

Appendix A

Part 5.1 Councillors' Code of Conduct [Amended Version]

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INTRODUCTION

Purpose of the Code

The Localism Act 2011 requires this Council to promote and maintain high standards of conduct by its Members and Co-opted Members. In discharging its duty, the Council is required to adopt a Code of Conduct which sets out the conduct expected of its Councillors.

The Council's Code of Conduct is divided into 2 sections:

1. the Rules of Conduct
2. the Complaints process

The purpose of this Code of Conduct is to assist all Members in the discharge of their obligations to the Council, to their constituents and to the public at large by:

- (a) establishing the standards and principles of conduct expected of all Members in undertaking their duties.
- (b) ensuring public confidence in the standards expected of all Members and in the commitment of the Council to upholding the Code through an open and transparent process.

Parish Councils

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

PART 1: RULES OF CONDUCT

The code applies to Members and co opted Members of Slough Borough Council when they are acting in that capacity.

This means that it applies whenever you (a) conduct the business of the Council (including the business of your office as an elected Councillor or co opted Member); (b) act, claim to act or give the impression you are acting as a representative of the Council.

SECTION 1 – OVERARCHING PRINCIPLES

This code is intended to be consistent with Nolan’s Seven Principles of Public Life and should be read in the light of those principles. These are set out below.

Nolan’s Seven Principles of Public Life

Principle 1. Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Principle 2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Principle 3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Principle 4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Principle 5. Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Principle 6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Principle 7. Leadership

Holders of public office should promote and support these principles by leadership and example.

SECTION 2 – GENERAL OBLIGATIONS

When acting in your role as Member of the Council, you must ensure that you conduct yourself in such a manner that complies with the Seven Principles of Public Life. These Principles will be taken into account when considering the investigation and determination of any allegations of breaches of the rules of conduct.

- 2.1 You must treat others with respect, including Council officers and other elected Members.
- 2.2 You must not bully any person (including specifically any Council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this Code of Conduct.
- 2.3 You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
- 2.4 You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a Member of the Council, into disrepute.
- 2.5 You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
- 2.6 You have a duty to uphold the law including the general law against discrimination
- 2.7 When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
- 2.8 You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
- 2.9 You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - (a) You have the consent of a person authorised to give it; or
 - (b) You are required by law to do so; or
 - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or

- (d) The disclosure is reasonable and in the public interest and made in good faith.

SECTION 3 – RELATIONSHIP WITH OTHERS

- 3.1 Members must ensure that all contact with Council Officers will be through a Director/Assistant Director/Third Tier Officer in the first instance. A distinction is made between contacts with junior staff as part of day to day enquires and Council business and contact by Members where contentious or political issues may arise.

Examples of day to day contact with Junior Officers.	Examples of Matters that should be addressed at Director/Service Lead/Third Tier
Requests for information on timescales of applications e.g. planning applications, licensing, housing allocation	Specific complaints about not granting planning consent. Complaints about the application of eligibility criteria for housing
Requests for routine information on a case or issue on behalf of a resident, i.e. who is dealing with a case or issues when is it likely to be resolved	Application of threshold or entitlement to Adult Social Care Services.
Requests for information on how processes work and how services are run.	Suggestions for improving services. Observations on service efficiency and effectiveness.

SECTION 4 – INTERESTS

4.1 Registration of interests

You must register in the Council's Register of Members Interests information about your registerable personal interests. In this Code of Conduct 'your registerable personal interests' means:

- (a) any Disclosable Pecuniary Interest as set out in Appendix 2; or
- (b) any other interest held by you as set out in Appendix 2

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a Member of the Council; and
- any change taking place in your registerable personal interests.

Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.

