

11 March 2016

Committee	Standards Committee
Date	Monday, 21 March 2016
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 (staff should proceed to their usual assembly point). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE

To receive apologies for absence.



Item	Page(s)
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 - 4
<p>To approve the Minutes of the meeting held on 12 October 2015.</p>	
5. REVIEW OF PROTOCOL FOR MEMBER/OFFICER RELATIONS	5 - 24
<p>To consider the revised Protocol for Member/Officer Relations and recommend it to Council for approval and adoption.</p>	
6. REVIEW OF PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS	25 - 27
<p>To establish a joint Standards and Planning Working Group to review the Protocol for Councillors and Officers Involved in the Planning Process following the Protocol having been in operation for 12 months.</p>	
7. 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>	
8. SEPARATE MINUTES	28 - 30
<p>To approve the separate Minutes of the meeting of the Committee held on 12 October 2015.</p>	
9. 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 on complaints received.</p>	

DATE OF NEXT MEETING	
MONDAY, 19 SEPTEMBER 2016	
MEMBERSHIP OF COMMITTEE	
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 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, 12 October 2015 commencing at
10:00 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 M G Sztymiak
Councillor H A E Turbyfield and
Councillor M J Williams (Vice-Chair)

Non-Voting Independent Persons:

Mr M Jauch and
Mr P J Kimber

Non-Voting Parish Representatives:

Mr D J Horsfall

ST.3 ANNOUNCEMENTS

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

ST.4 DECLARATIONS OF INTEREST

4.1 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.

4.2 There were no declarations made on this occasion.

ST.5 MINUTES

5.1 The Minutes of the meetings held on 23 March and 26 May 2015, copies of which had been circulated, were approved as correct records and signed by the Chair.

ST.6 WORK PROGRAMME 2015/16

6.1 The report of the Democratic Services Group Manager, circulated at Pages No. 6-8, asked Members to adopt a Work Programme for 2015/16 and put into place a methodology and timetable to achieve the Work Programme as set out within the report.

6.2 The Monitoring Officer indicated that the Committee had already started a programme of reviewing the Codes and Protocols that were supplementary to the Code of Conduct; to date the Licensing System Protocol and Procedure and the Protocol for Councillors and Officers Involved in the Planning Process had been reviewed. The remaining two Protocols, Gifts and Hospitality for Councillors and Member/Officer Relations, had yet to be reviewed. Both Protocols had last been looked at in 2008 but the Gifts and Hospitality Protocol had been briefly addressed

in 2012 to ensure compatibility with the new Code. It was therefore suggested that the Committee commence a review of the Protocol for Member/Officer Relations. Following completion of that it was suggested that the Committee consider a review of the Code of Conduct to ensure it was fit for purpose and met the duty under the Localism Act to promote and maintain high standards of Councillor Conduct. By then the new Code would have been in place in excess of three years and it would be useful to gain the views of both longstanding and recently elected Members on its effectiveness.

- 6.3 The suggested process for the review of the Protocol for Member/Officer Relations was that the Committee should meet as a Working Group and talk to Members and senior Officers to ascertain their views on the effectiveness of the Protocol and what, if any, changes would improve it. It was anticipated that the Working Group would need approximately two meetings to undertake its review and it would then consider the revised Protocol as a Committee at which time it would make a recommendation to Council. It was anticipated that the first meeting would be held mid/end November and would be quite a long meeting as Members and senior Officers would be invited to express their views within timeslots of approximately 10-15 minutes each. As a minimum it was suggested that the Chief Executive, Deputy Chief Executive and Leader and Deputy Leader of the Council be asked to attend along with some Group Leaders, Lead Members, Chair or Vice-Chair of the Planning and Licensing Committees, Group Managers and senior Officers. Suggestions as to those that would be appropriate to attend were invited from the Committee and, of course, the Committee would also provide its own views through the process. Those that were invited to make representations would be advised in advance that they would be asked for their thoughts on what was currently included within the Protocol as well as what worked and what did not work. Members would also be able to ask questions if they wished.
- 6.4 In terms of Members that were dual-hatted i.e. Borough and Parish/County Councillors, a Member felt that it was essential that other Members and Officers were aware of the limitations in respect of interests. In response, the Monitoring Officer concurred that there was a need to ensure everyone was able to distinguish between them.
- 6.5 The Monitoring Officer indicated that the first meeting of the Working Group would be arranged on a date convenient to Members and a number of Councillors and Officers would be invited to provide their views as discussed earlier in the meeting. Accordingly, it was

RESOLVED

1. That the Work Programme for 2015/16 be **ADOPTED**.
2. That the Standards Committee meet as a Working Group to review the Protocol for Member/Officer Relations and that the first meeting be used to speak to Councillors and Officers to get their views on the Protocol and how it might be improved.

