

Governance Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Tuesday, 13 October 2015 at 18:00**

The **Governance Committee** considers and approves the Council's Statement of Accounts and reviews the Council's annual audit letter. The Committee also deals with the Council's governance, risk management and audit arrangements. To make recommendations to the Council on functions such as Elections and bye laws, and determine Community Governance Reviews.

Information for Members of the Public

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Governance Committee - Terms of Reference (but not limited to)

Accounts and Audit

To consider and approve the Council's Statement of Accounts and the Council's financial accounts, and review the Council's external auditor's annual audit letter.

Governance

To consider the findings of the annual review of governance including the effectiveness of the system of internal audit and approve the signing of the Annual Governance Statement.

To have an overview of the Council's control arrangements including risk management and in particular with regard to the annual audit plan and work programme, and to approve the policies contained in the Council's Ethical Governance Framework.

Other regulatory matters

To make recommendations to Council on functions such as elections, the name and status of areas and individuals, and byelaws.

To determine and approve Community Governance Reviews.

Standards in relation to Member Conduct

To consider reports from the Monitoring Officer on the effectiveness of the Members' Code of Conduct, and to advise the Council on the adoption or revision of the Code.

To receive referrals from the Monitoring Officer into allegations of misconduct and to create a Hearings Sub-Committee to hear and determine complaints about Members and Co-opted Members referred to it by the Monitoring Officer.

To conduct hearings on behalf of the Parish and Town Councils and to make recommendation to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor.

To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.

To grant dispensations, and to hear and determine appeals against refusal to grant dispensations by the Monitoring Officer.

To make recommendations to Council regarding the appointment of Independent Persons.

COLCHESTER BOROUGH COUNCIL
Governance Committee
Tuesday, 13 October 2015 at 18:00

Member:

Councillor Cyril Liddy
Councillor Jo Hayes
Councillor Christopher Arnold
Councillor John Elliot
Councillor Julia Havis
Councillor Peter Higgins
Councillor Ben Locker
Councillor Fiona Maclean

Chairman
Deputy Chairman

Substitutes:

All members of the Council who are not Cabinet members or members of this Panel.

AGENDA - Part A
(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
- action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;
 - location of toilets;
 - introduction of members of the meeting.

2 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

4 **Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and 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 the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5 **Have Your Say!**

a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter relating to the terms of reference of the Committee/Panel not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter relating to the terms of reference of the Committee/Panel not on this agenda.

6 **Minutes of 8 September 2015**

To confirm as a correct record the minutes of the meeting held on 8

9 - 14

September 2015.

7	Work Programme 2015-16	15 - 16
	See report by the Assistant Chief Executive	
8	Annual Statement of Accounts 2014-15	17 - 18
	See report by the Assistant Chief Executive	
9	Complaint - Councillor Locker	19 - 70
	See report by the Monitoring Officer	
	See also:	
	Two further documents at the request of Councillor Locker -	
	<ul style="list-style-type: none">• Daily Gazette article• First Tier Tribunal Appeal Decision	
	Letter submitted by Jordan Newell	
10	Local Government Ombudsman Annual Review	71 - 76
	See report by the Monitoring Officer	
11	Review of the Council's Ethical Governance Policies	77 - 134
	See report by the Monitoring Officer	
12	Review of the Members' Code of Conduct and the Council's "Arrangements"	135 - 178
	See report by the Monitoring Officer	
13	Gifts and Hospitality // Review of Guidance for Councillors and Policy for Officers	179 - 190
	See report by the Monitoring Officer	
14	Review of Local Code of Corporate Governance	191 - 218
	See report by the Monitoring Officer	
15	Exclusion of the Public (not Scrutiny or Executive)	
	In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).	

Part B

(not open to the public including the press)

Governance Committee

Tuesday, 08 September 2015

Attendees: Councillor Christopher Arnold (Member), Councillor Cyril Liddy (Chairman), Councillor John Elliott (Member), Councillor Ben Locker (Member), Councillor Fiona Maclean (Member), Councillor Jo Hayes (Deputy Chairman), Councillor Professor Peter Higgins (Member)

Substitutes: Councillor Justin Knight (for Councillor Julia Havis)

Also in attendance: Councillor T.Young

10 Minutes

The minutes of the meeting held on 30 June 2015 were confirmed as a correct record.

11 Work Programme

Councillor Liddy introduced the Work Programme for 2015/16.

RESOLVED that the Work Programme for 2015/16 be approved.

12 Annual Statement of Accounts 2014/15

Debbie Hanson, Audit Director, Ernst and Young, introduced the Annual Statement of Accounts report for 2014/15. The report requests the Committee accept the Auditors' report, note the comments in the covering report, approve the letter of representation and the audited statement of accounts.

Debbie Hanson highlighted the Audit Results Report, which the auditors are required to present to Colchester Borough Council. The report highlights that the audit has gone very well, as it had in previous years, however Ernst and Young have further work to complete before the accounts can be signed. It is expected that the work will be completed and reviewed in the next week.

Debbie Hanson stated that the audit addressed two key risk areas. The first being the financial risk to the Council for the business rates appeals. Colchester Borough Council has provided assurance to the auditors in the level of business rates appeals provision. The second risk is the possibility of management override, for which the auditors found no material misstatements of managerial bias. In addition Debbie Hanson stated that there are no issues with the joint operations that Colchester Borough Council has with Colchester Borough Homes or the Community Stadium.

Francesca Palmer, Assistant Manager, Ernst and Young, stated that there are some areas that still require further work to complete the audit. This includes the final testing of payables and recoverables, testing of grant income, the signing of the letter of representation and the completion of the Directors review. Francesca Palmer added that there is also an ongoing business rates appeal issue; however they do not expect to see any significant changes when the audits are completed.

Debbie Hanson stated that as part of the Value for Money conclusion there are two main risks for Colchester Borough Council. The first is the financial resilience in the authority, given the budget gap and the percentage of New Homes Bonus used in the base budget. Whilst there is a risk from the Government in changing the arrangements of New Homes Bonus, as a significant number of Local Authorities use it, a significant change is unlikely. Debbie Hanson stated that whilst this is a risk, the auditors were satisfied with Colchester Borough Council officers being aware of this situation, and that an unqualified conclusion would be given.

Debbie Hanson also highlighted the requirement for direct testing of Colchester Borough Homes accounts, which would see a slight increase in the audit fees for 2014/15.

The following issues were raised by Councillors;

- Councillor Liddy – Has there been a finalised figure for the additional audit of Colchester Borough Homes?
- Councillor Arnold – Questioned the timing of the meeting given that the Statement of Accounts are not yet completed.

Debbie Hanson and Steve Heath provided the following responses:

- A figure for the cost of the additional works has not yet been confirmed, but the aim will be to minimise the cost as much as possible.
- Debbie Hanson highlighted the difficulty in arranging dates, as all Council's and auditors are working towards changes to the deadline for the approval of the Statement of Accounts. Whilst this deadline will be officially implemented in 2017-18, Ernst and Young and CBC are attempting to trial the new deadline in advance to prevent future difficulties. Conversations will continue between the Finance department, the Auditor and Committee services to ensure the meetings are scheduled at the best time to approve the accounts and meet the new deadline.

RESOLVED that:

- a) The Auditors report be approved
- b) The covering report be noted
- c) The letter of representation be approved
- d) Pending no significant changes, the Governance Committee delegate authority to

the Chairman to approve the audited statement of accounts.

13 Colchester Borough Homes Annual Report and Governance Statement

Councillor Nigel Chapman, Chair of the Audit and Finance Committee at Colchester Borough Homes introduced the Colchester Borough Homes Annual Report and Governance Statement. The report asks the Committee to consider the Governance Assurance Statement for Colchester Borough Homes and to accept the assurances provided by Colchester Borough Homes regarding its Governance arrangements through 2014/15.

Councillor Chapman introduced Michael Hadjimichael to the Governance Committee as the new Director of Resources at Colchester Borough Homes. Councillor Chapman highlighted that Colchester Borough Homes use the audit firm Mazars, which is the same as Colchester Borough Council. The Annual Governance Statement from Colchester Borough Homes demonstrates sound business management, with an action plan to update the standing financial instructions and to carry out a disaster recovery exercise.

Michael Hadjimichael stated that there are effective internal controls at Colchester Borough Council, with no limited assurances on any of the audits completed so far.

RESOLVED that;

- a) The Governance Assurance statement of Colchester Borough Homes be noted.
- b) The Governance Committee accepts the assurances provided by Colchester Borough Homes regarding its governance arrangements throughout 2014/15.

14 Polling Districts and Polling Places Review

Andrew Weavers, Monitoring Officer, introduced the Polling Districts and Polling Places Review. The report requests the Governance Committee to note the requirement to carry out a review of all polling districts and polling places arrangements to reflect the new borough ward boundaries following the electoral review. In addition the report asks the Governance Committee to agree the proposals for a consultation on Polling districts and polling places to be launched.

Andrew Weavers stated that as a consequence of the electoral review, there has to be a review of the polling districts. Currently the Boundary review proposals are sitting in Parliament before being implemented, and have thirty days remaining.

Andrew Weavers stated that this report was not a review of the wards themselves, but whether the polling districts and polling places are fit for purpose. As part of the review

there are a number of wards where minor changes are taking place, these can be seen in the Draft Schedule of Polling District and Polling Places which lists the streets moving from one ward to another.

The timetable for the consultation would be for its commencement on 14 September, with the closing deadline on 20 October. This would then come back to the Governance Committee on 24 November, with a report then going to Full Council.

Andrew Weavers also stated that the new electoral register would then be published on 1 February 2016.

The following issues were raised by Councillors:

- Councillor Higgins – Noted that there was no number of electors stated in Polling District AZ in New Town and Christchurch ward, and questioned why there was only one polling location in Stanway Ward.
- Councillor Hayes – Questioned the relationship between the Polling Districts and Parish boundaries.
- Councillor Arnold – Asked whether there would be the inclusion of local media to cover the launch of the consultation?

The following responses were provided by Andrew Weavers;

- Andrew Weavers will amend the number of electors in AZ polling district in New Town and Christchurch Ward. In Stanway, whilst there is only one polling location, there are two polling stations inside the building.
- In the rural areas the Polling Districts are all based on Parish Council boundaries which is a legal requirement. The staffing costs for the polling stations are prescribed by law.
- Andrew Weavers stated that a press release would be going out to local media, with a live portal being placed on the website, but that he would contact the communications team to see what further coverage could be achieved.

RESOLVED that:

- a) The requirement to carry out a review of all polling districts and polling places arrangements to reflect the new Borough ward boundaries following the electoral review be noted.
- b) the proposals contained in paragraph 5.1-5.3 of the report be approved.

15 2014/15 Year End Review of Risk Management

Hayley McGrath, Corporate Governance Manager, introduced the Year End Review of Risk Management. The report requests the committee to note the work undertaken, consider and comment on the current strategic risk register, the proposed risk management strategy for 2015/16 and endorse the submission to Cabinet.

Hayley McGrath stated that the economy and cuts in public spending continue to have had a significant impact on the key risks during the year. Work undertaken during the year includes the recent Corporate Facilities Management Fundamental Service Review (CFM FSR) which has brought together the risk and governance team, leading to tightened controls for Governance. A main focus during the year has been to manage the vehicle incident risk and the health and safety risk for frontline staff.

In addition work has been undertaken to embed risk management within procurement processes, and that the risk process support the development of a commercial approach.

With regard to the Risk Management strategy for 2015/16 there are no fundamental changes, and the strategy has been approved by external auditors.

Hayley McGrath stated that the Strategic Risk Register has had a fundamental review. Specific risk 1E, relating to embedding the actions of the UCC FSR has been removed, as it has now been completed. Also the People section of the register had been reviewed to reflect the move to a more commercial environment. This included removing risks 3b (resources required for training and development) and 3c (visible and effective leadership). In addition risk 6C, which is the 'inability to deliver the budget strategy as planned, arising from changes to Government funding/decisions and general impact of economic climate' has increased its score after discussions with senior management.

The following issues were identified by Councillor:

- Councillor Locker – What is the methodology behind the scores attributed to the risks? Should there be a risk associated with a change in administration?
- Councillor Hayes – Asked for further information on the development of commercial approach as part of procurement.
- Councillor Arnold – Questioned the high score attributed to risk 6C.

Hayley McGrath provided the following responses:

- The scores are attributed to the risks after discussions have taken place with senior management. These discussions revolve around whether the risk is appropriate, what the impact would be on services and what is the probability of the risk occurring. Hayley McGrath stated that in her role she has access to the risk, insurance and governance issues for all services across the organisation which can be the basis of identifying risks after managerial discussions have taken place. Ann Hedges stated that risk 4A provides a broad risk to assess a range of changes to the Council.
- In response to Councillor Hayes, Hayley McGrath stated that embedding the risk management into the procurement process helps to identify the risks in potential tenders, and the liabilities, without restricting commercial possibilities.
- Hayley McGrath stated that the high score was a reflection on the external auditors' comments, with the expectation that resources will reduce over the next few years. Ann Hedges added it is anticipated that the Government spending statement in November is likely to affect grant and other funding streams, this

might include New Homes Bonus. It is also recognised that there are risks around the appeals for NNDR. In addition funding changes for other public sector partners can also impact our priorities for service delivery and therefore budgets.

RESOLVED that:

- a) The Governance Committee notes the risk management work undertaken during 2014/15
- b) The Governance Committee notes the current strategic risk register.
- c) The Governance Committee notes the proposed risk management strategy for 2015/16
- d) That Governance Committee endorse the submission of this report to Cabinet.

13 October 2015

Report of	Assistant Chief Executive	Author	Jonathan Baker
Title	Work Programme 2015-16		☎ 282207
Wards affected	Not applicable		

This report sets out the current Work Programme 2015-2016 for the Governance Committee.

1. Decisions Required

- 1.1 The Committee is asked to note the contents Committee's Work Programme for 2015-16.

2. Alternative options

- 2.1 This function forms part of the Committee's Terms of Reference and, as such, no alternative options are presented.

3. Introduction

- 3.1 The Governance Committee deals with the approval of the Council's Statement of Accounts, audit, other miscellaneous regulatory matters and standards.
- 3.2 The Committee's work programme will evolve as the Municipal Year progresses and items of business are commenced and concluded. At each meeting the opportunity is taken for the work programme to be reviewed and, if necessary, amended according to current circumstances.

4. Strategic Plan References

- 4.1 Governance is integral to the delivery of the Strategic Plan's vision themes of a vibrant, prosperous, thriving and welcoming Borough.
- 4.2 The Council recognises that effective local government relies on establishing and maintaining the public's confidence, and that setting high standards of self governance provides a clear and demonstrable lead. Effective governance underpins the implementation and application of all aspects of the Council's work.

5. Standard References

- 5.1 There are no particular references to publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.

WORK PROGRAMME 2015-16

Meeting date / Agenda items
30 June 2015 <ol style="list-style-type: none">1. Audit Plan and Annual Audit & Certification Fees (Ernst and Young)2. 2014/15 Annual Governance Statement and Framework (Corporate Governance Manager)3. Year End Internal Audit Assurance Report 2014/15 (Audit and Governance)4. Draft Annual Statement of Accounts 2014/15 (Finance Manager)
28 July 2015 <ol style="list-style-type: none">1. CANCELLED
25 August 2015 <ol style="list-style-type: none">1. CANCELLED
8 September 2015 <ol style="list-style-type: none">1. Annual Statement of Accounts 2014/152. 2014/15 Annual Governance Statement and Audit Report Colchester Borough Homes3. Polling District and Place Review4. 2015/16 Risk Management Strategy
13 October 2015 <ol style="list-style-type: none">1. Publication of the Audited Statement of Accounts (Finance Manager)2. Local Government Ombudsman Annual Review (Monitoring Officer)3. Review of the Council's Ethical Governance Policies (Monitoring Officer)4. Review of the Members' Code of Conduct and the Council's "Arrangements" (Monitoring Officer)5. Gifts and Hospitality – Review of Guidance for Councillors and Policy for Officers (Monitoring Officer)6. Review of Local Code of Corporate Governance (Monitoring Officer)
24 November 2015 <ol style="list-style-type: none">1. Annual Audit Letter (Ernst and Young)2. 2015-16 Interim Annual Governance Statement (Corporate Governance Manager)3. 2015-16 Interim Internal Audit Monitor (Corporate Governance Manager)4. Polling District and Place Review Consultation Responses
19 January 2016 <ol style="list-style-type: none">1. Certification of Claims and Returns – Annual Report 2014/15 (Ernst and Young)2. Annual Review of Business Continuity (Corporate Governance Manager)3. Risk Management Progress Report (Corporate Governance Manager)4. Equality and Diversity Annual Update Report



Governance Committee

Item
8

13 October 2015

Report of	Assistant Chief Executive	Author	Steve Heath ☎ 282389
Title	Annual Statement of Accounts 2014/15		
Wards affected	Not applicable		

**This report presents the audited Statement of Accounts for
2014/15**

1. Action required

- 1.1 To note the publication of the audited Statement of Accounts (SOA) for 2014/15.

2. Supporting information

- 2.1 The pre-audit SOA was certified by the responsible financial officer in accordance with the statutory deadline. A report was presented to this Committee on 30 June highlighting the availability of the draft accounts, and explaining the key financial statements. Following the submission of the Auditors' report to the Committee on 8 September, The Committee approved the audited accounts and the Section 151 Officer submitted the Letter of Representation providing assurance about the information within the SOA.
- 2.2 On 17 September 2015 the Auditor issued an unqualified opinion that the accounts give a true and fair view of the Council's financial position as at 31 March 2015 and of its income and expenditure for the year then ended. The audit was formally closed, and the audited accounts were published on the Council's website. Once again this year, the SOA has only been produced in an electronic format.
- 2.3 In submitting this report, and the earlier reports, the Council is following procedures set out in the Accounts and Audit Regulations 2011. By law the Council must publish audited accounts by the statutory deadline of 30 September and this has been achieved.

3. Strategic Plan references

- 3.1 The objectives and priorities of the Strategic Plan informed all stages of the budget process for 2014/15.

4. Financial implications

- 4.1 The publication of the audited SOA meets a statutory requirement for financial reporting and is an important part of the process to demonstrate accountability in the use of public funds.

5. Publicity considerations

- 5.1 The availability of the SOA will be advertised in the local press on Friday 2 October 2015, and via social media.

6. Other standard references

- 6.1 Having considered consultation, equality, diversity and human rights, health and safety and community safety and risk management implications, there are none that are significant to the matters in this report.

Background Papers

Available on the Colchester Borough Council website:

Statement of Accounts 2014/15 (Link below)

<http://www.colchester.gov.uk/article/11907/Statement-of-Accounts---Colchester-Borough-Council>

Draft Annual Statement of Accounts – Report to Governance Committee 30 June 2015

Annual Statement of Accounts – Report to Governance Committee 8 September 2015

13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Complaint in relation to Councillor Locker		
Wards affected	Not applicable		

This report requests the Committee to consider a complaint received in relation to Councillor Locker

1. Decision(s) Required

1.1 To determine what action should be taken in relation to this complaint.

2. The complaint

2.1 On 12 September 2015 a complaint was received from Councillor Graham regarding a tweet that had been posted earlier that day by Councillor Locker on his Twitter account. The tweet was posted following the receipt by Councillor Locker of a penalty charge notice ("PCN") for parking in a restricted area. The tweet is attached at Appendix 1 to this report.

2.2 The basis of Councillor Graham's complaint was that by the tweet Councillor Locker:-

- (1) had set an example that publicly abusing council staff was ok; and
- (2) that he was effectively encouraging residents to abuse the civil enforcement officers.

Councillor Graham also stated that in his mind that sort of behaviour was totally inappropriate for a councillor.

2.3 On 14 September 2015 the Monitoring Officer wrote to Councillor Locker and attempted to resolve the issue informally by requesting that Councillor Locker issue a public apology and confirm that his tweet was not directed at council officers (i.e. civil enforcement officers). Councillor Locker confirmed that his tweet was aimed at the North Essex Parking Partnership ("NEPP") as an organisation rather than at officers. He agreed that he would tweet an apology and make it clear it was his intention to criticise NEPP as a corporate entity. He also agreed to delete the tweet (which he did). The tweeted apology is attached at Appendix 2 to this report.

2.4 Unfortunately the tweeted apology was not as expected and Councillor Graham remained unhappy with the wording. Accordingly the Monitoring Officer decided to contact both of the Council's Independent Persons who are appointed under the Localism Act to advise on Member Conduct issues. They both agreed that in view of the language used in the original tweet and the fact that Councillor Locker is a member of this Committee that the complaint should be referred to this Committee in accordance with the Council's Localism Act Arrangements. This complaint has attracted coverage in the local press which is attached at Appendix 3 to this report for the Committee's information. This was also reported in the national press.

2.5 The Monitoring Officer invited Councillor Locker to provide a statement on the complaint and this is attached at Appendix 4 to this report.

3. Background

- 3.1 Under the Localism Act the Council has a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the authority. In order to discharge this duty the council has adopted a Code of Conduct for Members which sets out the conduct expected of members and co-opted members of the authority when they are acting in that capacity. The Council has also adopted Arrangements which detail how complaints in relation to Member conduct will be handled.
- 3.2 The Full Council agreed that as part of the terms of reference of this Committee it is responsible for promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council.
- 3.3 The Committee's jurisdiction in this complaint is limited to Councillor Locker's conduct and the language used in his original tweet. The circumstances leading up to it i.e. the issuing of the PCN is not for this Committee. Any resident who receives a PCN has a right of appeal via the NEPP and Councillor Locker has appealed the PCN.
- 3.4 The crux of the complaint is whether it was appropriate behaviour for a councillor and a member of this Committee to use the language contained in the original tweet and regardless of whatever Councillor Locker's intention may have been, it gave the impression that he was publicly criticising the civil enforcement officer that issued the PCN.
- 3.5 All civil enforcement officers who work for the NEPP are employees of Colchester Borough Council. These front line staff have a difficult job to do and are often subjected to violence and aggression whilst performing their duties. To put this in context there were 55 reported instances in 2014, 64 in 2013 and 63 in 2012. So far this year there have been 22 reported instances. The Council as an employer has a duty of care to ensure the health and safety of its employees and takes these types of incidents seriously and will always take appropriate action.
- 3.6 The original tweet also implied that Civil Enforcement Officers were being target driven. By way of background, the NEPP has confirmed that the role of a Civil Enforcement Officer is to enforce parking restrictions that are in place to ensure public safety, enable traffic flow and maintain community standards. Civil Enforcement Officers are instructed to issue a PCN whenever a vehicle is believed to be in contravention of a parking restriction. Civil Enforcement Officers use their discretion when deciding whether or not a PCN should be issued on the evidence at hand and their first action will be to ask a motorist to move a vehicle if they are present. Vehicles need to be observed in contravention for 10 minutes before a PCN is issued. Civil Enforcement Officers are not given any financial or ticket number targets.

4. The Code

- 4.1 The Committee needs to consider whether Councillor Locker's conduct amounted to a breach of the code of conduct. The Committee's attention is drawn to paragraph 3 (1) of the Code which states:

"You must treat others with respect"

The Code is predicated on the Nolan Principles of Public Life which are the basis of the ethical standards expected of public office holders and the Integrity principle which states:

“Public Office Holders should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour”

- 4.2 The Code only applies in relation to a councillor’s conduct in their official capacity as a councillor. Councillor Locker has stated that his tweet was posted in a personal capacity. Indeed his twitter account mentions this. However his twitter profile clearly states that he is a borough councillor. The Council has agreed a Social Media Policy and the Council’s Communications team have provided training for Members on the use of social media. The Policy refers councillors to The Improvement and Development Agency’s guide for councillors in relation to use of social media called “Connected Councillors a guide to using social media to support local leadership”.
- 4.3 This guide highlights that occasionally a councillor can have “blurred identities” where they may have a social media account where they comment both as a councillor and as an individual. It may be clear in the councillor’s mind that they are posting in a private capacity but it can be less clear to others. The question here is did Councillor Locker’s original tweet give the impression, to a reasonable member of the public, that he was posting it in his capacity as a councillor? If that was the case and it was perceived as such then the complaint is within the remit of the Code. If not then the Committee would need to consider whether any action would be appropriate under the Council’s powers of self-regulation which mirror the actions available on a finding of a breach of the Code.
- 4.4 Councillor Locker was elected to the Council in May 2015 and the Monitoring Officer offered all new councillors Code of Conduct training which Councillor Locker did not attend.

5. Options for the Committee

- 5.1 The Committee needs to consider the contents of this report and Councillors Locker’s statement at Appendix 4 and decide whether Councillor Locker’s conduct amounted to a breach of the Code of Conduct for Members and if so, after taking advice from the Independent Persons, whether the complaint:
- (a) merits no further investigation
 - (b) merits further investigation
- 5.2 It is the Monitoring Officers opinion that the facts of this complaint are very clear and established and that a formal investigation would not be cost effective or uncover any further evidence. However this is for the Committee to decide.
- 5.3 If the Committee determines that no further investigation is merited it can also agree that no further action be taken or it can consider using the actions delegated to the Governance Hearings Sub-Committee; i.e.
- (a) Report its findings to Full Council for information;
 - (b) Recommend to Full Council that the councillor be issued with a formal censure or be reprimanded
 - (c) Recommend to the councillor’s Group Leader that the councillor be removed from any or all Committees or Panels of the Council;
 - (d) Instruct the Monitoring Officer to arrange training for the councillor;
 - (e) Recommend to Full Council to remove from all outside appointments to which he/she has been appointed or nominated by the Council (or by the Parish Council);

- (f) Recommend to Full Council to withdraw facilities provided to the councillor by the Council, such as a computer, website and/or email and internet access; or
- (g) Recommend to Full Council to exclude the councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings

5.4 If the Committee determines that Councillor Locker's conduct was outside of the remit of the Code of Conduct for Members, it needs to consider whether any further action should be taken under the Council's powers of self-regulation and the options available are the same as those detailed at paragraph 5.3 above.

6. Strategic Plan References

6.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

7. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health, Publicity and Safety and Risk Management Implications

7.1 None identified.

●●●○○ Vodafone UK 18:01



Tweet



Ben Locker

@benlocker

Thank you North East Essex
Parking Partnership. You
heartless, target driven bastards.
[#Colchester](#)



Reply to Ben Locker



Home



Notifications



Messages



Me



Ben Locker @benlocker · 2h

I apologise if my tweet about this parking ticket was read as a criticism of any individual. It wasn't.



I tried to fire up my Daphne, but the battery was completely dead...

Councillor tweets fury over his parking ticket

By WENDY BRADING
wendy.brading@nqa.com

A PROLIFIC tweeter landed himself in hot water when he criticised his own council after getting a parking ticket.

Ben Locker, a borough councillor, let rip at the North East Essex Parking Partnership after his Seventies Triumph Herald was slapped with a parking ticket.

The outburst was reported to Colchester Council's monitoring officer because of the bad language used in connection with a member of staff. Mr Locker has now apologised.

He had been restoring the car, which he calls Daphne, when it broke down in Prior Way, Colchester.

He said: "I freewheeled it down hill to try to jump start it, but it got nowhere.

"I went to West Bergholt to get

I went to West Bergholt to get my other car, to try to jump start her, but it did not get anywhere

my other car, a Nissan, to try to jump start her, but that did not work either.

"I had to get a new battery, so I put a note under the windscreen and went to get one.

"I knew there was a parking restriction in Prior Way between 2pm and 3pm, but there was nothing else I could do.

"I found the parking ticket on the windscreen when I came back with the battery.

"I thought it was a bit off. The restriction is there to stop commuters parking there all day, not to penalise broken down motors."

Mr Locker, who has tweeted more than 28,000 times, sent a picture of his note with the comment: "Thank you North East Essex Partnership. You heart-



■ Angered - councillor Ben Locker and, inset, the offending tweet

less, target driven b*****s." He added: "It was not aimed at any individuals, more the organisation and the culture, which is target-driven and quite unforgiving."

Mr Locker has since deleted the tweet and issued an apology.

He said: "I do think getting the ticket was a little unsympathetic and I will appeal against it."

Robert Mitchell, chairman of the North Essex Parking Partnership, of which Colchester Council is a member, said: "As an organisation, we take any form of verbal or physical abuse against our staff very seriously.

"The role, as enforcement officers, can be challenging at times and situations like this are unacceptable.

"It is extremely disappointing any councillor would feel the need to use inappropriate language."

A Colchester Council spokesman said: "As soon as the council's monitoring officer became aware of the tweet by councillor Locker, he contacted him to remind him of the members' code of conduct and

requested a public apology. Councillor Locker has made that apology and, for the council, the matter is closed."

WHAT DO YOU THINK?
E-mail gazette.letters@nqa.com
Please include your address!

