section 33(2) a Council may grant a dispensation to a member or co-opted member of an authority only if, after having had regard to all the relevant circumstances, it considers that one of the following applies: -

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the Council as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the Council would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) the granting of the dispensation is in the interests of persons living in the Council's area;
- (d) without the dispensation each member of the Councils Executive would be otherwise prohibited from participating in the business to be transacted; or
- (e) that it is otherwise appropriate to grant a dispensation.

A decision under (e) above will involve balancing the financial or personal interests held by the member seeking the dispensation, against the potential effect on the outcome of the matter if the member is unable to speak and/or vote.

In assessing the relevant weight to be placed on these factors the monitoring officer should seek to maintain public confidence in the conduct of Council business, as well as ensuring that business can continue to be conducted efficiently and effectively.

Regard shall be had to the following: -

1. **Whether the nature of the Members interest is such that to allow them to participate would damage public confidence in the conduct of the authority's business?**

For example, a dispensation would not normally be granted to a Member who has a disclosable pecuniary interest, or a prejudicial interest arising as a result of the effect of the decision on their personal financial position or that of a relative or close associate.

But a dispensation would be more likely to be granted where a prejudicial interest arose from the financial effect the decision might have on a public body of which they were a member.

2. Whether the interest is common to the Member and a significant proportion of the general public?

If this is the case, a dispensation is more likely to be granted.

3. Is the participation of the Member in the business that the interest relates to justified by the Member's particular role or expertise?

To have the benefit of the Members expertise before making a decision may justify a dispensation being granted – even if limited to allow speaking only.

4. Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by a Select Committee? And is the Member's interest not a financial one?

In such circumstances it is likely that a dispensation will be granted.

5. Whether without the grant of the dispensation the business of the Council would be frustrated/halted.

In such circumstances it is likely that a dispensation will be granted.

V1 April2020

BUCKINGHAMSHIRE COUNCIL

Guidance for Members seeking a Dispensation

1 When might it be appropriate to request a dispensation?

- 1.1 The Localism Act 2011 and the Code of Conduct provides that if an elected or co-opted member has a Disclosable Pecuniary Interest (DPI) or a Prejudicial Interest in an item of Council business, they should not speak or vote on the matter and should leave the meeting whilst it is discussed – subject to the exemption re Prejudicial Interests at Paragraph 2.21 of the Code – see 1.2 below.
- 1.2 Members of Buckinghamshire Council can make representations, answering questions or giving evidence relating to the business at meetings where they would otherwise have a Prejudicial Interest where a member of the public has a similar right. However, the member must leave the meeting before the vote is taken (see Paragraph 2.21 of the Code of Conduct).
- 1.3 However the legislation/Code provides that even where members have a DPI or a Prejudicial interest they may, in certain circumstances, request a dispensation from the Council. This dispensation can be either just to speak, or to speak and to vote, at the meeting.

2. What are the circumstances in which I ask for a dispensation?

- 2.1 Under Section 33(2) of the Act a Council may grant a dispensation to a member or co-opted member only if, after having had regard to all the relevant circumstances, it considers that: -
 - (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the Council as to impede the transaction of the business;
 - (b) without the dispensation the representation of different political groups on the Council would be so upset as to alter the likely outcome of any vote relating to the business;
 - (c) the granting of the dispensation is in the interests of persons living in the Council's Area;
 - (d) without the dispensation each member of the Councils Executive would be otherwise prohibited from participating in the business to be transacted; or
 - (e) that it is otherwise appropriate to grant a dispensation.
- 2.2 Elected or co-opted members of a town or parish council can request a dispensation for their Council by making a written request to the Town/Parish Clerk.

3. Does the request for a dispensation have to be granted?

No. There is a discretion as to whether or not to grant the request. It can also grant a partial dispensation to enable you to speak but not vote or a dispensation to enable you to speak and vote. The Standards and General Purposes Committee has adopted a set of criteria to assist it in deciding the circumstances in which a request for dispensation will be granted.

4. Are there any circumstances when a dispensation will not be granted?

Yes. A dispensation will not be given:

- to allow a member to vote in a Select Committee on any decision made by a body of which they were a member at the time the decision was taken;
- to allow a cabinet member with a DPI/Prejudicial Interest in an item of executive business to take an executive decision about it on their own.

5. How do I make a request for a dispensation?

- 5.1 A request must be made in writing and signed by the member seeking dispensation to the monitoring officer. A dispensation for a town or parish councillor must be made to the town/parish clerk.
- 5.2 An application can be made by completing an online form available on the standards pages of the Council's website.
- 5.3 Members should state the nature of the interest for which a dispensation is sought, the nature of the request (i.e. to enable you to speak only or to speak and vote) and the duration. A dispensation may be granted for a specific period i.e. only for one meeting or for a period up to 4 years.
- 5.4 You should also specify the reasons why you think the dispensation should be granted.

6. How much notice is needed to consider my request?

- 6.1 The Council has delegated authority to grant dispensations to the monitoring officer so they can be dealt expeditiously. The monitoring officer can also refer requests to the Standards and General Purposes Committee for decision.
- 6.2 You should leave as much time as possible between requesting a dispensation and the meeting for which the dispensation is sought, in order to allow time to determine the request.
- 6.3 It is therefore suggested that you submit your request a minimum of **10 working days** prior to the relevant meeting, to ensure that your request can be properly considered.