ST.7 LOCALISM ACT 2011 - CODE OF CONDUCT REGIME

- 7.1 The Monitoring Officer explained that the Committee had been kept apprised of developments as the new standards regime had been implemented and at some point the Committee would need to review the Code of Conduct to ensure it was still relevant. One thing that she had not done yet was to publish the Register of Interest forms for all Borough and Parish/Town Councillors. The reason for this was that the requirement to declare the interests of a spouse/partner was, in her view, contrary to data protection and human rights legislation. The Monitoring Officer had always maintained the view that, when the requirement to include the details of a Councillor's spouse/partner on the Register of Interest form had been

implemented, it had not been subject to proper consultation and therefore was not valid. Unfortunately to date no other Monitoring Officers had wished to challenge the Government and as such there was no appetite from the Government to change the rules.

- 7.2 The Transparency Agenda currently being rolled out to Parish/Town Council Clerks said that their Councillors' Register of Interests had to be published on the web so Clerks were starting to have concerns that this had not yet been done. The Monitoring Officer had reiterated that, ultimately, the responsibility for this lay with her, as all Members had completed their forms, and she had been comfortable with this. An apparent mistake in the law had meant that the new rules did not appear to apply to sitting Councillors so, in her view, she had not had to conform until after May 2015 anyway. This did, of course, mean that the issue now needed to be addressed following the Borough and Parish Elections when all Members had been newly elected. In terms of the requirement to put the details of spouses/partners on a Councillor's Register of Interest form, this had been included in the nomination packs for the elections so that people were aware prior to standing for election; the Monitoring Officer knew of some Councillors that had not stood again, or had been put off from standing, because of it which she felt was a shame.
- 7.3 Referring to a recent training session for Parish and Town Councils, the Monitoring Officer expressed the view that it had been well received; although the attendance levels had been disappointing. She was anxious that Clerks and Councillors better understood the role that the Borough Council played which was for conduct matters only and not for legal/procedural advice. The Parish representative on the Committee indicated that the training had been very helpful and he felt that many more Councils should have sent representatives. The Monitoring Officer concurred that some Parishes had sent a number of representatives and there had been good questions and participation from those that had attended. She had sent the slides of the presentation to those that had not been present in the hope they would offer some guidance but they would be more helpful to those that had attended as she had provided extra context at the session.
- 7.4 In respect of the legislation in terms of Register of Interests, a Member questioned whether a spouse had a right under the Data Protection Act not to give the information requested. She felt that there were many spouses that would not want to provide their information and, since it was not them that were putting themselves forward for public office, there seemed to be no reason why this should be a requirement. In response, the Monitoring Officer indicated that she shared that view. Unfortunately, it was not a matter of whether they wanted to have it disclosed; the test was that the Member had to declare it if the information was known to them. The whole point was that a Member should not participate in something that could affect themselves or their family but the Monitoring Officer did not think the change in rules was necessary as the guidance had been clear before and had worked well. The Monitoring Officer undertook to write to the Parish and Town Clerks in good time ahead of publishing the forms on the internet.
- 7.5 Accordingly, it was

RESOLVED That the update provided on the Localism Act 2011 – Code of Conduct Regime be **NOTED**.

ST.8 HEARINGS SUB-COMMITTEE

8.1 The Monitoring Officer drew attention to the Standards Committee Terms of Reference, circulated at Pages No. 9-11, which noted that it needed to establish a Hearings Sub-Committee, consisting of three Members of the Committee, to undertake the functions set out; political balance would apply. In accordance with Section 7(a) of the Localism Act, the Independent Person(s) must be consulted before a decision was made on an investigated allegation.

8.2 Members were advised that this was a procedural matter and the Committee was asked to appoint three Members and two reserves to the Hearings Sub-Committee. Accordingly, it was

RESOLVED That Councillors Mrs S E Hillier-Richardson, P D Surman and M J Williams be appointed to the Hearings Sub-Committee and that Councillors M Dean and H A E Turbyfield be appointed as reserves.

ST.9 SEPARATE BUSINESS

9.1 The Chairman 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.10 SEPARATE MINUTES

10.1 The separate Minutes of the meeting held on 23 March 2015, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

ST.11 CODE OF CONDUCT COMPLAINTS

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

11.1 The Committee considered an update report on complaints received.

The meeting closed at 11:00 am

TEWKESBURY BOROUGH COUNCIL

Report to:	Standards Committee
Date of Meeting:	21 March 2016
Subject:	Review of Protocol for Member/Officer Relations
Report of:	Sara Freckleton, Monitoring Officer
Corporate Lead:	Sara Freckleton, Monitoring Officer
Number of Appendices:	Three.

