

8 September 2017

Committee	Standards Committee
Date	Monday, 18 September 2017
Time of Meeting	2:00 pm
Venue	Committee Room 1

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

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Item	Page(s)
2. APOLOGIES FOR ABSENCE	
<p>To receive apologies for absence.</p>	
3. DECLARATIONS OF INTEREST	
<p>Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.</p>	
4. MINUTES	1 - 12
<p>To approve the Minutes of the meetings held on 21 March 2016 and 17 May 2016, the Special meetings held on 27 June 2016 and 22 November 2016 and the meeting on 16 May 2017.</p>	
5. REVIEW OF GIFTS AND HOSPITALITY PROTOCOL	13 - 26
<p>To agree the mechanism for the review of the Gifts and Hospitality Protocol for Councillors.</p>	
6. SEPARATE BUSINESS	
<p>The Chairman will move the adoption of the following resolution: That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p>	
7. SEPARATE MINUTES	27 - 30
<p>To approve the Minutes of the meeting held on 21 March 2016 and the Special meeting held on 22 November 2016.</p>	
8. CODE OF CONDUCT COMPLAINTS	31 - 34
<p><i>(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)</i></p>	
<p>To consider an update report on complaints received.</p>	

DATE OF NEXT MEETING**MONDAY, 19 MARCH 2018****MEMBERSHIP OF COMMITTEE**

Tewkesbury Borough Council Members	Councillor M Dean
	Councillor Mrs S E Hillier-Richardson
	Councillor T A Spencer
	Councillor P D Surman (Vice-Chair)
	Councillor M G Sztymiak
	Councillor H A E Turbyfield and Councillor M J Williams (Chair)
Non-Voting Independent Persons	Mr M Jauch and Mr P J Kimber
Non-Voting Parish Representatives	Mr D J Horsfall and Vacancy

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Monday, 21 March 2016 commencing at
2:00 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor T A Spencer
Councillor P D Surman (Chair)
Councillor M G Sztymiak and
Councillor H A E Turbyfield

Non-Voting Independent Persons: Mr P J Kimber

ST.12 ANNOUNCEMENTS

- 12.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

ST.13 APOLOGIES FOR ABSENCE

- 13.1 Apologies for absence were received from Councillors Mrs S E Hillier-Richardson and M J Williams (Vice-Chair); Independent Person, Mr M Jauch; and Parish representative, Mr D J Horsfall.

ST.14 DECLARATIONS OF INTEREST

- 14.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 14.2 There were no declarations of interest made on this occasion.

ST.15 MINUTES

- 15.1 The Minutes of the meeting held on 12 October 2015, copies of which had been circulated, were approved as a correct record and signed by the Chair.

ST.16 REVIEW OF PROTOCOL FOR MEMBER/OFFICER RELATIONS

- 16.1 The report of the Monitoring Officer, circulated at Pages No. 5-24, asked Members to consider the proposed amendments to the Protocol for Member/Officer Relations and to recommend the Protocol to the Council for approval.
- 16.2 The Monitoring Officer explained that the Standards Committee had met as a Working Group on two occasions to review the Protocol and during that process had met with a number of Members and Officers to gain their views. The Working Group had considered the amendments that were required to be made to the Protocol and had published the amended version on the Council's intranet for consultation purposes. As there had been no further major amendments suggested, the Working Group was happy for the amended Protocol to be circulated to the Standards Committee without the need for a further meeting of the Working Group.
- 16.3 Attention was drawn to Appendix 3 to the report which set out the proposed amended Protocol and, for completeness, Appendices 1 and 2 were also attached to the report which showed the comments that had been received throughout the process and the responses to those from the Working Group. In terms of Appendix 2, the Monitoring Officer asked Members to consider if they would like to make any further amendments taking those points into account.
- 16.4 During the discussion which ensued, it was agreed that no further amendments needed to be made. One Member suggested that many of the Members and Officers that the Working Group had spoken to had not read the Protocol until they had been asked to comment on it and he questioned whether something could be done to address this. In response, the Monitoring Officer explained that people only tended to read the document when they needed it but it was part of the Constitution so it was available to all, including members of the public.
- 16.5 Accordingly, it was
- RESOLVED** That it be **RECOMMENDED TO COUNCIL** that the revised Protocol for Member/Officer Relations, as attached to the report at Appendix 3, be **APPROVED**.