V2 September 2020

**APPLICATION FOR A DISPENSATION
SECTION 33 - LOCALISM ACT 2011**

To: The Monitoring Officer
Email: monitoringofficer@buckinghamshire.gov.uk

<p>Full name of member seeking dispensation</p> <p><i>NOTE: the application must be submitted by the individual member seeking the dispensation</i></p>	
<p>Type and details of interest for which dispensation is sought</p> <p><i>NOTE: this would be either a Disclosable Pecuniary Interest or a Prejudicial Interest. Members should give details of the interest e.g. ownership of land/ member of outside organisation</i></p>	
<p>Nature and duration of dispensation sought</p> <p><i>NOTE: dispensations may be granted for speaking only or for speaking and voting. They may be granted to enable a member to speak or to vote or to speak and vote at a particular meeting or may be granted for a specified period of time (up to a maximum of 4 years)</i></p>	
<p>Reasons why you think the Dispensation should be granted (see below for the grounds under which a dispensation can be granted).</p> <p><i>NOTE: there is a discretion whether or not to grant the request for a dispensation see Section 33(2)(e) below.</i></p>	

Signed: _____

Dated: _____

NOTE: Under Section 33(2) of the Act a Council may grant a dispensation to a member or co-opted member of an authority only if, after having had regard to all the relevant circumstances, it considers that:-

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the Council as to impede the transaction of the business
- (b) without the dispensation the representation of different political groups on the Council would be so upset as to alter the likely outcome of any vote relating to the business
- (c) the granting of the dispensation is in the interests of persons living in the Council's area
- (d) without the dispensation each member of the Councils Executive would be otherwise prohibited from participating in the business to be transacted – or -
- (e) that it is otherwise appropriate to grant a dispensation.



Report to the Standards Committee

Date: 8 October 2020

Reference number: n/a

Title: Local Government and Social Care Ombudsman Report, 24 July 2020: Home to School Transport Progress Report

Relevant councillor(s): Cllr Anita Cranmer, Cllr David Martin.

Author and/or contact officer: Lucy Pike

Ward(s) affected: None specific

Recommendations:

- 1. The Standards Committee notes the report of the 24 July 2020 from the Local Government & Social Care Ombudsman.**
- 2. To note the progress in implementing the recommendations required by the Local Government and Social Care Ombudsman Report of 24 July 2020.**
- 3. To continue to progress the remaining recommendations that are required by 24 January 2021. The outstanding actions are:**
 - To continue to work with providers via the Dynamic Purchasing System to ensure a broad range of client needs can be accommodated (Action 6)**
 - To review and update the transport provision sections of the Local Offer (Action 8)**
 - To provide a report to the Ombudsman once all the actions are completed (by 24 January 2021) (Action 9)**
- 4. To suggest the Standards Committee accept this update report and agree that it fulfils the requirement for elected members to monitor progress. The Committee note the completed actions and those that will be completed in the coming months.**

Reason for decision: The Council is required to bring to the attention of Members the report of the Local Government and Social Care Ombudsman. The Standards Committee has

been identified as the most appropriate forum to consider the Report and this progress update. The Council is required to provide free home to school transport for children of compulsory school age. The actions being taken are to fulfil this requirement based on the Ombudsman's findings

Executive summary

This paper provides a summary of a recent Local Government and Social Care Ombudsman Report, published on 24 July 2020 that found the Council to be at fault for the way in which it provided home to school transport for 2 children with Special Educational Needs and Disabilities. It concluded that the Council, in this case, did not meet its statutory duty to provide free home to school transport for children of school age who were eligible. The Council has accepted the findings of the ombudsman. This paper details progress against implementing the recommendations identified in the Ombudsman's report.

Content of report

- 1.1 A parent of 2 children with Education, Health and Care Plans made a complaint to the Local Government and Social Care Ombudsman (LGO) in April 2019 about their home to school transport arrangements. The Council was unable to provide suitable transport for the 2 children who were eligible for free transport due to their Special Educational Needs and Disabilities. The parent was receiving 2-way mileage to transport them herself to a school 8 miles away. The parent argued that this did not amount to free transport as her return journey home was not covered by the mileage allowance and it was unreasonable to expect her to wait at the school all day.
- 1.2 The parent submitted an application to the Transport Exceptions Panel to consider 4-way mileage and when the Panel declined the request, the parent progressed to the Independent Appeal Panel. This Panel also declined her request. During this time there was some confusion around whether the Council could provide suitable transport, particularly for the younger child and therefore whether the parent was voluntarily transporting her children. There was also confusion about whether an assessment of needs had been conducted. Following a number of delays the Council confirmed it could not provide suitable transport for the eldest child. At the time of the Ombudsman's report, there remained uncertainty about whether the Council could provide transport for the younger sibling.

Local Government and Social Care Ombudsman (LGO) Decision

- 1.3 The Ombudsman upheld the parent's complaint, identifying that 2-way mileage does not equate to free transport provision. The confusion, poor communication, delays in decision-making and errors in administering process were felt to be of no fault of the parent, and had caused unnecessary hardship, anxiety, time and trouble.

- 1.4 The Council has accepted all the findings in the Ombudsman’s report and have taken steps to complete the recommended actions.

Actions

The Council were required to complete a number of actions within 6 weeks of the report being published (24th July).