Picture: NIGEL BROWN CO110834

Your chance to snap up a bargain in Townrow's big sale

A HIGH street department store is gearing up for its biggest clearance sale in 143 years to sell off £500,000 worth of stock.

Townrow in Braintree will launch its ten-day Great £500,000 Clearance Sale on Thursday, September 24.

A one-day private sale on Wednesday will also treat 500 customers to a head-start.

The store will be closed on Tuesday to ship in thousands of sale items from shops in Frinton, Maldon and St Ives.

Staff from other stores will be

helping with the mammoth sale.

Edward Townrow, managing director, said: "Having all the stock in Braintree will allow our customers to have their pick.

"We want them to have the first view because this is where our heritage is.

"There are a lot of lines that won't have been on sale here before.

"I'm very excited about the event and it is great fun to do.

"It will be brilliant for people to come in and have a real rummage.

Townrow closed its Sale Shop in Long Wyre Street, Colchester, in November last year.

For an invitation to attend the private sale, visit the Braintree and Witham Times front office at 76 High Street, Braintree, CM7 1JP.

Trial over road death

A MAN has denied causing the death of a motorcyclist by driving without due care and attention.

Jason Walmsley, 45, of Church Road, Wickham Bishops, collided with trainee mechanic Josh Marlow, 22, of South Woodham Ferrers, on the A132 in South Woodham last year.

Chelmsford Crown Court was told Walmsley had been in a queue of traffic following an earlier accident near the roundabout in South Woodham Ferrers on July 25.

He tried to carry out a u-turn in his Volkswagen Golf but collided with Mr Marlow's Yamaha motorbike.

A six-day trial is due to start next April.

Fall flower show finals

FRINTON Horticultural Society's final show of the season went off with a flourish as impressive displays of flowers and vegetables dazzled the judges.

The group held its autumn extravaganza at Frinton's McGrigor Hall on Saturday.

Society member David Foster, who clinched a first for his treacle tart, said high-quality floral and vegetable entries were launched for all 59 of the show's categories.

Alice Kerridge was awarded the medal for securing the most points across Frinton Horticultural Society's three shows this season.

University in top ten

ESSEX University has won plaudits for its student experience and research strengths.

The Times and The Sunday Times Good University Guide 2016 ranks the university in the top ten for student experience, the top 15 for teaching excellence and the top 25 for research.

The university has been in the top ten for student satisfaction according to the National Student Survey for the past three years.

AN ESSEX ticket tout was arrested on the eve of the Rugby World Cup. The 30-year-old was arrested following an investigation into ticket fraud. It is alleged he had a parcel of 300 tickets. He has been bailed while investigations continue.

Tory leader says Ben Locker's language was 'unacceptable'

Councillor to be hauled before own committee for his offensive tweet

By WENDY BRADING
wendy.brading@nqe.com

AN outspoken councillor could be dragged before his own committee after he criticised traffic wardens in a tweet.

Conservative councillor Ben Locker vented his rage after he was slapped with a parking ticket after his 40-year-old Triumph Herald car, Daphne, broke down.

He had left a note on the window to explain why the car had been left in Prior Way, Colchester, in breach of parking regulations, but when he returned with a new battery, he found he had been given a £70 parking penalty.

Mr Locker tweeted about his plight and accused the North East Essex Parking Partnership of being "heartless, target driven b*****s".

The professional copywriter later apologised to county councillor Robert Mitchell, who is chairman of the parking partnership and removed the tweet.

Colchester Council initially said the matter, which was reported in the Gazette and some national papers, was closed.

But then it released a new statement saying the matter had now been referred to the council's governance committee - of which Mr Locker is a member.

The statement said: "In light of recent information the matter of councillor Ben Locker's social media postings and following consultation with the council's independent persons, this matter will now be referred to the governance committee.

"The independent persons have recommended this course of action in light of additional details from media coverage.

"Especially as a member of the governance committee, councillor Locker, is expected to have a higher standard of



■ Triumph to disaster - Tory councillor Ben Locker has got himself in trouble for criticising the North East Essex Parking Partnership after his car, Daphne, was ticketed

conduct than that being displayed."

Dennis Willetts, the Conservative group leader on Colchester Council, said: "Ben recognised he had overstepped the mark in criticising the North East Essex

Parking Partnership.

"He apologised to Mr Mitchell and it is my understanding he accepted Ben's apology.

"He also removed the tweet from cyberspace.

"He thought that was the end of the matter but because the issue had escalated, it ended up being referred to the governance committee.

"Andrew Weavers, as the monitoring officer, expects a higher standard of behaviour and language from members of the governance committee because they have added responsibility for the conduct of members of the council."

The council's monitoring officer, expects a higher standard of behaviour from members of the governance committee

"From my point of view, I agree Ben's use of language was perhaps unwise.

"However, as Mr Mitchell accepted the apology, I thought the matter stopped there."

Mr Willetts said the situation had been complicated by the fact the parking enforcement officer was a Colchester Council employee on secondment to the parking partnership, which is run by Essex County Council.

WHAT DO YOU THINK?

E-mail gazette.letters@nqe.com
Please include your address!

Art auction raises £1,000 for hospice

AN art auction and postcard sale has raised more than £1,000 for charity.

Perrywood Garden Centre and Nurseries in Tiptree raised more than £1,300 as part of the Birkett Long £50 challenge.

Under the challenge, teams of

fundraisers are given £50 to use to raise as much money as possible for St Helena Hospice.

Lucy Hook-Child and Hannah Powell took on the challenge of organising an art auction and postcard sale.

The auction, where 30 pieces of

artwork went under the hammer, was hosted by auctioneer Tim Medhurst from Duke's Auctions.

As well as paintings, there were ceramics, jewellery, photography and tapestry up for auction.

Original art work postcards were also for sale as well as high

quality art supplies and books.

Papercraft tutor and independent Stampin' Up! demonstrator Katy Freeman was on hand to help customers create their own postcard sized piece of art and Lucy Hook-Child ran a mono printing workshop.

IN THE COLCHESTER BOROUGH COUNCIL
GOVERNANCE COMMITTEE

Regarding the complaint of:

Councillor Dominic Graham

Against

Councillor Ben Locker

RESPONSE TO COMPLAINT

Undisputed facts

1. On 12 September 2015, Cllr Ben Locker (Cons, Mile End), from his personal Twitter account, tweeted a photograph of an envelope placed on top of his car's dashboard which read, "*Flat battery, will move this afternoon*" and signed, "*Ben Locker*". The photograph also depicted a penalty charge notice attached to his windscreen, under his windscreen wiper. As a caption to this photograph, Cllr Locker tweeted the words, "*Thank you North East Parking Partnership. You heartless, target driven bastards. #Colchester*".
2. Later that evening, Cllr Dominic Graham (Lib Dem, Mile End) sent an email headed, "*Complaint*" to the Monitoring Officer, Andrew Weavers which was cc'd to Paul Smith (Lib Dem, St John's) and Matthew Young (Head of Operational Services). This complaint read as follows:

"Hi Andrew,

I'd like to make a formal complaint about Cllr Locker.

He posted the attached tweet this morning.

I'm especially unhappy that he is setting the example that publicly abusing council staff is ok.

He is effectively encouraging residents to abuse the Civil Enforcement Officers. To my mind, this sort of behaviour is totally inappropriate for a councillor.

Our staff receive enough abuse whilst carrying out their jobs. This will do nothing but worsen their experience.

Perhaps you could arrange for Cllr Locker to be reminded of his responsibilities?

Many thanks,

Cllr Dominic Graham

Colchester Borough Council

Cabinet Member for Street & Waste Services"

Legal Framework

3. Shortly after its formation, the Coalition Government made an announcement to abolish the centrally prescribed model code of conduct contained in the Local Government Act 2000 together with the Standards Board. The reasoning behind the Coalition's decision was that it considered local authority member regulation by a central quango inconsistent with the principles of localism. The announcement went on to say that,

"In addition, there is a concern that the regime is a vehicle for vexatious or politically motivated complaints".

4. As a result of the Localism Act 2011, local authorities are required to formulate their own Code of Conduct (s27) and that said code should, when viewed as a whole, be consistent with the seven principles of public life (s28).

Colchester Code of Conduct for Councillors

5. Colchester Borough Council adopted a Code of Conduct for Councillors in June 2012. The council subsequently set out its, "Arrangements for dealing with complaints" on 1 July 2012 in accordance with the requirement to do so under the Localism Act 2011, s28.

What does the Code apply to?

6. Para 2 of the Code states:

(1) You must comply with this Code whenever you -

(a) conduct the business of the Authority, or

(b) you are acting as a representative of the Authority.

(2) This Code has effect in relation to your conduct in your official capacity. ...

"Official capacity" v "Private life" distinction

7. The [Ken Livingstone case](#) considered the tension between the old LGA 2000, "Model Code" and the European Convention on Human Rights (which is brought into UK law by way of the Human Rights Act 1998). Article 10 of the ECHR provides the right to Freedom of Expression - and *Livingstone* stands as authority for the proposition that a Code of [Member] conduct covers only conduct where a Member is acting in his official capacity.

In *Livingstone*, the High Court [2006] EWHC 2533 (Admin) held at para 39:

"The burden is on the defendant to justify the interference with freedom of speech. However offensive and undeserving of protection the appellant's outburst may have appeared to some, it is important that any individual knows that he can say what he likes, provided it is not unlawful, unless there are clear and satisfactory reasons within the terms of Article 10(2) to render him liable to sanctions. In my view, the Tribunal misdirected itself in deciding that it was proportionate for the Code to extend as far as it did on the Tribunal's construction. The restraint was not in my judgment shown to be necessary in a democratic society even though the higher level of protection appropriate for the expression of political opinion was not engaged".

And at para 41:

“I think the Tribunal applied a test which failed to recognise the real distinction between the man and the office ...”

8. In *Cllr David Allen v Surrey Heath Borough Council Standards Committee* [LGS/2012/0587], Cllr Allen posted a blog which made reference to another Member of the Council. That member made a complaint.

Although Cllr Allen made reference to his status as a councillor on the blog, it was only part of his wider profile and not an indication that he was acting in his official capacity in publishing his blog post.

The First Tier Tribunal concluded that Cllr Allen had not been acting in his official capacity when he posted the blog.

As a result of its finding, the First Tier Tribunal set aside Surrey Heath’s Standards Committee’s decision to censure and require Cllr Allen to apologise.

Colchester’s Arrangements for dealing with complaints

9. The Arrangements set out a mandatory and structured approach to how complaints about Members are to be handled. The, “Complaints Procedure Flowchart” can be found at Appendix 1.
10. Appendix 3 contains the, “Standards Complaints Assessment Criteria (Complaints which would not normally be referred for investigation).
11. Appendix 1 refers to “Preliminary tests” and these tests tally with the contents of Appendix 3.
12. The flowchart in Appendix 1 makes clear that the Preliminary tests should be considered prior to determining whether a complaint should be rejected, informally resolved or referred to the Governance Committee for consideration.

Application of the legal framework to the facts of Cllr Locker’s case

13. It is Cllr Locker’s respectful submission that Cllr Graham’s complaint should be rejected prior to referral to the Governance Committee as it does not pass the **Preliminary tests** for the following reasons:

Was Cllr Locker acting in his official capacity when he tweeted?

14. Cllr Locker’s Twitter bio reads:

“Copywriter, @procopywriters co-founder, Triumph enthusiast, modern Tory, from Stamford, Loves Colchester, borough councillor. All tweets in personal capacity”.

15. Further, the envelope in the photograph is signed, "*Ben Locker*" and not "*Cllr Ben Locker*".
16. An examination of @benlocker's tweets will show a Twitter account devoted to personal communication only. While @benlocker's bio does indicate he is a, "*borough councillor*", like Cllr David Allen's case above, Cllr Locker's indication that he is a, "*borough councillor*" is only part of a wider profile.
17. It therefore cannot be construed that Cllr Locker was acting in his official capacity in broadcasting the tweet.
18. Accordingly, it is respectfully submitted that there is no case for Cllr Locker to answer. The complaint should be rejected in its entirety as it falls outside the scope of the Code – and the council has no power in law to deal with it.
19. Further and alternatively:

Does the complaint appear to be politically motivated?

20. The complaint does not emanate from a member of the public, a Civil Enforcement Officer or indeed any council officer. It emanates from Cllr Graham – Cllr Locker's political rival in the Mile End Ward.
21. Further, Cllr Locker immediately deleted the tweet and issued an apology on the Monitoring Officer's request. While Cllr Mitchell (Chairman of the NEPP) accepted the apology, Cllr Graham did not.
22. It therefore appears that the complaint is politically motivated. As the complaint therefore fails to meet this Preliminary test, in accordance with the Assessment Criteria delineated in Appendix 3, it should not be referred for investigation.

Does the complaint appear to be simply motivated by malice or is 'tit for tat'?

23. As noted above, Cllr Graham cc'd his complaint to Cllr Paul Smith and to Matthew Young, the Head of the Council's Operational Services. In the absence of any reasonable explanation, it is submitted that an objective observer is likely to conclude that Cllr Graham's cc to Mr Young was sent to ensure Mr Young read Cllr Locker's tweet – and designed to communicate to Mr Young that he is a Cabinet Member ally – and to perhaps sour Cllr Locker's and Mr Young's working relationship.
24. As such, this complaint does not meet the Assessment Criteria test in Appendix 3 and it should not be referred for investigation.

Complaints which may be referred to the Governance Committee

25. Even if, contrary to the submissions above, it was determined that Cllr Graham's complaint passes the Preliminary tests – a complaint *may* be referred to the Governance Committee in certain specific situations delineated in Appendix 3.
26. By his email correspondence with Cllr Locker in respect of this matter, copies attached, the council's Monitoring Officer has indicated that he is minded to refer this matter to the Governance Committee for the following reasons:
- i) *Unacceptable language "clearly" directed at council officers;*
 - ii) *"If you feel that the ticket was not justified then you need to appeal using the normal channels;*
 - iii) *"[Y]our tweet does give the impression that you were directing your comments to the CEO concerned who was carrying out his or her duties;*
 - iv) *"The issue for us is that CEOs experience a lot of verbal abuse in the course of their job and we as employer need to ensure we do everything to protect them".*
 - v) *"It could be seen that your original tweet was encouraging this".*
27. It is respectfully submitted that these reasons fall short of the criteria delineated in the Appendix 3 Assessment Criteria.
28. It is further submitted that parking enforcement is a political issue in the Borough and a matter of public interest.
29. As Phillip Colvin QC's, *Cornerstone on Councillor's Conduct* notes at para 3.53:
- "In the political context, a degree of immoderate, provocative, emotive and non-rational speech is to be tolerated. Even aggressive, offensive and shocking speech may have its place as part of the cut and thrust of political life. However, purely personal abuse or deliberately false statements do not benefit from the enhanced protection given to political expression in Article 10".*
30. There are no personally abusive comments in Cllr Locker's tweet. Nor are there any deliberately false statements. Had Cllr Locker used the phrase, *"You heartless, target-driven bastard"* that may be another issue. However, it is clear in this case that *"target-driven bastards"* is a general reference to the organisation and is not pointed at an individual for personal abuse.
31. While the sentence, *"Thank you North East Essex Parking Partnership. You heartless, target-driven bastards"* may indeed be deemed by some to be, *"unacceptable"* or *"abusive"*, such opinions are not in of themselves enough to demonstrate a failure to comply with the Code as they are not personally abusive or indeed deliberately false.
32. Finally, it was suggested by Cllr Graham and Monitoring Officer Mr Weavers that Cllr Locker's tweet could be encouraging the public to *"abuse"* CEOs. It is unclear whether the concern is with the public voicing an opinion - or whether the suggestion is that Cllr Locker's tweet is encouraging the commission of a crime under the Public Order Act. On examination of the

[Crown Prosecution Charging Standard](#) it is submitted that Cllr Locker's tweet falls far short of attracting any criminal liability.

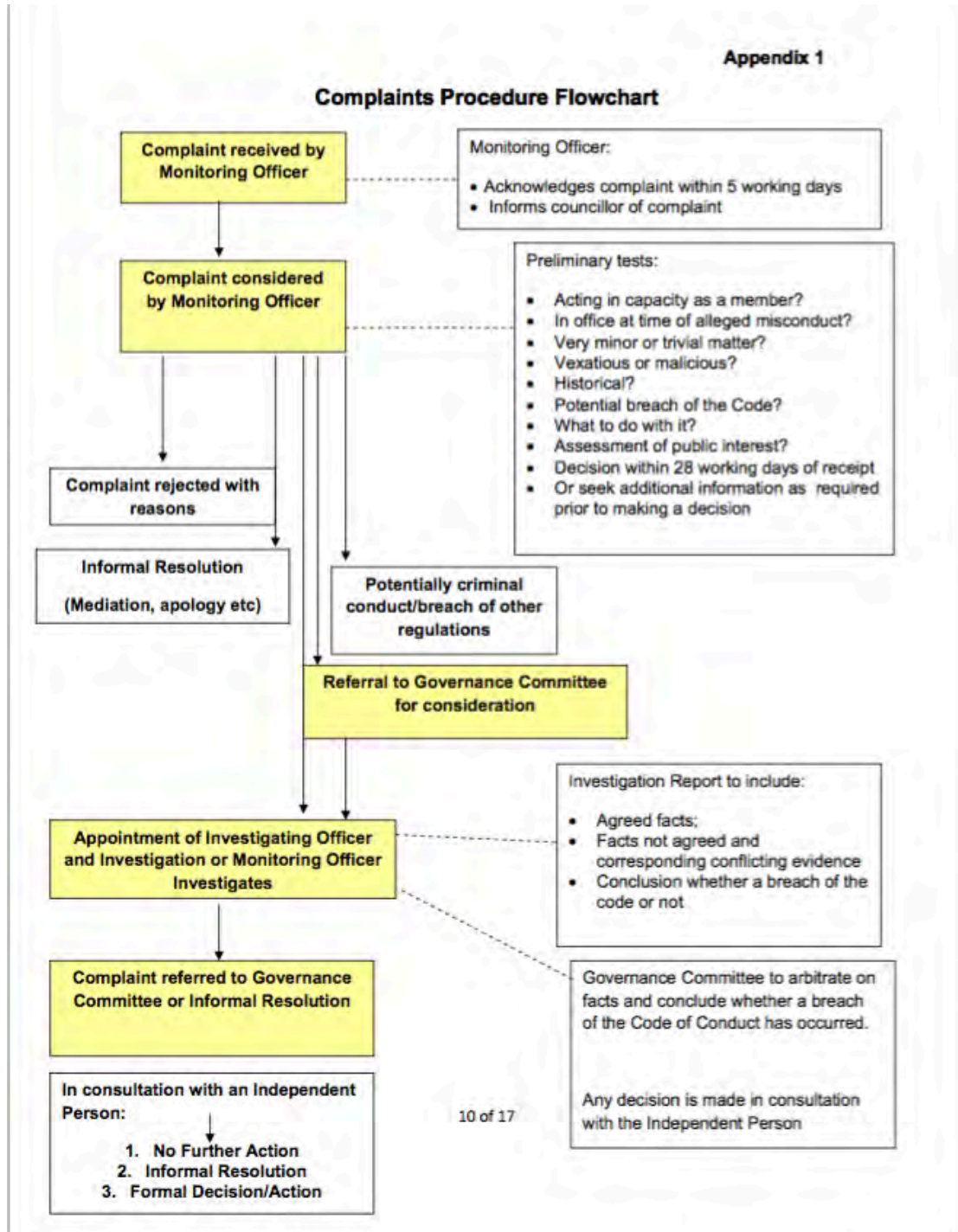
Conclusion

33. Cllr Locker was tweeting in a personal capacity and his private life conduct is not subject to the Code.
34. Even if the Monitoring Officer and/or Governance Committee does not agree with the above point, Cllr Graham's complaint appears to be politically motivated and/or simply motivated by malice or 'tit for tat'.
35. Even if the Monitoring Officer and/or the Governance Committee does not agree with the above point, parking enforcement in the Borough is a matter of public and political interest – and as such, Cllr Locker has the freedom under Article 10 to be robust as he has not indulged in personal abuse of another or told deliberate lies.

**KRISTIN HEIMARK
BARRISTER**

**28 September 2015
Stoke Newington Chambers**

APPENDIX 1: COMPLAINTS PROCEDURE FLOWCHART. *SOURCE: Councillor Code of Conduct: Arrangements for dealing with complaints (Appendix 1)*



APPENDIX 2: STANDARDS COMPLAINTS ASSESSMENT PROCEDURE. *SOURCE: Councillor Code of Conduct: Arrangements for dealing with complaints (Appendix 3)*

Appendix 3

Colchester Borough Council

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is "tit-for-tat"; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; e.g. that it relates to the Councillor's private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Governance Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the councillor complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints which may be referred to the Governance Committee

1. It is serious enough, if proven, to justify the range of actions available to the Governance Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or

12 of 17

May 2013

3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high profile Councillor such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and councillors' time. This is an important consideration where the complaint is relatively minor.

APPENDIX 3: CORRESPONDENCE BETWEEN CLLR BEN LOCKER AND ANDREW WEAVERS, MONITORING OFFICER – BOTH OF COLCHESTER BOROUGH COUNCIL

From: Andrew Weavers [<mailto:Andrew.Weavers@colchester.gov.uk>] **Sent:**
14 September 2015 11:59 **To:** Ben Locker
> **Cc:** Dennis Willetts - Cllr - own email
Peter Sheane
<Peter.Sheane@colchester.gov.uk> **Subject:** Tweet

Dear Councillor Locker

It has been brought to my attention that you posted the tweet below on 12 September 2015.

I have received a complaint about the language used which is clearly directed at council officers. I need to remind you that it is not acceptable for Councillors to use this type of language towards council officers and accordingly I request that you issue a public apology within the next 48 hours as your conduct does not meet the expected behaviours contained in the Borough Council's Member Code of Conduct.

If you feel that the ticket was not justified then you need to appeal using the normal channels.

Yours sincerely

Andrew Weavers
Monitoring Officer
Corporate and Financial Management
Colchester Borough Council
Tel: 01206 282213



From: Ben Locker [REDACTED] >
Date: 15 September 2015 at 10:14:28 BST
To: Andrew Weavers <andrew.weavers@colchester.gov.uk>
Subject: Tweet re Parking Partnership

Dear Mr Weavers,

Many thanks for your email.

I would like to clarify the context and intent of the tweet you refer to.

I tweeted after getting a parking ticket on my old Triumph Herald. The battery had gone flat. I rolled it down Prior Way and tried to jump start it. That failed. I bought jump leads and tried to get it going using power from my other car. That failed. So I made sure it was safely parked and, because I knew there was a restriction between 2pm and 3pm, put a clear note in the window saying 'Flat battery - will move this afternoon.'

So I was naturally annoyed when I went to buy a new battery, only to find I had been ticketed when I returned. The parking restrictions are there to discourage commuters from clogging the street, not penalise motorists in trouble. As you suggest, I will be appealing the ticket through the proper channels.

Regarding the tweet, my intent was to highlight what I perceive to be the NEPP's inflexibility, which I believe is down to tough targets. I made certain not to say anything offensive about the individual enforcement officer who ticketed my car - he or she was doing their job, and if they have to meet targets who can blame them for ticketing a car on a single yellow line during a restricted period?

Instead, my tweet was aimed at the organisation rather than officers, although I am sorry a complainant has thought otherwise. The tweet, as clearly stated in my Twitter profile, was also in a personal capacity and not as a Councillor.

I am happy to submit this to your judgement. If you still feel that my intent was to aim bad language at CBC officers (albeit in the context of them undertaking NEPP business), then I will of course tweet an apology and make clear that I intended to criticise NEPP as a corporate entity. However, I would like to assure you that this was not the case and am happy to delete the tweet and move on.

Kindest wishes,

Ben

From: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Date: 15 September 2015 at 11:52:59 BST
To: 'Ben Locker' [REDACTED] >
Subject: Tweet re Parking Partnership

Dear Councillor Locker

Thank you for your email.

Whilst I can sympathise with the circumstances that led to the ticket, the difficulty is that you cannot switch on and off your responsibilities as a councillor. The Council has agreed via the Constitution certain rules and one of these is not criticising officers in public. I can see your point regarding the NEPP and the policy adopted by it, however your tweet does give the impression that you were directing your comments at the CEO concerned who was carrying out his or her duties.

I would suggest that the best way of resolving this would be for you to apologise and take the action suggested in the last paragraph of your email.

Kind regards

Andrew

Andrew Weavers
Monitoring Officer
Corporate and Financial Management
Colchester Borough Council
Tel: 01206 282213
www.colchester.gov.uk

From: Ben Locker [REDACTED] >
Date: 15 September 2015 at 12:02:56 BST
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Subject: Re: Tweet re Parking Partnership

Dear Andrew,

Thanks for the advice. I'll do that now.

Kindest,

Ben

From: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Date: 15 September 2015 at 17:26:55 BST
To: 'Ben Locker' [REDACTED] >
Subject: RE: Tweet re Parking Partnership

Dear Ben

I have seen your tweet and am disappointed that it is not exactly what we agreed. The issue for us is that CEO's experience a lot of verbal abuse in the course of their job and we as the employer need to ensure that we do everything to protect them.

It could be seen that your original tweet was encouraging this. However the chairman of the NEPP, Councillor Mitchell is satisfied with your apology.

Andrew

Andrew Weavers
Strategic Governance Manager
Corporate and Financial Management
Colchester Borough Council
Tel: 01206 282213
www.colchester.gov.uk

From: Ben Locker [REDACTED] >
Date: 15 September 2015 at 17:39:50 BST
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Subject: Re: Tweet re Parking Partnership

Dear Andrew,

I'm sorry you feel that way. I thought I had covered what we agreed. I deleted the original tweet, apologised if it was thought I was directing it at an individual. The only bit I couldn't fit in was the clarification that I was criticising NEPP as a corporate entity. But then I reasoned it would probably be unhelpful to name them again.

Additionally I was called by Wendy Brading at the Gazette minutes after the apology and spent a good 20 minutes making clear to her I was not criticising any individual at all. As I said to you, I wasn't - even if my tweet was clumsy.

I believe the original complaint was brought by another councillor. If so, all they have done is publicise the issue more widely, which certainly isn't and wasn't my intention.

Kindest wishes,

Ben

From: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Date: 17 September 2015 at 10:36:26 BST
To: 'Ben Locker' [REDACTED] >
Subject: Tweet re Parking Partnership

Dear Ben

Thank you for your email.

Following our exchange of emails and the Gazette article, I have been in contact with the Council's Independent Persons in accordance with the Council's arrangements for dealing with Member conduct issues and provided them with all the background information in relation to this matter. They have agreed that this matter should be referred to the Governance Committee. Accordingly I will be writing a report for the 13 October meeting when it will consider what action to take.

Regards

Andrew

Andrew Weavers
Strategic Governance Manager
Corporate and Financial Management
Colchester Borough Council
Tel: 01206 282213
www.colchester.gov.uk

From: Ben Locker [REDACTED] >
Date: 17 September 2015 at 10:55:22 BST
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Cc: Dennis Willetts [REDACTED] >
Subject: Re: Tweet re Parking Partnership

Good morning Andrew,

Many thanks for letting me know. Please keep me informed.

Given that I sit on the governance committee, I assume I will need to arrange a substitute to avoid any conflict of interest. I have copied in Cllr Willetts as my group leader so he is aware of the situation.

Kindest wishes,

Ben

From: Ben Locker [REDACTED] >
Date: 17 September 2015 at 11:07:43 BST
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Cc: Dennis Willetts [REDACTED] >
Subject: Re: Tweet re Parking Partnership

Dear Andrew,

One further request, if I may.

When you originally advised me that you believed my tweet did not meet the expected behaviours contained in the Members' Code of Conduct, could you please refer me to the relevant parts that you feel I contravened?

Kindest wishes,

Ben

From: Ben Locker [REDACTED] >
Date: 18 September 2015 at 15:30:03 BST
To: Andrew Weavers <andrew.weavers@colchester.gov.uk>
Subject: Re complaint against me

Dear Andrew,

Please see the attached letter regarding the recent complaint against me.

Have a good weekend.

Kindest wishes,

Ben

[COPY OF ATTACHED LETTER ON THE NEXT TWO PAGES]

Ben Locker

106 Bergholt Road
Colchester
Essex CO4 5AQ

18 September 2015

Andrew Weavers
Monitoring Officer
Colchester Borough Council
Rowan House
Sheepen Road
Colchester
Essex CO3 3WG

Dear Andrew,

Thank you for our email correspondence in respect of a complaint that has been made against me. I am concerned about the way in which this complaint is being handled and would be grateful if you would revert to me by return with the following information:

1. I am concerned that I have yet to be informed of the precise complaint, the maker of the complaint or which provision(s) of the Code I have allegedly breached. I am not able to fully answer the complaint without this basic information.
2. I am also concerned that in your email to me of 17 September at 10:36 you say that you will be writing a report on the matter for the 13 October meeting of the Governance Committee, *"when it will consider what action to take"*.