ST.17 REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

- 17.1 The report of the Monitoring Officer, circulated at Pages No. 25-27, asked Members to agree the mechanism for which a review of the Protocol for Councillors and Officers Involved in the Planning Process would take place and sought nominations for Members to serve on a joint Standards and Planning Committee Working Group.
- 17.2 Members were informed that, at its meeting on 14 April 2015, the Council had considered the revised Protocol for Councillors and Officers Involved in the Planning Process and resolved that the Protocol be adopted with a review after 12 months. The initial review had been undertaken by a joint Working Group made up of four Members of the Planning Committee and four Members of the Standards Committee; this mechanism had worked extremely well and it was therefore suggested that a similar arrangement be put in place to examine how the new Protocol had worked after being operational for 12 months and whether any further amendments were required.

- 17.3 Previously the Standards Committee had nominated Tewkesbury Borough Councillors Brian Calway and Mike Dean; Parish representative, Jeremy Horsfall; and Independent Person, Martin Jauch to serve on the Working Group and it was suggested, for consistency, that those Members remaining on the Standards Committee may wish to put themselves forward to serve on the Working Group again. In respect of Brian Calway, as he was no longer a Member of the Council, there was one vacancy to fill and it was suggested that the Standards Committee Chair, Councillor Philip Surman, would be a sensible replacement.
- 17.4 A brief discussion ensued during which a Member questioned whether the Working Group would be interviewing people again. In response, the Monitoring Officer advised that she anticipated there would be one or two meetings at which Members could discuss how the planning site visits were going etc. In terms of training for Planning Committee Members, a Member questioned whether this could be made mandatory. In response, the Monitoring Officer advised that all Members on the Committee, and those that were asked to be substitutes, had received training initially and this was compulsory; for any additional training thereafter, i.e. seminars etc., it would not be possible to make attendance mandatory. However, some external training was to be arranged, and other training opportunities would continue to be provided, and it was hoped that Members would take full advantage of that. A Member asked that, when the Protocol was reviewed, consideration be given to the inclusion of a sentence to say that it was highly recommended that Members of the Planning Committee attend all relevant training. The Monitoring Officer noted this request and it was proposed, seconded and

RESOLVED

That the Joint Standards and Planning Working Group be re-established to review the Protocol for Councillors and Officers Involved in the Planning Process and that the Standards Committee Members to serve on the Working Group be as follows:

Councillors Mike Dean and Philip Surman; Parish representative, Jeremy Horsfall; and Independent Person, Martin Jauch.

ST.18 SEPARATE BUSINESS

- 18.1 The Chair proposed, and it was

RESOLVED

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

ST.19 SEPARATE MINUTES

- 19.1 The separate Minutes of the meeting held on 12 October 2015, copies of which had been circulated, were approved as a correct record and signed by the Chair.

ST.20 CODE OF CONDUCT COMPLAINTS

(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

20.1 The Committee considered an update report on complaints received.

The meeting closed at 2:35 pm

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 17 May 2016 commencing at 6:15 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor Mrs S E Hillier-Richardson
Councillor P D Surman (Chair)
Councillor M G Sztymiak
Councillor H A E Turbyfield and
Councillor M J Williams (Vice-Chair)

ST.1 ELECTION OF CHAIR

- 1.1 The Mayor opened the meeting by seeking nominations for the Chairmanship of the Committee.
- 1.2 It was proposed and seconded that Councillor P D Surman be nominated as Chair of the Committee. Upon being put to the vote it was
- RESOLVED** That Councillor P D Surman be elected as Chair of the Standards Committee for the ensuing Municipal Year.

ST.2 APPOINTMENT OF VICE-CHAIR

- 2.1 Councillor P D Surman took the chair and invited nominations for Vice-Chair of the Committee.
- 2.2 It was proposed and seconded that Councillor M J Williams be nominated as Vice-Chair of the Committee. Upon being put to the vote it was
- RESOLVED** That Councillor M J Williams be appointed as Vice-Chair of the Standards Committee for the ensuing Municipal Year.

The meeting closed at 6:20 pm

TEWKESBURY BOROUGH COUNCIL

Minutes of a Special Meeting of the Standards Committee held at the Council Offices, Gloucester Road, Tewkesbury on Monday, 27 June 2016 commencing at 9:00 am

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor Mrs S E Hillier-Richardson
Councillor T A Spencer
Councillor P D Surman (Chair)
Councillor H A E Turbyfield and

Non-Voting Independent Persons: Mr M Jauch

Non-Voting Parish Representatives: Mr D J Horsfall

ST.3 ANNOUNCEMENTS

- 3.1 The evacuation procedure, as noted on the Agenda, was taken as read.