Action 1: Reimburse the parent for the additional journeys taken from September 2018 and pay 4-way mileage going forward. **Completed.**

A payment of £1,479.06 was made on 10 July to reimburse the outstanding mileage costs in 2018/19. A further payment of £2559.60 was processed on 23 September to cover the outstanding mileage costs in 2019/20. Due to Covid-19 the children did not attend school after 13 March and therefore no further mileage claims have been processed. The client transport profile has been adjusted to process 4-way mileage for this family for the academic year 2020/21 onwards.

Action 2: Send a letter of apology to the parent with a payment of £50 per week for each week she transported her children to school from Sept 2018 – 13 March 2020 in recognition of the time, trouble and anxiety caused. **Completed.**

A letter of apology was sent on 2 July and a payment of £3050 was made on 10 July.

Action 3: Assess the younger sibling to see if the Council can provide suitable transport, and pay 4-way mileage to the parent if transport cannot be provided. **Completed.**

The assessment was completed on 20 July and it was agreed that the parent would continue to transport her children to school and claim 4-way mileage. The client transport profile has been adjusted to process 4-way mileage claims.

- 1.5 The Ombudsman made a number of recommendations to be actioned within 6 months of the report being published (by 24 January 2021). Progress against these is described below.

Action 4: Review the school transport policy and guidance to ensure that it reflects the Council’s statutory duty to provide free transport and that it states the Council will pay the full costs of transport to parents where it is unable to provide suitable transport. Where the Council can provide suitable transport and the parent voluntarily agrees a mileage arrangement, this will cover two legs of the journey. **Completed.**

This review was completed immediately and the Transport Improvement Board of 23 June 2020 approved the move to 4-way mileage in cases where the Council is unable to provide transport. 4-way mileage had already been put in place from 23 March 2020 due to Covid-19, for those vulnerable pupils (and/or children of key workers) who were still attending education during the lockdown period.

Action 5: Review other parents' and carers' mileage arrangements. Where the Council finds it is unable to provide suitable alternative transport, and as identified in this case, the arrangement is not voluntary, it should pay the mileage costs of four legs of the journey where relevant. **Completed.**

The Council identified all parents/carers who were in receipt of 2-way mileage payments and wrote to them on 19 August 2020 to make an offer of paying 4-way mileage from September 2020 onwards if they wished to continue with the mileage arrangement. For new eligible transport applicants the offer of 4-way mileage is also now in place and the website and communications information has been updated accordingly.

Action 6: Take action to address the Council's apparent lack of suitable transport provision to ensure other children who require home to school transport are not adversely affected.

The Council have continued with an existing review of transport provision to ensure suitable transport can be provided to more children. This includes increasing the number of providers registered on the Dynamic Purchasing System (DPS) so more companies can bid for work. It is anticipated that over time this will enable a range of provision to be available to cater for a broader range of needs.

The Transport Application and Assessment process has been reviewed and updated. This ensures that the most up to date and relevant details are captured to enable better informed decision making on suitable transport provision for each child.

The Home to School Transport Policy and associated Post 16 Transport Policy Statement have been recently viewed and a public consultation on the refreshed content is scheduled for 12 October, closing on 7 December 2020. A key part of this proposed Policy and associated Statement is an improved offer relating to the use of Personal Transport Budgets. These enable parents/carers to exercise greater control, flexibility and choice about how their child travels to school/education. It is anticipated that the offer of Personal Transport Budgets will further support families to secure the most appropriate transport provision for their child.

Action 7: The Council should report its progress to the relevant committee to ensure that elected members can monitor this. This report fulfils this requirement. **Completed.**

Action 8: The Council should update its Local Offer on the Bucks Family Information Service to reflect the transport provision available.

The Council is currently reviewing all its website content on transport provision and has updated the Council transport pages to ensure clarity:

[\(https://www.buckinghamshire.gov.uk/schools-and-learning/schools-index/school-transport/\)](https://www.buckinghamshire.gov.uk/schools-and-learning/schools-index/school-transport/). The Local Offer is also being reviewed to ensure all information is

accessible to families. The planned consultation on our Home to School Transport Policy and associated Statement referred to above also aims to make information clearer and more accessible for families.

Action 9: The Council should provide the Ombudsman with a report confirming the actions it has taken.

On 22 September 2020 the Council updated the Ombudsman with details regarding the completion of Actions 1 to 3, mentioned above, enclosing the relevant evidence of such. Included in that response was clarification as to how the Council has calculated the sums paid to the complainant (addressed in Actions 1 and 2 above). A final report will be provide to the Ombudsman once all the actions are completed, in line with the timescales set out.

Other options considered

1.6 n/a.

Legal and financial implications

1.7 A total of £7088.66 has been paid to the family concerned.

1.8 Paying 4-way mileage remains a cost effective option for the Council where it is unable to source suitable transport for a child with specific needs that make it difficult to transport them safely.

1.9 The matters raised in the complaint presented to the Ombudsman are those which the Council has an obligation to address and resolve. It is clear that the Council is tackling the issues that led to the complaint, which in turn will meet the needs of other similar parents presented with child transport difficulties.

Corporate implications

1.10 n/a

Consultation and communication

1.11 A cabinet member briefing was held with Cllr Anita Cranmer to discuss the Ombudsman's findings and recommendations.

Next steps and review

1.12 The actions described in Section 1.5 will continue to be progressed and an update will be shared with the ombudsman on their conclusion.

1.13 The overarching Home to School Transport Policy and associated Statement will be refreshed following consideration of the feedback from the public consultation (12

October – 7 Dec 2020). The revised Policy and Statement will be presented to Cabinet for approval on 30 March 2021 and will apply to children attending school from September 2021 onwards. The learning from the ombudsman’s findings have informed the draft Policy.