I am further concerned by yesterday's press release which states, *"Especially as a member of the Governance Committee Cllr Locker is expected to have a higher standard of conduct than that being displayed"*.

It appears that you have already formulated your finding.

To meet common law standards of fairness, I am advised I should be given the opportunity to make a fully informed comment on the allegation and the evidence – prior to your reaching an adverse finding.

Please confirm that a fully reasoned report which spells out any alleged breaches of the Code will be prepared and that a draft will be sent to me for my comment before being finalised.

Please also will this report address why the author considers that the complaint is so serious that it cannot be resolved by an informal resolution, if that is indeed the finding.

3. Finally, I am informed that you are already of the view that the Governance Committee is "*likely*" to pass a motion that I am not a fit person to serve on it. If true, it would seem sensible for you to appoint an independent Investigating Officer and for them to formulate findings in respect of this matter.

Please may I hear from you with regard to all of the above points now as a matter of some urgency.

Your sincerely,

Ben Locker

From: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Date: 18 September 2015 at 15:55:01 BST
To: 'Ben Locker' [REDACTED] >
Subject: complaint against me

Dear Ben

Thank you for your email.

I will provide you with a full reply early next week to the points raised in your letter.

Have a good weekend.

Kind regards

Andrew

Andrew Weavers
Strategic Governance Manager
Corporate and Financial Management
Colchester Borough Council
Tel: 01206 282213
www.colchester.gov.uk

From: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Date: 21 September 2015 at 16:25:56 BST
To: 'Ben Locker' [REDACTED] >
Subject: Complaint

Dear Ben

Further to your email of 18 September 2015, I am now able to formally respond to your points as follows:

1. I received the complaint from Councillor Graham. The basis of his complaint is that by your tweet you were:
 - (a) setting the example that publicly abusing council staff is ok; and
 - (b) effectively encouraging residents to abuse civil enforcement officers and that this sort of behaviour was totally inappropriate for a councillor.

This would amount to a breach of paragraph 3 (1) of the Code (You must treat others with respect). In addition the Nolan Principle of Integrity states “not to place themselves(Members) in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour”.

2. Under the Council’s Localism Act Arrangements the process of dealing with complaints regarding Member conduct has been delegated by the Council to me as Monitoring Officer. I will always try and resolve the situation informally if I can. However in this instance the complainant was not satisfied with your tweeted apology and accordingly I decided to consult the Independent Persons who the Council has appointed (in accordance with the Localism Act) to advise on Member complaints. Their advice to me was that this complaint should be referred to the Governance Committee as your apology was not accepted and also since you are a member of the Governance Committee which has amongst its terms of reference responsibility for upholding Member conduct and standards.

The process will be that I will prepare a report for the 13 October 2015 Governance Committee meeting which will set out the facts (which are not in dispute) of the complaint and the details of what happened. I should be grateful if you could prepare and send me a statement by Friday of this week which sets out your version of events which I shall include in the report in its entirety. I will let you have a copy of the report before it is published in the agenda. I will not be making a specific recommendation to the Committee but will detail what options are available to it in accordance with the Council’s Arrangements.

3. I am not aware whether the Committee is likely to pass such a motion and it will be up to the Members on the day to decide. In the event that they were to pass such a motion it would have to be referred to full council who would have to vote on it.

I look forward to hearing from you.

Kind regards

Andrew

Andrew Weavers

Strategic Governance Manager
Corporate and Financial Management

Colchester Borough Council

Tel: 01206 282213

www.colchester.gov.uk

From: Ben Locker [REDACTED] >
Date: 21 September 2015 at 16:41:59 BST
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Subject: Re: Complaint

Dear Andrew,

Many thanks for your email.

Before we proceed further, could you please send me by return a copy of Cllr Graham's original complaint?

Kindest wishes,

Ben

From: Ben Locker [REDACTED] >
Date: 22 September 2015 at 09:19:55 BST
To: Andrew Weavers <andrew.weavers@colchester.gov.uk>
Subject: Copy of Cllr Graham's complaint

Dear Andrew,

I am still concerned that do not have the necessary information to respond to the complaint against me. I have instructed a barrister in the matter and she has asked me to supply:

- 1) A timestamped copy of Cllr Graham's original complaint
- 2) Your response to my letter of 21 September, particularly regarding the unanswered points under (2).

I have also consulted CBC's *Arrangements for dealing with complaints*. I am very concerned that the procedure for the complaint itself and for dealing with the press is not being followed.

Could you also confirm whether it is vital I get my statement to you by Friday? As things currently stand, I am unable to properly respond the the complaint made against me as I do not have a copy of the complaint itself, as per section 5.3 of the *Arrangements for dealing with complaints*.

Many thanks for your help. I would be grateful if you could supply me with this information as a matter of urgency.

Kindest wishes,

Ben

From: Ben Locker [REDACTED] >
Date: 22 September 2015 at 09:22:02 BST
To: Andrew Weavers <andrew.weavers@colchester.gov.uk>
Subject: Fwd: Copy of Cllr Graham's complaint

Dear Andrew,

Apologies. Point 2) below refers to my letter of 18 September, not 21 September.

Kindest wishes,

Ben

Dear Andrew,

I am still concerned that do not have the necessary information to respond to the complaint against me. I have instructed a barrister in the matter and she has asked me to supply:

- 1) A timestamped copy of Cllr Graham's original complaint
- 2) Your response to my letter of 21 September, particularly regarding the unanswered points under (2).

I have also consulted CBC's *Arrangements for dealing with complaints*. I am very concerned that the procedure for the complaint itself and for dealing with the press is not being followed.

Could you also confirm whether it is vital I get my statement to you by Friday? As things currently stand, I am unable to properly respond the the complaint made against me as I do not have a copy of the complaint itself, as per section 5.3 of the *Arrangements for dealing with complaints*.

Many thanks for your help. I would be grateful if you could supply me with this information as a matter of urgency.

Kindest wishes,

Ben

From: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Date: 22 September 2015 at 09:28:57 BST
To: 'Ben Locker' [REDACTED] >
Subject: RE: Copy of Cllr Graham's complaint

Dear Ben

Thank you for your email.

- 1) Please find attached a copy of Cllr Graham's original complaint (email dated 12 September)
- 2) I am not quite sure which points you think I have not responded to under (2) in your letter of 18 September?

It would be helpful if you could provide your statement by Friday as the deadline for me to get the report finalised for the Committee meeting is Tuesday 29 September.

Regards

Andrew

Andrew Weavers
Strategic Governance Manager
Corporate and Financial Management
Colchester Borough Council
Tel: 01206 282213
www.colchester.gov.uk

[COPY OF ATTACHED EMAIL ON NEXT PAGE]

From: Dominic Graham <Dominic.Graham@colchester.gov.uk>
Date: 12 September 2015 at 21:30:40 BST
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Cc: Paul Smith <Paul.Smith@colchester.gov.uk>, Matthew Young <Matthew.Young@colchester.gov.uk>
Subject: Complaint

Hi Andrew

I'd like to make a formal complaint about Cllr Locker.

He posted the attached tweet his morning.

I'm especially unhappy that he is setting the example that publicly abusing council staff is ok.

He is effectively encouraging residents to abuse the civil enforcement officers. To my mind this sort of behaviour is totally inappropriate for a councillor.

Our staff receive enough abuse whilst carrying out their jobs. This will do nothing but worsen their experience.

Perhaps you could arrange for Cllr Locker to be reminded of his responsibilities?

Many thanks



Cllr Dominic Graham
Colchester Borough Council
Cabinet Member for Street & Waste Services

dominic.graham@colchester.gov.uk

From: Ben Locker [REDACTED] >
Date: 22 September 2015 at 11:57:50 BST
To: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Subject: Re: Copy of Cllr Graham's complaint

Dear Andrew,

Thanks for attaching Cllr Graham's complaint of 12 September to your email of today at 9.30am.

As you are aware, I have been asking for this since 18 September.

Given what I have read in the Council's *Arrangements for dealing with complaints*, you should have sent this to me on your first indication that a complaint had been made.

I am bemused as to why this was not done.

In any event, this matter has been going on since 14 September without my knowing the precise case against me. I ask, in the interests of fairness, that I have a meaningful opportunity to answer this complaint in a structured and comprehensive manner.

If Friday is indeed your deadline, it would be helpful if you would explain why you did not advise me of this deadline when you first wrote to me.

As for my unanswered questions, they should be self-explanatory. I have numbered my points in my letter of 18 September to you for your ease of reference. I would be grateful if you would kindly address each one by return.

Kindest wishes,

Ben

From: Andrew Weavers <Andrew.Weavers@colchester.gov.uk>
Date: 22 September 2015 at 12:53:01 BST
To: 'Ben Locker' [REDACTED] >
Subject: RE: Copy of Cllr Graham's complaint

Dear Ben

Thank you for your email.

I agree that you need a meaningful opportunity to answer this complaint. As mentioned in my earlier email it would be helpful if you could respond by Friday but the absolute deadline (for your response to be included in the report which I would like to ensure) is Tuesday if that assists you.

With regard to your letter of 18 September to avoid any confusion I set out my responses below in red:

1. I am concerned that I have yet to be informed of the precise complaint, the maker of the complaint or which provision(s) of the Code I have allegedly breached. I am not able to fully answer the complaint without this basic information.

I received the complaint from Councillor Graham.

The basis of his complaint is that by your tweet you were:

(a) setting the example that publicly abusing council staff is ok; and
(b) effectively encouraging residents to abuse civil enforcement officers and that this sort of behaviour was totally inappropriate for a councillor.

This would amount to a breach of paragraph 3 (1) of the Code (You must treat others with respect). In addition the Nolan Principle of Integrity states "not to place themselves(Members) in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour".

Whilst I did not forward the email from Councillor Graham until today, I did provide you with the details yesterday

2. I am also concerned that in your email to me of 17 September at 10:36 you say that you will be writing a report on the matter for the 13 October meeting of the Governance Committee, "when it will consider what action to take".

I am further concerned by yesterday's press release which states, "*Especially as a member of the Governance Committee Cllr Locker is expected to have a higher standard of conduct than that being displayed*". It appears that you have already formulated your finding.

I have not formulated any finding as explained below.

To meet common law standards of fairness, I am advised I should be given the opportunity to make a fully informed comment on the allegation and the evidence – prior to your reaching an adverse finding. Please confirm that a fully reasoned report which spells out any alleged breaches of the Code will be prepared and that a draft will be sent to me for my comment before being finalised.

The process will be that I will prepare a report for the 13 October 2015 Governance Committee meeting which will set out the facts (which are not in dispute) of the complaint and the details of what happened. I should be grateful if you could prepare and send me a statement by Friday of this week which sets out your version of events which I shall include in the report in its entirety. I will let you have a copy of the report before it is published in the agenda. I will not be making a specific recommendation to the Committee but will detail what options are available to it in accordance with the Council's Arrangements.

Please also will this report address why the author considers that the complaint is so serious that it cannot be resolved by an informal resolution, if that is indeed the finding.

Under the Council's Localism Act Arrangements the process of dealing with complaints regarding Member conduct has been delegated by the Council to me as Monitoring Officer. I will always try and resolve the situation informally if I can. However in this instance the complainant was not satisfied with your tweeted apology and accordingly I decided to consult the Independent Persons who the Council has appointed (in accordance with the Localism Act) to advise on Member complaints. Their advice to me was that this complaint should be referred to the Governance Committee as your apology was not accepted and also since you are a member of the Governance Committee which has amongst its terms of reference responsibility for upholding Member conduct and standards.

3. Finally, I am informed that you are already of the view that the Governance Committee is “likely” to pass a motion that I am not a fit person to serve on it. If true, it would seem sensible for you to appoint an independent Investigating Officer and for them to formulate findings in respect of this matter.

I am not aware whether the Committee is likely to pass such a motion and it will be up to the Members on the day to decide. In the event that they were to pass such a motion it would have to be referred to full council who would have to vote on it.

Regards

Andrew

Andrew Weavers

Strategic Governance Manager
Corporate and Financial Management
Colchester Borough Council
Tel: 01206 282213
www.colchester.gov.uk

Accused of drug dealing

A MAN will appear in court, charged with possessing Class A drugs with intent to supply.

Andrew Burt, 34, of Vicarage Avenue, White Notley, is accused of having crack cocaine and diamorphine in his car when it was stopped in Panfield Lane, Braintree, on May 22.

Burt is also charged with driving his Nissan Micra without a licence or insurance.

He is due to appear at Chelmsford Crown Court on December 12.

Quirky old stuff at fair

A QUIRKY vintage and antique fair is coming to Bures.

This will be the second time the Quirky and Collectable company runs such a fair in the village.

Antique, vintage and refurbished furniture will be on sale, along with vintage handbags, clothes and fabrics, kitchen items and china.

Admission to the event, in Bures Community Centre, Nayland Road, Bures, on Saturday, October 17, will be 50p, with proceeds going to Cancer Research UK.

To see, or not to see...

DRAMA fans have a chance to watch Benedict Cumberbatch starring in the title role of Hamlet when the National Theatre production Shakespeare's greatest tragedy is beamed live into Clacton's Century cinema next week.

The Stage to Screen show starts at 7pm on Thursday, October 15.

Tickets are £11 and available by calling 01255 429850.

Charity lots at auction

ALMOST 300 lots will go under the hammer at a charity auction in Clacton this weekend.

Clacton Lions are staging the event at the United Reformed Church hall, in Carnarvon Road on Saturday from 10am.

Entry is by £1 programme.

A QUIZ evening is being held in aid of Halstead in Bloom. It starts at Halstead Conservative Club, in the High Street, Halstead, on Friday October 16 at 7pm. Entry is £5 per person, with a maximum team size of six.

Councillor claims traffic warden comment set a bad example

Lib Dem: I shopped Tory rival over tweet

By CHAD NUGENT
chad.nugent@nqe.com

A LIB Dem councillor has been revealed as the person who reported a Tory rival over an "abusive" post on Twitter about parking wardens.

Mile End Tory member Ben Locker is being hauled before the committee which rules on councillors' conduct about a furious tweet he made after his broken-down Triumph Herald was given a parking ticket.

The agenda for the disciplinary hearing has revealed it was fellow Mile End councillor, Lib Dem Dominic Graham who reported Mr Locker for referring to parking wardens as "heartless b*****s".

Mr Graham complained to the council's governance manager Andrew Weavers, claiming the post gave the impression it was acceptable to abuse council staff.



Complaint - Lib Dem councillor Dominic Graham, left and Tory Ben Locker, right

He is effectively encouraging residents to abuse the civil enforcement officers



His email says: "I'm especially unhappy that he is setting the example that publicly abusing council staff is OK."

"He is effectively encouraging residents to abuse the civil enforcement officers. To my mind this sort of behaviour is totally inappropriate for a councillor."

"Our staff receive enough abuse while carrying out their jobs. This will do nothing but worsen their experience."

"Perhaps you could arrange for councillor Locker to be reminded of his responsibilities."

Mr Graham later told the Gazette: "All the council's staff do a brilliant job, but unfortunately those who enforce parking regulations are regularly subjected to unpleasant and unwarranted abuse."

"It is inappropriate for a councillor to criticise any council staff in the manner councillor

Locker did. His tweet was a poor example to set."

Mr Locker has paid a barrister to prepare a case against the complaint, which stresses his tweet was not aimed at any individual.

He argues he did nothing wrong because he was tweeting from a personal account and not in his role as a borough councillor.

The defence statement also says he believes Mr Graham's complaint may have been politically motivated.

The offending tweet, which Mr Locker later deleted, read "Thank you North East Essex Parking Partnership. You heartless, target driver b*****s #Colchester".

He also apologised to county councillor Robert Mitchell, chairman of the parking partnership.

The council's governance committee will rule whether the tweet breached Colchester Council's code of conduct after the hearing, on Tuesday, October 13.

ST TERESA'S NEWEST PUPILS POSE FOR THE CAMERA



THESE are the newest pupils to start at St Teresa's Catholic Primary School, Colchester. An error meant this picture was not included in our First Days at School supplement. We apologise for this.

Heritage tour leader's fears for old sites

COLCHESTER'S many heritage sites are being neglected according to one of the town's historians.

Heritage buff Jess Jephcott says the town has 45 ancient monuments - more than places such as York - yet many are unappreciated and lack proper promotion.

He says neglected sites include the Gosbecks Iron Age site and the site of the town's former

Roman Circus chariot-racing track.

He explained: "We have a tremendous number of scheduled ancient monuments, but the council thinks retail is more important. In places such as York, the town revolves around its heritage, but we don't here."

"Not enough is being done to promote our heritage or bring tourists into the town."

A council spokesman denied this was the case and said a great deal of effort had gone into making the town's heritage accessible to all.

This included Colchester Castle's recent £4.3million revamp and the Fixing the Link project, which will celebrate the history of Colchester along a route between North Station and the High Street.

Borough councillor responsible for culture Tim Young, added: "The huge amount of work which has gone into promoting our heritage recently is testament to the importance we place on celebrating the best our unique past has to offer."

"It is a significant reason why people continue to visit the borough in such significant numbers."



**IN THE FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(Local Government Standards in England)**

CASE NO: LGS\2012\0577

ON APPEAL FROM:

Standards Committee of: Hull City Council
Decision Notice No: 2011/03 & 04
Dated: 11 January 2012

APPELLANT: Councillor John Fareham ('the Appellant') of
Hull City Council ('the Council')

RESPONDENT: Hull City Council Standards Committee ('the
Respondent')

DATE OF HEARING: 20 July 2012

DATE OF DECISION: 21 July 2012

BEFORE

**Judge: Patrick Mulvenna
Judge: David Laverick
Member: Chris Perrett**

Attendances:

For the Appellant: In person
For the Respondent: Mr Peter Dearing

Subject matter: Appeal by a member of a local authority
against a Standards Committee decision

Cases: MC v Standards Committee of LB Richmond [2011] UKUT 232 (AAC)
Livingstone v The Adjudication Panel for England [2006] EWHC 2533 (Admin)
Barras v Aberdeen Sea Trawling and Fishing Co Ltd [1933] AC 402
Mullaney v The Adjudication Panel for England [2009] EWHC 72 (Admin)

DECISION OF THE FIRST-TIER TRIBUNAL

The appeal has been upheld and the decision of the Standards Committee has been rejected.

REASONS FOR DECISION

1. The Appellant has appealed against the Respondent's finding that the Appellant had failed to follow paragraphs 3.2.1 and 3.4 of the Code of Conduct by posting on the social networking medium, Twitter, a short message ('tweet') after a meeting of the Council on 24 February 2011 in the following terms, '15 hours in Council today very hard hitting day and the usual collection of retards in the public gallery spoiling it for real people'.
2. As a result of the Respondent's finding, the Respondent decided that the Appellant be suspended for a period of 20 weeks and that he be required to undertake further diversity training.
3. Permission to appeal was granted by Judge David Laverick with an indication in Directions dated 2 May 2012 that 'the issues to be determined in deciding whether there has been a breach of the Council's Code of Conduct are:

1 Whether the Appellant was acting in his official capacity when sending the tweet, i.e. produced at paragraph 2.2 of the decision of the Standards Committee.

2 If he was so acting whether that tweet may have caused Hull City Council to breach the Equality Act 2010.

3 Whether the tweet brought into disrepute the Council or his office as a councillor.

4 Whether the application of the Code of Conduct and the consideration of the complaint against him were an infringement of the right to Freedom of Expression provided by Article 10 of the European Convention on human rights.'

4. The relevant paragraphs of the Code of Conduct are as follows:

Paragraph 2.1 – 'Subject to paragraphs 2.2 to 2.5 you must comply with this Code whenever you:

2.1.1 conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or

2.1.2 act, claim to act or give the impression you are acting as a representative of the Council

and references to your official capacity are construed accordingly.

2.2 Subject to paragraphs 2.3 and 2.4, this Code does not have effect in relation to your conduct other than where it is in your official capacity.'

[Paragraphs 2.3 and 2.4 relate to criminal offences and are not relevant to the present case.]

Paragraph 3.1 - 'You must treat others with respect.'

Paragraph 3.2 - 'You must not: ...'

Paragraph 3.2.1 - '...do anything which may cause your authority to breach any of equality enactments (as defined in section 33 of the Equality Act 2006).'

Paragraph 3.4 - 'You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.'

5. The material facts are as follows:

- 5.1 The Appellant was elected to the Council in 1983 and undertook to observe the Council's Code of Conduct (most recently) on 7 May 2010.
 - 5.2 The Appellant attended training concerning the Code of Conduct on 6 September 2010 entitled 'Conduct beyond the Code' and, on 3 February 2011, he received training concerning equality and diversity entitled 'Getting a fair deal' in compliance with a sanction imposed by a hearing of the Standards Committee in relation to a previous and unrelated complaint.
 - 5.3 The Appellant attended a meeting of the Council on 24 February 2011. The agenda for the meeting included consideration of the revenue budget for the ensuing financial year. There were proposals for reducing expenditure which gave rise to considerable opposition from those who might be affected. There were demonstrations outside the Guildhall and a large number of people were present in the public gallery to the council chamber. There is evidence of disruption of the meeting and of pejorative and insulting attacks on councillors, including the Appellant. After the meeting, the Appellant posted a tweet in the following terms, '15 hours in Council today very hard hitting day and the usual collection of retards in the public gallery spoiling it for real people'.
 - 5.4 The tweet was given wider publicity in the press and on other social networking media (including Facebook) as a result of which the Council received two complaints which led to an investigation and a hearing of the Council's Determinations Sub-Committee at which the decisions and sanctions now under appeal were made. In addition to the appealed decisions, the Sub-Committee dismissed an allegation that the Appellant had failed to treat others with respect contrary to paragraph 3.1 of the Code of Conduct.
- 6 The Tribunal first considered whether or not the Appellant had been acting in his official capacity when composing and sending the tweet. In this respect, the Tribunal advised the parties that, on the face of the record of the Standard Committee's deliberations and decision, they did not appear to have had regard to the definition of 'official capacity' in Paragraph 2 of the Code of Conduct nor to have considered the implications of the decision in **MC v Standards Committee of LB Richmond [2011] UKUT 232 (AAC)**. The Tribunal adjourned for a short period and invited the parties to consider these matters with a view to making submissions on the point.
- 7 On resumption of the hearing, the parties confirmed that they had had sufficient time to consider the position and to address the issue identified by the Tribunal. Mr Dearing submitted that the Tribunal had to make a decision based on the facts. The material facts included the following factors: the remark had been made as a response to a Council

meeting; the Appellant was a well known figure, a former Lord Mayor and the leader of the Conservative group on the Council; a linkage would be made by most people and that was evidenced by reportage of the tweet in the local press. In these circumstances, it was reasonable to conclude that the Appellant had been acting in his official capacity. The Appellant submitted that he was only well known within the context of his political activities and confirmed that his intention had not been to post the tweet as a councillor but in his private capacity. He observed that there were inherent difficulties in differentiating between what he did as a councillor and what he did as a private individual, but that that should not impact on his private capacity.

- 8 In **MC v Standards Committee of LB Richmond**, Upper Tribunal Judge Ward reviewed and restated the approach to be adopted in considering official capacity. He observed that the decision of Collins J in **Livingstone v The Adjudication Panel for England [2006] EWHC 2533 (Admin)** had been taken 'under the 2001 Model Code, which was not then in the form of the 2007 Code with which the present case is concerned, though there were similarities.' The 2001 Model Code, at Paragraph 4, provided that (emphasis added): 'A member must not in his official capacity or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.' Upper Tribunal Judge Ward also observed that 'The 2007 Code was issued after, and so with knowledge of, the judgement in **Livingstone**. It should be taken to have drawn the line which it now does advisedly, having regard to that decision, under the principle in **Barras v Aberdeen Sea Trawling and Fishing Co Ltd [1933] AC 402 at 411**. Under **Livingstone** matters which were not within official capacity, but which involved the misuse of a member's position, were within "any other circumstance". A materially identical formulation as to "official capacity" in the 2007 Code carries with it the same limitation. This does not in any way conflict with the fact-sensitive approach envisaged by [**Mullaney v The Adjudication Panel for England [2009] EWHC 72 (Admin)**] but does define the scope for its operation in the light of the replacement of the 2001 Code by the 2007 Code.' He went on to say that 'The test under paragraph 2(1)(a) is accordingly whether in [respect of the matters under consideration], the Appellant was, as a matter of ordinary English, (actually) conducting the business of his authority, including the business of the office of councillor to which he had been elected?' He continued, 'this requires a fact-sensitive approach: see **Mullaney**.' The Tribunal would emphasise the parenthetic word 'actually'. There can be no question of implied action.
- 9 Having regard to these principles, the Tribunal finds as material facts that the tweet does not refer to the Appellant as a councillor, does not refer to the Council, does not identify the issues discussed by the Council, does not (as also found by the Respondent) refer to identifiable persons. Nothing expressly contained in the tweet could reasonably be considered to be a comment by a Hull councillor on a Hull Council meeting without drawing inferences based on the personal knowledge of the reader. The factors submitted as being relevant by Mr Dearing would justify such inferences, but they do not address the correct test. A person is not bound by the Code of Conduct simply by being a councillor or by being known to be a councillor, he is bound by acting in his official capacity. 'Official capacity' is defined in Paragraph 2 of the Code of Conduct as set out in paragraph 4 (above) of this decision. Assessing the position against that definition, the Tribunal finds, as a matter of fact, that the Appellant was acting in his private capacity in making the tweet. There is no sustainable evidence that the Appellant was conducting the business of the Council or the business of his office; or that he was acting, claiming to act or giving the impression he was acting as a representative of the Council. The Tribunal has concluded that, in posting the tweet, the Appellant was not acting in his official capacity. He was not, therefore, at the material time bound by the Code of Conduct. Accordingly, the Tribunal has determined that the Appellant did not fail to follow the provisions of the Code. His appeal is allowed.
- 10 The decision of the Standards Committee ceases immediately to have effect.

- 11 In reaching this decision, the Tribunal emphasises that it does not condone or underestimate the effects of the Appellant's use of the words 'retards' and 'real people' in the context of the tweet. They were gratuitous and could reasonably have been foreseen to cause offence. However, as Collins J pointed out in **Livingstone** (albeit in relation to his consideration of the applicability of Article 10 of the 1950 European Convention for the Protection of Human Rights) 'However offensive and undeserving of protection the Appellant's outburst may have appeared to some, it is important that any individual knows that he can say what he likes, provided it is not unlawful'. No matter how egregious the actions of a councillor, if he is not acting within his official capacity, his actions cannot be impugned under the Code of Conduct, unless there is some criminal or other material element expressly referred to in the Code. In the event, the Tribunal is satisfied, from the Appellant's unreserved apology prior to the Respondent's decision and from his comments and demeanour at the hearing before the Tribunal, that he recognises the folly of his actions and has true contrition.
- 12 The written reasons for the Tribunal's decision will be published on the Tribunals website at www.adjudicationpanel.tribunals.gov.uk.
- 13 Any request for permission to appeal needs usually to be made to the First-tier Tribunal within 28 days of receipt of the Tribunal's reasoned decision. Such applications need to be in writing.

Patrick Mulvenna
Judge

21 July 2012

Jordan A. Newell

[REDACTED]
[REDACTED]
[REDACTED]

1 October 2015

The Governance Committee
c/o Andrew Weavers
Colchester Borough Council
Town Hall
High Street
COLCHESTER CO1

Dear Committee Members,

Complaint against Cllr Ben Locker

I understand that at your meeting on 13 October, a report will be received by the Committee regarding a complaint against Cllr Locker and his remarks made on social media over a parking penalty charge notice.

As a former Parliamentary Candidate, I am a staunch supporter of the Nolan Principles and the need for holders of public office to adhere themselves to the highest possible standards while undertaking their duties. But I also hold a genuine belief that Councillors and other office holders should be able to debate, challenge and speak freely within the social norms of respect, tolerance and inclusivity.

I have been moved to write to the Committee today, to urge them to take no further action on this complaint and to accept Cllr Locker's apology.

Section 4.3 of the Monitoring Officer's Report states that: "*The question here is did Councillor Locker's original tweet give the impression, to a reasonable member of the public, that he was posting it in his capacity as a councillor?*"

As a 'reasonable member of the public' myself (albeit one with extensive experience in the use of social media), I would have inferred that Cllr Locker was tweeting as an individual, who also just happens to be a councillor. As the report indicates, one of the drawbacks for politicians – at all levels – is one of 'blurred identities' and the constant debate over where we draw the line between public and private comment.

I would ask the Committee to consider the context of these remarks, and whether a complaint would have been made had Cllr Locker expressed his frustrations about North Essex Parking Partnership to private individuals or within a physical public forum. I suspect it would not have.