ST.4 APOLOGIES FOR ABSENCE

- 4.1 Apologies for absence were received from Borough Councillor M G Sztymiak and Independent Person Mr P Kimber.

ST.5 DECLARATIONS OF INTEREST

- 5.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 5.2 There were no declarations of interest made on this occasion.

ST.6 TEWKESBURY BOROUGH COUNCIL CODE OF MEMBERS' CONDUCT - APPLICATIONS FOR DISPENSATION

- 6.1 Attention was drawn to the report of the Monitoring Officer, circulated at Pages No. 1-3, which asked the Committee to determine any applications for dispensation which had been made by Members of the Borough Council in order to enable them to participate in the matter of the approval of the business to be considered at the meeting of the Council on 28 June 2016.
- 6.2 The Monitoring Officer explained that, at its meeting on 28 June 2016, Tewkesbury Borough Council would consider the Inspector's Interim Report on the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. Members would be asked to comment on the findings to date and give Officers authority to report back to the Inspector. It was noted that this was an informal stage in the Plan process which was not normally required; the next stage would be to agree any modifications to the Plan.

- 6.3 The Monitoring Officer had provided advice to all Members of the Council to enable them to consider whether they had any interests which may, in accordance with Tewkesbury Borough Council's Code of Members' Conduct, preclude their participation at the Council meeting. She explained that responsibility for the determination of applications for dispensation had been delegated to her where the application was made on the grounds that (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; and (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business. In this instance, the dispensations had been brought before the Committee as there were additional grounds upon which only the Standards Committee could decide, namely, whether the granting of the dispensation was in the interests of persons living in the authority's area.
- 6.4 It was noted that dispensations must be granted for a set period of time of up to four years and, when the Committee had last undergone this process in April 2014, the dispensations had been agreed for one year, to coincide with the end of the Council term. Given the length of the Joint Core Strategy process, it was suggested that any dispensations granted by the Committee at its present meeting were done so on the basis that they stay in place until the end of the current Council term, provided that they remained unchanged. The Monitoring Officer stressed that, whilst those particular dispensations would not be considered until the end of the period, if granted, other interests may emerge which required further applications.
- 6.5 In response to a Member query regarding the Council meeting the following evening, the Monitoring Officer confirmed that there were three recommendations: to note the Inspector's Interim Report; to agree that Joint Core Strategy Officers attend the July hearings to discuss the Interim Report and the recommended way forward with the Inspector, identifying specific consequences and key points arising from the findings as detailed within Appendix A to the report; and to agree that a summary of comments made by Members at the Council meetings held by the Joint Core Strategy authorities be passed to the Inspector for consideration. The Member questioned why dispensations were required if all comments made by Members at the Council meeting would be passed to the Inspector and she was advised that the fact that the matter was being debated in Council meant that the Code of Conduct was engaged and any Members with disclosable pecuniary interests, or other interests as defined by the Code, could not be party to that without a dispensation. The Monitoring Officer went on to reiterate that Members would not normally be engaged at an informal stage of the Plan process such as this and, in her view, it was appropriate that the dispensation applications were considered today as the interests were unlikely to change before the formal stage.
- 6.6 Attention was drawn to the six dispensation applications, circulated separately, which had been received following the Monitoring Officer's advice which had been provided to all Members on 17 June 2016. A Member noted that the 'Nature of Interest' section of the dispensation forms referred to 'Appendix B (Other Interest)' and the Monitoring Officer confirmed that this was summarised at Page No. 2, Paragraph 1.5, of the report. The Committee was advised that five of the applications were from Members who were also Gloucestershire County Councillors. Under the Code of Conduct, a Councillor's membership of another local authority was identified as an 'Other Interest' and if that had a financial implication on the other body then, ordinarily, the Members affected would not be able to participate. The Joint Core Strategy was a major planning policy for the Council within which the County Council owned land and, as such, would benefit

financially from any development. The Gloucestershire County Councillors who had applied for dispensations had done so on the basis that the Joint Core Strategy was of such significance for the local area that the fact that they sat on another public body should not prevent them being able to represent their constituents. The sixth application had also been made on the basis of an 'Other Interest' due to the fact that a member of the Councillor's family owned land which had been identified as a potential strategic housing and employment land allocation within the Consultation Draft. It was noted that this Councillor was the only Borough Council representative for that particular Ward and members of the community were likely to be concerned that he would not be able to campaign on their behalf if he so wished. The Monitoring Officer suggested that this application be considered separately given that the dispensation was being sought for a different reason.