Executive Summary:

The Standards Committee has met as a Working Group to review the Protocol for Member/Officer Relations and Members are now asked to consider the revised Protocol and recommend it to Council for approval.

Recommendation:

That it be RECOMMENDED TO COUNCIL that the revised Protocol for Member/Officer Relations, as attached at Appendix 3 to the report, be APPROVED.

Reasons for Recommendation:

To ensure that the Protocol for Member/Officer Relations is relevant and to assist the Committee in meeting its aim of ensuring high standards of ethics and probity.

Resource Implications:

None.

Legal Implications:

None specifically in relation to this report.

Risk Management Implications:

None in relation to this report.

Performance Management Follow-up:

Any further amendments required will be made to the Protocol.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 At its meeting on 12 October 2015 the Standards Committee considered a report which detailed a proposed Work Programme for the Committee for 2015/16.

1.2 It was agreed that the Committee commence a review of the Member/Officer Relations Protocol and, in the first instance, it was suggested that the whole Committee meet as a Working Group and speak to Members and senior Officers to ascertain their views on the effectiveness of the Protocol and what, if any, changes would improve it.

2.0 REVIEW OF THE PROTOCOL FOR MEMBER/OFFICER RELATIONS

2.1 As agreed in October 2015, the whole Committee met as a Working Group on two occasions to undertake the review of the Protocol for Member/Officer Relations. The first meeting, held in November 2015, gained the views of the following Members and senior Officers:

Vice-Chair of Licensing Committee.

Chair of Planning Committee.

Chair of Licensing Committee.

Vice-Chair of Planning Committee.

Chief Executive.

Deputy Chief Executive.

Deputy Leader of Council.

Leader of Council.

Corporate Services Group Manager.

Development Manager.

Finance and Asset Management Group Manager.

Lead Member for Organisational Development.

Leader of the Liberal Democrat Group.

2.2 Following that meeting, the points raised were considered and the action proposed to be taken against each was set out, see attached Appendix 1. The amendments were considered by the Working Group at its subsequent meeting in January 2016 and, following agreement of the Working Group, the amended document, which is attached at Appendix 3, was sent to Members, the Corporate Leadership Team and Group Managers and placed on the Council's intranet for all staff to comment on should they so wish. That consultation period ended on 26 February 2016. There were comments of support for the Protocol as drafted and a small number of suggested amendments. The latter (except where made previously and dealt with in Appendix 1) are set out in Appendix 2.

2.3 The Working Group agreed that, subject to there not being any major new issues being raised as a result of the consultation, the proposed amendments would be considered by the Standards Committee at its next meeting rather than it being submitted to a further meeting of the Working Group. With this in mind Members are asked to agree the final revisions to be made to the Protocol and recommend it to Council for approval. The draft revised Protocol is attached to the report for consideration (Appendix 3).

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 Consultation was undertaken with all Members and Officers during the review of 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 Standards Committee on 12 October 2015.

Background Papers: None.

Contact Officer: Sara Freckleton, Monitoring Officer Tel: 01684 272011.
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Appendices:

1. List of Points Raised by Members and Officers and Action Taken.
2. New Points Received and Action Taken During the Consultation.
3. Revised Protocol for Member/Officer Relations.

Working Group Meeting on 25 November 2015

Paragraph No.	Point Raised	Response
2.4	(a)-(f) – can the seven principles from the Code of Conduct be used instead.	No - this Protocol is in addition to the Code of Conduct.
2.6	Give examples of 'inappropriate behaviours'.	Protocol needs to remain general and simple so it is better not to include specific examples as there is a danger that the list could be regarded as prescriptive.
2.6 & 2.7	Could combine into one Paragraph.	Paragraphs address slightly different things so not appropriate to merge.
2.8	Joint responsibility of Officers and Members to provide leadership and take personal, individual and collective responsibility for the Council's decisions and activities.	Officers work at direction of Members and Members need to understand their role which is the reason it is set out in the Protocol. Officers provide leadership to other Officers but this Protocol is not about the hierarchy of Officers.
2.9	Should 'operational matters' be defined.	May lose simplicity of document if is littered with definitions.
2.9	Should there be an inclusion in the role of Members to ensure they are briefed prior to meetings?	See amendment.
2.10	Do we need to include the word 'junior'?	Amendment made to delete 'junior'
	Should Paragraph also include something about vexatious behaviour or trying to exert undue influence from Members to Officers?	'Behaviour' Paragraph covers this point.
2.12.6	Should work both ways – Officers should also expect Members to maintain confidentiality, perform to best of their ability etc.	No amendment made as this is covered adequately within Protocol and Code of Conduct.
2.15	Paragraph not necessary as is common sense.	Paragraph serves as a reminder and, whilst it is common sense and obvious to Members, it is helpful to the public to know how the Council deals with things.