It is clear from Cllr Locker's tweet that he was not criticizing individuals, but the North Essex Parking Partnership as a whole. And as a '*reasonable member of the public*', I believe any criticisms of the partnerships' operations and methods are wholly justified. As such, Cllr Locker is in fact representing the view of his constituents.

While I do not condone the language used by Cllr Locker, I understand his frustration, as will many people in Colchester. However, given that he has made a public apology I do not believe that this matter merits wasting any more of the Council's time or resources.

Yours sincerely,

—

Jordan Newell



Governance Committee

Item
10

13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Local Government Ombudsman – Annual Review 2014/2015		
Wards affected	Not applicable		

This report request the Committee to note the Local Government Ombudsman’s Annual Review for 2014/2015

1. Decision Required

- 1.1 To note the contents of the Local Government Ombudsman’s Annual Review Letter for 2014/2015.

2. Reasons for Decision(s)

- 2.1 To inform the Cabinet of the number of complaints received by the Local Government Ombudsman in relation to Colchester during 2014/2015.

3. Alternative Options

- 3.1 No alternative options are presented.

4. Supporting Information

- 4.1 The Local Government Ombudsman issues an Annual Review Letter to each local authority. The Annual Review Letter for Colchester for the year ending 31 March 2015 is attached to this report at Appendix 1.
- 4.2 It is worth noting that anyone can choose to make a complaint to the Local Government Ombudsman. Accordingly, the number of complaints is not an indicator of performance or level of customer service. In most instances there was no case to answer. The Local Government Ombudsman will normally insist that the Council has the opportunity to resolve the complaint locally through its own complaints procedure before commencing its own investigation.
- 4.3 The contents of the Annual Review were reported to Cabinet on 2 September 2015 where the Cabinet noted the report.

5. Key Headlines

- 5.1 There were no findings of maladministration against the Council and no formal reports were issued.
- 5.2 In 2014 /15 the Council received 219,000 customer contacts. The Local Government Ombudsman in the same period received 30 complaints and enquires in relation to how

the Council had dealt with its customers. This is an increase from the previous year's figure of 22.

5.3 The Local Government Ombudsman made 30 decisions. Of which:

- 19 were referred back for local resolution,
(Referred back to the Council to enable it to deal with the complaint via its own complaint procedures)
- 6 were closed after initial enquiries,
- 4 advice given,
- 1 upheld.

(The Local Government Ombudsman decided that the Council had been at fault in how it acted and the fault may or may not have caused injustice to the complainant, or where the Council accepted that it needed to remedy the complaint before the Local Government Ombudsman made a finding on fault).

5.4 The case that was upheld the Local Government Ombudsman found that the Council had delayed dealing with retrospective planning applications however this did not cause any injustice to the complainant as the Council had made it clear from the outset what the likely outcome of the applications would be.

6. Financial Considerations

6.1 No direct implications other than mentioned in this report.

7. Strategic Plan References

7.1 The lessons learnt from complaints to the Local Government Ombudsman link in with our Strategic Plan aims to be efficient accessible, customer focused and always looking to improve. Having an effective complaints process helps us to achieve the Strategic Plan's themes of a vibrant, prosperous, thriving and welcoming Borough.

8. Equality, Diversity and Human Rights Implications

8.1 No direct implications.

9. Publicity Considerations

9.1 Details of the Annual Review Letter are published on the Local Government Ombudsman's website and will also be published on the Council's website.

10. Consultation, Community Safety, Health and Safety and Risk Management Implications

10.1 No direct implications.

18 June 2015

By email

Mr Adrian Pritchard
Chief Executive
Colchester Borough Council

Dear Mr Pritchard

Annual Review Letter 2015

I am writing with our annual summary of statistics on the complaints made to the Local Government Ombudsman (LGO) about your authority for the year ended 31 March 2015. This year's statistics can be found in the table attached.

The data we have provided shows the complaints and enquiries we have recorded, along with the decisions we have made. We know that these numbers will not necessarily match the complaints data that your authority holds. For example, our numbers include people who we signpost back to the council but who may never contact you. I hope that this information, set alongside the data sets you hold about local complaints, will help you to assess your authority's performance.

We recognise that the total number of complaints will not, by itself, give a clear picture of how well those complaints are being responded to. Over the coming year we will be gathering more comprehensive information about the way complaints are being remedied so that in the future our annual letter focuses less on the total numbers and more on the outcomes of those complaints.

Supporting local scrutiny

One of the purposes of the annual letter to councils is to help ensure that learning from complaints informs scrutiny at the local level. Supporting local scrutiny is one of our key business plan objectives for this year and we will continue to work with elected members in all councils to help them understand how they can contribute to the complaints process.

We have recently worked in partnership with the Local Government Association to produce a workbook for councillors which explains how they can support local people with their complaints and identifies opportunities for using complaints data as part of their scrutiny tool kit. This can be found [here](#) and I would be grateful if you could encourage your elected members to make use of this helpful resource.

Last year we established a new Councillors Forum. This group, which meets three times a year, brings together councillors from across the political spectrum and from all types of local authorities. The aims of the Forum are to help us to better understand the needs of councillors when scrutinising local services and for members to act as champions for learning from complaints in their scrutiny roles. I value this direct engagement with elected members and believe it will further ensure LGO investigations have wider public value.

Encouraging effective local complaints handling

In November 2014, in partnership with the Parliamentary and Health Service Ombudsman and Healthwatch England, we published *'My Expectations'* a service standards framework document describing what good outcomes for people look like if complaints are handled well. Following extensive research with users of services, front line complaints handlers and other stakeholders, we have been able to articulate more clearly what people need and want when they raise a complaint.

This framework has been adopted by the Care Quality Commission and will be used as part of their inspection regime for both health and social care. Whilst they were written with those two sectors in mind, the principles of *'My Expectations'* are of relevance to all aspects of local authority complaints. We have shared them with link officers at a series of seminars earlier this year and would encourage chief executives and councillors to review their authority's approach to complaints against this user-led vision. A copy of the report can be found [here](#).

Future developments at LGO

My recent annual letters have highlighted the significant levels of change we have experienced at LGO over the last few years. Following the recent general election I expect further change.

Most significantly, the government published a review of public sector ombudsmen in March of this year. A copy of that report can be found [here](#). That review, along with a related consultation document, has proposed that a single ombudsman scheme should be created for all public services in England mirroring the position in the other nations of the United Kingdom. We are supportive of this proposal on the basis that it would provide the public with clearer routes to redress in an increasingly complex public service landscape. We will advise that such a scheme should recognise the unique roles and accountabilities of local authorities and should maintain the expertise and understanding of local government that exists at LGO. We will continue to work with government as they bring forward further proposals and would encourage local government to take a keen and active interest in this important area of reform in support of strong local accountability.

The Government has also recently consulted on a proposal to extend the jurisdiction of the LGO to some town and parish councils. We currently await the outcome of the consultation but we are pleased that the Government has recognised that there are some aspects of local service delivery that do not currently offer the public access to an independent ombudsman. We hope that these proposals will be the start of a wider debate about how we can all work together to ensure clear access to redress in an increasingly varied and complex system of local service delivery.

Yours sincerely



Dr Jane Martin
Local Government Ombudsman
Chair, Commission for Local Administration in England

Local authority report – Colchester Borough Council

For the period ending – 31/03/2015

For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/publications/annual-report/note-interpretation-statistics/>

Complaints and enquiries received

Local Authority	Adult Care Services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services and public protection	Highways and transport	Housing	Planning and development	Total
Colchester BC	0	7	2	0	3	3	4	11	30

Decisions made

Local Authority	Detailed investigations carried out		Advice given	Closed after initial enquiries	Incomplete/Invalid	Referred back for local resolution	Total
	Upheld	Not Upheld					
Colchester BC	1	0	4	6	0	19	30

13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of the Council's Ethical Governance Policies		
Wards affected	Not applicable		

This report requests the Committee to review the Council's updated Ethical Governance policies

1. Decision(s) Required

1.1 To review the following revised policies:

- Anti-Fraud and Corruption
- Whistleblowing
- Anti-Money Laundering
- Covert Surveillance
- Corporate Information Security
- Data Protection

and to recommend to Council that they be approved for inclusion in the Council's Policy Framework.

2. Background

- 2.1 The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably so as to protect public safety and public money.
- 2.2 A varied range of policies and procedures form the Corporate Governance framework and a selection of these relate to Ethical Governance - those specifically regarding conduct and integrity.
- 2.3 The Ethical Governance policies set out the standards of conduct and integrity that it expects from staff, elected members, suppliers, partners, volunteers and the public. Breaches of the policies will be pursued and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.
- 2.4 In February 2012 full Council adopted a statement of intent in relation to both Ethical and Corporate Governance which gave a high organisational commitment to zero tolerance of fraud, corruption and bribery. The Ethical Governance policies were also adopted as part of the Council's policy framework. The opportunity has been taken to update the statement of intent.

3. Review of Ethical Governance Policies

- 3.1 The Anti-Fraud and Corruption, Whistleblowing, Anti-Money Laundering, Covert Surveillance and Corporate Information Security policies were last reviewed by this Committee at its meeting on 14 October 2014.
- 3.2 These policies have been reviewed to ensure that they remain fit for purpose and no changes are proposed to the policies apart from the Information Security Policy which has been updated to include reference to employees being required to inform Corporate ICT of any suspected breaches or incidents and for users to adhere to the password policy.
- 3.3 The opportunity has been taken to include within this review the Council's Data Protection Policy which was last reviewed in 2012. The Council is required to have policy statement to demonstrate how it deals with and treats personal information. The attached version has been updated to reflect current practices.
- 3.4 The Covert Surveillance Policy has been updated with links to revised national guidance on its use. The Council has not sought any authorisations for the use of covert surveillance in the past year.
- 3.5 The Monitoring Officer writes an annually to both Members and Officers reminding them of their obligations regarding the Anti-Fraud and Corruption and Whistleblowing policies.
- 3.6 On 1 October 2015 the statutory responsibility for investigating and prosecuting housing benefit fraud cases (together with the staff) transferred from the Council to the Department of Work and Pensions. Accordingly as the Council no longer has responsibility for pursuing benefit fraud it no longer requires a Sanctions Policy. All fraud cases are now pursued by the Department of Work and Pensions with any recovered monies being returned to the Council.

4. Strategic Plan References

- 4.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

5. Publicity Considerations

- 5.1 Amendments to the Council's ethical governance policies will be included in the Constitution and will be published on the Council's website.

6. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 6.1 None.



Anti-Fraud & Corruption Policy

A guide to the Council's approach to preventing fraud and corruption and managing any suspected cases.

October 2015

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ANTI-FRAUD & CORRUPTION POLICY

1.0 INTRODUCTION

Colchester Borough Council, like every Local Authority, has a duty to ensure that it safeguards the public money that it is responsible for.

The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to protect public safety and public money.

All suspicions or concerns of fraudulent or corrupt practise will be investigated. There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. Any investigations will not compromise the Council's commitment to Equal Opportunities or the requirements of the Human Rights Act or any other relevant statutory provision.

This policy has been created with due regard to the CIPFA better Governance Forum's Red Book 2 'Managing the Risk of Fraud', the CIPFA 2014 Code of practise on managing the risk of fraud and corruption and the Audit Commission Publication 'Protecting the Public Purse'.

2.0 OVERVIEW

This policy provides an overview of the measures designed to combat any attempted fraudulent or corrupt act. For ease of understanding it is separated into four areas as below:-

- Culture
- Responsibilities & Prevention
- Detection and Investigation
- Awareness & Monitoring

Fraud and corruption are defined as:-

Fraud – “the intentional distortion of financial statements or other records by persons internal or external to the authority, which is carried out to conceal the misappropriation of assets or otherwise for gain”.

In addition, fraud can also be defined as “the intentional distortion of financial statements or other records by persons internal or external to the authority, which is carried out to mislead or misrepresent”.

Corruption – “the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person”.

The Council also abides by the Bribery Act 2010 which covers, amongst other things, the offences of bribing another person, of allowing to be bribed and organisational responsibility. Such offences include:

- The offer, promise or giving of financial or other advantage to another person in return for the person improperly performing a relevant function or activity
- Requesting, agreeing to receive or accepting a financial or other advantage intending that, in consequence a relevant function or activity should be performed improperly.
- Commercial organisation responsibility for a person, associated with the organisation, bribing another person for the purpose of obtaining or retaining business for the organisation

In addition, this policy also covers “the failure to disclose an interest in order to gain financial or other pecuniary benefit.”

3.0 CULTURE

The prevention/detection of fraud/corruption and the protection of public money are responsibilities of everyone, both internal and external to the organisation. The Council’s elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will, wherever possible, be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred.

Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:

- A criminal offence
- A failure to comply with a statutory or legal obligation
- Improper or unauthorised use of public or other official funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering an individual’s health and/or safety
- Damage to the environment
- Deliberate concealment of any of the above

The Council will ensure that any allegations received in any way, including by anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner. The Council has a whistle blowing policy that sets out the approach to these types of allegation in more detail.

The Council will deal firmly with those who defraud the Council or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (members).

When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence

4.0 RESPONSIBILITIES & PREVENTION

4.1 Responsibilities of Elected Members

As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the National and Local Code of Conduct for Members, the Council's Constitution including Financial Regulations and Standing Orders and relevant legislation. Conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. Officers advise members of new legislative or procedural requirements.

4.2 Responsibilities of the Monitoring Officer

The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.

All suspected instances of fraud or corruption (apart from benefit claim issues) should be reported to the Monitoring Officer.

4.3 Responsibilities of the Section 151 Officer

The Strategic Finance Manager has been designated with the statutory responsibilities of the Finance Director as defined by s151 of the Local Government Act 1972. These responsibilities outline that every local authority in England & Wales should: "make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs"

'Proper administration' encompasses all aspects of local authority financial management including:

- Compliance with the statutory requirements for accounting and internal audit;
- Managing the financial affairs of the Council
- The proper exercise of a wide range of delegated powers both formal and informal;
- The recognition of the fiduciary responsibility owed to local tax payers. Under these statutory responsibilities the Section 151 Officer contributes to the anti-fraud and corruption framework of the Council.

4.4 Responsibilities of the Senior Management Team

Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures, the Council's Financial Regulations and Standing Orders and that the requirements of each are being met. Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Special arrangements may be applied from time to time for example where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll or the Revenues & Benefits computer system. These procedures will be supported by relevant training.

The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. Disclosure and Barring Service (DBS) checks are undertaken for employees working with or who may have contact with children or vulnerable adults.

4.5 Responsibilities of Employees

Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other policies on conduct and IT usage. Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. These are issued to all employees when they join the Council. In addition, employees are responsible for ensuring that they follow any instructions given to them, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management.

4.6 Role of Internal Audit

Internal Audit plays a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud and corruption. Internal Audit may be requested to investigate cases of suspected financial irregularity, fraud or corruption, except Benefit fraud investigations, in accordance with agreed procedures. Within the Financial Procedure Rules in the Constitution, representatives of Internal Audit are empowered to:

- enter at all reasonable times any Council premises or land
- have access to all records, documentation and correspondence relating to any financial and other transactions as considered necessary
- have access to records belonging to third parties such as contractors when required
- require and receive such explanations as are regarded necessary concerning any matter under examination

- require any employee of the Council to account for cash, stores or any other Council property under his/her control or possession
- Internal Audit liaises with management to recommend changes in procedures to reduce risks and prevent losses to the Authority.

4.7 Role of the Benefits Investigation

Any allegations of benefit fraud are to be referred to the Department of Work and Pensions for investigation.

4.8 Role of the Corporate Governance Team

The team consists of various officers whose roles include governance issues and the objective is to promote and embed a governance culture throughout the organisation by implementing policies, reviewing issues, providing training and sharing information.

4.9 Role of the External Auditors

Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by Ernst & Young through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice. The Council contributes to the bi-annual Audit Commission led National Fraud Initiative which is designed to cross match customers across authorities too highlight areas where there are potential fraudulent claims.

4.10 Role of the Public

This policy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.

4.11 Conflicts of Interest

Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

4.12 Official Guidance

In addition to Financial Regulations and Standing Orders, due regard will be had to external and inspectorate recommendations.

The Council is aware of the high degree of external scrutiny of its affairs by a variety of bodies such as Government Inspection bodies, the Local Government Ombudsman, HM Customs & Excise and the Inland Revenue. These bodies are important in highlighting any areas where improvements can be made.

5.0 DETECTION & INVESTIGATION

Internal Audit plays an important role in the detection of fraud and corruption. Included within the audit plans are reviews of system controls including financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

In addition to Internal Audit, there are numerous systems and management controls in place to deter fraud and corruption but it is often the vigilance of employees and members of the public that aids detection. In some cases frauds are discovered by chance or “tip-off” and the Council will ensure that such information is properly dealt with within its whistle blowing policies.

Detailed guidance on the investigation process is available separately.

5.1 Disciplinary Action

The Council’s Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft, fraud and corruption are serious offences which may constitute gross misconduct against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.

Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and corruption against the Authority. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a breach of the Code of Conduct for Members then it will be dealt with in accordance with the Arrangement agreed by the Council in accordance with the Localism Act 2011.

5.2 Prosecution

In terms of proceedings the Council will endeavour to take action in relevant cases to deter others from committing offences against the Authority.

5.3 Publicity

The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. Wherever possible, where the Council has suffered a financial loss action will be taken to pursue the recovery of the loss. All anti-fraud and corruption activities, including the update of this policy, will be publicised.

6.0 AWARENESS & MONITORING

The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and will therefore take appropriate action to raise awareness levels.

The Monitoring Officer will provide an annual report to senior management and members outlining investigations undertaken during the year.

This policy and associated procedures will be reviewed at least annually and will be reported to senior management and the Governance Committee.



Whistleblowing Policy

A guide for employees and Councillors on how to raise concerns about conduct within the Council.

October 2015

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WHISTLEBLOWING POLICY

1.0 Introduction

Employees or Councillors are often the first to realise that there may be some form of inappropriate conduct within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of misconduct, but this can have serious consequences if wrongdoing goes undetected.

The Council is committed to the highest possible standards of openness, probity, accountability and honesty. In line with that commitment we expect employees, councillors and others that we deal with who have serious concerns, about any aspect of the Council's work, to come forward and voice those concerns.

This policy document makes it clear that employees and councillors can do so without fear of victimisation, subsequent discrimination or disadvantage. This Whistleblowing Policy and Procedure is intended to encourage and enable employees and councillors to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' outside. With the exception of employment related grievances, this policy will apply to any act of Whistleblowing, as defined by the charity Public Concern at Work to mean; "A disclosure of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of its employees."

This policy and procedure applies to all employees, councillors, partners, volunteers and contractors. It also covers suppliers and members of the public.

These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures. Officers are responsible for making customers aware of the existence of these procedures.

This policy has been discussed with the relevant trade unions and has their support.

2.0 Aims and Scope of the Whistleblowing Policy

This policy aims to:

- Encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice without fear of recrimination.
- Provide avenues for you to raise those concerns and receive feedback on any action taken.
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- Reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
- Advise you of the support that the Council will provide if you raise concerns in good faith.

There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This Whistleblowing Policy and Procedure is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damages to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- other unethical conduct
- unacceptable business risks.

This concern may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Procedure Rules and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

3.0 Safeguards

3.1 Harassment or Victimisation

The Council is committed to good practice and high standards and wants to be supportive of employees and councillors.

The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to the Council and those for whom you are providing a service. In these situations you are a witness and not a complainant.

The Council will not tolerate the harassment or victimisation of any person who raises a concern. The Council's disciplinary procedures will be used against any employee who is found to be harassing or victimising the person raising the concern and such behaviour by a councillor will be reported under the Members' Code of Conduct.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you if you are an employee.

3.2 Confidentiality

All concerns will be treated in confidence and the Council will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation that is sufficiently serious to warrant disciplinary action or police involvement, then your evidence may be important. Your name will not however be released as a possible witness until the reason for its disclosure, at this stage, has been fully discussed with you.

3.3 Anonymous Allegations

This policy encourages you to put your name to your allegation whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

In exercising this discretion the factors to be taken into account would include the:

- seriousness of the issues raised;
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

3.4 Untrue Allegations

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If however, you make an allegation maliciously or for personal gain, disciplinary action may be taken against you, or if you are a councillor a complaint may be made under the Members' Code of Conduct.

4.0 How to raise a concern

You should normally raise concerns with the Monitoring Officer or the Section 151 Officer. However if your concern relates to one of these officers you should raise your concerns with the Chief Executive

Concerns may be raised verbally or in writing. Employees or councillors who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
and
- the reason why you are particularly concerned about the situation.

The earlier you express the concern the easier it is to take action.

Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

Advice and guidance on how matters of concern may be pursued can be obtained from:

Chief Executive, Adrian Pritchard ☎ 282211

Monitoring Officer, Andrew Weavers ☎ 282213

Section 151 Officer, Sean Plummer ☎ 282347

Deputy Monitoring Officer, Julian Wilkins ☎ 282257

Corporate Governance Manager, Hayley McGrath ☎ 508902

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

If you are an employee you may invite your trade union or a friend to be present during any meetings or interviews in connection with the concerns you have raised. If you are a councillor you may be accompanied by your group leader.

Further guidance on protection for anyone raising a concern can be found in the Public Interests Disclosure Act 1998.

5.0 How the Council will respond

The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as rejecting them.

Where appropriate, the matters raised may be:

- investigated by management, Internal Audit, or through the disciplinary process
- referred to the police
- referred to the Council's external auditor
- the subject of an independent inquiry.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the Council will have in mind, is the public interest.

Some concerns may be resolved by agreed action without the need for investigation.

Within **five** working days of a concern being raised, one of the named Officers will write to you:

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- informing you whether any initial enquiries have been made
- supplying you with information on staff support mechanisms, and
- informing you whether further investigations will take place and if not, why not.

The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

Where any meeting is arranged, off-site where appropriate, if you so wish, you can be accompanied by a union or professional association representative or a friend, or the group leader if you are a councillor.

The Council will take steps to minimise any difficulties, which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure and will help you with the preparation of statements.

The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcomes of any investigation.

6.0 The Responsible Officer

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will provide an annual report on the operation of the policy to the Governance Committee.

7.0 How the matter can be taken further

This policy is intended to provide you with an avenue to raise concerns within the Council. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- (a) your local Citizens Advice Bureau
- (b) relevant professional bodies or regulatory organisations
- (c) the police
- (d) Local Government Ombudsman
- (e) the Council's Governance Committee.

If you are considering taking the matter outside of the Council, you should ensure that you are entitled to do so and that you do not disclose confidential information. An independent charity, Public Concern at Work, can offer independent and confidential advice. They can be contacted on ☎ 020 7404 6609 or by email at whistle@pcaw.co.uk

8.0 Questions regarding this policy

Any questions should, in the first instance, be referred to the Monitoring Officer.

9.0 Review

This policy will be reviewed on an annual basis.



Anti-Money Laundering Policy

A guide to the Council's anti-money laundering safeguards and reporting arrangements.

October 2015

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ANTI-MONEY LAUNDERING POLICY

1. Introduction

Although local authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, guidance from CIPFA indicates that they should comply with the underlying spirit of the legislation and regulations.

Colchester Borough Council is committed to the highest possible standards of conduct and has, therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

2. Scope of the Policy

This policy applies to all employees, whether permanent or temporary, and Members of the Council.

Its aim is to enable employees and Members to respond to a concern they have in the course of their dealings for the Council. Individuals who have a concern relating to a matter outside work should contact the Police.

3. Definition of Money Laundering

Money laundering describes offences involving the integration of the proceeds of crime, or terrorist funds, into the mainstream economy. Such offences are defined under the Proceeds of Crime Act 2002 as the following 'prohibited acts':

- Concealing, disguising, converting, transferring or removing criminal property from the UK
- Becoming involved in an arrangement which an individual knows or suspects facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- Acquiring, using or possessing criminal property
- Doing something that might prejudice an investigation e.g. falsifying a document
- Failure to disclose one of the offences listed in a) to c) above, where there are reasonable grounds for knowledge or suspicion
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation

Provided the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Potentially very heavy penalties (unlimited fines and imprisonment up to fourteen years) can be handed down to those who are convicted of one of the offences above.

4. Requirements of the Money Laundering Legislation

The main requirements of the legislation are:

- To appoint a money laundering reporting officer
- Maintain client identification procedures in certain circumstances
- Implement a procedure to enable the reporting of suspicions of money laundering
- Maintain record keeping procedures

5. The Money Laundering Reporting Officer (MLRO)

The Council has designated the Monitoring Officer as the Money Laundering Reporting Officer (MLRO). He can be contacted on 01206 282213 or at andrew.weavers@colchester.gov.uk

In the absence of the MLRO or in instances where it is suspected that the MLRO themselves are involved in suspicious transactions, concerns should be raised with the Section 151 Officer.

6. Client Identification Procedures

Although not a legal requirement, the Council has developed formal client identification procedures which must be followed when Council land or property is being sold. These procedures require individuals and if appropriate, companies to provide proof of identity and current address.

If satisfactory evidence is not obtained at the outset of a matter, then the transaction must not be progressed and a disclosure report, available on the Hub, must be submitted to the Money Laundering Reporting Officer.

All personal data collected must be kept in compliance with the Data Protection Act.

7. Reporting Procedure for Suspicions of Money Laundering

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within “hours” of the information coming to your attention, not weeks or months later.

Your disclosure should be made to the MLRO using the disclosure report, available on the Hub. The report must include as much detail as possible including

- Full details of the people involved
- Full details of the nature of their/your involvement.
- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious.

Along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable him to prepare his report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

If you are concerned that your involvement in the transaction would amount to a prohibited act under sections 327 – 329 of the Act, then your report must include all relevant details, as you will need consent from the NCA, via the MLRO, to take any further part in the transaction - this is the case even if the client gives instructions for the matter to proceed before such consent is given. You should therefore make it clear in the report if such consent is required and clarify whether there are any deadlines for giving such consent e.g. a completion date or court deadline;

Once you have reported the matter to the MLRO you must follow any directions he may give you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off”.

Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

8. Consideration of the disclosure by the Money Laundering Reporting Officer

Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

The MLRO will consider the report and any other available internal information he thinks relevant e.g.:

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held;

And undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for non-disclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.

In cases where legal professional privilege may apply, the MLRO must liaise with the Council's Section 151 Officer to decide whether there is a reasonable excuse for not reporting the matter to the NCA.

Where consent is required from the NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the NCA.

Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

All disclosure reports referred to the MLRO and reports made by him to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to the NCA.

9. Training

Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training.

Additionally, all employees and Members will be familiarised with the legal and regulatory requirements relating to money laundering and how they affect both the Council and themselves.

Notwithstanding the paragraphs above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.

10. Conclusion

Given a local authority's legal position with regard to the legislative requirements governing money laundering, the Council believes that this Policy represents a proportionate response to the level of risk it faces of money laundering offences.

11. Review

This policy will be reviewed annually.



Code of Practice on Covert Surveillance

A guide to the Council's approach to
the Regulation of Investigatory
Powers Act 2000.

October 2015

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CODE OF PRACTICE ON COVERT SURVEILLANCE

1.0 INTRODUCTION

The Council enforces the law in a number of areas. As part of this enforcement there will be occasions where surveillance of individuals or property is necessary to ensure that the law is being complied with. When the Council does decide to undertake surveillance it is important that it remains within the law which is contained in the Regulation of Investigatory Powers Act 2000 (“the Act”) as amended by the Protection of Freedoms Act 2012.

The GOV website provides an overview of the Act and procedures:

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/>

The Act sets out certain criteria that the Council has to comply with before it undertakes surveillance and those are also reflected in the Office of Surveillance Commissioners' Procedures and Guidance in relation to covert surveillance by public authorities (“the Code”). This is available on the Home Office website:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

The Home Office has also issued guidance (“the Guidance”) on the judicial approval process for RIPA and the crime threshold for directed surveillance. This is available on the Home Office website:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/local-authority-england-wales?view=Binary>

Officers will need to familiarise yourself with the contents of the Code and the Guidance.

Other guidance is available on the Office of Surveillance Commissioners website:

(www.surveillancecommissioners.gov.uk)

The Council will comply with the Code when carrying out directed surveillance and officers should be aware of its provisions. Failure to observe the provisions of the Act may result in the protection of the Act not being available. This may mean that the evidence gathered:

- *is not admissible in court proceedings.*
- *is a breach of an individual's human rights.*

This policy sets out how Colchester Borough Council (including Colchester Borough Homes) will comply with the Act, the Code and the Guidance. It also clarifies the circumstances in which officers will be able to use covert surveillance and the internal requirements that will need to be observed when conducting that surveillance.

The Policy Statement should be read in conjunction with the Council's Data Protection Policy.

The Policy Statement will be made available for inspection at Council offices.

2.0 WHAT DOES THE ACT AND THE CODE COVER?

The Act and the Code cover covert surveillance, which is defined in the Act as being surveillance which “*is carried out in manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place*”.