- 6.7 A Member was of the opinion that the interest for the Gloucestershire County Councillors extended beyond land ownership alone given that the Joint Core Strategy would also have implications for areas such as highways, education and transport. She indicated that one of the applications was from the Gloucestershire County Councillor Cabinet Member for Transport and she questioned whether that interest would override the Member being able to represent his constituents. The Monitoring Officer advised that the Code of Conduct had been adopted by Tewkesbury Borough Council and, whilst Cheltenham Borough Council had adopted the same Code, Gloucester City Council had not and therefore this process would not be necessary for Members at that authority. She indicated that the Standards Committee would need to revisit this issue at some stage in order to consider whether the existing Code unnecessarily constrained Tewkesbury Borough Members; whilst disclosable pecuniary interests were a mandatory part of the Code, all other interests were at the discretion of the Council. Furthermore, it was noted that there were limited sanctions available. In terms of the specific query regarding the Cabinet Member, her view was that he was a Member of a public body who had been elected to undertake a certain role and did not stand to make any personal gain. Another Member expressed the view that the matter was being overcomplicated; the Joint Core Strategy was the single most controversial issue which Tewkesbury Borough Councillors would be dealing with during their term of office and disqualifying someone from taking part in the debate was an action which should only be taken in the most extreme circumstances which he did not feel had been evidenced today. A Member indicated that her main concern regarding the Joint Core Strategy was that there could be a judicial review of the process so it was important that all of the comments made were noted. The Monitoring Officer felt that this was a valid point and indicated that the Committee would need to be very clear about the grounds on which it granted any dispensations.

- 6.8 It was subsequently

RESOLVED That each of the applications for dispensation be granted on ground (c), in the interest of persons living in the authority's area, and that the dispensations, in respect of any further consideration of the Joint Core Strategy, remain in place until 1 May 2019.

The meeting closed at 9:45 am

TEWKESBURY BOROUGH COUNCIL

Minutes of a Special Meeting of the Standards Committee held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 22 November 2016 commencing at 2:00 pm

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor Mrs S E Hillier-Richardson
Councillor T A Spencer
Councillor P D Surman (Chair)
Councillor M G Sztymiak
Councillor H A E Turbyfield and
Councillor M J Williams (Vice-Chair)

Non-Voting Independent Person: Mr P J Kimber

Non-Voting Parish Representative: Mr D J Horsfall

ST.7 ANNOUNCEMENTS

7.1 The evacuation procedure, as set out on the Agenda, was taken as read.

ST.8 APOLOGIES FOR ABSENCE

8.1 An apology for absence was received from Independent Member, Mr Martin Jauch.

ST.9 DECLARATIONS OF INTEREST

9.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

9.2 There were no declarations of absence on this occasion.

ST.10 REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

10.1 The report of the Monitoring Officer, circulated at Pages No. 1-84, asked the Committee to consider the proposed amendments to the Protocol for Councillors and Officers Involved in the Planning Process, along with any comments made by the Planning Committee, and recommend it to the Council for adoption.

10.2 The Monitoring Officer explained that the current Protocol had been adopted in April 2015 with a review due after 12 months. In order that the review be undertaken, a Standards/Planning Working Group had been set up and that Group had met in September. There were two main changes proposed which related to the section on Planning Committee site visits but there were some other minor typographical and formatting amendments also suggested. The revised Protocol was attached to the report at Appendix 1 and a version showing the track changes was attached at Appendix 2.