4.2 Sensitive interests

Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

4.3 Other interests

You have a “non-disclosable pecuniary interest or non-pecuniary interest” in an item of business of your authority where –

- a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or
- it relates to or is likely to affect any of the interests listed in the Table in Appendix 2 of this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest or non-pecuniary interest in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

4.4 Declaration of Members Interests

All Members are required to disclose as appropriate any personal and personal prejudicial interests in matters that arise at meetings which might influence their judgement or which could be perceived (by a reasonable member of the public) to do so. Members should declare:

- (i) Relevant personal direct and indirect pecuniary interests;
- (ii) Relevant direct and indirect pecuniary interests of close family members of which Members could reasonably be expected to be aware; and
- (iii) Relevant personal non-pecuniary interests, including those which arise from membership of clubs and other organisations.

- (iv) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority.
- (v) Any body exercising a function of a public nature, directed to charitable purposes or whose principal purpose includes the influence of public opinion or policy.
- (vi) Your wellbeing or financial position or the wellbeing or financial position of a member of your family with whom you have a close association.

The personal interest becomes **prejudicial** if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest. A Member's DPIs are always prejudicial.

A Member must observe the restrictions the Council places on their involvement in matters where they have a pecuniary or non pecuniary interest as defined by the Council.

Members should seek advice from the Monitoring Officer with regards to interests arising from Council controlled Trusts.

4.5 Interests arising in relation to Overview and Scrutiny Committee and its Panels

Members have a prejudicial interest in any business before an Overview and Scrutiny Committee of the Council (or Panel) where

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Council's Cabinet or another committee, sub-committee, joint committee or joint sub-committee; and
- (b) at the time the decision was made or action was taken, you were a Member of the Cabinet, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

In such a case, provided the public have a right to speak at such a meeting, as a Member you are able to make any representations or answer any questions once you have declared the nature of the interest you have. You must then withdraw from the room.

4.6 Action following declaration

If you are acting as a decision maker at a meeting where you have an interest in the matter being discussed or that arises during the course of the meeting you need to consider if your interest is a Disclosable Pecuniary Interest.

If it is

- (a) you must withdraw from the room where the meeting considering the business is being held, unless a written dispensation has been granted
- (b) you are not permitted to participate in any discussion of a matter that relates to your DPI at the meeting

- (c) you are not permitted to participate in any vote on the matter where you have a DPI

In the case of any other Pecuniary or Non Pecuniary Interest, the Committee Member will need to consider whether a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest. If you believe this to be the case or you are advised that this is the case then that Member must:-

- (a) disclose the existence and nature of the interest at the meeting;
- (b) withdraw from the room or chamber where the meeting considering the business is being held.

However, provided the public have a right to speak at such a meeting the Member is able to make representations or answer any questions when the nature of the interest has been declared. The Member must then withdraw from the room.

See Appendix 3 for the Declaration of Interests Flow Chart and Appendix 4 for the Declaration of Receipt of Gifts or Hospitality.

4.7 Dispensations from the restriction from participating voting in meetings

This provision applies to a situation where a Member or Members have an interest, which prevents them from taking part in a decision but they feel they ought to be able to participate or that it is necessary to allow them to participate in the interests of proper decision making, as explained below.

One or more Members may apply for a dispensation from the requirement not to participate in or vote in respect of a matter at a meeting by written request to the Monitoring Officer, so that they are able to participate in respect of that matter at the meeting.

The Monitoring Officer (or in his/her absence the Deputy Monitoring Officer) may agree the dispensation on behalf of the Council, where s/he considers, after having had regard to all relevant circumstances such as follows:

- (a) that without the dispensation the number of persons prohibited by section 31(4) of the Act from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - i. that granting the dispensation would be in the interests of persons living in the Council's area,
 - ii. that without the dispensation each Member of the Cabinet would be prohibited by section 31(4) of the Act from participating in any particular

business to be transacted by the Cabinet, or

iii. that it is otherwise appropriate to grant a dispensation.

If granted the dispensation will be granted by the Monitoring Officer in writing and citing the ground or grounds on which it is agreed and it will be published on the Council's website within 7 days of the decision.

The dispensation must be for a fixed time not exceeding a period beyond the next Council elections and will normally cover only a specific matter or meeting.