Paragraph No.	Point Raised	Response
2.17 & 3.4	Budget discussions not covered i.e. if a Political Group asks for assistance in preparing a budget it must remain confidential.	See amendment at 2.17. Not necessary at 3.4.
2.19	Heading should include Lead Members.	See amendment.
2.21	Reads as though Licensing Committee does not have briefings when it does.	No change made as Planning and Licensing Committees are different and, whilst they do have briefings, they do so in the context of their specific Protocols which is what the Paragraph states.
2.24	Add Lead Members to Protocol noting that they are more involved than 'other' Members and discussing confidentiality at Lead Member Briefings and how the relationship works.	Lead Members added but other points not appropriate for this Protocol.
2.27	Add something about trying to exert pressure to do something on a Member's 'patch'.	See addition at 5.4.
2.29	Make wording clear so it doesn't read as though Members are lobbying Officers.	See amendment.
2.31 & 2.32	Already covered in 2.4.	Different point. Suggested no amendment.
2.34	Register should be open to the public for transparency purposes.	See amendment.
4.2	Include something about inappropriate use/numbers of emails.	See 2.9 and 2.12.6 – Working Group to consider if what is drafted is appropriate and if it should, instead, be included under 'Member/Officer Complaints'.
	Add something about elections/purdah and being aware of political activities.	See addition at 2.4(g).
	Add something about duty of Members to report bullying of Officers by Members where it is seen/known of.	See addition 2.4(h) - Working Group to consider if what is drafted is appropriate.
	Include reference to staff Code of Conduct as well as Member one.	Already included at 1.2.
	Partnership of Members and Officers should be spelt out in introduction.	See amendment at 1.1.

Paragraph No.	Point Raised	Response
	Include something about duty of Members and Officers in respect of issues of safeguarding, sexual harassment etc.	Too specific for this Protocol.
	Check consistency i.e. Authority/Council.	Amendments made where applicable.

Working Group Meeting on 27 January 2016

Paragraph No.	Point Raised	Response
2.19	Heading should include Lead and Support Members.	Amended.
2.24	Amendments should be made to delete 'any' from the phrase 'any Support Members' and to delete 'the two' so that the final sentence reads 'The overriding position is that, whilst the two Members and Officers work closely together...'	Amended.
5.6	Amend first sentence to make it clear that the meeting could have members of the public in attendance but it may not actually be a public meeting – 'Any public meeting at which members of the public are in attendance , called by an individual Member or group of Members...'	Amended.
	Generally where applicable Working Groups should be included where Committees are mentioned.	Amended.
	The term Chairman and Vice-Chairman should be amended to Chair and Vice-Chair.	Amended.

New Matters Raised in Response to Consultation on Protocol for Member/Officer Relations

Name	Consultation Response	Response
Officer Comment	Para 2.14 – in their dealings with the public – should 'public' not say 'Members'	No amendment to be made – this Paragraph deals with what Members can expect of Officers so the wording is correct.
	Para 2.24 – strategic theme area – replace with 'their Lead Portfolio'?	Decision for Standards Committee.
	Para 3 – access to information – there is no mention of data protection. Should there e.g. personal information should not be released to Members unless a resident has approved.	Protocol does not cover detailed subject areas but must be read in conjunction with all other Protocols/Policies etc.
Councillor Comment	Para 2.4 - the addition of (f) and (g) are what I asked for but I am not sure of the reference to Paras 2.24 and 2.25? Whilst these Paras refer to how Members or Officers should report inappropriate actions of each other we need a sentence saying how Members should report another Member who undertakes inappropriate behaviour? Perhaps that should be to their Group Leader in the first instance?	<p>Protocol is intended to deal with Member/Officer interface/relations not with Member/Member or Officer/Officer.</p> <p>Committee to decide whether any amendment is appropriate in response to the suggestion made.</p>

TEWKESBURY BOROUGH COUNCIL

PROTOCOL FOR MEMBER / OFFICER RELATIONS

ADOPTED BY COUNCIL 2016

2016

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1. PURPOSE AND STATUS

- 1.1 It is vital to the reputation of the Council as a whole that the Codes of Conduct for Councillors and for Officers are not only followed but are seen to be followed. The partnership between Members and Officers is demonstrably based on mutual respect and all should aspire to the highest standards of ethical behaviour. Compliance with the Council's Protocol for Member/Officer Relations is critical to meeting this aspiration.
- 1.2 The Protocol for Member/Officer Relations, whilst not legally prescriptive, will be relevant in judging compliance with the Codes of Conduct. Compliance with the Protocol will ensure that all Members are able to receive objective and impartial advice from politically independent staff who are not subjected to any undue influences.
- 1.3 This Protocol does not seek to be either prescriptive or comprehensive but offers guidance on some of the situations which most commonly arise. It is expected that the approach that it adopts to these issues can be adapted to any situation.