Background papers

LGO report.

Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by lucy.pike@buckinghamshire.gov.uk

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
Buckinghamshire County Council
(reference number: 19 001 498)**

24 July 2020

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs X The complainant

Report summary

School transport

Mrs X complains the Council has not provided free home to school transport despite agreeing her children are eligible. The Council pays her mileage for two journeys but does not pay for her return home and outward journey. The Council did not properly consider her appeal.

Finding

Fault found causing injustice and recommendations made.

Recommendations

The Council has accepted our recommendations to apologise, pay Mrs X's mileage and a financial remedy. The Council should also revise its policy and review other parents' and carers' home to school transport applications where it pays mileage, who may be similarly affected by the fault identified.

The complaint

1. Mrs X complains the Council has failed to provide free transport to the school named in her children's Education, Health and Care Plans. She says it is not free because the Council is paying mileage for only two journeys a day when she makes four journeys. She says it has delayed dealing with her appeals. She complains this has caused her hardship, anxiety and time and trouble.

What we have investigated

2. We have considered the matters raised in Mrs X's complaint from October 2018. We have not considered matters from January 2017 to September 2018 for the reasons explained in paragraphs 48-49.

The law relevant to this complaint

The Ombudsman's role

3. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
5. We may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. (*Local Government Act 1974, section 26D and 34E, as amended*)

School transport legal background and guidance

6. The Education Act 1996 defines local authorities' duties with regard to provision of home to school transport at sections 508B, 508C and Schedule 35B and 35C (as inserted by the Education and Inspections Act 2006).
7. The law says local authorities must make 'suitable travel arrangements', 'as they consider necessary', for 'eligible children' to attend their 'qualifying school'. This transport must be provided free of charge.
8. Schedule 35C School Travel Schemes, paragraph 3 (5) states that:
"Travel arrangements', in relation to an eligible child, include travel arrangements of any description made by any parent of the child only if those arrangements are made by the parent voluntarily."
9. The law and guidance say on condition the relevant parental consent has been obtained by the council (annually or, if a child moves school), as an alternative arrangement to meet its duty relating to make travel arrangements, it may pay the parent a mileage allowance to drive their eligible child to school. This would be in place of the council making arrangements for a taxi to transport the child.
10. 'Home to school travel and transport' issued by the Department for Education in July 2014 provides statutory guidance by the government (the Guidance).

How we considered this complaint

11. We discussed the complaint with the complainant and made enquiries of the Council. We considered the comments and documents the Council provided. We also invited the complainant and the Council to comment on our draft report. The comments received were taken into account before the report was finalised.

What we found

Background

12. Mrs X has two children with a disability, both have significant sensory processing needs and high levels of anxiety. The Council has agreed they are both eligible children, entitled to free home to school transport due to special educational needs and disability.
13. The Council is paying mileage for Mrs X to take her children to school eight miles away and to take them home. But it has refused to pay mileage for Mrs X to return home after dropping her children off at school and for the journey back to pick them up. Mrs X says that this is not “free school transport”.

What happened

14. Mrs X was receiving the two-way mileage payment from the Council to transport her older child. At the beginning of October 2018 Mrs X called the Council and wrote to ask it to pay mileage for four legs of the journey. She said that the Council was paying her mileage because it had no suitable transport that would meet her child’s needs. She had agreed to drive her child to school as there was no alternative. She pointed out that the Council would have to pay considerably more for a taxi and a passenger assistant to transport her child than the mileage payment. She also asked the Council to assess her younger child for free school transport.
15. Mrs X chased the Council for a response after four weeks. The Council replied sending her a form to appeal to the Council’s Transport Exceptions Panel (TEP).
16. Mrs X sent the completed appeal form on 1 November 2018. The children’s school supported Mrs X’s appeal. The Council replied advising it would consider the appeal on 12 November 2018. On 28 November 2018 Mrs X requested an update. The Council advised Mrs X that the panel had requested further information from the children’s school.
17. In January 2019 the Council told Mrs X it was in the process of contacting the children’s school. However, Mrs X told the Council it had contacted the wrong school.
18. Mrs X also chased the Council in January about her request for the Council to assess her younger child for school transport.
19. The Council’s assessment officer met Mrs X in January. She says he assessed her younger child and completed an assessment form which she signed. Mrs X says the officer agreed that neither child could share or use the Council’s transport provision due to their complex needs. The officer also noted that Mrs X had asked for reimbursement of the full cost of her mileage.
20. In its response to our enquiries the Council says the transport assessment officer did not complete an assessment form but advised the transport officer by telephone and email that neither child could access the Council’s transport. The

Council has not provided evidence that it advised Mrs X that this assessment was not sufficient.