- 10.3 Referring to the main amendments, the Monitoring Officer explained that these related to the site visits and, in particular, the fact that, to date, Parish Councils had been allowed to attend the visits to point out matters of note. This had not really worked as anticipated because the representatives that attended usually wanted to offer opinions on the application which was not the intention of the visit. This resulted in concerns about transparency in this regard as the appropriate time to debate the application was at Committee, with all parties present, not at a site visit which was just an opportunity for Members to see the site and allow them to get a sense of the application. The second point was about the 'advanced sites briefing note' which was included on the Agenda for each Committee meeting; this had not really been successful since its introduction as it was never known with certainty which sites would be visited in advance. It was therefore recommended that the requirement for this be removed.
- 10.4 The Monitoring Officer advised that a similar report had been considered by the Planning Committee that morning and Members had agreed those amendments. In addition, the Monitoring Officer explained that, prior to Planning Committee earlier that day, there had been an incident whereby Members had been provided with a note detailing someone's particular view of the outcome of a Court case that they and the Council had recently been involved in. Members were concerned about the position in which the note had put the Council, and in particular one of the Planning Officers, and questioned whether there was anything that could be added to the Protocol to stop this happening in future. In response, the Monitoring Officer explained that there was nothing that could be done to resolve the issue within the Protocol.
- 10.5 During the discussion which ensued, a Member drew attention to Page No. 39, Planning Obligations Officer Working Group, and questioned whether it was correct to state that all planning obligations must meet the test of the Community Infrastructure Levy (CIL) Regulations. In response, the Monitoring Officer explained that the CIL Regulations had not yet been adopted by the Council but it was good practice to use them to interpret the contribution made and, as the Council was bound by the Regulations, it seemed sensible to 'futureproof' the Protocol by including that reference. The Member also drew attention to point 4 on the same page and asked that heads of terms be amended to **Heads of Terms**. In reference to Page No. 41, Summary Guide of Do's and Don'ts, she suggested that the first 'do' did not really make sense and wondered if it could be reworded so it was clear that any discussions with developers were structured and would involve Officers. On Page No. 42, the Member drew attention to two points and questioned whether they were necessary. In response the Monitoring Officer felt that 'Do use meetings to show leadership and vision' could be removed but 'Do encourage positive outcomes' should be left in. At Page No. 43 there was a typographical error at Paragraph 1.3 whereby the word 'the' needed to be removed to read 'Site visits subject to ~~the~~ this protocol...'. In terms of the Parish Councils not being invited to the site visits, the Member felt that they should be advised of this change as soon as possible and the Monitoring Officer confirmed this was her intention as long as that amendment to the Protocol was approved by the Council on 6 December. The last point raised by the Member referred to Page No. 44, that 'local Ward Members were asked to highlight any local issues relevant to the site visit'; she advised that the Planning Committee Chair was always helpful and allowed those Councillors who were not Ward Members, but who were impacted by an application, to speak at Committee and she questioned whether this would continue to be the case. In response the Monitoring Officer explained that the paragraph was intended to include Members in Wards that were affected as well as those in which the application was located. The site visit invitation was sent as a matter of course to all Committee Members, plus local Members and Ward Members who were directly affected, and this would continue to be the case. Members agreed that the definition of those who may attend a site visit, as set out at Paragraph 2.1, was relevant and

that reference would be added to the Protocol.

- 10.6 Referring to the ability for Members to 'call in' sites for a visit, a Member advised that there had been instances where a Member had 'called in' a site that was not within their Ward. In response, the Monitoring Officer advised that this was a matter of etiquette. The rule was that any Member could ask for a site visit but it did seem appropriate to speak to the Local Member before doing so if it was someone else's Ward.

- 10.7 Accordingly, it was

RESOLVED

That it be **RECOMMENDED TO COUNCIL** that the revised Protocol be **ADOPTED**, subject to the following amendments:

- Appendix A – Planning Obligations Officer Working Group – Terms of Reference – point 4 - amend to read '...on the draft **Heads of Terms** for major applications...'
- Appendix B – Summary Guide of Do's and Don'ts – First point under 'Do' – amend to read 'Do always **involve Officers and structure ensure that any** discussions with developers **are structured and involve Officers**'.
- Appendix B - Summary Guide of Do's and Don'ts – Point 12 under 'Do' – remove wording '~~Do use Meetings to show leadership and vision~~'.
- Procedure for Planning Committee Site Visits – Paragraph 1.3 - amend to read '...visits subject to ~~the~~ this protocol....'
- Procedure for Planning Committee Site Visits – Paragraph 3.2 – fifth bullet point – amend to read 'Local Ward Members (**see 2.1**) will be asked to highlight any local issues relevant to the site visit'.

ST.11 SEPARATE BUSINESS

- 11.1 The Chair proposed, and it was

RESOLVED

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

ST.12 CODE OF CONDUCT COMPLAINTS

(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

- 12.1 The Committee considered an update report on complaints received.

The meeting closed at 2:45 pm

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 16 May 2017 commencing at 6:15 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor Mrs S E Hillier-Richardson
Councillor T A Spencer
Councillor P D Surman (Vice-Chair)
Councillor M G Sztymiak
Councillor H A E Turbyfield and
Councillor M J Williams (Chair)

ST.1 ELECTION OF CHAIR

1.1 The Mayor opened the meeting by seeking nominations for the Chairmanship of the Committee.

1.2 It was proposed and seconded that Councillor M J Williams be nominated as Chair of the Committee. Upon being put to the vote it was

RESOLVED That Councillor M J Williams be elected as Chair of the Standards Committee for the ensuing Municipal Year.