2.1 Directed surveillance

Local authorities can only use a form of covert surveillance called “directed surveillance”. This is defined in the Act as where the surveillance is covert but not intrusive and is undertaken:

- For the purposes of a specific investigation or operation
- In such a manner as is likely to result in the obtaining of private information about a person (whether or not specifically identified for the purposes of the investigation) and
- Otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under the Act to be sought

“Private Information” in relation to a person includes any information relating to their private or family life.

Surveillance is not covert if notification has been sent to the intended subject of the surveillance. For example, in a noise nuisance case a letter notifying a subject that the noise will be monitored by officers visiting will make the surveillance overt. However as a matter of good practice surveillance should be considered covert if the notification to the subject is over 3 months old. All communications of this nature should be sent by Registered Post or delivered by hand.

2.2 General observations

General observations by officers in the course of their duties are not covered by the Act

Directed surveillance will not include surveillance that is undertaken as an immediate response to events or circumstances which, by their nature could not have been foreseen. This will include situations where officers are out in the normal course of their duties and happen to witness an activity, for example a housing officer visiting tenants and witnessing anti social behaviour by an individual. *In other words, where there is no systematic surveillance.*

If there is any doubt as to whether a RIPA authorisation is required you should seek advice from the Council's Legal Services.

2.3 Intrusive surveillance

“Intrusive Surveillance” is surveillance that is;

- Carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- Involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

Intrusive Surveillance cannot be authorised by local authority officers and all officers are strictly prohibited from engaging in Intrusive Surveillance

2.4 Covert Human Intelligence Sources

The Council is also permitted to use Covert Human Intelligence Sources under the Act. A Covert Human Intelligence Source is someone who establishes or maintains a personal or other relationship for the covert purpose of helping the covert use of the relationship to obtain information. However at the current time the Council does not consider this necessary and will not use Covert Human Intelligence Sources.

All officers are strictly prohibited from using Covert Human Intelligence Sources.

3.0 AREAS OF OPERATION

The Council has examined its functions and considers that the following areas may use directed surveillance from time to time. The following is not meant to be an exhaustive list but covers areas where directed surveillance may be necessary in the course of the Council’s business.

- Neighbour nuisance and anti social behaviour
- Protection of Council property
- Licensing enforcement
- Fraud against the Council(including benefit fraud)
- Misuse of Council property, facilities and services
- Enforcement of the planning regime
- Environmental monitoring and control
- Food Safety enforcement.
- CCTV, but more on this later (see 7.2)

However this is subject to the crime threshold referred to at 5.0 below.

4.0 AUTHORISATION AND AUTHORISING OFFICERS

If directed surveillance is proposed to be carried out then **authorisation must be sought**. Under the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003 as amended by the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence

Sources) (Amendment) Order 2015, the Council considers that the following officers can authorise directed surveillance (these officers are either Chief Officers, Assistant Chief Officers, Assistant Heads of Service, Service Managers or officers in charge of investigations) (“Authorising Officer”);

Chief Executive

Executive Directors

Assistant Chief Executive Corporate and Financial Management

Head of Commercial Services

Head of Community Services

Head of Customer Services

Head of Operational Services

Head of Professional Services

Any case involving Confidential Information must be authorised by the Chief Executive.

An Authorising Officer when being requested to authorise directed surveillance must be satisfied that the request is necessary and meets the criteria set down in the Act, the Code and the Guidance. An Authorising Officer must not authorise directed surveillance connected with an investigation in which they are directly involved.

Any application to extend or cancel surveillance must also be approved by an Authorising officer.

Once any application is approved by the Authorising Officer it must be referred to Legal Services who will make an application for approval by a Magistrate.

No directed surveillance may be undertaken by the Council without the prior approval of a Magistrate.

5.0 CRIME THRESHOLD

The Guidance states that the Council:

- **can** only grant an authorisation under RIPA for the use of directed surveillance where it is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco.
- **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.
- **can** authorise use of directed surveillance in more serious cases as long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a Magistrate has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial benefit fraud.

- **can** authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a Magistrate has been granted.
- **cannot** authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which include, for example, littering, dog control and fly-posting.

6.0 GROUNDS FOR GRANTING AN AUTHORISATION

An authorisation for directed surveillance may only be granted if the Authorising Officer believes that authorisation is necessary:

- **for the purposes of preventing or detecting crime or of preventing disorder and it meets the crime threshold mentioned in 5.0 above.**

AND the Authorising Officer must also be satisfied and believe that the surveillance is proportionate to what it seeks to achieve.

The Code advises that following elements of proportionality should be fully considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived mischief;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others;
- that the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result; and
- providing evidence of other methods considered and why they were not implemented.

Covert surveillance will only be used for one of the legitimate purposes where sufficient evidence exists to justify the surveillance and the surveillance is the least harmful method of meeting that purpose. The surveillance itself must be a proportionate response to the issue it is seeking to address. Consideration should be given to alternative methods of resolving the situation or obtaining the evidence sought and this should be documented.

Particular attention should be paid to the effect of the surveillance on the privacy of other persons ("collateral intrusion"). Measures should be taken to avoid or minimise intrusion. Any collateral intrusion should be taken into account when an Authorising Officer is assessing proportionality.

7.0 PROCEDURE FOR AUTHORISATIONS, CANCELLATIONS AND RENEWALS

7.1 Authorisations

An authorisation must be granted by those persons authorised at 4 above. No other person is permitted to authorise directed surveillance.

Authorisations must be in writing on the form attached.

Authorisation cannot be given to operations after they have commenced. Failure to obtain correct authorisation may mean that evidence is not admissible in legal proceedings and may breach a subject's human rights.

The authorisation form must be kept on the relevant case papers and held securely. A copy of the authorisation must be passed to Legal Services to be held on a central file and monitored for consistency of approach of Authorising Officers and validity.

An authorisation will cease to have effect (unless renewed) at the end of a period of *three months* beginning with the day on which it took effect.

7.2 Magistrates Approval

Once an authorisation form has been completed Legal Services will:

- contact the Magistrates Court to arrange for a hearing
- supply the court with a partially completed judicial application/ order form
- supply the court with a copy of the authorisation and any supporting documents setting out the Council's case
- the hearing will be in private and be heard by a single justice of the peace.
- The justice of the peace may decide to either:
 - (i) approve the grant (or renewal) of an authorisation; or
 - (ii) refuse to approve the grant (or renewal) of an authorisation

7.3 Review

Officers should, as a matter of good practice review authorisations on a regular basis during the course of that surveillance to ensure that the authorisation still meets the criteria. If it does not the authorisation should be cancelled using the procedure described below. A review form is attached. Officers in charge of investigations will be required to keep a record of these reviews and will submit a record of that review (normally by email) to the Monitoring Officer to be held centrally.

7.4 Renewals

A renewal of an authorisation can be made at any time before it expires and must be done on the form attached. The original should be kept on the case file and a copy passed to the Monitoring Officer for retention centrally. When considering whether to grant a renewal of an authorisation the Authorising Officer will consider the same factors outlined at 5 above. All renewals must be subject of an application to the Magistrates Court in line with the procedure at 7.2 above.

7.5 Cancellations

The Authorising Officer who last granted or renewed the authorisation must cancel it if s/he is satisfied that the directed surveillance no longer meets the criteria for authorisation. A cancellation should be made on the form attached. The original should be retained on the case file and a copy passed to Legal Services for retention centrally.

Authorisations, renewals and cancellations are subject to monitoring on an annual basis by the Monitoring Officer as to validity under the Act and the Code.

7.6 Audit

At the end of each calendar year each of the Authorising Officers referred to at 4 must provide the Monitoring Officer with a list of all directed surveillance authorised by them throughout that year or provide written and signed confirmation that no such surveillance has been authorised by them

8.0 MISCELLANEOUS POINTS

8.1 Material obtained from covert surveillance ("product")

Material produced as a result of covert surveillance will be secured and transported securely. Where the product obtained is to be used in criminal proceedings the Council must comply with the provisions of the Police and Criminal Evidence Act 1984. In all other cases the treatment of product must follow Council's guidelines on access, retention and storage as set out in the Data Protection Policy.

8.2 CCTV

The Act and the Code will not usually apply to use of an overt CCTV system because the public are aware that the system is in use. However there are circumstances where the system is used for the purposes of a *specific operation or investigation* and in these circumstances an authorisation will be required. If the police assume operational control of the system an authorisation complying with their own procedures must be supplied to the Council. Further information in respect of these procedures can be found in the Council's CCTV Code of Practice, which has been produced in conjunction with Essex Police.

9.0 TRAINING

The Council will endeavour to ensure that the Officers who are authorising directed surveillance are appropriately trained.

All Authorising Officers and those routinely engaged in directed surveillance have been provided with this guidance, have access to the Code and the standard forms.

This Code of Practice and the standard forms are available in electronic format on the Hub under One Council/ Corporate Governance/ Code of practice of covert surveillance.

10.0 GENERAL BEST PRACTICES

The following guidelines are considered as best working practices by all public authorities with regard to all applications for authorisations covered by the Code:

- applications should avoid any repetition of information;
- information contained in applications should be limited to that required by the relevant legislation;
- an application should not require the sanction of any person in the Council other than the Authorising Officer;
- where it is foreseen that other agencies will be involved in carrying out the surveillance, these agencies should be detailed in the application;
- authorisations should not generally be sought for activities already authorised following an application by the same or a different public authority.

11.0 SENIOR RESPONSIBLE OFFICER

The Council's nominated Senior Responsible Officer in accordance with the Code is Andrew Weavers, Monitoring Officer who will be responsible for:

- the integrity of the process in place within the Council to authorise directed surveillance;
- compliance with Part II of the Act, the Code and the Guidance;
- engagement with the Office of the Surveillance Commissioners and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.
- that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioners.

12.0 COMPLAINTS

The Act, the Code and the Guidance are subject to monitoring by the Office of the Surveillance Commissioners. Any complaints regarding use of surveillance powers should be dealt with initially through the Council's Complaints and Compliments Procedure. If this does not result in a satisfactory outcome for the complainant then they should be referred to:

The Investigatory Powers Tribunal
PO Box 33220
London SW1V 9QZ
Tel: 0207 035 3711
Website : www.ipt-uk.com

13.0 QUERIES ABOUT THIS CODE OF PRACTICE

Any queries regarding this Code of Practice should be referred to the Monitoring Officer, Andrew Weavers on ☎ 2213 or by email at andrew.weavers@colchester.gov.uk



Done Once, Shared By Many

Corporate Information Security Policy

A guide to the Council's approach to safeguarding information resources.

September 2015

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1. Introduction

Information resources are vital to Colchester Borough Council in the delivery of services to residents, businesses and visitors. Their availability, integrity, security and confidentiality are essential to maintain service levels, legal compliance and the public perception of the Council.

It is important that citizens are able to trust the Council to act appropriately when obtaining and holding information and when using the authority's facilities. It is also important that information owned by other organisations which is made available to the Council under secondary disclosure agreements is treated appropriately.

Any public authority which uses or provides information resources has a responsibility to maintain and safeguard them, and comply with the laws governing the processing and use of information and communications technology.

The Chief Executive has ultimate responsibility and endorses the adoption and implementation of this Information Security Policy. Delegated responsibilities are set out in section 6 and rest with Corporate ICT with regard to the maintenance and review of the Corporate Information Security policy, Conditions of Acceptable Use and Personal Commitment Statements as well as local policies.

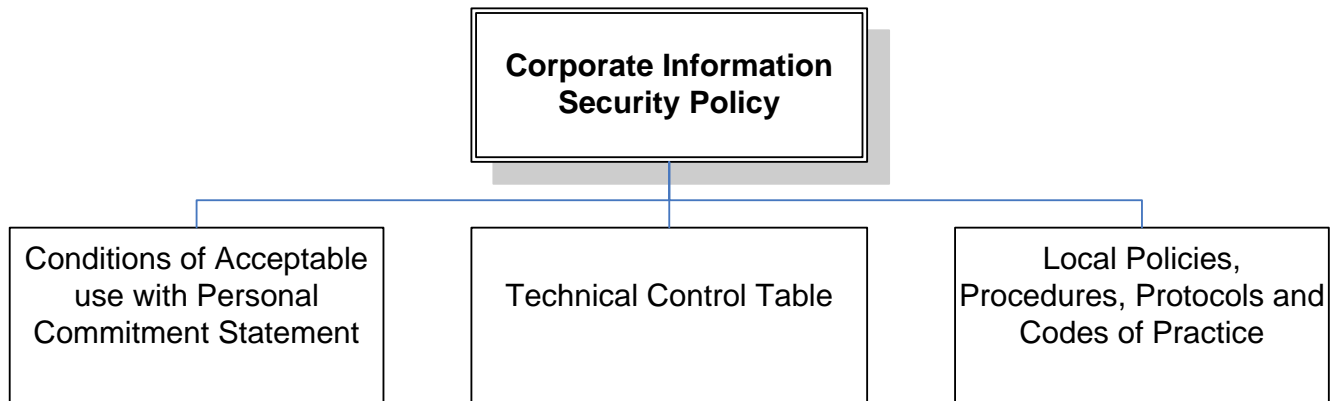
This policy is designed to provide an appropriate level of protection to the information for which the Council is responsible. Supporting this policy is a set of information security technical controls which form the minimum standard that an Essex OnLine partner has to comply with. Individual organisations can strengthen these policies through local policies and procedures, but cannot weaken them.

It is unacceptable for Colchester Borough Council information resources to be used to perform unethical or unlawful acts.

The key aspects of this policy and all associated policies have been developed in accordance with the British Standard for Information security BS7799 – 3:2006 which is harmonised with ISO/IEC 27001:2005.

This Corporate Information Security Policy is supported by further policies, procedures, standards and guidelines. In addition to Council policy, users who are granted access to information owned by other organisations will be subject to the policy requirements of the information owners. Details of these policies will be provided before access is granted.

2. Information Security Framework



3. Objectives

The objectives of the Corporate Information Security Policy are to ensure that:

- All users are aware of these policy statements and associated legal and regulatory requirements and of their responsibilities in relation to Information Security.
- All Council property, including equipment and information, is appropriately protected.
- The availability, integrity and confidentiality of Council information are maintained.
- A high level of awareness exists of the need to comply with Information Security measures.
- Unauthorised access to software and information is prevented.
- The risk of the misuse of email services is reduced.
- The network and network resources are protected from unauthorised access.
- Guidance is provided on handling information of each classification in different circumstances and locations including creation, modification or processing, storage, communication, retention and deletion, disposal or destruction.
- Unwanted incidents such as virus infections, deliberate intrusion and attempted information theft are managed.
- Any unauthorised access, damage and interference to business premises, Information and Information Technology is prevented.

4. Audience

The audience for this policy is for any employee, elected member, agency worker, third party organisation or other authorised personnel. Stakeholders are entitled to view the policy.

5. Legal and regulatory obligations

Colchester Borough Council will comply with all relevant legislation affecting the use of information and communication technology. All users must be made aware of and comply with current legislation as they may be held personally responsible for any breach.

A list of key legislation and regulations, with a brief description of each, and a reference to who in the organisation can provide further information can be found in Appendix A.

6. Roles and Responsibilities

• Accountable Officer

The Chief Executive Officer for Colchester Borough Council is ultimately responsible for ensuring that all information is appropriately protected.

• Information Security Management Group

This policy has been written by the Essex OnLine Partnership, additional policies, procedures and standards are written by Corporate ICT at Colchester. Corporate ICT are responsible for reviews and approval of Security Policies, which are reviewed and re-issued each year. They are also responsible for approving and overseeing all information security related projects and initiatives. Colchester Borough Council appoints a Senior Information Risk Owner (SIRO) to ensure there is accountability.

The SIRO must provide written judgement of the security and use of the business assets at least annually to support the audit process and provide advice to the Accountable Officer on the content of their statement of internal control.

• Information Security Management

This function is fulfilled within the Corporate ICT team who are responsible for the day to day management of information security activities, and for responding to Information Security Incidents. The Head of Security is the ICT Manager.

• SIRO (Senior Information Risk Owner)

The SIRO

- Is the officer who is ultimately accountable for the assurance of information security at the Council
- Champions information security at executive management team level
- Owns the corporate information security policy
- Provides an annual statement of the security of information assets (as part of the audit process)
- Receives strategic information risk management training at least once a year

The SIRO is not concerned solely with IT but takes a broader view of our information assets as a whole, in any form.

- **Risk Manager**

The Risk Manager is responsible for the evaluation of the organisation's exposure to risk and controlling these exposures through such means as mitigation, avoidance, management or transference. This role is held by the Corporate ICT team for ICT risks.

- **Information Owners (also referred to as Information Asset Owners)**

The role of Information Asset Owners is to understand what information is held and in what form, how it is added and removed, who had access, and why. They are tasked with ensuring the best use is made of information, and receive and respond to requests about it.

They are responsible for:

- Assessing the risks to the information and data for which they are responsible in accordance with the Risk Management Methodology of the Council.
- Defining the appropriate protection of their information taking into consideration the sensitivity and value of the information.
- Defining the value of information, and identifying the risks associated with the information, so they must classify their information, and define the controls for its protection.

- **Directors, Heads of Service and Line Managers**

Managers are responsible for:

- Ensuring that their employees are fully conversant with this Policy and all associated Policies, Standards, Procedures, Guidelines and relevant legislation, and are aware of the consequences of non-compliance.
- Developing procedures, processes and practices which comply with this Policy for use in their business areas.
- Ensuring that all external agents and third parties acting on behalf of their business area are aware of their requirement to comply.
- Ensuring that when requesting or authorising access for their staff, they comply with the standards and procedures defined by the Information Owners.
- Notifying the Head of Security of any suspected or actual breaches or perceived weaknesses of information security.

- **Employees**

Staff are responsible for:

- Ensuring that they conduct their business in accordance with this Policy and all applicable supporting policies.
- Familiarising themselves with this Policy, and all applicable supporting Policies, Procedures, Standards and Guidelines.
- Responsible for reporting any actual or suspected Information Security Incidents or Problems and assisting with their resolution.

Employees responsible for management of third parties must ensure that the third parties are contractually obliged to comply with this Policy.

• Users of Systems and Information

Those who are granted access to Information and information systems must:

- Only access systems and information, including reports and paper documents, to which they are authorised.
- Use systems and information only for the purposes for which they have been authorised.
- Comply with all applicable legislation and regulations.
- Comply with the controls defined by the Information Owner.
- Comply with all Council Policies, Standards, Procedures and Guidelines, and the policies and requirements of other organisations when granted access to their information.
- Not disclose confidential or sensitive information to anyone without the permission of the Information Owner and ensure that sensitive information is protected from view by unauthorised individuals including other people in the same building or location.
- Ensure that, if working from home, adequate physical and other security measures are in place in their homes to prevent any unauthorised access to CBC equipment or information.
- Keep their passwords secret and not allow anyone else to use their account to gain access to any system or information.
- Notify Corporate ICT of any actual or suspected breach of Information Security or of any perceived weakness in the organisation's Security Policies, Procedures, Practices, Process or infrastructure in accordance with the Incident Reporting and Management Procedure.
- Protect Information from unauthorised access, disclosure, modification, destruction or interference.
- Not attempt to disable or bypass any security features which have been implemented.
- Be responsible for reporting any actual or suspected Information Security Incidents or Problems and assisting with their resolution. Corporate ICT are responsible for managing the resolution of each incident and its underlying cause.

7. Approach to Risk Management

Risk management is defined as co-ordinated activities to direct and control an organisation with regard to risk.

The approach of the Council to information security is in accordance with the PSN Risk Management & Accreditation Reference Document as published by the Cabinet Office.

8. Incident Reporting and Management

The Council has established an Incident Reporting and Management framework which is in accordance with the PSN Incident and Problem Management Document as published by the Cabinet Office. That part of this policy is managed by Corporate ICT.

9. Review

The Essex OnLine Partnership must undertake an annual review of Information Security Policies and associated papers to ensure they still comply with current good practice and standards as well as an Equality Impact Assessment if policies change. It is the duty of Colchester Borough Council to review Information Security management arrangements in place and review local arrangements contained within local policies, including an IT Health Check carried out by an accredited independent expert. Accreditation can be with CHECK, an accreditation framework from CESG the Information Assurance (IA) arm of GCHQ, based in Cheltenham, Gloucestershire.

10. Awareness, Compliance and Auditing

The Council will ensure compliance with the Information Security Policy through:

10.1 Awareness

- a. Information Security will be included in the induction programme.
- b. An ongoing Information Security awareness programme will be implemented for all users including third parties.
- c. All users will receive appropriate awareness training and updates in organisational policies and procedures as relevant to their job functions.

10.2 Compliance

Compliance with this Policy is mandatory, and non-compliance with this Information Security Policy, supporting policies, procedures and standards may result in disciplinary action, or termination of contracts under which a business provides services.

10.3 Auditing

- a. Carrying out internal audits and where appropriate keeping audit logs in line with legislation and Colchester Borough Council document retention policy.
- b. Where connectivity to other secure networks such as N3 or GSi is established, the Council must submit to (and fund) an audit of their security procedures and practices in the form of an annual IT Health Check, and implement any recommendations to demonstrate that they meet the requirements of this security policy.

11. Monitoring

Where appropriate; monitoring arrangements are put in place to ensure compliance with policy objectives, guidelines and standards.

12. Documentation

Document Owners: Essex OnLine Partnership Management Group and Colchester Borough Council

Document Authors: Essex OnLine Partnership Resource Team and Colchester Borough Council

Disclaimer:

A printed version may not be the current version.

A current version may be obtained in the required format from the EOLP Resource Team or from Colchester Borough Council's Corporate ICT team.

Version History

Version	Release Date	Update Authorised by	Update carried out by	Update Approved by	Changes
0.1	Oct 2007	EOLP	EOLP Resource Team		First draft
1.0	28th Mar 2008	EOLP	EOLP Resource Team	EOLP Information Security Working Group (ISWG)	Changes agreed by the EOLP Information Security working group on 17-03-08.
2.0	20th Feb 2009	EOLP	EOLP Resource Team	EOLP ISWG	Changes agreed by the EOLP Information Security working group on 05-02-2009.
2.1	30th June 2009	EOLP	EOLP Resource Team	EOLP ISWG	Equality Impact Assessment carried out changes to Section 9 Review to include EQIA and Section 12 Documentation to provide the policy in the required format
2.2	25th Jan 2010	EOLP	EOLP Resource Team		Combined all policies into the Corporate IS Policy and created a set of Technical Control in support of this policy.
2.3	112th Feb 2010	EOLP	EOLP Resource Team		Moved Definitions to Technical Control spreadsheet, minor changes following Information Security working group meeting.

Version	Release Date	Update Authorised by	Update carried out by	Update Approved by	Changes
3.0	1st March 2010	EOLP	EOLP Resource Team	EOLPMG	Removed the highlights that indicated the changes that were made.
3.1	23rd June 2011	EOLP	EOLP Resource Team		Incorporated PSN CoCo requirements
4.0	14th July 2011	EOLP	EOLP Resource Team	EOLP ISWG	Incorporated feedback from ISWG
5.0	27th Sept 2011	EOLP	EOLP Resource Team	EOLP ISWG	Additional text for Information Owners and added role of Risk Manager, text taken from PSS IA glossary. Changes to Approach to Risk and Incident Management
5.1	18th Oct 2012	EOLP	EOLP Resource Team	EOLP ISWG	Risk Manager section changed DSO to SIRO
6.0	Nov 2012	EOLP	EOLP Resource Team	EOLP ISWG	Version 6 Issued
6.1	June 2013	CBC	CBC Information Team		Version 6.1 Issued
6.2	Sept 2014	CBC	Asa Aldis – Information Security Officer		Reference to ISO2700 updated. Reference to Information Team removed
6.3	9 Sep 2015	CBC	ICT Manager	CBC Management	Minor grammatical and formatting changes. Removal of references to the Information Security Officer. Insertion of references to the ICT Manager as Head of Security. Removal of the obligation for ALL users to sign a personal commitment statement.

Appendix A

This is a list of key legislation and regulations.

Data Protection Act 1998 and EU Directive on Data Protection

Personal information relating to identifiable individuals must be kept accurate and up to date. It must be fairly obtained and securely stored. Personal information may only be disclosed to people who are authorised to use it.

Unauthorised disclosure of Council or client personal information is prohibited and could constitute a breach of this Act.

Further information on this Act can be obtained from Corporate ICT:
admin.CorporateICT@colchester.gov.uk.

Computer Misuse Act 1990

Deliberate unauthorised access to, copying, alteration or interference with computer programs or data is not allowed and would constitute an offence under this Act for which the penalties are imprisonment and/or a fine.

This Act addresses the following offences:

- Unauthorised access to computer material.
- Unauthorised access with intent to commit or facilitate commission of further offences.
- Unauthorised modification of computer material.

Copyright, Patents and Designs Act 1988

Documentation must be used strictly in accordance with current applicable copyright legislation, and software must be used in accordance with the licence restrictions. Unauthorised copies of documents or software may not be made under any circumstances.

Companies Act 1985

Adequate precautions should be taken against the falsification of records and to discover any falsification that occurs.

Freedom of Information Act 2000

This Act gives a general right of access to all types of data and information that has been recorded by the Council. There are exemptions to the right of access, but the Council must assist applications for information and proactively make details available about the Council. The Council must know what records it holds, where they are stored and must avoid them being lost.

Further information on this Act can be obtained from Corporate ICT:
admin.CorporateICT@colchester.gov.uk.



Data Protection Policy

A guide to the Council's implementation of the Principles set out in the Data Protection Act 1988.

September 2015

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1. Introduction

In order to carry out its duties Colchester Borough Council has to collect and use information about the people with whom it works; members of the public; current, past and prospective employees; customers; suppliers and others. In addition the Council often has to collect and use information in order to comply with the requirements of central government.

Colchester Borough Council will ensure that it treats lawfully and correctly all personal information entrusted to it.

2. Statement of Policy

The Council fully endorses and adheres to the Principles set out in the Data Protection Act 1998. ('the Act'). The Council will therefore ensure that all employees, elected members, contractors, agents, consultants, partners or anyone else who has access to any personal data held by or for the Council are fully aware of and abide by their duties and responsibilities under the Act.

This Policy and the procedures set down in it are reviewed annually to ensure that the Council continues to comply with all relevant statutory requirements.

The Council will ensure that all personal data is handled properly and confidentially at all times, irrespective of whether it is held on paper or by electronic means.

This includes:

- the obtaining of personal data;
- the storage and security of personal data;
- the use of personal data;
- the disposal of or destruction of personal data.

The Council will ensure that data subjects have appropriate access, upon written request, to personal information relating to them and the right to correct, rectify, block or erase any incorrect data.

3. The Principles of Data Protection

Whenever collecting or handling information about people the Council will:

1. Ensure that personal data is collected and used fairly and lawfully;
2. Ensure that the purposes for which personal data is obtained and processed are specified and that data is not used for any other purpose;
3. Collect, process and retain personal data only when necessary;

4. Ensure that any data used or kept is accurate and up to date;
5. Ensure that data is disposed of properly as soon as it is no longer needed for the purpose specified when it was collected;
6. Ensure that all personal data is processed in accordance with the rights of the individual concerned
7. Ensure that appropriate security measures are taken to protect all personal data against damage, loss or abuse;
8. Ensure that the movement of personal data is done in a lawful way, both inside and outside the Council, and that suitable safeguards exist at all times.

4. Definition of Personal and Sensitive Information

The Act makes a distinction between 'personal data' and 'sensitive personal data':

Personal data is defined as data relating to a living individual who can be identified from that data, or from that data *and* other information which is in the possession of, or is likely to come into the possession of, the data controller. This will include any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

Sensitive personal data is defined as personal data consisting of information as to:

- Racial or ethnic origin;
- Political opinion;
- Religious or other beliefs;
- Trade union membership;
- Physical or mental health or condition;
- Sexual life;
- Criminal proceedings or convictions.

5. Roles and Responsibilities

Colchester Borough Council will ensure that:

- A member of staff is appointed who has specific responsibility for data protection within the Council;
- Any disclosure of personal data is in compliance with the law and with approved procedures;
- Anyone managing and handling personal information understands that they are legally bound to follow good data protection practice;

- Anyone managing and handling personal information is appropriately trained and supervised;
- Appropriate advice and guidance is available to anyone wanting to make enquiries about personal information held by the Council;
- Enquiries and requests regarding personal information are handled courteously and within the time limits set by the Act;
- All elected members are to be made fully aware of this policy and of their duties and responsibilities under the Act;
- Where it is necessary to share data that this is done under a written agreement setting out what is to be shared and how it is to be kept secure.