2. THE MEMBER/OFFICER RELATIONSHIP

GENERAL PRINCIPLES

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and they serve only as long as their term of office lasts. Officers are responsible to the Council. Their role is to give advice to the Councillors and the Council and to carry out the Council's work under the direction and control of the Council and its Committees/Working Groups.
- 2.2 The duties and responsibilities of Members and Officers are different, albeit complementary; however both are bound by the same framework of statutory powers and duties. Furthermore, it is fundamental to the efficient and effective operation of the Council that each understands the limits of their respective roles and that neither asks the other to step beyond those limits.
- 2.3 All Members and Officers have certain basic responsibilities and obligations. There are, however, some Members and Officers who, either because of statute, tradition or decisions of the Council, have extended roles and additional responsibilities. Some Members hold positions of responsibility such as the Leader and Deputy Leader of the Council, the Mayor (Chair of Council), Chairs and Vice-Chairs of Committees/Working Groups, Lead Members and Political Group Leaders. The Statutory Officers are the Head of Paid Service, the Finance Officer and the Monitoring Officer whose roles are defined by statute and within the Council's Constitution.
- 2.4 Members and Officers will:
- a. deal with one another without discrimination;
 - b. observe normal standards of courtesy in their dealings with one another;
 - c. not take unfair advantage of their position;
 - d. promote a culture of mutual respect;
 - e. communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings;
 - f. work together to convert core values and priorities into practical policies for implementation for the benefit of the community;
 - g. observe the 'Advice for Council Members and Officers During the Pre-Election Period'; and
 - h. refer any observed instances of inappropriate behaviour as necessary (2.23 and 2.24).
- 2.5 Members must not be personally abusive to, or derogatory of, Officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance. Members should not raise matters relating to alleged misconduct or incapability of an Officer at meetings of the Council, Committee or any other public forum. If a Member feels that he/she has not been treated properly by, or has a concern or complaint about, the conduct or capability of any Officer he/she should raise those concerns in accordance with the provision in Paragraph 2.25 below.

- 2.6 Whilst normal, friendly working relationships between Members and Officers are to be encouraged, close personal familiarity or personal contact of an inappropriate nature between individual Councillors and Officers can harm this relationship, can prove embarrassing to other Councillors and Officers and can damage the public perception of the integrity and objectivity of the organisation, and should be avoided.

MUTUAL RESPECT

- 2.7 Mutual respect and trust between Members and Officers of the Council is essential to good local government and will generate an efficient and unified working organisation. It is important that there are close working relationships between senior Officers and senior Councillors. However, such relationships should never be allowed to become so close, or appear to be close, so that the ability of an Officer to deal impartially with other Members or Political Groups is questioned.

ROLE OF MEMBERS

- 2.8 Members have a complex role, requiring them to act simultaneously in the following capacities:-

- 2.8.1 As Council/Committee Members – in this capacity Members will provide leadership and will take personal, individual and collective responsibility for the authority's decisions and activities. Members have responsibility for the performance, development, continuity and overall wellbeing of the organisation.
- 2.8.2 As Representatives – in this capacity Members interpret and express the wishes of the electorate and are accountable to the electorate for service priorities, allocation of resources and ultimate performance.
- 2.8.3 As Politicians – in this capacity Members may belong to a Political Group represented on the Council and, if so, may express political values and support the policies of the Group to which they belong.

- 2.9 Officers can expect Members to:-

- Provide leadership.
- Take corporate responsibility for policies and other decisions made by the Council.
- Prepare for formal meetings by considering all written material provided in advance of the meeting.
- Leave day to day managerial and operational issues to Officers.
- Adopt a reasonable approach to awaiting Officers' timely responses to calls/correspondence (2.12.6) and not to undertake a proliferation of calls/correspondence designed to elicit an urgent response to a matter which is not of an urgent nature. Members are not entitled to demand urgent responses to correspondence/calls unless the subject matter is deemed by the Officer to be urgent. Any dispute as to urgency should be referred to the Officer's Manager.