ST.2 APPOINTMENT OF VICE-CHAIR

2.1 Councillor M J Williams took the chair and invited nominations for Vice-Chair of the Committee.

2.2 It was proposed and seconded that Councillor P D Surman be nominated as Vice-Chair of the Committee. Upon being put to the vote it was

RESOLVED That Councillor P D Surman be appointed as Vice-Chair of the Standards Committee for the ensuing Municipal Year.

The meeting closed at 6:20 pm

Report to:	Standards Committee
Date of Meeting:	18 September 2017
Subject:	Review of Gifts and Hospitality Protocol
Report of:	Lin O'Brien, Deputy Monitoring Officer
Corporate Lead:	Sara Freckleton, Monitoring Officer
Number of Appendices:	One.

Executive Summary:

To put forward proposals for a review of the Gifts and Hospitality Protocol for Councillors in accordance with the Committee's agreed programme.

Recommendation:

That the whole Committee meet as a Working Group, as set out in Paragraph 2 of the report, to review the Gifts and Hospitality Protocol for Councillors.

Reasons for Recommendation:

To ensure that the Gifts and Hospitality Protocol for Councillors is reviewed to ensure it is fit for purpose in the current conduct regime.

Resource Implications:

Officer and Member resources will be required to undertake the review.

Legal Implications:

None specifically in relation to this report.

Risk Management Implications:

None in relation to this report.

Performance Management Follow-up:

The review will be undertaken and any amendments required made to the Protocol.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 At the meeting of the Standards Committee on 12 October 2015 Members adopted a programme for the review and revision of the Council's Protocols.

1.2 The Protocols reviewed to date are:

- The Licensing System, Protocol and Procedures;
- Protocol for Councillors and Officers Involved in the Planning Process; and
- Protocol for Member/Officer Relations.

1.3 The last Protocol for review is the Gifts and Hospitality Protocol for Councillors. A copy of the current version of the Protocol, adopted in May 2006, is attached at Appendix 1.

2.0 METHODOLOGY AND TIMETABLE FOR REVIEW OF THE GIFTS AND HOSPITALITY PROTOCOL FOR COUNCILLORS

2.1 The review of the Protocol for Member/Officer Relations went well and as such it is suggested that the same process be followed for the review of the Gifts and Hospitality Protocol for Councillors. It is therefore suggested that, in the first instance, the Committee meet as a Working Group and talk to Members to ascertain their views on the effectiveness of the Protocol and what, if any, changes would improve it.

2.2 Following the review of the Gifts and Hospitality Protocol for Councillors, to be completed by the beginning of 2018, it is suggested that the Committee then consider a review of the Code of Conduct, including the complaints and investigation process, to ensure that it is fit for purpose and meets the duty under the Localism Act to promote and maintain high standards of Councillor Conduct. The new Code will have been in place in excess of five years and it would be useful to gain the views of both longstanding and more recently elected Members on its effectiveness.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 Consultation will be undertaken to review the Protocol.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 None.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None.

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Contained within the report.

Background Papers: None.

Contact Officer: Lin O'Brien, Deputy Monitoring Officer Tel: 01684 272020.
Email: lin.obrien@teWKesbury.gov.uk

Appendices: 1 – Current Version of the Gifts and Hospitality Protocol for Councillors.

TEWKESBURY BOROUGH COUNCIL

GIFTS & HOSPITALITY

PROTOCOL FOR COUNCILLORS

Adopted 16 May 2006

1. GENERAL INTRODUCTION

Tewkesbury Borough Council's Code of Conduct requires Members to notify the Monitoring Officer in writing of any gift or hospitality received in their official capacity *of an estimated value of at least £25. This written notification is registered within the authority's Register of Members' Interests.* The Code also requires that Members *must not* conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute, or to use *or attempt to use* their position as a Member improperly to confer on or secure, for *themselves* or any other person, an advantage or disadvantage.

This Protocol aims to assist Members in complying with the Council's Code of Conduct but it also goes beyond these basic provisions and seeks to provide wider guidance so members can avoid any situation where their integrity may be brought into question as a result of the receipt of gifts and hospitality.