21. In mid January the Council's TEP considered Mrs X's request for mileage to cover four legs of the journey. The TEP is the first stage of the Council's appeals procedure. It rejected her request. It says this was pending further evidence and clarification of the child's needs. We have not seen evidence that the Council explained to Mrs X either in writing or verbally what further evidence or clarification it required. We have not seen evidence that the Council sought further clarification or evidence itself.
22. In early February 2019 Mrs X appealed to an independent appeal panel at the second stage of the Council's procedure. She appealed on the grounds that the Council should consider her exceptional circumstances. She said her children were entitled to free school transport but the Council did not pay the full costs. She said she was providing transport as the Council had admitted it did not have suitable transport. Therefore, the Council should pay actual mileage for the four legs of the journey as it was not reasonable to expect her to wait at school all day.
23. On 11 March 2019 the Council wrote to Mrs X regarding transport provision for her younger child. It said the Council had no suitable taxi transport on which her child could travel. Therefore, Mrs X could claim mileage reimbursement for transporting her child. It further explained Mrs X could claim for two trips a day taking her child to school and home from school. In its response to our enquiries the Council has confirmed that this letter was not "strictly aligned" to the case and the Council should have carried out a more thorough investigation regarding the child's level of special needs to make a better informed decision.
24. Mrs X attended the appeal hearing on 15 March 2019. The panel adjourned on the basis that the case the Council had submitted was contradictory as it said the parents "voluntarily" provided transport, while at the same time the Council said in its letter of 11 March 2019, it did not have suitable transport for the children. The panel asked the Council's school transport team to review its decision within 14 days. If Mrs X disagreed with the decision, she could go back to the panel.
25. Mrs X did not receive the outcome within 14 days, so she chased the Council several times, asking why there was a delay. On 23 April 2019 the Council's Special Educational Needs manager told Mrs X that she was seeking advice from the transport team and had been told that the Council could provide transport for the children. Six weeks after the panel adjourned, Mrs X complained to us.
26. In its response to our enquiries the Council says that between the hearing of 15 March 2019 and 24 May 2019 its transport and special educational needs departments discussed assessing the children's current needs and investigated transport solutions. The Council said it needed to get up to date information including professional reports and assessments and transport costings. It said it would arrange an independent transport assessment to consider specifically whether the children could access Council transport.
27. However, we have not seen sufficient evidence of the actions the Council says it took between mid March and late May 2019. The only evidence the Council has provided is an email dated 13 May 2019 showing transport costings of between £50 a day without a passenger assistant, and £125 a day with a passenger assistant. The Council also provided a copy of an email from the children's school which it received in late May. The school repeated its advice that the children could not access the Council's transport. The Council says this was the

information on which it based its decision. The Council did not carry out an independent transport assessment.

28. The Council wrote to Mrs X on 30 May with the outcome of its review. It apologised for the delay and the confusion caused by its previous communications. The Council stated that two transport options were available in an existing shared vehicle and solo vehicle, but due to the level of the children's needs "it would be extremely difficult for them to access either form of transport". Therefore, it maintained that "the only other transport option we can offer you is mileage payment...and which remains allowed at two journeys per day".
29. In early June 2019 Mrs X disagreed with the Council's decision and said she wanted to take her appeal back to the panel which had adjourned in March.
30. The Council replied on 28 June 2019. It said it made its decision because Mrs X had advised it that her children could not access Council transport. It also said it had made appointments to carry out a formal assessment but was unable to do this as Mrs X had informed the Council that neither child could access Council transport. It also stated that "the decision to offer mileage payment was not to confirm there wasn't transport available, but due to agreement being made our transport would not be suitable." The Council accepted its communication had been confusing and said it had reviewed the case again from the beginning to ensure that it clarified the transport requirement and the availability of travel provision. The Council said that its mileage payment was in replacement of free home to school transport and was in accordance with its policy and guidance section 4, Exceptional Circumstances, Appeals and Complaints. It said it had adhered to the relevant legislation. It explained that if it had provided transport for Mrs X's children it would be covering the costs of transport in relation to the child. Therefore, it covered only the costs of the journey to and from the school.
31. Mrs X disagrees with the Council's claim regarding assessment appointments. She says the Council did contact her in late April 2019 to conduct an assessment over the telephone which she was told was satisfactory. She says the Council did not contact her again to make any further appointments.
32. The Council said that Mrs X could take her appeal to the independent appeal panel again if she disagreed with its decision. However, Mrs X says she is not willing to appeal further as the Council and the panel have not in her view properly considered the matter previously. She says it would also cost her time and money to attend another hearing.

The Council's school transport policy

33. The Council's policy is provided in section 2 of the document "School transport policy and guidance" issued in 2017. The policy does not state what free transport covers or whether it covers the four legs of a journey when the parent is providing home to school transport via a mileage payment. The guidance section 7 in response to "general queries" states in answer to the question "Is the service between school and home only?":

Free school transport covers transport to school or home only (e.g. it does not cover transport to work experience, to relatives or child minders). It is home to school transport only in line with the statutory requirements.
34. The "general queries" guidance section 7, in response to the question "at what times is transport available?" states:

Transport is only provided at the beginning and the end of the normal school day...It is not possible to provide transport to and from extra curricular activities or work experience later or earlier in the day.

35. Section 4 of the Council's policy and guidance explains how a parent can appeal the Council's decision regarding transport arrangements and how a parent can appeal on the grounds of exceptional circumstances. There are two stages to the Council's appeals procedure, the Transport Exceptions Panel and the independent appeal panel. At each stage, the panel considers the application of the Council's policy and any exceptional circumstances.
36. In its response to our enquiries the Council said its Transport Exceptions Panel did not consider there were exceptional circumstances in Mrs X's case. The Council has not provided evidence how it considered exceptional circumstances.
37. Mrs X's circumstances have recently changed because one of the children attends a different school. Mr X drives the child to school and the Council pays mileage for two legs of the journey only.