All managers and staff will ensure that:

- Paper files and other records or documents containing personal and or sensitive data are kept securely;
- Personal data held electronically is protected by the use of secure passwords which are changed regularly;
- All users must choose passwords which meet the security criteria specified by the Council;
- Staff working remotely from home or elsewhere must keep any Council owned equipment they use secure and prevent systems and data for which the Council is responsible being used or seen by members of their family or any other unauthorised person.

All contractors, consultants, partners or other servants or agents of the Council must:

- Confirm in writing that they will abide by the requirements of the Act with regard to information obtained from the Council;
- When requested allow the Council data to audit the protection of data held on its behalf;
- Ensure that they and all persons appointed by them who have access to personal data held or processed for or on behalf of the Council are aware of this Policy and are fully trained in their duties and responsibilities under the Act;
- Indemnify the Council without limitation against any prosecutions, claims, proceedings, actions or payments of compensation or damages arising from the loss or misuse of data. Any breach of any provision of the Act will be deemed as being a breach of any contract between the Council and that individual, company, partner or firm.

The Council's Head of Security, supported by the Data Protection Officer, is responsible for:

- Ensuring the provision of cascade data protection training, for staff within the Council.
- The development of best practice guidelines.

- Ensuring compliance checks are undertaken to ensure adherence, throughout the authority, with the Data Protection Act.
- For conducting an annual review of this Data Protection Policy and the practices and procedures pertaining to it to ensure continuing compliance with all relevant statutory provisions.

An officer has also been designated in each service as responsible for ensuring that this Policy is adhered to.

The Council's Chief Executive Officer is the Accountable Officer ultimately responsible for ensuring that all information is appropriately protected.

6. The Information Commissioner

Colchester Borough Council is registered with The Information Commissioner as a data controller.

The Act requires every data controller who is processing personal data to notify and renew their notification on an annual basis. Failure to do so is a criminal offence. Any changes to the type of data held or the purposes for which it is held must be notified to the Information Commissioner, within 28 days.

Designated officers will be responsible for notifying and updating the Data Protection Officer with regard to the processing of personal data within their department.

The Data Protection Officer will review the Data Protection Register with designated officers annually prior to notification to the Information Commissioner.

Disclaimer:

A printed version may not be the current version.

A current version may be obtained in the required format from Colchester Borough Council's Corporate ICT team.

Ethical Governance Statement 2015/16

Colchester Borough Council will not tolerate breaches of its ethical governance policies.

The Council is committed to maintaining the highest standards of governance including the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly, openly and accountably so as to protect public safety and public money.

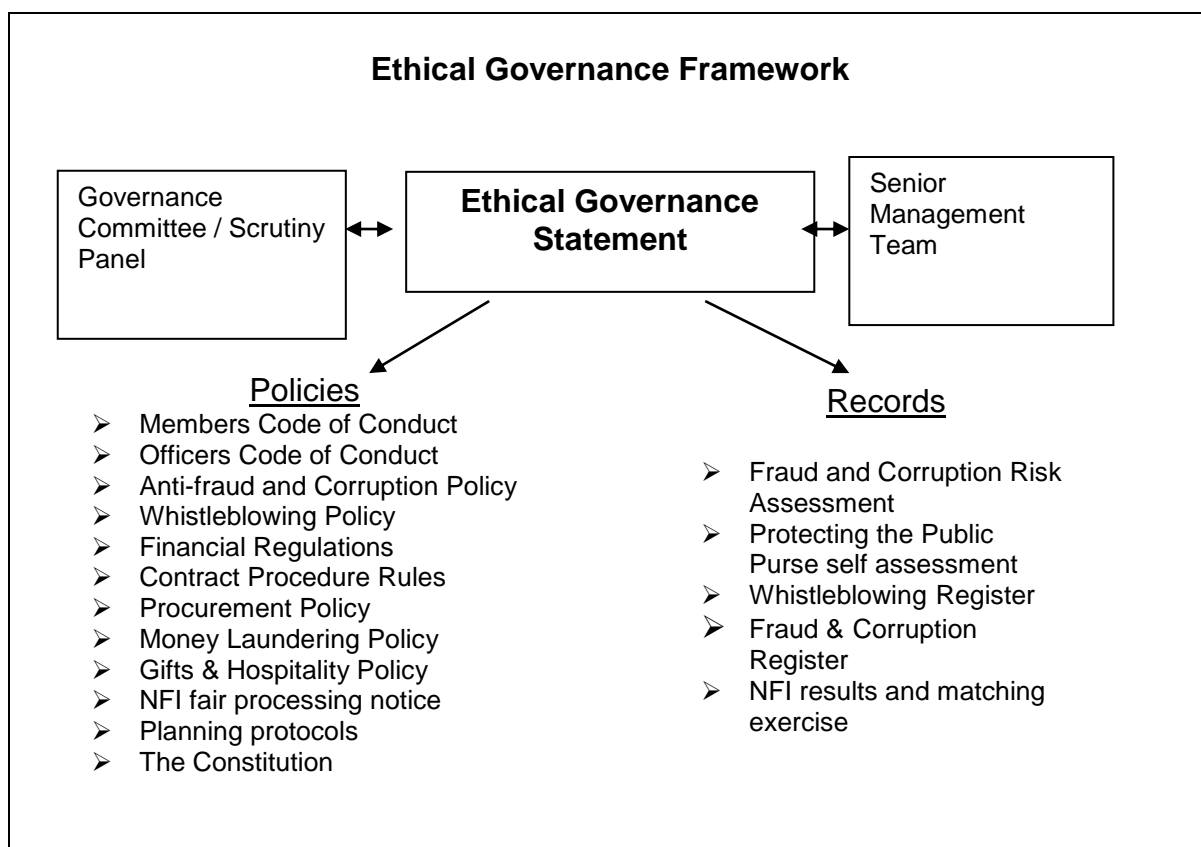
The Council expects the highest standards of conduct and integrity from all that have dealings with it including staff, elected members, suppliers, partners, volunteers and the public. Therefore policies have been put in place to outline the standards required and procedures have been introduced to enable any person to raise genuine concerns they may have about the conduct of anybody acting for or on behalf of the Council.

The Ethical Governance policies form part of the Council's overall Corporate Governance framework and details of all the policies have been published on the Council's website at www.colchester.gov.uk.

We will take all reasonable steps to ensure that concerns are investigated and appropriate action taken where necessary. There will be no distinction made in investigation between cases that generate financial benefits and those that do not.

Paul Smith
Leader of the Council

Adrian Pritchard
Chief Executive



13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of the Members' Code of Conduct and the Council's "Arrangements"		
Wards affected	Not applicable		

This report requests the Committee to review the Members' Code of Conduct and the Council's "Arrangements"

1. Decisions Required

- 1.1 To note the contents of this report.
- 1.2 To agree to keep the Members' Code of Conduct and the Council's "Arrangements" under annual review and to recommend to Council any subsequent amendments in the light of experience.
- 1.3 To approve the updated Member / Officer Protocol and agree that it be included in the Council's Constitution.

2. Background

- 2.1 The Localism Act 2011 ("the Act") made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Members. These new arrangements came into effect on 1st July 2012. The Act required that local authorities adopted a code of conduct consistent with the seven Nolan Principles of public life and that Principal Authorities put in place "Arrangements" to deal with allegations that Councillors had failed to comply with the Members' Code of Conduct. Principal Authorities were also required to appoint at least one "Independent Person" who would be consulted as part of the Council's "Arrangements".
- 2.2 The Full Council at its meeting on 25 June 2012 formally adopted the Borough Council's Members' Code of Conduct and its "Arrangements" which are attached to this report at Appendix 1 and Appendix 2 respectively. As part of its "Arrangements", the Full Council at its meeting on 22 May 2013 appointed Barbara Pears and Sarah Greatorex following a public recruitment exercise as the Council's Independent Persons for a term of four years.
- 2.3 The Act also introduced a new interest's regime which included a new register of Members' interests. The Government published amended guidance in September 2013 for councillors on interests ("Openness and transparency on personal interests – a guide for councillors") which has been circulated to all Borough Councillors and to every Town and Parish Council within the Borough.
- 2.4 The Act places on the Borough Council a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.
- 2.5 The Committee at its meeting on 14 October 2014 last reviewed the Council's Localism Act processes and this report seeks to review our subsequent experience to date.

3.0 Review of the Code

- 3.1 The Act did not prescribe the contents of the Code (save to be consistent with the seven Nolan principles) and accordingly the version of the Members' Code of Conduct adopted by the Full Council was a version promoted by the Public Law Partnership. This was to ensure a consistent approach across the County and to ensure that all council's (County, districts and parishes) adopted the same version of the Code so as to provide a sense of clarity for Councillors.
- 3.2 All the Town and Parish Council's in the Borough adopted the Borough Council's Code. The Borough Council's Code has been operating successfully in the part year without any apparent difficulties or concerns and I would propose that the Committee continues to keep the Code under annual review and makes recommendations to Full Council on any subsequent amendments in the light of experience.
- 3.3 The Act requires the Monitoring Officer to compile and publish on the Borough Council's website the Register of Members Interests. This includes Disclosable Pecuniary Interests for both Councillors and their partners and also pecuniary and non-pecuniary interests just for Councillors. All of the Borough Councillors interests are published and most of those of the Town and Parish Councillors in the Borough have also been published on the Borough Council's website. However, the Act did not make it a statutory requirement for all existing Councillors to register their declarable interests. The Act does however make it an offence for a councillor to fail to register their declarable interests within a period of 28 days of becoming elected. However the Government stated in its guidance:-

"All sitting councillors need to register their declarable interest. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty (i.e. Nolan Principles), with which you must comply"

This has been specifically been drawn to the attention of all Town and Parish Councils.

- 3.4 With the introduction of the Borough Council's new Committee Management Information System on its website, the Register of Members' Interests has been improved in line with the Government's transparency agenda so that all Councillors' information is in one place on the website.
- 3.5 Training on the Code on Conduct was offered by the Monitoring Officer for new Councillors following the Borough elections and refresher training is always available as required.
- 3.6 The first prosecution in the country has now been brought under the Act in relation to a councillor in Dorset who had failed to declare a disclosable pecuniary interest at a meeting. The councillor was given a six month conditional discharge and ordered to pay costs.

4.0 Review of the Arrangements

- 4.1 The Act required the Council to adopt "Arrangements" for dealing with allegations that Councillors have potentially failed to comply with the Code. Any allegations that Councillors have not complied with the Disclosable Pecuniary Interests regime under the Act are not dealt with under the Council's "Arrangements" as they are potentially criminal offences and need to be dealt with by the Police. As at the date of this report there have been no such allegations or referrals.

- 4.2 The Council's "Arrangements" comprise a more streamlined approach to dealing with councillor complaints compared to the previous regime. The "Arrangements" are made publically available on the Borough Council's website and have been used on several occasions. All allegations are received by the Monitoring Officer who makes an assessment of the merits of the complaint in consultation with an Independent Person.
- 4.3 The table at Appendix 1 below details the number, type and outcome of allegations received since 1 July 2012.
- 4.4 The Council's "Arrangements" appear to be operating satisfactorily and I would propose that the Committee continues to keep them under review and makes recommendations to Full Council on any subsequent amendments in the light of experience.

5. Member / Officer Protocol

- 5.1 The Member / Officer Protocol is contained in Part 5 of the Constitution. This Protocol provides a guide to good working relationships between Members and Officers, to define the respective roles of Members and Officers and provide some principles governing conduct.
- 5.2 The opportunity has been taken to refresh the Protocol by updating some of the terminology and to make it consistent with the current Council structures. The updated version is attached to this report at Appendix 3.
- 5.3 One specific addition has been made at paragraph 10 (4) in relation to social media. When the Protocol was originally agreed the use of social media was not so prevalent. This addition now makes it very clear that both Members and Officers should not use social media to criticise or undermine respect for the other and that they must comply with the Council's Social Media Policy at all times.
- 5.4 Any breach of the Member / Officer Protocol by Members will be dealt with via the Council's "Arrangements" and if by an Officer via the Council's disciplinary procedures.

6. Strategic Plan References

- 6.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

7. Publicity Considerations

- 7.1 The Council's Code of Conduct and "Arrangements" are available on the Council's website at www.colchester.gov.uk/standards

8. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 8.1 None.

Councillor Code of Conduct Allegations received since 1 July 2012

Allegations	July12 – March13	April 13 – March 14	April 14 – October 14	Nov 14- October 15	Total
Number of allegations received	2	3	2	3	7
Borough Councillors	1	3*	2	1	5
Parish Councillors	1	1	0	2	2

* one complaint was made against two councillors

The majority of allegations came under the heading of “treating others with respect” with one being under the heading of “not to do anything which may cause the Authority to breach any of the equality enactments”.

Source of complaints	July12 – March13	April 13 – March 14	April 14 – October 14	Nov 14- October 15	Total
Member of the public	2	6#	2	2	10
Borough Councillors	0	0	0	1	0
Parish Councillors	0	0	0	0	0
County Councillors	0	0	0	0	0
Member of Parliament	0	1	0	0	1

five separate persons made same complaint against one councillor

Outcome	July12 – March13	April 13 – March 14	April 14 – October 14	Nov 14- October 15	Total
Merits no further investigation	2	3	2	2	7
Merits further investigation	0	0	0	0	0
Referral to Governance Committee	0	0	0	1	0



Localism Act 2011

Promoting and Maintaining High Standards of Conduct in Local Government

CODE OF CONDUCT FOR MEMBERS

Colchester Borough Council

Code of Conduct for Members

PART 1 GENERAL PROVISIONS

Introduction and interpretation

This Code of Conduct was adopted by the full council at its meeting on 25 June 2012 and is effective from 1 July 2012.

As a Member you are a representative of Colchester Borough Council (“the Authority”) and the public will view you as such. Therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in Appendix 1 and the provisions of S29(1) Localism Act 2011.

In this Code-

“meeting” means any meeting of:

- (a) the Authority
- (b) the Executive of the Authority
- (c) any of the Authority’s or its Executive’s committees, sub-committees, joint committees, joint sub-committees or areas committees whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members
- (d) any briefings by officers and site visits organised by the Authority “relevant period” means the period of 12 months ending with the day on which you give notification to the Authority’s monitoring officer of any disclosable pecuniary interests you had at the time of the notification.

“profit or gain” includes any payments or benefits in kind which are subject to Income Tax.

“beneficial interest” means having an economic benefit as a legal owner or holding it on trust for the beneficial owner, having a right to the income from the

land or securities or a share in it or the right to the proceeds of sale or share of part of the proceeds of sale.

“Member” includes a co-opted member.

1. Who does the Code apply to?

- (1) This Code applies to all Members of the Authority including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

2. What does the Code apply to?

- (1) You must comply with this Code whenever you -
 - (a) conduct the business of the Authority, or
 - (b) you are acting as a representative of the Authority.
- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of the Authority –
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with the Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

- (1) You must treat others with respect.
- (2) You must uphold the law.
- (3) You must not –
 - (a) do anything which may cause the Authority to breach any of the equality enactments;
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be –

- (i) a complainant;
 - (ii) a witness; or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with the Authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

4. Confidential Information

You must not –

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. Conferring an advantage or disadvantage

You must -

- (a) not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) when using or authorising the use by others of the resources of the Authority -
 - (i) act in accordance with the Authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);

- (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

PART 2 MEMBERS INTERESTS

6. Disclosable Pecuniary Interests¹

6.1 You have a Disclosable Pecuniary Interest in any business of the Authority if it is of a description set out in 6.2 below and is either:

- (a) An interest of yours; or
- (b) An interest (of which you are aware) of a spouse, civil partner or a person you are living with as a spouse or civil partner (“known as Relevant Persons”).

6.2 A Pecuniary Interest is an interest which relates to or is likely to affect:

- (a) Any employment, office, trade, profession or vocation carried on by you or a Relevant Person for profit or gain;
- (b) Any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) Any contract for goods, services or works which has not been fully discharged between you or a Relevant Person and the Authority or a body in which you or they have a beneficial interest;
- (d) A beneficial interest in any land in the Authority’s area
- (e) A licence of any land in the Authority’s area (alone or jointly with others) that you or a Relevant Person occupy for a month or longer
- (f) any tenancy where to your knowledge (i) the landlord is the Authority and (ii) the tenant is a body in which you or a Relevant Person has a beneficial interest
- (g) Any beneficial interest in securities of a body where –
 - (i) that body (to your knowledge) has a place of business or land in the area of the Authority and
 - (ii) either:

¹ The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the pecuniary interests specified for the purposes of Chapter 7 of Part 1 Section 30(3) of the Localism Act 2011
June 2012

- (aa) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- (bb) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.

7. Other Pecuniary Interests

You have a pecuniary interest in any business of the Authority where it relates to or is likely to affect:

- (a) any person or body who employs or has appointed you;
- (b) any contract for goods, services or works made between the Authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph 6.2.(g) which has been fully discharged within the last 12 months;

8. Non-Pecuniary Interests

8.1 You have a non-pecuniary interest in any business of the Authority where it relates to or is likely to affect -

- (a) 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 Authority;
- (b) any body –
 - (i) exercising functions of a public nature;
 - (ii) directed to charitable purposes; or
 - (iii) 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;
- (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;
- (d) a decision in relation to that business which might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the

- electoral division or ward, as the case may be, affected by the decision; or
- (ii) (in all other cases) other council tax payers, ratepayers or inhabitants of the Authority's area.

9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 9.1 Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Relevant Person's Interest.
- 9.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4 Where you have a Pecuniary Interest in any business of the Authority and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

10. Effect of Interests on participation

10.1 Disclosable Pecuniary Interests

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you have a Disclosable Pecuniary Interest in any

matter to be considered, or being considered, at the meeting and you are aware of that Interest:

- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting.
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Authority's proper officer.
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i) exercise executive functions in relation to that business; and
 - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself).

10.2 Other Pecuniary Interests

If you have another Pecuniary Interest in any business of the Authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement in the public interest and you are present at a meeting of the Authority at which such business is to be considered or is being considered you must:

- (a) disclose the existence and nature of the interest in accordance with paragraph 9.1 (but subject to paragraph 9.3) and;
- (b) withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from the Authority's proper officer.

PART 3 REGISTER OF MEMBERS INTERESTS

11. Registration of Members' Interests

Subject to paragraph 12, you must, within 28 days of –

- (a) this Code being adopted by or applied to the Authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the Authority

register in the Authority's Register of Members' Interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- (i) Disclosable Pecuniary Interests as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time.
- (ii) Pecuniary Interests referred to in paragraph 7 that you have.

Subject to paragraph 12, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner or change to any Disclosable Pecuniary Interest registered under paragraphs 11.(a) (i) or (ii) above by providing written notification to your authority's Monitoring Officer.

12. Sensitive Information

12.1 Where you have a Disclosable Pecuniary Interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and the Authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the Authority's Register then copies of the register available for inspection and any published version of the Register should not include details of the interest but may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

12.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 12.1 is no longer sensitive information, notify the Authority's monitoring officer.

12.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that

you or a person who lives with you may be subject to violence or intimidation.

13. Register of Gifts and Hospitality

- 13.1 You must within 28 days of receipt, notify the Authority's monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the Authority.
- 13.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 13.3 This duty to notify the monitoring officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

CODE OF CONDUCT

APPENDIX 1

THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011

SELFLESSNESS

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

INTEGRITY

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

OBJECTIVITY

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

ACCOUNTABILITY

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

OPENNESS

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

HONESTY

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

LEADERSHIP

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

Colchester Borough Council

Governance Committee

Councillor Code of Conduct

Arrangements for dealing with complaints

These arrangements came into effect on 1 July 2012

Introduction

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Colchester Borough Council or of a parish council, town council or community council (referred to as a parish council in this document) within the Borough of Colchester has failed to comply with the Councillors’ Code of Conduct, and sets out how the Borough Council will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Borough Council must have in place “Arrangements” under which allegations that a member or co-opted member of the Borough Council (or of a parish council within the Borough of Colchester), or of a Committee or Panel of the Borough Council, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the Borough Council to appoint at least one Independent Person, whose views must be sought by the Borough Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Borough Council at any other stage, or by a member (or a member or co-opted member of a parish council) against whom an allegation has been made. Both members and co-opted members are referred to as councillors in this document for ease of reference.

2. The Code of Conduct

- 2.1 The Borough Council has adopted a Code of Conduct for Councillors, which is available for inspection on the Borough Council’s website (www.colchester.gov.uk/standards) and on request from Reception at the Borough Council Offices.

2.2 Each Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect any website operated by the Parish Council or request the parish clerk to allow you to inspect the Parish Council's Code of Conduct.

3. Making a complaint

3.1 If you wish to make a complaint, please write to:

The Monitoring Officer

Colchester Borough Council

Rowan House, 33 Sheepen Road

Colchester CO3 3WG.

or by email to:

andrew.weavers@colchester.gov.uk

3.2 The Monitoring Officer is a senior officer of the Borough Council who has statutory responsibility for maintaining the register of councillors' interests and who is responsible for administering the system in respect of complaints of councillor misconduct.

3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the Borough Council's website, next to the Code of Conduct, and is available on request from Reception at the Borough Council Offices.

3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent.

3.5 The Borough Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

3.7 The Complaints Procedure Flowchart is attached at Appendix 1 for your information.

3.8 The Borough Council has agreed a Press Policy in relation to complaints made against councillors and this is attached at Appendix 2 for your information.

4. Will your complaint be investigated?

4.1 The Monitoring Officer will review every complaint received and, may consult with an Independent Person before taking a decision as to whether it:

(a) merits no further investigation; or

(b) merits further investigation; or

(c) should be referred to the Governance Committee,

4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Borough Council's Assessment Criteria contained at Appendix 3. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the councillor against whom your complaint is directed.

4.3 Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.

4.4 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 councillor accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the councillor or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

- 4.5 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5 How is the investigation conducted?

- 5.1 The Borough Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 4 to these arrangements.
- 5.2 If the Monitoring Officer decides that a complaint merits further investigation, he/she may appoint an Investigating Officer, who may be another senior officer of the Borough Council, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents needs to seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will normally write to the councillor against whom you have complained and provide him/her with a copy of your complaint, and ask the councillor to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the councillor might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the councillor, or delay notifying the councillor until the investigation has progressed sufficiently.
- 5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the councillor 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.
- 5.5 Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

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

6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the councillor concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigation Final Report.

6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Governance Hearings Sub-Committee or in consultation with an Independent Person seek an informal resolution.

(a) Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with an Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the councillor accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Borough Council's Governance Committee (and the Parish Council) for information, but will take no further action.

(b) Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Governance Hearings Sub-Committee which will conduct a hearing before deciding whether the councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the councillor.

The Borough Council has agreed a procedure for hearing complaints, which is attached as Appendix 5 to these arrangements.

At the hearing, the Investigating Officer or the Monitoring Officer will present her/his report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The councillor will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

8 What action can the Governance Sub-Committee take where a member has failed to comply with the Code of Conduct?

8.1 The Borough Council has delegated to the Sub-Committee such of its powers to take action in respect of individual councillors as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may:-

- (a) Report its findings to Council (or to the Parish Council) for information;
- (b) Recommend to Council (or to the Parish Council) that the councillor be issued with a formal censure or be reprimanded
- (c) Recommend to the councillor's Group Leader (or in the case of ungrouped councillors, recommend to Council or to Committees) that the councillor be removed from any or all Committees or Panels of the Council;
- (d) Recommend to the Leader of the Council that the councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (e) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the councillor;
- (f) Recommend to Council to remove (or recommend to the Parish Council that the councillor be removed) from all outside appointments to which he/she has been appointed or nominated by the Council (or by the Parish Council);
- (g) Recommend to Council to withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the councillor by the Council, such as a computer, website and/or email and internet access; or
- (h) Recommend to Council to exclude (or recommend that the Parish Council exclude) the councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings.

8.2 The Sub-Committee has no power to suspend or disqualify the councillor or to withdraw the councillor's basic allowance or any special responsibility allowances.

- 8.3 Any actions recommended by the Sub-Committee should be proportionate and commensurate with the circumstances of the particular case.

9 What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chair will state the decision of the Governance Hearings Sub-Committee as to whether the councillor failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the councillor (and to the Parish Council), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Governance Hearings Sub-Committee?

- 10.1 It is a Sub-Committee comprising of Councillors sitting on the Council's Governance Committee.
- 10.2 The Governance Committee has decided that it will comprise a maximum of five Councillors of the Council, including not more than one member of the Council's Cabinet and comprising councillors drawn from all political groups. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council. If the councillor complained about is a member of a Parish Council a parish councillor who is a co-opted member of the Governance Committee will also be invited to attend the Sub-Committee.
- 10.3 Independent Person(s) are invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the councillor'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.

11 Who are the Independent Persons?

- 11.1 Independent Persons are persons who have applied for the post following advertisement of a vacancy for the post, and are appointed by a positive vote from a majority of all the members of the Borough Council.

11.2 A person cannot be “independent” if he/she:

- (a) is, or has been within the past 5 years, a member, co-opted member or officer of the Borough Council;
- (b) (is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the Borough of Colchester), or
- (c) is a relative or close friend, of a person within paragraph (a) or (b) above. For this purpose, a “relative” means:
 - (i) spouse or civil partner;
 - (ii) living with the other person as husband and wife or as if they were civil partners;
 - (iii) grandparent of the other person;
 - (iv) a lineal descendent of a grandparent of the other person;
 - (v) a parent, sibling or child of a person within paragraphs (a) or (b); above or
 - (vi) a spouse or civil partner of a person within paragraphs (iii), (iv) or (v) above; or
 - (vii) living with a person within paragraphs (iii), (iv) or (v) above as husband and wife or as if they were civil partners.

12. Revision of these arrangements

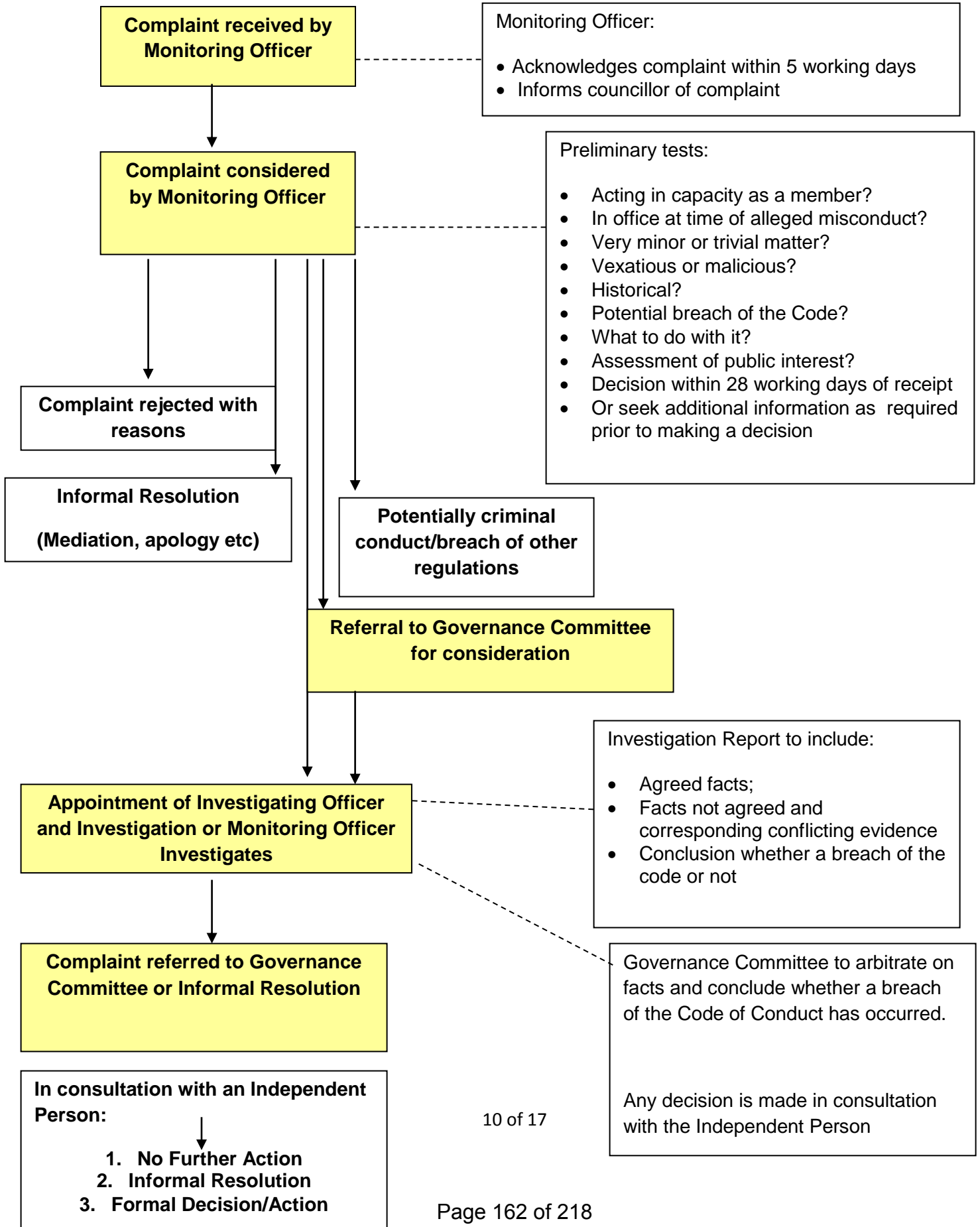
The Borough Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

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

13.2 If you feel that the Borough Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Complaints Procedure Flowchart



Colchester Borough Council

Press Policy

Complaints against Members

This Policy sets out how the Borough Council will respond to press enquiries into a complaint made against councillor(s). This includes Borough Councillors and Parish and Town Councillors.