The acceptance of gifts and hospitality reflects directly upon the public perception of Councillors and the authority. It is imperative, therefore, that Members only act in the public interest and not for personal advantage. Members should always consider whether the acceptance of any gifts or hospitality could be seen as being inappropriately linked to their official role.

The Code of Conduct does not apply to gifts and hospitality that are not related to a Councillors role, for example presents from friends and family.

Legal Position

The legal position on acceptance of gifts and hospitality is set out in the provisions of the Council's Code of Conduct and in the Prevention of Corruption legislation.

The relevant provisions of the Code of Conduct are set out above, breach of which can lead to disqualification from holding any public office for a period of up to 5 years.

The Public Bodies Corrupt Practices Act 1889 provides that it is an offence for any member to corruptly receive or agree to receive any gift, loan, fee, reward or advantage for doing or not doing something in connection with the work of the Council.

The Prevention of Corruption Act 1916 provides that where such a gift, loan etc. is received by a member from a person seeking a contract with the Council then the gift or loan is deemed to have been received corruptly. This would put the giver and the receiver in the position of having to prove that they did not act dishonestly.

The penalty for corrupt acceptance of a gift or hospitality is a fine, imprisonment (maximum 7 years), or both.

Remit of Protocol for Gifts & Hospitality

This Protocol sets out:-

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority

2. GENERAL PRINCIPLES

- 2.1 In deciding whether it is proper to accept any gift or hospitality, the following principles should be applied. Even if the gift or hospitality comes within one of the general consents set out in section 3 of this Protocol, it should not be accepted if to do so would be in breach of one or more of these principles:

1. Gifts or hospitality shall never be accepted as an inducement or reward for anything done as a Councillor.

Councillors must act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Tewkesbury Borough Council Code of Conduct for Members provides that Councillors must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community. It is a breach of the Code *for a Member to use or attempt their position to improperly to confer on or secure for himself or any other person an advantage or disadvantage.*

Any contravention of this principle is likely to contravene the Public Bodies (Corrupt Offences) Act 1889 of which further detail is given in section 1 above.

2. Gifts or hospitality should only be accepted if there is a commensurate benefit to the authority.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality (e.g. an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting). The acceptance of a gift is much less likely to confer such an advantage.

Unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption would be that the gift or hospitality is purely for the Councillor's personal benefit, which would be contrary to the provisions of the Council's Code of Conduct as set out in section 1.

3. Gifts or hospitality shall not be accepted if acceptance might be open to misinterpretation

The appearance of impropriety can be just as damaging to Councillors and the Authority as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest.

Councillors must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that either the Councillor or the Authority favours any particular person, company or section of the community or places the Councillor or the Authority under any improper obligation to any person or organisation. *If there is any possibility that it might be so interpreted the gift or hospitality should be refused.*

This principle is of critical importance where decisions and / or actions of the Council could be discredited or even legally challenged, examples of which include:

- (i) undertaking a competitive procurement / tendering process,
- (ii) regulatory decisions, such as determinations of licensing or planning applications, or setting planning policy,
- (iii) determination of grants or other requests for funding.

Members should also consider whether the individual or organisation offering a gift or hospitality may have dealings within the Council of which the individual Councillor being offered the gift / hospitality is unaware.

(b) Gifts and hospitality must never be accepted which place a Councillor under an improper obligation

Members will recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of gaining influence.

Equally, if others note that a Councillor has been prepared to accept a gift or hospitality, they may feel that they will no longer be able to secure impartial consideration from the Authority.

(c) Gifts and hospitality should never be solicited

Councillors should never solicit or invite an offer of a gift or hospitality in connection with their position as a Councillor. Care should also be taken to avoid giving any indication that a Councillor might be open to such an improper offer.

3. CONSENT REGIME

There may be occasions where it may not be appropriate for a Member to refuse a gift or hospitality in the course of their duties as it would appear unusual, impolite, or be likely to cause offence. In such situations the following provisions shall apply:-

General Consent Provisions

3.1 Subject to the General Principles set out in section 2 of this Protocol, Members may accept gifts and hospitality in the following circumstances:-

- 3.1.1 civic hospitality offered by another public authority
- 3.1.2 reasonable refreshment in connection with any meeting or visit in the ordinary course of a Councillor's duties, such as tea, coffee, soft drinks and biscuits
- 3.1.3 tickets for sporting, cultural and entertainment events which are sponsored by the Council
- 3.1.4 small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries.
- 3.1.5 a modest working lunch provided to enable the parties to discuss business
- 3.1.6 modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- 3.1.7 reasonable hospitality provided at external visits, meetings or conferences provided that this is in line with that available to other delegates at the event

3.2 Other unsolicited gifts may be accepted where it is impracticable to return them to the person or organisation making the gift. However, as soon as is practicable after receipt, the gift should be passed to the Mayor's Secretary together with a written statement containing the information set out in paragraph 3.4.1 below. The Mayor's Secretary will write to the person or organisation making the gift thanking them on the Councillor's behalf for the gift informing them that the gift will be donated to the Mayor's charity Fund on whose behalf it will be raffled or otherwise disposed of in due course.