Analysis

38. The Council accepts Mrs X's children are eligible for free school transport. But in our view, the Council does not appear to have properly considered its statutory duty to provide free school transport. We consider there is fault in the Council's decision making. The costs incurred by the parents for the return journey during the day mean they have additional costs to take the children to school which the Council is not paying. Therefore, in our view it does not appear to have considered whether its arrangements are "free transport". Mrs X had no choice but to take her children to school and home from September 2018. She has had to pay the extra costs of returning home during the day and she has had to spend time taking her children to school. Mrs X could have used this time as respite from her caring responsibilities.
39. The Council stated that Mrs X's arrangement to transport the children was voluntary. The independent appeal panel considered the arrangement was not voluntary and adjourned, directing the Council to review its "voluntary" decision. However, the Council has maintained its decision that while it cannot provide transport for the children, the mileage arrangement is voluntary. It stated that "Parent's mileage arrangements are a voluntary arrangement. Currently the Council's policy/procedure is that in all but very exceptional cases (which is not the case in this instance) mileage is refunded for two journeys per day." The Council has referred to its policy, but we do not consider the policy is clear, or that it can rely on this.
40. Mrs X has clearly stated that she had only agreed to provide transport herself because the Council was unable to provide its own transport. She felt she had no option but to drive the children to school. The Council has estimated the costs if it were able to provide transport, but it has not at any point shown that it has identified or offered any alternative suitable transport provision.
41. It is not clear how the Council has determined the arrangement is voluntary in view of its failure to identify suitable provision. We consider there is fault here. The children are eligible for free transport, but the Council has not provided this. It has instead relied on Mrs X, who had to spend considerable time driving the children to school and has had to pay half the petrol costs.
42. The Council has stated that its policy explains that it only pays a contribution to parents' mileage costs, and therefore has no obligation to pay the full costs. We

do not consider that the Council's policy is clear, and in our view, it does not apply where the arrangement is involuntary as in this case. We consider this is fault and that other parents or carers may be affected. We have made recommendations to remedy the potential injustice to others.

43. If Mrs X were unable to continue to take her children to school the Council would have a duty to provide suitable transport and so it concerns us that the Council states it does not have the necessary provision. This may affect other eligible children. We asked the Council to comment on this and say what action it has taken or is taking to address this potential lack of provision. The Council replied that it is working on expanding its transport provision. Therefore, it does not appear that the Council currently has the capability to provide transport in cases where this is required. We are concerned that the Council does not have suitable provision when this is a statutory duty.
44. We consider there was unacceptable delay in dealing with this matter as Mrs X requested reimbursement for her mileage at the start of October 2018 but did not receive a decision until 30 May 2019. We consider the Council's communication with Mrs X was poor. The Council says it did not carry out an assessment and appears to have accepted Mrs X's view about whether Council provision was suitable. We do not consider the apparent lack of an assessment document was due to a fault by the complainant. It was for the Council to explain what other information or assessment it required, if this was necessary. The Council has not provided evidence that it took appropriate action to progress the matter between March and 30 May 2019. This delay by the Council was significant and it appears it was avoidable. This was fault.

Recommendations

45. The Council has accepted our recommendations. Within six weeks of the date of this report it will:
- reimburse the mileage for Mrs X's additional journeys (covering all four legs) from home to school from September 2018 and pay four legs of the journey going forward;
 - apologise to Mrs X and pay her £50 for each week she took the children to school from September 2018, in recognition of her time and trouble and the anxiety caused. The Council should pay this until it can provide suitable alternative transport or, if at that point, Mrs X confirms she is happy to cover the additional cost of two legs; and
 - assess Mr and Mrs X's second child to consider whether it can provide suitable alternative transport. If it cannot do so, the Council should pay all four legs of Mr X's journeys.

Within six months of the date of this report it will:

- review its school transport policy and guidance to ensure that it reflects its statutory duty to provide free transport and that it states the Council will pay the full costs of transport to parents where it is unable to provide suitable transport. Where the Council can provide suitable transport and the parent voluntarily agrees a mileage arrangement, this will cover two legs of the journey;
- review other parents' and carers' mileage arrangements. Where the Council finds it is unable to provide suitable alternative transport, and as identified in this case, the arrangement is not voluntary, it should pay the mileage costs of

four legs of the journey where relevant. The Council should provide us with a report confirming its findings and the action taken; and

- take action to address its apparent lack of suitable transport provision to ensure other children who require home to school transport are not adversely affected. The Council should report its progress to the relevant committee to ensure that elected members can monitor this. The Council should update its Local Offer to reflect the transport provision available. The Council should provide us with a report confirming the actions it has taken.
46. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Decision

47. We have completed our investigation as we have found fault causing injustice. The action we have recommended is a suitable remedy.

Parts of the complaint that we did not investigate

48. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
49. Mrs X says that she first raised the matter to the Council in early 2017. We have not seen evidence of this. Mrs X raised her complaint with us in April 2019. Therefore, her complaint is late. We do not consider there are good reasons to investigate matters before September 2018.



Report to Standards and General Purposes Committee

Date: 8 October 2020

Reference number: TBC

Title: Review of Code of Conduct Complaints

Author and/or contact officer: Maria Damigos Principal Solicitor and Deputy Monitoring Officer (Aylesbury Vale team) maria.damigos@buckinghamshire.gov.uk; 07980 968875

Ward(s) affected: none specific

Recommendations: The committee is asked to:-

1. Review and note the contents of this report relating to the dealing with complaints against councillors since 1 April 2020.

Reason for decision: To allow the committee to maintain an overview of the number and nature of the complaints received about members under the Code of Conduct from April 2020 along with details of other complaints which are in process or have been concluded.