A general dispensation is granted to all Members to be present, speak and vote where they would otherwise have a DPI on the grounds that it is appropriate to grant a dispensation to allow all Members to participate fully in the following matters:

- (a) Housing: where the Member (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not only relate to the Member's particular tenancy or lease*.
- (b) School meals or school transport and travelling expenses where the Member is a parent or guardian of a child in full time education, or is a parent governor of a school, provided that the matter does not only relate to the particular school which the child attends.
- (c) Housing Benefit: where the Member (or spouse or partner) directly receives housing benefit in relation to their own circumstances.
- (d) Allowances, travelling expenses, payments or indemnity for Members (this is included for the avoidance of doubt even though they are not a DPI)
- (e) Setting the Council Tax or a Precept; and
- (f) Decisions in relation to Council Tax Benefit.

* Any general housing related dispensations afforded to Members will not negate the need for Members to declare a personal or prejudicial interest; particularly where the Member or spouse holds a tenancy or lease with the Council and a matter requiring a decision may/will impact their own Council tenancy.

For example, in cases where the matter particularly affected their local neighbourhood and was considered to affect their own tenancy more than other people in the authority's area, the Member should consider whether it is appropriate to participate in the decision making process.

For the avoidance of doubt and to ensure adherence to the Member Code of Conduct, Members should seek guidance from the Council's Monitoring Officer.

It is recommended that the general dispensation applies until the next election (May 2018) and that the Council considers granting general dispensations annually at its annual meeting.

Dispensations for Council Tax relate to Members' DPIs, and do not affect a Member's obligation under Section 106 of the Local Government Finance Act 1992 to declare and not vote if they are two months or more in arrears with their Council Tax when voting on setting the Council's budget.

The Council can grant a dispensation to enable Members to participate in certain circumstances and the Monitoring Officer is authorised to determine written requests for a dispensation. A form to request a dispensation is attached at Appendix 6.

4.8 Gifts and Hospitality

You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a Member from any person or body other than the borough Council.

The Monitoring Officer will place the notification on the public register of gifts and hospitality.

4.9 Updating the Register of Interests

You must within 28 days of becoming aware of any new disclosable pecuniary interest or change to any disclosable pecuniary interest already registered provide written notification to the Monitoring Officer via an amendment form obtainable from Democratic Services.

4.10 Predetermination and Bias

A Member is not taken to have had, or to have appeared to have had, a closed mind when making/acting as a decision maker, merely because

- (i) they had previously done anything that directly or indirectly indicated what view, they as decision maker would or might take in relation to a matter and
- (ii) the matter was relevant to the decision being taken.

When making a decision, Members must consider the matter before them, with an open mind and on the facts before the meeting at which the decision is to be taken.

Where a Member has been involved in campaigning in a political role on an issue, provided this does not impact on a Member's personal and/or professional life, a Member is not be prohibited from participating in a decision in their political role as Member.

Members must not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence their performance of their official duties.

Members who sit as Committee Members need to be aware that when they have an interest in the matter being discussed or being decided, the role as a decision maker is subject to extra scrutiny.

Members who are not Committee Members, but are attending a Committee to speak, also need to be aware that if they have an interest in the matter they are speaking on, their role as an interested Member is also subject to extra scrutiny.

Members should seek advice in advance of a meeting when a matter is known or should reasonably have been known to involve an interest affecting a Committee Member and complete the Declaration of Interests at Meetings Form. Guidance on predetermination is set out at Appendix 6 to the Code.

4.11 Corporate Trustees

The Council may have a variety of roles in relation to charitable trusts, including that of corporate trustee. The Council is the trustee of the charitable trusts, Councillors are not. The Councillors (and Council Officers) manage the Trustees affairs on behalf of the council. As Councillors are not trustees they do not have the same responsibilities and liabilities as a trustee. Although Councillors are not trustees they should still be mindful of the duties of trustees set out in the guidance at appendix 8.