We like to be as helpful as possible to the press and we will confirm, when requested by a journalist:

- the name of a councillor(s) involved in an ongoing or past investigation
- the type of person who made the allegation – whether they are a member or Officer of the authority, or a member of the public
- part of the Code of Conduct potentially breached
- whether the case was referred for investigation and, if not, the reason it was not referred
- approximate dates of when the allegation was received and the date of when a decision was made on whether or not to investigate
- the outcome of any investigation, on issue of the final report

Please note that we will only respond to queries about specific Councillors.

We will not comment on complaints received until a decision has been made on whether a complaint will be investigated; we allow three working days from the date of that decision before confirming it to the press.

We will confirm the outcome of an investigation three working days after the final report has been issued. This policy ensures that the relevant parties involved in the complaint and investigation are notified before the press.

We will always stress that a complaint is just that: while an investigation is ongoing, no decision is made regarding a Councillor's guilt or otherwise.

Colchester Borough Council

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; e.g. that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. It is about someone who is no longer a Councillor; or
6. There is insufficient information available for a referral; or
7. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc; or
8. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
9. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Governance Committee; or
10. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct; or
11. Where the councillor complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints which may be referred to the Governance Committee

1. It is serious enough, if proven, to justify the range of actions available to the Governance Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business

of the Council and there is no other avenue left to deal with it other than by way of an investigation; or

3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high profile Councillor such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate; or
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.

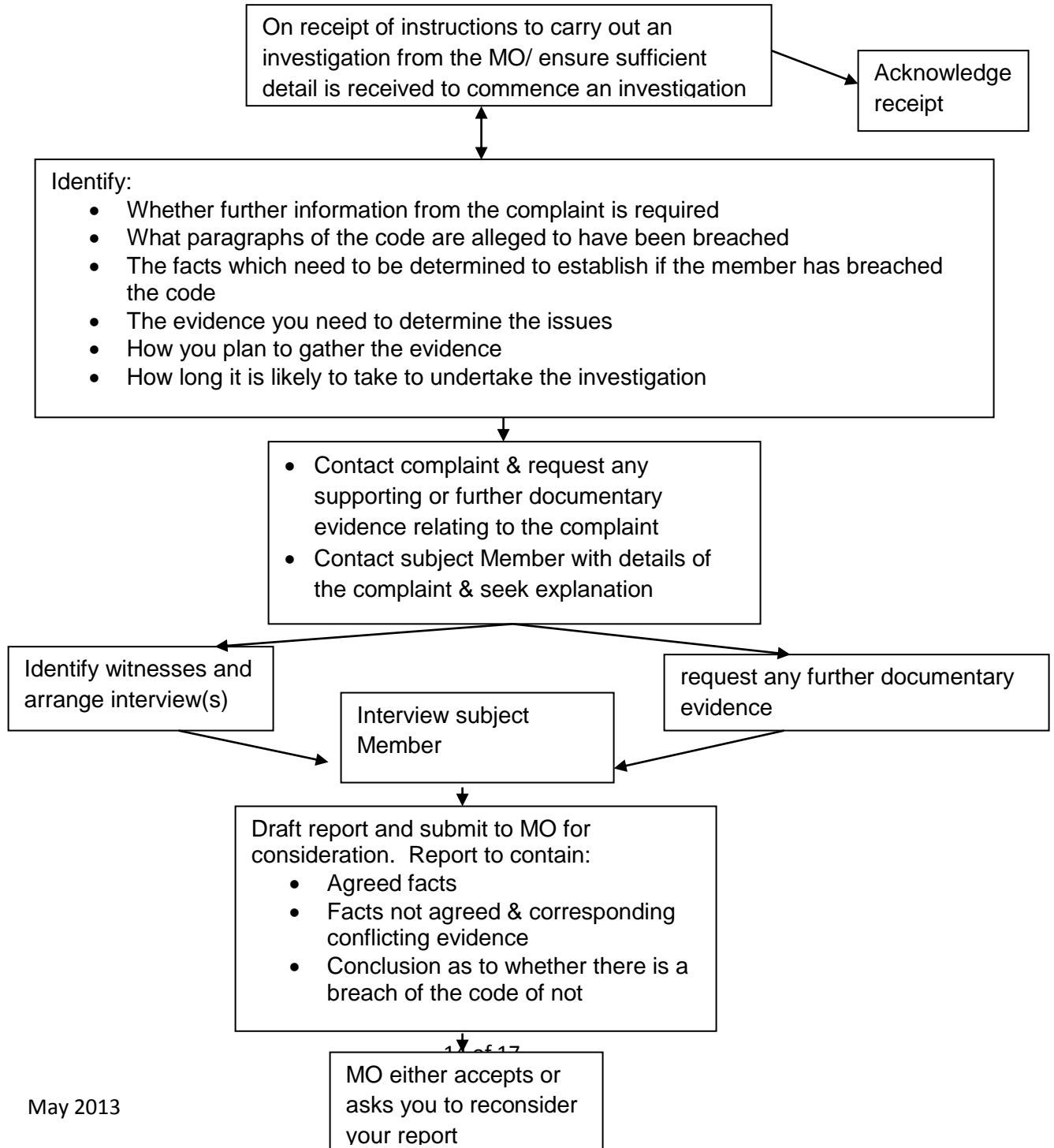
Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and councillors' time. This is an important consideration where the complaint is relatively minor.

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Investigation Procedure

You should maintain a written record to demonstrate what was considered at the start of each investigation and plan how you intend to carry out the investigation, the paragraphs of the code that may have been breached, the facts you need to determine to establish, the evidence you will need, how you plan to gather the evidence and how long it will take to conclude your investigation. Remember there is no provision in the Localism Act 2011 compelling Members or witnesses to co-operate with your investigation.

A written Investigation Report will need to be prepared for consideration by the Council's Monitoring Officer.



Colchester Borough Council
GOVERNANCE COMMITTEE
HEARINGS SUB-COMMITTEE PROCEDURE

<u>Item No.</u>	<u>Procedure</u>
	<u>Quorum</u>
1.	<p>1.1. Three members must be present throughout the hearing to form a quorum.</p> <p>1.2. Where the complaint refers to a Parish Councillor a non voting Parish member of the Governance Committee may be present.</p> <p>1.3. An Independent Person (non voting) shall be invited to attend.</p> <p>1.4. The Sub-Committee shall nominate a Chairman for the meeting</p>
	<u>Opening</u>
2.	<p>2.1 The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones etc.</p> <p>2.2 The Chairman asks all present to introduce themselves.</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position.</p>
	<u>The Complaint</u>
3.	<p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement).</p> <p>3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer</p>

	<u>The Councillor's case</u>
4.	<p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative).</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>4.3 Members of the Sub-Committee may question the Councillor and/or any witnesses.</p>
	<u>Summing Up</u>
5.	<p>5.1 The Investigating Officer may sum up the Complaint.</p> <p>5.2 The Councillor (or their representative) may sum up their case.</p>
	<u>Decision</u>
6.	<p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with an Independent Person prior to reaching a decision.</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>6.2.1 The Sub-Committee decides that the Councillor has failed to follow the Code of Conduct; or</p> <p>6.2.2 The Sub-Committee decides that the Councillor has not failed to follow the Code of Conduct</p> <p>6.3 The Sub-Committee will give reasons for their decision</p> <p>6.4 If the Sub-Committee decides that the Councillor has failed to follow the Code of Conduct the Sub-Committee will consider any representations from the Investigator and/or the Councillor as to:</p> <p>6.4.1 Whether any action should be taken and</p> <p>6.4.2 What form any action should take</p> <p>6.5 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person.</p>

	<p>6.6 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council).</p> <p>6.7 The Sub-Committee will consider whether it should make any recommendations to the Borough Council (or in relation to a Parish Councillor to the Parish Council) with a view to promoting high standards of conduct among councillors.</p> <p>6.8 The Chairman will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.</p>

Colchester Borough Council

Member / Officer Protocol

Introduction

The purpose of this protocol is to provide a guide to good working relationships between Councillors (here called Members) and Officers, to define the respective roles of Members and Officers and provide some principles governing conduct.

1 The Respective Roles of Members and Officers

- (1) Members are elected and represent their constituents. Under the Council's Executive Arrangements, Members will perform roles on the Cabinet, Scrutiny Panel, Planning Committee, Licensing Committee, Governance Committee, and Trading Board, in addition to sitting as members of the Full Council. Some Members represent the Council upon outside bodies.
- (2) Officers are employed by and serve the whole Council. They provide the same level of support to the various functions of the Council, i.e. the Executive (Cabinet), scrutiny and regulatory. Officers advise the Council, the Cabinet, Panels and Committees. They implement decisions of the Council, the Cabinet, Panels and Committees and make decisions under powers delegated to them.
- (3) Officers are responsible to their line manager and, ultimately, their Head of Service. Heads of Service are accountable to an Executive Director. Executive Directors are accountable to the Chief Executive. The Chief Executive is accountable to the whole Council. Some senior officers have specific statutory responsibilities, including Adrian Pritchard, Chief Executive, as the Head of Paid Service (Section 4, Local Government and Housing Act 1989), Andrew Weavers, Strategic Governance Manager, as Monitoring Officer (Section 5, Local Government and Housing Act 1989), and Sean Plummer, Strategic Finance Manager as the Chief Finance Officer (Section 151, Local Government Act 1972).

2 Officers' Advice and Political Neutrality

- (1) Officer advice and support will be provided to: -
 - Council Meetings;
 - meetings of the Cabinet and any Committees established by the Cabinet;
 - Portfolio Holders and other Cabinet Members (a greater degree of detail may be necessary for Cabinet Members who also carry portfolio responsibilities);
 - meetings of Committees/Sub-Committees and Panels;

- Working Parties/Forums, etc;
- Chairmen/Vice-Chairmen of Committees and Panels ;
- all Members of Council on Council business

Officers will provide support and advice to the executive, scrutiny and regulatory functions of the Council and will ensure that there is no conflict of interest in the advice given to each of the functions.

Officers will also provide advice and assistance to individual Members in respect of Council business, including issues raised by constituents.

- (2) Officers must not be requested to advise upon matters of party business or private matters.
- (3) All Officers must treat political Groups and individual Members in a fair and even-handed manner. Officers must maintain political neutrality and Members must respect this.
- (4) Senior officers may be invited to attend political Group meetings. The Chief Executive will decide whether such attendance may take place. If it is agreed that an Officer can attend a political Group meeting, the Chief Executive will inform the other Group Leaders and offer a similar facility.
- (5) Political Group meetings fall outside the Council's decision-making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such.

3 Officers' Advice on Declarations of Interest

- (1) Officers from the Council's Governance team will provide advice and information to Members on declarations of interests. However, Members will know the nature and extent of any interest they may have. It is the Member's responsibility, therefore, to decide whether any interest should be declared. Officers must, when requested to do so, respect Members' confidentiality when providing advice on declarations of interest but may otherwise draw to a Members' attention the need to declare a known interest.

4 Personal Relationships

- (1) Close personal familiarity between individual Members and Officers can damage working relationships and prove embarrassing to other Members and Officers. There is the danger of favouritism being shown to a particular Member or Officer. There may be a risk that confidential information will be passed to a Member. Please refer to the Council's Social Media Policy.
- (2) For these reasons, such a personal familiarity is discouraged. Nevertheless, it is recognised that there may be occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.
- (3) A Member must declare to the Chief Executive and his/her respective Group Leader any relationship with an Officer that might be seen as influencing

his/her work as a Member. This includes a family or close personal relationship. Similarly, the Officer concerned should notify his Head of Service or, in the case of a Head of Service his/her Executive Director or, in the case of an Executive Director, the Chief Executive. In the case of the Chief Executive, then all Group Leaders should be notified. The Chief Executive and the relevant Executive Director will arrange for the relationship to be included in the formal Declarations of Interests provided by the Member and Officer.

5 Appointment of Officers

- (1) Members must not take any part in the appointment of anyone to whom they are:
 - married;
 - a partner;
 - otherwise related;
 - a friend;
 - a business associate.
- (2) Members must ensure that Officers are appointed only on merit in line the Council's HR recruitment policies, with a view to their best serving the whole Council.

6 Undue Pressure

- (1) A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- (2) Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters to do with his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive and/or the appropriate Executive Director immediately. The Council has formal procedures for consultation, grievance and discipline, etc. dealing with these matters.

7 Officers' Reports and Advice

- (1) The named author(s) of a report to the Council or any part of its formal decision-making structure will always be fully responsible for the contents of it. Under overview and scrutiny arrangements, an Officer can be held responsible for the contents of his/her reports or advice and be required to answer for the advice given.
- (2) The Leader, Cabinet Member and/or Chairman of the relevant Committee or body may comment upon a proposed report, either during the original consultation process or following receipt of a draft agenda. The Officer concerned will give due consideration to such comments, consulting his/her relevant Executive Director or Head of Service and other appropriate Officers

as necessary. The Chief Executive will be the final arbiter upon the contents of any report.

- (3) A report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. Any remaining disagreement between the Cabinet Member/Chairman and the author of the report should be referred to the Chief Executive, or, if the author of the report is the Chief Executive, to the Monitoring Officer for resolution after consultation with the Leader.
- (4) Occasionally, Officers will need to express a professional view on a matter which may not support the view of the leading Group and/or the relevant Senior Officers of the Council.
- (5) Members should not put an Officer in a position where there would be a conflict between himself/herself and his/her line manager, Head of Service or Executive Director, nor should the Officer receive detrimental treatment as a consequence if the Member is aggrieved.

8 Officer Decisions made under Delegated Powers

- (1) Officers may make decisions under powers delegated to them pursuant to the Schemes of Delegation or by specific authority from the Cabinet, a Cabinet Member, Panel or Committee. It must be recognised that it is the Officer, and not any Member, who takes the action and it is the Officer who is accountable for it.

9 The Officer's relationship with the Leader, Cabinet Members and the Chairman of the Scrutiny Panel

- (1) The working relationship between Senior Officers and the Leader/Cabinet Members will be particularly close. Cabinet Members will have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the Cabinet Members in respect of reports or questions at Panel, Committee and Council Meetings. This relationship, however, must not:
 - compromise Officers' duties to all members of the Council;
 - be so close as to give the appearance of partiality on the part of the Officer;
 - undermine the confidentiality of any discussions with the Senior Management Team or between Senior Officers and other Members;
 - compromise Officers' professional responsibility to advise Members that a particular course of action should not be pursued;
 - abrogate Officer responsibility for action taken under Delegated Powers.
- (2) There will also be a close working relationship between senior officers and the Chairman of the Scrutiny Panel within the remit of scrutiny of executive functions.

10 Constructive Criticism/Complaints

- (1) It is important that there should be mutual courtesy between Members and Officers. It is important that there are reasonable standards of courtesy and no Member or Officer should seek to take unfair advantage of their position.
- (2) Members and Officers should not criticise or undermine respect for the other at Council Meetings or at any other meeting they attend in their capacity as a Councillor or Council employee.
- (3) Members should not raise matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public.
- (4) Members and Officers should not use social media to criticise or undermine respect for the other. Members and Officers must comply with the Council's Social Media Policy at all times.
- (5) If a Member believes that he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an Officer, he/she should raise the matter with the respective Head of Service. If he/she is not satisfied with the action that has been taken in response to this, he/she may raise the matter with the Chief Executive who will look into the matter afresh. If the Chief Executive believes that there is a case to answer he/she may determine the action to be taken which might include the Council's formal disciplinary procedures. If the Officer concerned is the Chief Executive then the Member should raise the matter with their Group Leader, who should initially discuss the issue with the Chief Executive.
- (6) If an Officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a Member, or conduct of a Member, the Officer should raise the matter with his/her Head of Service. If the Officer is not satisfied with any action that has been taken as a result, the Officer should raise the matter with his/her Executive Director. If there is a serious case to answer the Executive Director, with the agreement of the Chief Executive, may request that the matter be investigated through the Council's Governance Committee's procedures.
- (7) Where an Officer or Member is concerned about potential unlawful conduct of an Officer or Member, the Council's Whistleblowing Policy may also be relevant. Nevertheless, the procedure outlined in this protocol should be first reference where possible.

11 Members' access to information and to Council documents

- (1) Each Member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any Council, Cabinet, Panel or Committee agenda. However, Members do not have an automatic right of access to all documents relating to confidential or "Exempt" items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, applications for grants, contracts, industrial relations negotiations, legal advice and criminal investigations. These provisions are detailed in the Access to Information Procedure Rules.

- (2) In respect of such confidential information, Members will normally receive, or have access to all papers unless they are of particular sensitivity. A Member may have access to such sensitive documentation insofar as it is reasonably necessary to enable him/her to properly perform his/her duties as a Member of the Council. The relevant question to be asked is whether he/she needs to know the information to perform such duties.
- (3) A member of the Cabinet, a Panel or Committee will have a need to know of the documentation relating to that body. In other circumstances, a Member will normally be expected to justify the request in specific terms and the motive for requesting the information will be relevant. The question as to access to the documentation will be determined by the Monitoring Officer.
- (4) Members of the Scrutiny Panel have the additional rights to access contained at Rule 22 of the Access to Information Procedure Rules.
- (5) Where a Member has a disclosable pecuniary interest in a matter, the Member will only be entitled to the same rights of access to documentation as would apply for the public generally, although the Member would continue to receive the same documentation as is sent to other members of the Council.
- (6) Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust. In particular, Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- (7) Any confidential information provided to Members should be clearly marked as such prior to its provision.
- (8) Further advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

12 Public Relations and Press Releases

- (1) By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. News releases are written by Officers but they may contain quotations from a Member. Such news releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation. The aim will be for the news releases to be objective, factual and informative. The Council has also adopted a guide to pre-election publicity which provides advice upon publicity and activities during a pre-election period.
- (2) The Council will abide by the National Code of Recommended Practice on Local Authority Publicity.
- (3) For detailed guidance please refer to the Council's Media Protocol.

13 Council Publications

- (1) The Council's range of e-magazines shall remain politically neutral. They may contain quotes from Portfolio Holders in line with Council Policy. Reports of decisions made shall be those of the Council represented as the body corporate.
- (2) Publications issued by Service Groups may contain quotations from Cabinet members in line with Council policy on the matter. Where policy has yet to be determined, a Cabinet member should not indicate his/her preference. If the Council has no policy on a particular matter and a Cabinet member wishes to comment, the same opportunity must be made available to Shadows.

14 Member Support Services

- (1) The Council provides a range of support services, including stationery, postage and an e-mail address to enable Members to carry out their duties. These may only be used on Council business, such as correspondence between Members or Members and Officers; or in response to queries raised by local people. They must not be used for any party political, mailing list or election purposes whatsoever. Members must not ask Officers to type, photocopy or otherwise process any party political or election material.

15 Correspondence

- (1) Unless a Member or Officer requests confidentiality, it is to be assumed that correspondence between a Member and an Officer is not confidential and may be shown to others. If, in an Officer's view, correspondence between an individual Member and an Officer is of interest to other Members, to keep them fully informed, it should be made clear to the original Member that copies could be sent to other Members.
- (2) Where issues are raised by, or with, individual Members relating to a matter of general interest in a Borough Ward, as it is in the best interests of the Council to ensure that all Members are properly informed of general issues in their Ward, copies of correspondence will only be sent by agreement of the individual Member.
- (3) Officer letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, but this should be the exception rather than the norm.

16 Involvement of Ward Members and MPs

- (1) Information regarding activities in particular Ward should, when appropriate, be copied to the Ward Member(s) for information. Ward Members should be invited to take part in or attend any public meeting, consultative exercise or launch event organised by the Council concerning a local issue.
- (2) If an Officer calls a meeting upon a local issue with or including Ward Members, the Officer will invite all Members for the Ward(s) in question.
- (3) If any of the Members of Parliament that represent the borough are involved in the local issue, the Officer at his/her discretion may invite the relevant MP's to the meeting in addition to the Ward Members. If the Officer considers this to be inappropriate for any reason he/she may meet the MP separately.
- (4) If a Ward Member calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the Officer(s) will be required to attend only if all the Members for the Ward have been invited to attend, or are agreeable to the meeting taking place, and if the subject matter of the meeting is not politically controversial.
- (5) If a MP calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the same criteria govern the Officer's attendance as in paragraph (4) above.
- (6) Meetings with Ward Members and/or MP's and/or others are generally private. Officers may confirm the events which occurred at the meeting and the outcome of it with the Members who attended, but will not reveal those matters to other Members or to other political groups except with the specific authority of the Member(s) who attended or called the meeting.

17 Ministerial Visits

- (1) If an officer is made aware that a visit will be made to the Borough by a Minister of Her Majesty's Government (whether at the invitation of the Borough Council or otherwise), the officer shall advise Group Leaders of the visit together with any input required from Members or officers of the Council. Consideration shall be given to inviting the Mayor, the Leader, the relevant Portfolio Holder, other Cabinet Members, Shadow Spokespersons and Ward Councillors.
- (2) Where a visit to the Borough by a Minister of Her Majesty's Government is within the control of the Council, the Member of Parliament in whose constituency the visit is to take place, shall be invited to attend.

18 Unresolved issues and amendments to this protocol

- (1) If there are any issues of concern which are not dealt with by this protocol, then the relevant Member or Officer may discuss the matter with the Chief Executive with a view to advice being provided.
- (2) Should any Member or Officer wish to suggest an amendment to this protocol, he/she is asked to contact the Monitoring Officer.

13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Gifts and Hospitality – Review of Guidance for Councillors and Policy for Officers		
Wards affected	Not applicable		

This report recommends that the Committee approves revised guidance and policy relating to gifts and hospitality

1. Decision(s) Required

- 1.1 To approve the attached Guidance for Members regarding Gifts and Hospitality and that it be included in the Constitution.
- 1.2 To approve the attached Gifts and Hospitality Policy for Officers.

2. Background

- 2.1 The Council when it adopted its Members Code of Conduct retained the requirement from the previous regime to include registration and declaration of gifts and hospitality of the value of £50 and above as part of the Members Register of Interests. These are published on the Council's website as an integral part of the Committee Management Information System (CMIS). Guidance was produced for Members who may be offered gifts and/or hospitality and is included in the Constitution. The Guidance has been reviewed and updated and is attached to this report at Appendix 1. The Committee is requested to approve the Guidance.
- 2.2 Officers are required as part of their terms and conditions of employment to register any gifts and hospitality received in a register which is maintained by each Head of Service. This register is subject to quarterly and annual review by the Monitoring Officer. In addition the registers are regularly audited by the Council's internal auditors. The officer policy on gifts and hospitality is published on the Hub (the Council's intranet) and the opportunity has been taken to review and update the Policy which is attached at Appendix 2. The Committee is requested to approve the Policy.
- 2.3 The Monitoring Officer writes annually to both Members and Officers reminding them of their obligation regarding declaring and registering gifts and hospitality.

3. Strategic Plan References

- 3.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

4. Publicity Considerations

- 4.1 The Constitution is published on the Council's website

5. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 5.1 None.



Guidance for Members regarding Gifts and Hospitality

A guide for Members regarding gifts and hospitality.

October 2015

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1. Introduction

- 1.1 The Council's Members' Code of Conduct requires Members and Co-opted Members to include on their Notice of Registerable Interests details of any gift or hospitality received as part of their official duties which may be over the value of fifty pounds. It is also a breach of the Code for a Member to use their position as a Councillor improperly to confer on or secure for themselves or any other person an advantage or disadvantage.
- 1.2 The following guidance aims to assist Members and Co-opted Members in complying with the Members' Code of Conduct but it also goes beyond these basic provisions and seeks to provide wider guidance so Members can avoid situations where their integrity may be caused to be questioned as a result of gifts and hospitality.

2. The Legal Position

- 2.1 The Bribery Act 2010 makes it an offence to offer, promise or give a bribe. The Act also makes it an offence to request, agree to receive, or accept a bribe.
- 2.2 The Act also creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. A corporate offence is committed where a commercial organisation fails to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation.

3. General Advice

- 3.1 Members are advised to treat with extreme caution any offer or gift, favour or hospitality that is made personally to them. The person or organisation making the offer may be doing business or seeking to do business with the Council or may be applying to the Council for some sort of decision in respect of which it is imperative that the Member's independence should not be compromised e.g. planning approval.

4. Gifts

The following rules should be applied:

- 4.1 Other than the exceptions listed in 4.3 and 4.4 below a Member should refuse any gift offered to them or to an immediate relative of the Member, by any person who has or may seek to have dealings with the Council. Members must notify the Monitoring Officer of all such refusals as soon as reasonably practicable regardless of the value of the offered gift (unless the gift falls within 4.3 or 4.4 below). The Monitoring Officer will maintain a record for this purpose.
- 4.2 Members should note the Members' Code of Conduct requires all gifts and hospitality which exceed fifty pounds in value to be entered on the Members Notice of Registerable Interests which is published on the Council's website. Any gifts or hospitality must be registered within twenty eight days of receipt.

The exceptions where it may be appropriate to accept a gift are:

- 4.3 The gift is of purely token, promotional advertising value given to a wide range of people, e.g. pens, key rings and other promotional items. As such promotional gifts will usually be less than fifty pounds in value generally there will be no need to register but in cases of doubt Members should err on the side of caution and register the gift.
- 4.4 A small gift where refusal would cause needless offence and the giver is not currently seeking a decision or business from the Council. Again because such gifts would be of a small value generally there will be no need to register but in cases of doubt Members should err on the side of caution and register the gift.
- 4.5 A gift to the Council. This is particularly relevant to the Mayor or Deputy Mayor who may receive gifts on behalf of the Council. A separate record of such gifts is maintained by the Mayor's Secretary.
- 4.6 Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer as set out in paragraph 4.2 above.
- 4.7 Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw may be accepted but they belong to the Council and should be registered with the Monitoring Officer as soon as reasonably practicable (notwithstanding that their value may be less than the fifty pounds specified in the Members Code of Conduct). The Monitoring Officer in consultation with the Chairman of the Governance Committee will determine whether it is appropriate to retain the gift in question.
- 4.8 Whilst it may be acceptable to accept a token or small gift on one occasion Members should refuse repeated gifts, even if these are individually not of a significant value.

5. Hospitality

- 5.1 Increasingly private companies offer hospitality e.g. free drinks, tickets to shows or hotel accommodation to persons with whom they do business or with whom they hope to do business in the future. Such hospitality could convey the impression that Members' judgement would be influenced. It would however be too rigid to say that no hospitality can be accepted. Members are reminded that any hospitality which exceeds fifty pounds is required by the Members Code of Conduct to be registered. However Members may wish to notify the Monitoring Officer of hospitality offered but refused and hospitality which is less than the fifty pounds limit specified in the Members' Code of Conduct.
- 5.2 Some examples of hospitality which may be acceptable follow but much may depend on the particular circumstances, for example who is providing the hospitality, why the Member is there and the nature of the dealings between the Council, the Member and the provider of the hospitality:
 - A working meal provided to allow parties to discuss or to continue to discuss business. A useful test will often be whether you would provide similar hospitality if the situation was reversed.
 - An invitation to attend a dinner or function of a Society, Institute or other non commercial body with whom the Authority has contact.

- Invitations to attend functions where the Member represents the Council (opening ceremonies, public speaking events, conferences).

5.3 The following are examples of unacceptable hospitality:

- Holidays, including accommodation and travel arrangements
- Offers of theatre tickets for the member and his family or free travel
- Personal invitations for evenings out with representatives from a company or firm who have dealings with the council or who are likely to have dealings in the future.
- Members are advised to err on the side of caution and if in any doubt as to the integrity of the offer / invite, the Member should consult the Monitoring Officer or refuse.

6. Declaration of Gifts or Hospitality at Meetings

6.1 Members are reminded that any gift or hospitality received and recorded on their Notice of Registerable Interest must be declared by that Member at any meeting for a period of three years from the date of receipt of the gift or hospitality whenever the matter under decision relates to the provider of the gift or hospitality concerned.

7. Further advice

7.1 If any Member has any concerns regarding this Guidance they must seek advice from the Monitoring Officer.



Gifts and Hospitality Policy for Officers

A guide for officers regarding gifts and hospitality received in the course of their duties.