- 2.10 It is permissible and sensible for Members to seek straightforward factual information from Officers, and to enquire as to technical or professional matters of appropriately qualified Officers whose duties include advising Members. However, anything contentious, or any matter requiring a complex opinion, a value, or a judgement, should be directed to the Chief Officer or head of the relevant service. Member Services are happy to signpost Members to the correct area as necessary to ensure that queries are resolved.
- 2.11 Members must, when serving on the Council's Planning and Licensing Committees, observe the Protocol for Councillors and Officers involved in the Planning Process and The Licensing System, Protocol and Procedures respectively.

ROLE OF OFFICERS

- 2.12 Officers of the Council have, in broad terms, the following main roles:
- 2.12.1 To manage the services for which the Council has given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibilities.
 - 2.12.2 To be professional advisors to the Council, its political structures and Members in respect of their service and, as such, their professionalism should be respected.
 - 2.12.3 To initiate policy proposals as well as implementing the agreed policies of the Council.
 - 2.12.4 To ensure that the Council always acts in a lawful manner.
 - 2.12.5 To advise Members on issues and business of the Council.
 - 2.12.6 Members can expect Officers to:
 - maintain due confidentiality;
 - perform their duties to the best of their ability;
 - behave in a professional manner;
 - be helpful and respectful to Members; and
 - respond in a timely manner to telephone calls, email correspondence etc.
- 2.13 Officers are accountable to their Chief Officer or head of their service and whilst Officers should always seek to assist any Member, they should not go beyond the limit of the authority given to them by their Manager.
- 2.14 In their dealings with the public, Officers should be courteous at all times and act with efficiency and timeliness.
- 2.15 In advising Members of the Council, Officers should be able to give honest and impartial advice without fear or favour from Members. It follows that they must serve all Members, not just those of any majority Political Group, and must ensure that the individual rights of all Members are respected. The support provided by Officers can take many forms, ranging from briefing an individual Member on a particular issue to, on occasions, a presentation to the Council.

- 2.16 An Officer should respect a Member's request for confidentiality when dealing with any legitimately delicate matter. Any written reply to a Member where confidentiality is requested in such circumstances should not be copied to any other Member without the original Member's permission, or in order to comply with an unavoidable legal or professional obligation.

Officers' Attendance at Political Group Meetings

- 2.17 In order to ensure that their political neutrality is not compromised Officers must not, in their capacity as Council employees, attend meetings of Political Groups unless the occasion has been specifically authorised by the Chief Executive. Any request for Officer support should therefore be made to the Chief Executive in advance of any meeting. Such support should be available to all Political Groups. Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Political Group business. Officers must not be invited to be present at meetings, or parts of meetings, when matters of Political Group business are to be discussed. Where a Political Group shares alternative proposals for advice, e.g. the budget, the Officer should treat this as confidential.
- 2.18 Where Officers provide information and advice to a Political Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee/Working Group or the Council when the matter in question is considered.

OFFICER RELATIONSHIPS WITH CHAIRS/VICE CHAIRS, POLITICAL GROUP LEADERS AND LEAD AND SUPPORT MEMBERS

- 2.19 Chairs of the Council/Committees/Working Groups (and Vice-Chairs in their absence) must:
- 2.19.1 chair meetings impartially;
 - 2.19.2 give all Members of the Council/Committee/Working Group equal right to speak;
 - 2.19.3 manage Council/Committee/Working Group meetings to ensure that the business of the Council/Committee/Working Group is transacted efficiently but fairly; and
 - 2.19.4 ensure that Officers are given every opportunity to give their professional judgement/advice to the Council/Committee/Working Group.
- 2.20 A Committee/Working Group Chair should routinely be consulted during the process of preparing an Agenda for a forthcoming meeting. Chairs must recognise that, in some situations, an Officer is under a duty to submit a report on a particular matter and no influence should be exerted on any Officer to exclude an item from an Agenda.
- 2.21 Prior to Committee Meetings (except Planning and Licensing Committees where their own Protocols apply), the appropriate Officers will meet informally with the Chair and Vice-Chair (Chair's Briefing) to discuss matters on the Agenda, to deal with matters which will ensure the smooth running of the meeting and to enable specific issues to be highlighted for which Officers and Members may need to prepare prior to the meeting.

- 2.22 Political Group Leaders (Deputy Political Group Leaders) should promote a positive atmosphere of trust, respect and understanding between Members and Officers. Political Group Leaders (Deputy Political Group Leaders) must be prepared to tackle, deal with and resolve any reported incidents of breaches of this Protocol by their Political Group Members. In the event of a complaint being made to them under Paragraph 2.26 of this Protocol, a Political Group Leader (Deputy Political Group Leader) will seek to actively pursue the complaint and achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint.
- 2.23 Officers must exercise care when dealing with Chairs, Vice-Chairs and Political Group Leaders to ensure that they are not provided with information that the Officer is not prepared to make freely available to other Members of the Council or Committee/Working Group.
- 2.24 Officers shall provide Lead Members, and Support Members, with the information necessary to enable them to effectively undertake their role as a Council spokesperson and ambassador for their strategic theme area. The overriding position is that, whilst Members and Officers work closely together, this relationship should never become, or appear to become, so close that the ability of an Officer to deal impartially with other Members is questioned.