3.3 Where branded gifts are accepted in accordance with paragraph 3.1.4 above care should be taken not to display such items in a manner which might be taken as an indication of favour to a particular supplier or contractor.

3.4 Special Consent Provisions

3.4.1 Members who wish to accept any gift or hospitality which is in accordance with the General Principles set out in Section 2, but is not within any of the general consents set out in Section 3.1, must apply for specific consent, in writing to the Monitoring Officer, giving the following information:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) by whom or on whose behalf the offer or invitation has been made
- (iii) the connection which the Councillor has with the person or organisation making the offer or invitation
- (iv) any work, permission, concession or facility of which the Councillor is aware and which is being sought, or likely to be sought from the Council by the person or organisation making the offer or invitation
- (v) any circumstances which lead the Councillor to believe that acceptance of the gift or hospitality would not be improper

3.4.2 Any Councillor making an application in accordance with the provisions of Section 3.4.1 must not accept the gift or hospitality until consent has been received (in writing / by e-mail) from the Monitoring Officer.

3.4.3 The Monitoring Officer will enter details of any consent given in a register which will be available for public inspection. This consent procedure does not remove the obligation of the Member to register the receipt of any gift or hospitality in accordance with Section 4 of this Protocol.

4. REGISTRATION OF GIFTS AND HOSPITALITY

- 4.1 Any Councillor who accepts any gift or hospitality with an estimated market value or cost of provision of *at least* £25, must, as soon as possible after receipt of the gift or hospitality (but in any event within 28 days of its receipt), make a declaration in writing to the Monitoring Officer setting out the information shown in Paragraphs 3.4.1 above. A form for this purpose is available from the Monitoring Officer, but the information can be sent by any other written means as is convenient to the Councillor.
- 4.2 The requirement to register the gift or hospitality in paragraph 4.1 above applies, regardless as to whether the gift / hospitality has been accepted in accordance with the General Consent Provisions or has been authorised by the Monitoring Officer in accordance with the Special Consent Provision. Any gift/hospitality offered but not accepted does not need to be declared.
- 4.3 The Monitoring Officer will retain a copy of any such declaration in *the Council's Register of Members' Interests* which is available for public inspection.
- 4.4 Councillors may voluntarily register the receipt of gifts and hospitality under £25 in value (or the offer of a gift or hospitality of any value which has been declined) if they are concerned that its acceptance (or offer) might be misinterpreted, particularly if it comes from or on behalf of a contractor, tenderer, or applicant / agent for a planning or licensing application.

5. GIFTS TO THE AUTHORITY

- 5.1 Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority.
- 5.2 Councillors should not solicit any such gift on behalf of the Authority except where the Authority has formally identified the opportunity for participation by an external party and how that participation is to be secured.
- 5.3 Any Member receiving such an offer on behalf of the Authority, must first consider whether it is appropriate for the Authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, or whether there is a real benefit to the authority which would outweigh any dis-benefits).
- 5.4 If the Councillor considers that the offer is of real benefit to the Authority the Councillor should report the offer directly to the Monitoring Officer who will then arrange for the appropriate Officer of the Council to write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Authority.
- 5.5 If Members have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, they should consult the Monitoring Officer.

6. DEFINITION OF GIFT AND HOSPITALITY

6.1 Gift of hospitality includes any:-

- (i) free gift of goods or services
- (ii) money (or loan), gift voucher, lottery ticket, raffle ticket or anything else offering the chance of winning a prize
- (iii) opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- (iv) opportunity to obtain any goods or services which are not available to the general public
- (v) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

6.2 References to the “value” or “cost” of any gift or hospitality are references to the higher of:-

- (a) the Councillor’s estimate of the cost to the person or organisation of providing the gift or hospitality
- (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which the Councillor would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

Agenda Item 7

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Agenda Item 8

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