PART 2: THE COMPLAINTS PROCESS

- 5.1 This Part of the Code of Conduct sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.
- 5.2 The Monitoring Officer may investigate a specific matter relating to a Member's adherence to the Rules of Conduct under the Code or a complaint made against a member for breach of the Council's Code of Conduct. Members shall cooperate, at all stages, with any such investigation by or under the authority of the Council. No Member shall lobby a member of the Audit & Corporate Governance Committee in a manner calculated or intended to influence its consideration of an alleged breach of this Code.

Complaints against Members

- 5.3 All complaints against members must be in writing and on the Council's prescribed form. The Council will not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 5.4 The "Member's Complaint's Procedure Flowchart" , contained at Appendix 5, sets out the process the Monitoring Officer will follow in relation to complaints against members.
- 5.5 The Monitoring Officer will consider complaints according to the Code of Conduct's "Member's Complaint Assessment Criteria" contained at Appendix of the Code. **Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.**
- 5.6 The Monitoring Officer will acknowledge receipt of a complaint within 5 working days of receiving it. The Subject Member will be advised that a complaint has been made, together with a short summary of the complaint and the name of the complainant unless they have indicated that they wish to remain anonymous.
- 5.7 The Monitoring Officer will determine every complaint received and, may after as the Monitoring Officer may deem appropriate consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of a complaint. Where the Monitoring Officer has taken a decision, he will inform the Complainant and the Subject Member of his decision and the reasons for that decision.
- 5.8 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. The Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 5.9 If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

PART 3: INVESTIGATION & DETERMINATION OF COMPLAINTS

- 6.1 If the Monitoring Officer decides that a complaint merits formal investigation, he may either appoint an Investigating Officer to investigate the complaint or investigate the complaint himself.
- 6.2 The Investigating Officer would normally write to the Subject Member.
- 6.3 The Subject Member will be provided with a copy of the complaint. The Subject Member will be requested to provide any relevant information the Investigating Officer needs to investigate the Complaint.
- 6.4 In exceptional cases, where it is appropriate to keep the identity of the Complainant confidential or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer withhold the Complainant's details or delay notifying the Subject Member until the investigation has progressed sufficiently.
- 6.5 At the end of his/her investigation, the Investigating Officer/Monitoring Officer will produce a draft report. This draft will be sent in confidence to the Complainant and the Subject Member, to give them an opportunity to identify any matter in that draft report which is either factually incorrect or which may require further consideration. Having received and taken account of any comments on the Draft Report, the Investigating Officer will send the Final Report to the Monitoring Officer.
- 6.6 The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Subject Member and the Complainant notifying them of either :
- (a) he is satisfied that no further action is required, and provide them both a copy of the Investigating Officer's final report, or
 - (b) following review of the Investigating Officer's report that either the complaint will be
 - (i) sent for determination before a Standards Determination Sub Committee or,
 - (ii) after consulting the Independent Person, seek a local resolution.

Local Resolution

- 6.7 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and the Complainant and seek to agree fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Subject Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit & Corporate Governance Committee for information, but will take no further action.

Process for the Determination of Complaints

- 6.8 If the Monitoring Officer considers that local resolution is not appropriate, then the Monitoring Officer will convene a Standards Determination Sub Committee to determine the complaint. It will conduct a hearing which will decide whether the member has failed to comply with the Code of Conduct and if so, whether to take any action in respect of the member.
- 6.9 The set up and structure of the Standards Determination Sub-Committee is provided for by the Council's Constitution
- 6.10 The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and may issue directions as to the manner in which the hearing will be conducted.