MEMBER/OFFICER COMPLAINTS

- 2.25 If a Member wishes to complain about the actions or failings of any employee of the Council, the Member should lodge his or her complaint, preferably in writing, with the Chief Officer concerned. If a complaint is against the Chief Officer, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally, it must be lodged in writing with the Council's Monitoring Officer. The Officer to whom the complaint is made will take appropriate action to resolve it and will notify the Member of the Council who made the complaint of the action which has been, or is intended to be, taken to resolve it.
- 2.26 Should an Officer have cause to complain about the actions or failings of any Member of the Council, the Officer should draw his/her concern to the attention of a Senior Officer in his/her Directorate who will consider the matter and, acting through the appropriate Chief Officer, will seek to resolve the issue with the Member concerned or, if this is not possible, the Member's Political Group Leader. If the complaint is against a Political Group Leader then it should be drawn to the attention of the Deputy Group Leader or to the Group generally. The Member (or group of Members) to whom the complaint has been made, will deal with it and will notify the Officer making the complaint of the action which has been, or is intended to be, taken to resolve the complaint.

BEHAVIOUR

- 2.27 Words or actions which are intended unfairly to influence an individual Officer will be regarded as a form of bullying, intimidation or harassment.
- 2.28 Members of the Council must not pressurise Officers to make a particular recommendation to the Council. Members must at all times respect the obligation placed on Officers to exercise professional or technical judgment.

- 2.29 Members are not prevented from discussing issues with Officers or promoting a particular point of view. Whilst Officers will consider the views being put they are not, in any way, compelled to provide advice which coincides with the Member's view. Any pressure by a Member upon an Officer to change their professional recommendation constitutes unacceptable undue pressure and is not permissible.
- 2.30 Members must not give directions, nor make direct criticism, to the Council's employees. Any criticism of an individual employee should be taken up with the Chief Officer, the Chief Executive or the Monitoring Officer as appropriate in the manner set out in 2.25 above. This standard of conduct is not intended to prevent Members from disagreeing openly, courteously and publicly with an Officer's recommendation.

HONESTY AND INTEGRITY

- 2.31 Members and Officers should not place themselves in situations where their honesty or integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

PUBLIC CONFIDENCE

- 2.32 Members and Officers of the Council should always act in a way that preserves public confidence.

MEMBERS ACTING AGAINST THE COUNCIL

- 2.33 If a Member is about to act in a professional or private capacity against the Council, he/she must notify the Borough Solicitor in writing. This applies to any action by a spouse/partner, associate, employer or by a company in which the Member has an interest. This provision also applies to co-opted Members for matters which are within the responsibility of the Committee on which they serve.
- 2.34 Details given will be recorded in a Register which will be open to public inspection.

3. ACCESS TO INFORMATION

Rights of Members to Information/Documents

- 3.1 Members may approach the Chief Executive, any Chief Officer or head of any service to provide them with such information, explanation and advice (about their functions and responsibilities) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 3.2 Members have, as a starting point, the same rights to any information held by the Council that ordinary members of the public enjoy under the Freedom of Information Act 2000.
- 3.3 In addition, a Member has the right to see any document within the possession or control of the Council that contains material relating to an item to be discussed at a meeting of the Council or a Committee or Sub-Committee/Working Group. However, a Member does not have the right to be provided with "exempt" or "confidential" information (i.e. that which is not available to the public) unless he or she can demonstrate "a need to know" that information to enable them to carry out their duties as a Councillor.

Refusal of Access

- 3.4 Access may, even in respect of Committee/Working Group Members, be refused if the reasons for inspecting any documents are improper, indirect or ulterior, or are inconsistent with the Council's interests. Examples of such circumstances are where a Member:
- (a) has a private professional or business interest in the information;
 - (b) has a disclosable pecuniary interest in the matter to which the document relates; or
 - (c) has taken up, or is considering taking up, support of a person or body which is hostile to the Council in Court proceedings or at Inquiries.
- 3.5 Furthermore, where a request will require the devotion of a significant amount of staff resources to identify and collate information which is considered to be of marginal benefit, the request for information may be refused.
- 3.6 Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek advice from the Monitoring Officer if in any doubt about the reasonableness of a Member's request.

Use of Confidential Information

- 3.7 Any confidential or "exempt" information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council. A Member must never disclose confidential or "exempt" information to anyone who is not themselves entitled to that information.