Executive summary

- 1.1 This report sets out details of the number of complaints received against councillors, the nature or themes of complaints received and the outcome of those complaints. Except where a breach has been found to have taken place and a formal Decision Notice has been published no personal details will be provided in this report.

Content of report

- 1.2 Under the Localism Act 2011 ("the Act"), the Council has a duty to promote and maintain high standards of conduct amongst its Members and co-opted Members. As part of this duty the Council is required to have a Code of Conduct for Members which sets out the standard of behaviour of Members when acting as a Member or on behalf of the Council.
- 1.3 The Council's Code of Conduct is at Section 2 Part H in the Constitution. Whilst Town and Parish Council can adopt the Buckinghamshire Council Code they do not have to.

The Arrangements for Dealing with complaints under the Code of Conduct is at Section 3 Part H of the Constitution and this will apply to complaints against all councillors, including Town or Parish Councillors. Further guidance on dealing with complaints was approved by the Committee on 2 July 2020.

- 1.4 In summary the arrangements for handling complaints requires an initial assessment to check whether the complaint can be considered (eg the complaint relates to the conduct or behaviour of a councillor when acting in an official capacity) and whether it should be accepted (ie the nature of the complaint warrants it being considered further). Stage 1 of the process involves contacting the Subject Member for their response to the complaint and suggestions for resolution. If this is not accepted the complaint moves to Stage 2 when the complaint is formally considered by the Monitoring Officer or a Deputy Monitoring Officer. The Chairman/Vice-Chairman of the Committee will be informed of the complaint and may also consider the complaint together with an Independent Person. Stage 3 is implemented if the matter goes to formal investigation and may include consideration by Sub-Committee or full Committee.
- 1.5 Appendix 1 details the cumulative total of complaints received since 1 April. This shows that the Monitoring Officer has received 19 formal complaints with a further 2 carried over from legacy councils. 13 of these related to Buckinghamshire or legacy council members with 8 against Town or Parish councillors. Consultation with an independent person is due to take place to consider whether to progress in a few cases. None of the closed complaints progressed to a formal Stage 1 consideration, having either been rejected, considered not in the public interest to progress or informally resolved. Accordingly there have been no finding of a breach having occurred.
- 1.6 Although some of the complaints are duplicated, the main themes of the complaints related to disrespect followed up closely by disrepute and bullying. There were 3 complaints about personal interests, although 2 of these related to the same matter.

Other options considered

- 1.7 Report for noting only.

Legal and financial implications

- 1.8 None except as set out in the body of the report.

Corporate implications

- 1.9 The effectiveness of the Councils standards arrangements is necessary for good governance and contributes to the effectiveness of the Members, the Council and helps ensure proper and legal decision-making.

Consultation and communication

- 1.10 Report for noting only.

Next steps and review

Review in 6 months.

Background papers

None

Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email democracy@buckinghamshire.gov.uk

Appendix 1

Cumulative Summary - Councillor Code of Conduct Complaints

Month	Cases Opened in Month	Cases Closed in Month	Number of Active Cases at end of Month
March 20	b/f from legacy councils		2
April 20	4	2	4
May 20	3	2	5
June 20	6	1	10
July 20	3	4	9
August 20	1	2	8
September 20	2		10

Figures include complaints not accepted at initial assessment stage



Report to Standards and General Purposes Committee

Date: 8 October 2020

Title: Local Government Boundary Commission for England – Update on Electoral Review of Buckinghamshire Council

Author and/or contact officer: Nick Graham, Service Director – Legal and Democratic

Ward(s) affected: All

Recommendations:

The Committee is asked: -

- 1. To note the update, including the work undertaken by the Member Working Group since 2 July 2020.**
- 2. To agree to an additional meeting of the Standards and General Purposes Committee being held on 25 February 2021, to approve the Council's final submission to the Local Government Boundary Commission for England (LGBCE) on Council size numbers.**

Reason for decision: To ensure that work is progressing satisfactorily to prepare the necessary statistical and other information, and other arrangements are in place, for the Council's final submission to be made to the LGBCE by the start of March 2021.

Background

- 1.1.** The Committee received a report on 2 July, 2020, explaining that with the establishment of the new unitary Council the Local Government Boundary Commission for England (LGBCE) had indicated that it intended to conduct an electoral review of Buckinghamshire Council.
- 1.2.** The LGBCE have indicated that any changes would not come into effect until the 2025 Buckinghamshire Council elections but the precise timeframe for the stages of the Review still needed to be confirmed.