October 2015

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Check Hub for updates

1. Introduction

- 1.1 These guidelines are here to help you decide whether or not you should accept offers of gifts or hospitality. In local government you need to be very careful to ensure that the public confidence in your own and the Council's integrity cannot be damaged in any way by your actions.
- 1.2 **If you have any doubts about an offer of a gift or form of hospitality you must refuse and seek the advice of your manager, Head of Service or the Monitoring Officer.**

2. Gifts

- 2.1 You must be **very careful** when accepting gifts – in some circumstances you could break the law. The general rule is to politely and tactfully refuse offers of gifts from people or organisations who do or might provide work, goods or services to the Council or who seek some decision from the Council – for example, in respect of planning permission.
- 2.2 Gifts of the following type **may** be accepted:
- **Modest** gifts of a promotional character such as calendars, diaries, articles for use in the office.
 - A **small** gift on the conclusion of a courtesy visit to a factory or firm, or gifts which are presented at civic or ceremonial occasions.
- 2.3 You must appreciate that these exceptions apply only to **modest gifts** and an expensive gift must not be accepted. Again, if you are **in doubt, refuse** the gift and **seek advice** from your manager or Head of Service.
- 2.4 Gifts which are intended for the Council as a corporate body or intended for a service area can be accepted but you **must not** retain these. Such gifts must be given to the Head of Service for the service area concerned or the Chief Executive as appropriate.

3. Hospitality

- 3.1 You must use your judgement when accepting an offer of hospitality. You should ask yourself whether members of the public, knowing the facts of the situation, could reasonably think that you might be influenced by the hospitality offered. If the answer is yes, the hospitality should be declined. You should consider:
- the person or organisation offering the hospitality;
 - the scale and nature of the hospitality; and
 - the timing of the hospitality in relation to decisions to be made by the Council.
- 3.2 Some **examples** of situations and circumstances where hospitality might be **acceptable** are:

- Routine meals at establishments used by the local business community, to discuss business, prior to or following such a discussion. A useful test will often be whether you would provide similar hospitality if the situation was reversed.
- Customary lunches and dinners given at conferences where there are numerous guests and where invitations are formally received and accepted in advance of the conference.
- Courtesy invitations by major companies providing services to the Council, e.g. Bankers, Insurers etc.
- Invitations to join other company guests at sponsored cultural, sporting events or other public performances and openings of other special occasions.
- Civic and ceremonial occasions when accompanying the Mayor.

3.3 Some **examples** of situations and circumstances where hospitality is **unacceptable** are:

- Paid or concessionary holidays or travel.
- Other concessionary rates which are not openly and as a matter of practice, available equally to other organisations.
- Offers of hotel and/or theatre tickets in London (except in circumstances described in 3.2 above).
- The use of company flats or hotel suites.
- Extravagant meals at exclusive venues.
- Frequent hospitality from one source.

3.4 In general, it is usually more acceptable for you to accept hospitality when it is offered to a group rather than something which unique to yourself. You should take greater care if you are offered hospitality when the person or organisation has current dealings with the Council or such dealings are in prospect.

4. Recording Gifts and Hospitality

4.1 **All** gifts and hospitality which you accept **must** be recorded as soon as possible in the Gifts and Hospitality Register held by your Head of Service. These registers are inspected regularly and countersigned by your Head of Service and the Council's Monitoring Officer. They are also subject to regular audit by the Council's auditors.

It is your personal responsibility for ensuring that your acceptance of hospitality and/or gifts is entered in the record. Any inappropriate receipt of any gift or hospitality could lead to disciplinary action.

13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Review of Local Code of Corporate Governance		
Wards affected	Not applicable		

This report requests the Committee to review the updated Local Code of Corporate Governance

1. Decision(s) Required

- 1.1 To review the updated Local Code of Corporate Governance for 2015/16 and to recommend to Council that it be approved for inclusion in the Council's policy framework.

2. Background

- 2.1 In 2007 CIPFA (The Chartered Institute of Public Finance and Accountancy) and SOLACE (The Society of Local Authority Chief Executives) issued "Delivering Good Governance in Local Authorities", a guide to ensuring that local authorities are appropriately governed. This was updated in December 2012.
- 2.2 Governance is defined as the systems and processes, and cultures and values, by which an organisation is directed and controlled and through which it accounts to, engages with and, where appropriate, leads their communities. It is about how Colchester Borough Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open and accountable manner
- 2.3 The Council strives to meet the highest standards of corporate governance to help ensure it meets its objectives. Members and Officers are responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal.
- 2.4 Therefore a Local Code of Corporate Governance has been developed to ensure that the Council complies with the principles set out in the CIPFA/SOLACE guidance. The Local Code is reviewed annually, to ensure that the Council is still satisfying the principles, and forms part of the Council's Policy Framework.
- 2.5 The guidance identifies six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. The principles are;
- Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area;
 - Members and officers working together to achieve a common purpose with clearly defined functions and roles;
 - Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;

- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
- Developing the capacity and capability of members and officers to be effective; and
- Engaging with local people and other stakeholders to ensure robust public accountability.

2.6 The six core principles each have a number of supporting principles, which in turn have a range of specific requirements that apply across the range of Council business.

2.7 The Local Code, and the Councils compliance with the principles, have been reviewed, and attached at Appendix 1 is the updated Local Code of Corporate Governance for 2015/16. This sets out the six principles and elaborates on how the Council is meeting them, what source documents or processes evidence this and in addition highlights any further or ongoing work. This in turn links into the Council's Annual Governance Statement.

2.8 The following changes to the Code are highlighted for the Committee's information:

- The new Strategic Plan 2015 -2018
- Borough Investment for All (BIFA)
- Introduction of the Leaders Listening Sessions

3. Strategic Plan References

3.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

4. Publicity Considerations

4.1 The Local Code of Corporate Governance will be included in the Constitution and will be published on the Council's website.

5. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

5.1 None.



Code of Corporate Governance

A guide to the Council's
compliance with the six
principles of Corporate
Governance

October 2015

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THE PRINCIPLES OF CORPORATE GOVERNANCE

- Core Principle 1** *Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area.*
- Core Principle 2** *Members and officers working together to achieve a common purpose with clearly defined functions and roles.*
- Core Principle 3** *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.*
- Core Principle 4** *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.*
- Core Principle 5** *Developing the capacity and capability of members and officers to be effective.*
- Core Principle 6** *Engaging with local people and other stakeholders to ensure robust public accountability.*

CODE OF CORPORATE GOVERNANCE

INTRODUCTION

“Governance is about how local government bodies ensure that they are doing the right things, in the right way for everyone, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities”.

Delivering Good Governance in Local Authorities (CIPFA/SOLACE 2007)

The CIPFA/SOLACE guidance “Delivering Good Governance in Local Authorities” identified six Core Principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a local code of governance. These principles are:

- 1. Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area*
- 2. Members and officers working together to achieve a common purpose with clearly defined functions and roles*
- 3. Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour*
- 4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk*
- 5. Developing the capacity and capability of members and officers to be effective*
- 6. Engaging with local people and other stakeholders to ensure robust public accountability.*

This Code of Governance has been prepared in accordance with the Guidance and will be reviewed by the Governance Committee on an annual basis.

Additionally authorities are required to prepare and publish an Annual Governance Statement in accordance with this framework under Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2011. The Annual Governance Statement is a key corporate document. The Chief Executive and the Leader of the Council have joint responsibility as signatories for its accuracy and completeness.

PRINCIPLE ONE

Core Principle 1 – Focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area

Our aims in relation to focusing on the purpose of the Council and outcomes for the community and creating and implementing a vision for the local area are to:

- 1.1 Exercise strategic leadership by developing and clearly communicating the authority's purpose, vision and its intended outcome for citizens and service users
- 1.2 Ensure users receive a high quality service whether directly, or in partnership, or by commissioning
- 1.3 Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.1 Develop and promote the Council's purpose and vision	Strategic Plan 2015-18 Service Plans Communications Strategy Council website – www.colchester.gov.uk Local Research and Statistics data on website Customer Demand and Research project work The Constitution and its committees, panels and Trading Board Peer Challenge action plan Core values of 'customer, business and culture' with identified attitudes and behaviours	Strategic Plan Action Plan agreed at Cabinet September 2015 Borough Investment for All (BIFA)
1.1.2 Review on a regular basis the Council's vision for the local area and its impact on the authority's governance arrangements	Strategic Plan 2015-18 Medium Term Financial Strategy and Capital Programme Local Code of Corporate Governance Annual Governance Statement and Assurance Framework Risk Register	Local Code of Corporate Governance updated as required by CIPFA Guidance Updated Strategic Plan Action Plan

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
1.1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	Strategic Plan 2015-18 Partnership Strategy Partnership Register Partners were key contributors in the Peer Challenge.	Community Hub at Colchester library brings a range of partners together to provide customer-facing services. Also the Essex County Council Relationship Manager role.
1.1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	Strategic Plan actions and monitoring of delivery Statement of Accounts Council's website www.colchester.gov.uk "Council Awards and Accreditations" and "Performance and Improvement" – sections on the Council's website Performance Management Board Communications Strategy	A webpage has been set up to bring all annual reports into one central place on the Council's website for improved transparency
1.2.1 Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available	Performance reporting to Senior Management , Scrutiny Panel and the Cabinet Consultation – "Consultations, Research and Statistics" section on website Mosaic and Touchstone customer research tools Annual Monitoring Report External Audit annual audit letter and recommendations	'Customers and Partnerships' strand of Senior Management Team meetings – this meeting aims to ensure we are focused on our customers and looking for partnership opportunities

In order to achieve our aims we have/will:	Source documents/processes	Further work ongoing
1.2.2 Put in place effective arrangements to identify and deal with failure in service delivery	Performance reporting and performance indicators Complaints Procedure Internal Audit Process and annual work programme Chief Operating Officer Performance Management Board External Auditor's annual audit letter and recommendations The Constitution and its committees, panels and Trading Board Risk Management Strategy Ethical Governance Policies Annual Governance Statement Action Plan	Performance Management Board addresses and manages performance and financial issues and meets monthly. Preparation for Budget Group is also managed here.
1.3.1 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.	Performance Reporting Performance Management Board Environmental Sustainability Strategy and Action Plan External Auditor's annual audit letter and recommendations Statement of Accounts Report templates – financial considerations Monitoring of commercial performance by the Trading Board Sustainability assessments for Local Development Framework	Building a sustainable commercial services arm for the Council Establishment of Revolving Investment Fund Committee

PRINCIPLE TWO

Core Principle 2 – Members and Officers working together to achieve a common purpose with clearly defined functions and roles

Our aims in relation to Members and Officers working together to achieve a common purpose with clearly defined functions and roles are to:

- 2.1 Ensure effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function
- 2.2 Ensure that a constructive working relationship exists between authority members and officers and the responsibilities of members and officers are carried out to a high standard
- 2.3 Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.1.1 Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice	Constitution (Cabinet terms of reference) Record of decisions and supporting materials Member/Officer Protocol Member Training and Development Senior officer training Member role profiles Committee and Councillor area on the Council website	The Constitution will continue to be reviewed on a rolling basis.
2.1.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers	Constitution (Statutory Officer positions, Terms of Reference for Committees, Member roles) Protocols on planning, the representational role of Members, Chairmen, Officer/Members Schemes of Delegation Conditions of Employment Member role profiles Website and its Datashare section	.

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.2 Make the chief executive or equivalent responsible and accountable to the authority for all aspects of operational management	Development of the Committee and Councillor area on the Council website provides more complete and easily accessible information about Councillors and the Council's decision making processes. Chief Executive designated Head of Paid Service Constitution (Head of Paid Service responsibilities) Conditions of Employment Schemes of Delegation Job Accountability Statement /Person Specification Signature on Annual Governance Statement	The Constitution will continue to be reviewed on a rolling basis. Support for this from Chief Operating Officer
2.2.3 Develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained	Constitution Member/Officer Protocol Regular 1:2:1's	The Constitution will continue to be reviewed on a rolling basis. Effective transfer of responsibilities to new Leader of the Council.
2.2.4 Make a senior officer (usually the section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control	Strategic Finance Manager is the Council's Chief Financial Officer (S151 Officer). Constitution Job Accountability Statement / Person Specification S151 Officer Protocol Report template includes financial implications before report considered by Members Officer Pay Policy agreed by Full Council	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.2.5 Make a senior officer (other than the responsible financial officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations are complied with (usually the Monitoring Officer)	Strategic Governance Manager is the Council's Monitoring Officer Monitoring Officer Protocol Report template requires that Legal Services are consulted before a report is considered by Members	
2.3.1 Develop protocols to ensure effective communication between members and officers in their respective roles	Member / Officer Protocol Planning Procedures Code of Practice Outside Bodies advice given to Members Member and Officer Codes of Conduct	Portfolio Holder briefings
2.3.2 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process including an effective remuneration panel (if applicable)	Pay and conditions policies and practices Independent Remuneration Panel Terms of Reference and Reports Regular liaison meeting with Unison Officer Pay Policy agreed by Full Council	
2.3.3 Ensure that effective mechanisms exist to monitor service delivery	Performance reporting and performance indicators Complaints Procedure Heads of Service monitoring Service Plans Performance Management Board Performance management system Scrutiny Panel Trading Board Annual Governance Statements for the Council, Colchester and Ipswich Museums Service and North Essex Parking Partnership	Customers and Partnerships' strand of Senior Management Team meetings Customer insight work Datashare brings key performance and related data into one place on the website

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
2.3.4 Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated	Strategic Plan underpinned by a review of all existing consultation work. Medium Term Financial Strategy Performance reporting and indicators Council Website Communications Strategy E-Courier and e-newsletters Trading Board Customer insight groups Fundamental Service Reviews	Strategic Plan for 2015 onwards. The development of this plan included focus groups with a representative sample of the local community, facilitated by an independent research company Establishment of Revolving Investment Fund Committee
2.3.5 When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy Partnership Register	Community Hub at Colchester library brings a range of partners together to provide customer-facing services. Also the Essex County Council Relationship Manager role. Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny
2.3.6 When working in partnership: <ul style="list-style-type: none"> • ensure that there is clarity about the legal status of the partnership • ensure that representatives or organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions. 	Constitution Individual Partnership Agreements Service Level Agreements Advice given to Members in relation to outside bodies Partnership Strategy Partnership Register	Customers and Partnerships' strand of Senior Management Team meetings

PRINCIPLE THREE

Core Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

Our aims in relation to promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour are to:

- 3.1 Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- 3.2 Ensuring that organisational values are put into practice and are effective

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.1 Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect	Constitution Chief Executive's and Leader's blog on the Council's intranet Performance reporting Governance Committee has an overall view of conduct issues established by its terms of reference Member and Officer Codes of Conduct Member/Officer Protocol Whistleblowing Policy Anti-Fraud and Corruption Policy Freedom of Information Policy statement and publication scheme Monitoring Officer and S151 Officer Protocols Localism Act Member conduct regime Annual review of Ethical Governance policies Peer Challenge	Staff survey and taking action on its findings Leadership Development Programme led by Executive Management Team Social media Datashare on the Council's website and on www.data.gov.uk supports the importance of openness and transparency Employee Assistance Programme introduced Leader's Listening Sessions introduced

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.1.1 continued	Planning Procedures Code of Practice Officer Register of Gifts and Hospitality Officer voluntary register of interests Members' Register of Interests Website and intranet Corporate Roadshows by Chief Executive for staff Portfolio Holder monthly sessions with senior officers "Corporate Governance" section on the Council's website bringing all relevant information together under one heading	
3.1.2 Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols	Member and Officer Codes of Conduct Performance management system Complaints procedures Anti-fraud and Corruption Policy Member/Officer Protocols Induction for new Members and staff Member Development Programme Member Personal Development Plans Officer training on Member/ officer relationship Whistleblowing Policy Information and Communication Technology (ICT) Security Policy Safeguarding Policy Hub (intranet) Annual review of Ethical Governance policies	Review of all HR Policies is underway Embedding the Council's core values of 'customer, business and culture' with identified attitudes and behaviours. The revised Job Accountability Statement/Person Specification template highlights the core values to applicants, and the revised staff appraisal scheme now makes how you conduct yourself against the values, attitudes and behaviours to be equally important to achieving the SMART objectives that apply to the role

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
<p>3.1.3 Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice</p>	<p>Member and Officer Codes of Conduct Equality and Diversity training for Members and Officers Financial Procedure Rules, Contract Procedure Rules Ethical Governance policies Registers of Interests (Officers and Members) Services and processes are underpinned by Equality Impact Assessments Equality Objectives Officer induction and training Annual review of Ethical Governance Policies</p>	
<p>3.2.1 Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners</p>	<p>Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and shared Performance reporting Strategic Plan Action Plan – progress is reported to scrutiny on a half yearly basis</p>	<p>People Strategy actions Implementation of Fundamental Service Review of Customer Contact</p>
<p>3.2.2 Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice</p>	<p>Contract Procedure Rules Ethical Governance Policies Member and Officer Codes of Conduct Monitoring of the above takes place by the Governance Committee ICT Security Policy Annual reporting to Governance Committee</p>	<p>Review to see if actions needed in light of boundary changes and ‘all-out’ elections in May 2016</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
3.2.3 Develop and maintain an effective Standards Committee	Member conduct issues (standards) within remit of Governance Committee Agenda and Minutes Terms of Reference Regular meetings Work programme	Annual review of the Localism Act arrangements by the Governance Committee.
3.2.4 Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority	Member and Officer Codes of Conduct Strategic Plan, objectives and priorities in place and being shared Performance Appraisals Portfolio Holder briefing with Senior Managers Policy Framework	Embedding the core values with their underpinning attitudes and behaviours
3.2.5 In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively	Values agreed with each partner Partnership Register Partnership Strategy	Annual report to Cabinet on Members' appointments to outside bodies, including feedback on outcomes, issues and engagement Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny

PRINCIPLE FOUR

Core Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

Our aims in taking informed and transparent decisions which are subject to effective scrutiny and managing risk are to:

- 4.1 Being rigorous and transparent about how decisions are taken and listening and acting on the outcomes of constructive scrutiny
- 4.2 Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- 4.3 Ensuring that an effective risk management system is in place
- 4.4 Using their legal powers to the full benefit of the citizens and communities in their areas

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.1. Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the organisation's performance overall and of any organisation for which it is responsible	Scrutiny is supported by robust evidence and data analysis Agenda and Minutes Scrutiny Panel Work programme Successful outcome of reviews Ownership of work programme Training for scrutiny chairman Scrutiny of partners and joint projects	Scrutiny Panel work programme includes review of partnership arrangements, with presentations from partners at Scrutiny Taking issues and developments to the Trading Board as appropriate Joint Scrutiny Chairman's meeting
4.1.2 Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based	The Constitution and its committees, panels and Trading Board Decision making protocols Record of decisions and supporting materials Report template Decision list published (members) Recordings of meetings on the website Website ,	

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.1.3 Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice	Member and Officer Codes of Conduct Member and Officer Registers of Interests Declaration of Interests at meetings Code of Conduct guidance and training provided to Members and Officers Planning procedures Code of Practice Governance Committee have responsibility for these issues Monitoring Officer reports on these issues Politically restricted posts Ethical Governance Policies, and annual review	
4.1.4 Develop and maintain an effective Audit Committee (or equivalent) which is independent or make other appropriate arrangements for the discharge of the functions of such a committee	Audit issues within remit of Governance Committee Member Development Programme Agenda and Minutes The Constitution	Continue to review Member training programme with specific reference to audit and governance
4.1.5 Put in place effective transparent and accessible arrangements for dealing with complaints	Complaints procedure "Help us get it right" on website with full details Annual letter from Local Government Ombudsman Customer insight work	
4.2.1 Ensure that those making decisions whether for the authority or partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications	Council's Website Report templates dealing with key aspects Report by Head of Service with necessary technical expertise included Training and professional development Equality Impact Assessments Clear and well understood decision making processes with published timelines.	Datashare Projects carried out by the Council's Customer Demand and Research Team Customer insight work

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.2.2 Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately	Report template requires that consultation is undertaken with legal and financial functions before report considered by Members Record of decision making and supporting materials S151 and Monitoring Officer Protocols Equality Impact Assessments Clear and well understood decision making processes with published timelines.	Introduction of Account Managers and Business Partners for Corporate and Financial Management services, including legal and financial matters
4.3.1 Ensure that risk management is embedded into the culture of the organisation, with members and managers at all levels recognising that risk management is part of their job	Risk Management Strategy - Policy Framework Corporate Risk Manager Corporate/service planning Cabinet Member with accountability for risk management Half yearly reporting to Governance Committee Performance Management Board quarterly risk review Risk Registers- Strategic, Operational and Project Risk and Control self-assessment completed by all managers Training for Members and Officers Hub area for Risk Management Corporate Governance Team, bringing together the co-ordination of governance processes.	Embedding of risk management processes into projects, with a review of what constitutes a significant project Integrating operational, strategic and project risks into the risk reporting process to senior management

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
4.4.1 Actively recognise the limits of lawful activity placed on them by, for example the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities	Constitution Monitoring Officer Report templates Equality Impact Assessments Equality Objectives	
4.4.2 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Report templates Constitution Equality Impact Assessments Equality Objectives	Introduction of Account Managers and Business Partners for Corporate and Financial Management services, including legal and financial matters
4.4.3 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice into their procedures and decision making processes	Availability of professional legal advice Knowledge of current and forthcoming legislation and regulations Monitoring Officer Protocol S151 Officer Protocol Procedure Rules Report template Constitution Format for quasi-judicial committees “Have Your Say” processes Planning Procedure Code of Practice Equality Impact Assessments Equality Objectives Datashare	Introduction of Account Managers and Business Partners for Corporate and Financial Management services, including legal and financial matters

PRINCIPLE FIVE

Core Principle 5 – Developing the capacity and capability of Members and Officers to be effective

Our aims in relation to developing the capacity and capability of Members and Officers to be effective are:

- 5.1 Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles
- 5.2 Developing the capability of people with governance responsibilities and evaluating their performance as an individual and as a group
- 5.3 Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.1.1 Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis	Member training and development Member training records on the website Member and Officer Induction programmes Refresher courses Briefings Appraisals for officers People Strategy Personal Development Plans Learning and Development Strategy Charter Status for Elected member development	Member skills development Learning and Development Day in October 2015 for staff – highlighting training and e-learning opportunities Investigating possibilities of e-induction options for new starters when developing refreshed intranet
5.1.2 Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the organisation	Appraisals Personal Development Plans Training and development Induction Monitoring Officer and S151 Officer Protocols Employee Policies Learning and Development Strategy/Annual Learning and Development Plan	Talent Management/Career Track for staff Future Leader programme

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.2.1 Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively	Appraisals for officers SMART objectives Personal Development Plans for officers Member training and development People Strategy Learning and Development Strategy/Annual Learning and Development Plan Charter Status for Elected Member Development	Member skills development Developing the training records on the Member Information System Talent Management/Career Track for staff
5.2.2 Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	Appraisals for officers Personal Development Plans for officers Member training and development Member scrutiny training People Strategy Colchester Learning Managers Vine HR and East Of England Local Government Association – meetings, best practice and briefings Peer Challenge and action plan Charter Status for Elected Member Development	Member skills development Talent Management/Career Track for staff Learning and Development – commercial skills
5.2.3 Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual members and agreeing an action plan which might for example aim to address any training or development needs	Performance reporting and indicators Performance and Improvement Framework Performance management and appraisals – staff SMART objectives People Strategy Peer Challenge and action plan Annual Audit Letter Members Personal Development Plans Annual Training Plan Local Government Ombudsman Annual Letter	Re-accreditation of Investors in People status November/December 2015

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
5.3.1 Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority	Equality Impact Assessments on services and policies Consultations, Research and Statistics on website Voluntary Sector Grants programme Public meetings Equality Objectives Strategic Plan Consultation Local Development Framework consultation Community development work Consultations Customer insight work Research and Engagement Team projects Have Your Say! processes Appointment of Independent Persons	Community Enabling Strategy Leader's Listening Sessions Community Budgets Use of social media
5.3.2 Ensure that career structures are in place for Members and Officers to encourage participation and development	People Strategy Internal Recruitment Process Internal Secondments Personal Development Plans for officers Personal Development Plans for members Talent Management/Career Track for staff Member skills development Staff structure charts	Talent Management/Career Track - the SMT Talent Panel now meets to consider critical roles; moderate career track paths; confirm Future Leader or Future Potential assessments; and then consider those on the Future Leader career track and manage their development Future Leader Programme Staff Recognition Scheme

PRINCIPLE SIX

Core Principle 6 – Engaging with local people and other stakeholders to ensure robust public accountability

Our aims in relation to engaging with local people and other stakeholders to ensure robust public accountability are to:

- 6.1 Exercise leadership through a robust scrutiny function which engages effectively with local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships
- 6.2 Take an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly, in partnership or by commissioning
- 6.3 Make best use of human resources by taking an active and planned approach to meet responsibility to staff

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.1.1 Make clear to themselves, all staff and the community, to whom they are accountable and for what	Constitution Community Enabling Strategy Stakeholder identification Targets and Performance Monitoring Website and intranet Consultation Strategy Communications Strategy Datashare section on the Council's website brings together all information required under statutory codes such as including the 'Local Government Transparency Code 2015'to make this easily accessible	<p>A key part of the Government's Transparency agenda is to bring information together into one searchable website - www.data.gov.uk to provide clarity on these issues. In September 2015, the information on the Datashare section of the Council's website is now also being published on www.data.gov.uk</p> <p>Community Budgets 2015-16 (replaced Locality Budgets) have been brought in with clearer guidelines and all spend/activity transparently available on the Council's website.</p>

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.1.2 Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required	Stakeholder identification Statutory provisions Stakeholder surveys Consultation Strategy Communications Strategy Partnership Strategy and Register Scrutiny Panel and the Crime and Disorder Committee Work Programme Datashare	Ongoing review of Freedom of Information requests to see if there are items which could be put onto the website or Datashare, so that a repeat request would not be needed as the item had been made freely available. Examples have been business rate and public funeral information now published as a matter of routine.
6.1.3 Produce an annual report on scrutiny function activity	Annual Scrutiny Report	
6.2.1 Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively	Communications Strategy Websites and E-Courier Equality Impact Assessments Safeguarding Policies E-newsletters Datashare, Freedom of Information and Data Protection section of the website	Leader's Listening Sessions Social media
6.2.2 Hold meetings in public unless there are good reasons for confidentiality	Constitution Access to Information Rules Compliance with Localism Act access to information regulations	Trading Board annual report
6.2.3 Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands	Strategic Plan 2015-18 Website - "Consultations, Research and Statistics" section Consultation strategy Communications strategy Community development work Equality Objectives and Equality Impact Assessments Budget Consultation Meeting E-newsletters	implementation plan FOR Fundamental Service Review of Customer Contact Leader's Listening Sessions Community Enabling Strategy

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.2.4 Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result	Statement of Community Involvement Customer insight project team and its work Partnership framework Communication strategy Consultation Strategy Budget Consultation - meeting and online Strategic Plan consultation Website - "Consultations, Research and Statistics" section Cabinet and Council – progress of questions raised by the public	
6.2.5 On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period	Statement of Accounts Strategic Plan 2015-18 Website www.colchester.gov.uk Performance Reporting and Performance Indicators Council website has "Performance and Improvement", "Council Awards and Achievements" and "Council and Democracy" sections	Strategic Plan Action Plan – progress is reported to Scrutiny and Cabinet on a half-yearly basis Trading Board annual report A webpage has been set up to bring all annual reports into one central place on the Council's website for improved transparency

In order to achieve our aims we have/will:	Source documents/Processes	Further work ongoing
6.2.6 Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so	Constitution Customer service standards Voluntary Sector Compact "Have Your Say" at meetings Freedom of Information Act Publication Scheme Member and Officer Codes of Conduct Ethical Governance Policies Monitoring Officer Protocol Communications Policy Data Protection Policy ICT Security Policy Council website Datashare, Freedom of Information and Data Protection section of the website National Fraud Initiative - Fair Processing Notice Egress Switch Secure Email Encryption	Community Hub at Colchester library brings a range of partners together to provide customer-facing services for customers of the Council and other organisations. This town centre location is easy to access for those who do not wish to self-serve or would like some assistance to do so online. It is open plan with a Welcome Zone where staff work with customers, but also includes areas where confidential discussions can be carried out if needed or appropriate Compliance project to meet 2015 update for security checks on staff who process official/sensitive information using the Public Sector Network or who need a secure .GCSX e-mail address
6.3.1 Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making	Investors in People Facilities and Recognition Agreement with UNISON Internal Communications Strategy Fundamental Service Reviews and other operational reviews include consultation and involvement arrangements as part of the process/staff communications	Staff survey and taking action on its findings Staff suggestion boxes