4. CORRESPONDENCE

No “Blind” Copies

- 4.1 If an Officer copies correspondence addressed to one Member to another Member, then this should be made clear to the original Member. A system of "blind copies" must not be employed.

Official Correspondence

- 4.2 Official correspondence on behalf of the Council should normally be sent out under the name of the appropriate Officer rather than under the name of a Member. It may be appropriate in certain circumstances, for example representations to a Government Minister or where a letter is specifically addressed to the Mayor or a Committee Chair, for the letter to appear under the name of that particular Member, but this should be the exception rather than the norm. Letters which, for example, convene formal meetings, create obligations or give instructions on behalf of the Council should never be sent out under the name of a Member.

5. LOCAL MEMBERS AND OFFICERS

5.1 To enable them to carry out their Ward role effectively, Members need to be fully informed about matters affecting their Ward. Senior Officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

5.2 This requirement is particularly important:

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

5.3 Issues may affect a single Ward. Where they have a wider impact, a number of local Members will need to be kept informed.

Member Requests

5.4 Whilst Officers should provide general advice/assistance to Members on matters of Council business, Officers should not be subjected to pressure to undertake work at the direction of a local Member for Ward business which is not in the Officer's work programme/normal daily responsibilities.

Public Meetings

5.5 Whenever a public meeting is organised by, or on behalf of, the Council to consider a local issue, all the Members representing the Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the local Members should be notified at the outset of the exercise.

Meetings Called by Members

5.6 Any meeting at which members of the public are in attendance called by an individual Member or group of Members, rather than by a Council Officer, shall not be regarded as a meeting called by the Council. An Officer shall not attend such a meeting (in his/her capacity as an Officer) unless specifically authorised by the Chief Officer / Chief Executive.

TEWKESBURY BOROUGH COUNCIL

Report to:	Standards Committee
Date of Meeting:	21 March 2016
Subject:	Review of Protocol for Councillors and Officers Involved in the Planning Process
Report of:	Lin O'Brien, Deputy Monitoring Officer
Corporate Lead:	Sara Freckleton, Monitoring Officer
Number of Appendices:	None.

Executive Summary:

At its meeting on 31 March 2014, in accordance with its Work Programme, the Standards Committee agreed the process for reviewing the Council's Protocol for Councillors and Officers Involved in the Planning Process and a joint Working Group was established made up of Members from both the Standards and Planning Committees. Subsequently the Protocol was reviewed and the revised version was agreed by Council at its meeting on 14 April 2015. It was also agreed that a review of the revised Protocol should take place after 12 months to establish how it had worked and whether any further amendment was required. The Committee is now asked to agree the mechanism for this review to take place.

Recommendation:

That a joint Standards and Planning Working Group be re-established, as set out in Paragraph 2 of the report, to review the Protocol for Councillors and Officers Involved in the Planning Process following its operation for 12 months to assess how it has worked and whether any further amendment is necessary.

Reasons for Recommendation:

To ensure that the Protocol for Councillors and Officers Involved in the Planning Process is reviewed in accordance with the Council's decision.

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 its meeting on 14 April 2015 the Council 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. A mechanism to undertake this further review is proposed in Paragraph 2 set out below.

2.0 REVIEW OF THE PROTOCOL FOR COUNCILLORS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

2.1 The initial review was undertaken by a joint Working Group made up of four Members of the Planning Committee and four Members of the Standards Committee. This mechanism worked extremely well and it is therefore suggested that a similar arrangement be put in place to examine how the new Protocol has worked after being in operation for 12 months and whether any further amendments are required. The Planning Committee will be asked to nominate representatives at its next meeting and the Standards Committee is now asked to put forward its representatives should the Committee agree that this is the most appropriate mechanism for the review to be undertaken.

Previously the representatives were Councillors Brian Calway and Mike Dean, Independent Person, Mr Martin Jauch, and Parish Representative, Mr Jeremy Horsfall and it is suggested for consistency that those Members remaining on the Standards Committee may wish to put themselves forward to serve on the Group. In respect of Councillor Calway, his Membership was as Chair of the Standards Committee, and therefore his place could be taken by the current Chair, Councillor Philip Surman. It would therefore be the proposal that the Committee's representatives on the Working Group would be as follows:

Councillors Mike Dean and Philip Surman, Independent Person, Mr Martin Jauch, and Parish Representative, Mr Jeremy Horsfall.

2.2 It is anticipated that no more than two meetings of the Group would be required and Officer support would be provided by the legal and planning sections.

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 Council on 14 April 2015.

Background Papers: None.

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Appendices: None.

Agenda Item 8

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Agenda Item 9

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