- 1.3. The Committee agreed that a Member Working Group (MWG) of 9 Members (to allow for cross party representation) would be established to oversee the work of officers in the preparation of the statistical and other information required by the LGBCE. The membership has now been confirmed as Councillors Waters (Chairman), Mordue, Adoh, Collingwood, Etholen, M Knight, Lambert, L Smith and Stannard.
- 1.4. On 4 August, 2020, the MWG met remotely with the LGBCE and received a presentation on their approach to the Review, the process that would be followed and the timetable. This was similar to the presentation given by the LGBCE to all Members on 23 September. The initial review timetable proposed by the LGBCE was:
- October 2020 – Deadline for submission of draft Council size number proposals
 - November 2020 – Deadline for submission of final Council size number proposals.
 - December 2020 – LGBCE agree Council size (i.e. number of Councillors) to be elected to the Buckinghamshire Council in 2025.
 - 11 May 2021 – Commence second part of review looking at Warding arrangements for the Buckinghamshire Council.
 - Early-Mid 2022 – Review concluded, LGBCE publish final recommendations on the Warding arrangements (
- 1.5. The MWG expressed concerns that the Council had being given very little time to prepare a proper submission (draft submission by October, final submission by November) on the Council size numbers. There were also concerns that the second part of the review was timetabled to commence immediately after the May 2021 elections. This would be before Members, many of who were likely to be brand new Councillors, had the opportunity to settle into their new roles. As such, the MWG authorised the Service Director: Legal and Democratic Services, to write formally to the LGBCE to enquire whether there was scope for revising the Electoral Review timeline.
- 1.6. Subsequently, a response was received from the LGBCE informing the Council that the LGBCE had considered the MWG's request and were content to defer the submission date for the Council size numbers from November 2020 until the beginning of March 2021. A further response was received that the LGBCE would be more than happy to accommodate a little extra time (until June 2021) to allow things to settle after the elections before commencing on the part of the Electoral Review looking at the Warding arrangements.
- 1.7. The LGBCE's response also stated that it was their intention that the review as a whole would still be completed fairly early in the term of the new Council, allowing plenty of time for both preparing for subsequent elections based on the new wording scheme and any consequential community governance arrangements that the Council might wish to introduce in time for that election.

- 1.8 The Standards and General Purposes Committee will need to approve the final Council size numbers submission to the LGBCE in due course and, as such, it is recommended that an additional meeting is held on 25 February 2021 for this purpose.
- 1.9 The MWG has met on 3 occasions and has received information from Officers who have started to populate the template that has been provided by the LGBCE and that they require the Council's submission to be made on. The template and information is still at a draft stage and it is hoped that a fuller version will be able to be reported to the Standards and General Purposes Committee next meeting in December.
- 1.10 It is important that the submission is evidence based as much as possible and to this end the information provided by the Officers has focussed on statistical / factual information. However, part of the template (Section 9) relates to the community involvement and leadership role of Councillors, where the LGBCE requires information on how Members undertake their role, their involvement in Council work and the community, and the time commitment. This includes the range of meetings attended and how Members deal with their casework. A survey (Appendix 1) was sent to all Members on 24 September following the all Member briefing with the LGBCE. Members have been asked to complete the survey by 12 October. The survey results will be used to inform the Council's submission so it is important that as many Councillors as possible respond to it.
- 1.11 Separately, the MWG has also been engaging with the Cabinet to help include information with the submission on what the future expectations will be for the Cabinet and the Cabinet Member role, and what other support the role might require.
- 1.12 As mentioned at paragraph 1.10, the LGBCE held a briefing session (MS Teams meeting) on Wednesday 23 September for all Members which provided:
- an overview of the purpose of electoral reviews and the review process.
 - an overview of the involvement: how Members could get involved, how they could encourage others to get involved, and how they could influence the outcome.
 - an opportunity to ask questions.
- 1.13 The briefing session was attended by 90 Councillors. It was also recorded so that those Members who were unable to attend could also view it. On 24 September, all Members were sent a link to the recording of the meeting, a copy of the LGBCE's presentation, and a link to access the survey.

Other Options considered

- 2.1 None, the Standards & General Purpose Committee has agreed that the Members Working Group will be involved in the development of the proposals designed to facilitate the Review.

Legal and financial implications

- 3.1 The proposed electoral review is a statutory process instigated by the LGBCE and driven by their timetable and requirements. The Council has no choice but to support and provide a significant amount of information for the review to ensure that the outcomes are in the best interests of the people of Buckinghamshire.
- 3.2 The governance arrangements the Council puts in place to enable it to respond to the review and discharge its responsibilities is a matter for the Council.
- 3.3 There are some resource implications relating to officer time to prepare the necessary statistical and other information and develop and implement a communication and engagement strategy. An Officer Working Group has been established, led by the Service Director (Legal and Democratic Services) which is undertaking the work to provide the necessary information to the MWG.

Corporate implications

- 4.1 The Electoral review will impact on all Councillors and all communities within Buckinghamshire. To maximise participation for Councillors, residents and all relevant stakeholder group it will be important to ensure a thorough consultation exercise is undertaken.

Next steps and review

- 5.1 A further update will be provided to the next Committee meeting in December 2020.

Appendix 1: Member Survey questions

1. On average, approximately how many times are you contacted (via email, phone call, by mail) on a **weekly** basis?
2. On average, how many hours do you spend on casework on a **weekly** basis?
3. On average, how many hours of representation and support to your community do you undertake on a **weekly** basis?
4. How many Town / Parish Councils do you represent and, on average, how many hours do you spend in attendance at their meetings on a **weekly** basis?
5. How much time do you spend preparing for and attending meetings of outside bodies on a **monthly** basis?
6. How much time do you spend preparing for and attending Community Boards and their Working Groups on a **monthly** basis?
7. How much time do you spend preparing for and attending Council/Committee meetings (other than the Community Boards) on a **monthly** basis?
8. FREE TEXT - Is there anything about the Councillor role (e.g. community representation, time commitment) that you would like highlighted to the LGBCE?
9. To verify the above information, a further question
To what extent do you feel that an average of approximately 16 hours per week carrying out your community leadership role, responding to casework, attending meetings (including Council/Committee, community, Town & Parish) and supporting residents is an accurate reflection of your experience?
 - Too much
 - About right
 - Not enough

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