Conduct of a Sub Committee hearing

- 6.11 The Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Subject Member has failed to comply with the Code of Conduct. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
- 6.12 If the Sub Committee, with the benefit of any advice from the Independent Person, concludes
- (a) that the Subject Member did not fail to comply with the Code of Conduct, then they can dismiss the complaint
 - (b) that the Subject Member did fail to comply with the Code of Conduct, the Chair will inform the Subject Member of this finding and the Sub Committee will then consider what action, if any, the Sub Committee should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Sub Committee will give the Subject Member an opportunity to make representations to the Sub Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.
- 6.13 The Council has delegated to the Sub Committee powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub Committee may authorise the Monitoring Officer to –
- (a) Publish any findings in respect of the Subject Member's conduct;
 - (b) Report the findings to the Audit & Corporate Governance Committee for information;
 - (c) Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - (d) Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - (e) Arrange training for the Subject Member;

- (f) Remove from all outside appointments to which the Subject Member has been appointed or nominated by the Council;
 - (g) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
 - (h) Exclude the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 6.14 The Sub Committee has no power to suspend or disqualify the Sub Member or to withdraw members' or special responsibility allowances.
- 6.15 At the end of the hearing, the Chairman will state the decision of the Sub Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub Committee resolves to take.
- 6.16 The Monitoring Officer will issue a decision notice, in consultation with the Chairman of the Sub Committee. The decision notice will be sent to the Complainant and the Subject Member. Thereafter a summary of the decision may be available for public inspection and the decision will be reported to the next convenient meeting of the Audit & Corporate Governance Committee.

Appeals

- 6.17 There is no right of appeal against a decision of the Monitoring Officer or of the Standards Determination Sub Committee to the Council.

Independent Person

- 6.18 The Independent Person is invited to attend all meetings of the Sub Committee and his/her views are sought and taken into consideration before the Sub Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

Revision of these arrangements

- 6.19 In the interests of fairness, the Monitoring Officer may vary any of these arrangements as appropriate. The Chair of the Standards Determination Sub Committee may depart from the arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

GLOSSARY

In this Code the following words will have the following meanings:—

“Authority”	means Slough Borough Council
“Council”	means Slough Borough Council
“Parish Council”	means the following Parish Councils: Britwell Parish Council, Colnbrook with Poyle Parish Council, Wexham Court Parish Council
“Code of Conduct”	section 1 part 1 of the Code of Conduct also referred to as the “Rules”.
“Code of Conduct Protocol”	means the document entitled
“Independent Person”	The Independent Person is a person who complies with the requirements section 28 Localism Act 2011.
“Meeting”	means any meeting of— (a) The authority; (b) The executive of the authority; (c) Any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees; Whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members
“Member”	means a co-opted Member or an appointed Member of Slough Borough Council
“Co-opted Member”	means a co-opted Member of Slough Borough Council
“Subject Member”	means a Member who is the subject of a complaint for a breach of the Councillors Code of Conduct
“Sensitive Information”	means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person connected to you may be subject to violence or intimidation.
“7 Principles”	means the general principles of conduct identified by the Committee on Standards in Public Life in its First Report, namely: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership.

DISCLOSABLE PECUNIARY INTERESTS DEFINITION AND GUIDANCE NOTES

The Localism Act 2011 provides that this will cover the interests not just of the Member, but also his/her spouse, civil partner or person with whom he/she lives as if they were spouses or civil partners, in so far as the Member is aware of his/her partner's interests.

These notes give general guidance on what items Members should include on the disclosable pecuniary interests form. The onus is on the individual Member to make their own judgement about making a declaration and they should not rely on direction from an officer, though if in doubt they can seek advice.

Disclosable Pecuniary Interest	Guidance
<p>Employment, office, trade, profession or vocation Any employment, office, trade, profession or vocation carried on for profit or gain.</p>	<p>You should show every employment, office, trade, profession or vocation that you and your spouse/partner receive remuneration for other than simply repayment of expenses – a good example is what you would have to declare for income tax purposes.</p> <p>Give a short description of the activity concerned; for example 'Computer Operator' or 'Accountant'.</p> <p>Where you hold an office, give the name of the person or body which appointed you. In case of a public office, this will be the authority which pays you.</p>
<p>Sponsorship Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred in carrying out duties as a Member or towards election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>	<p>You should declare the name of any person or body who has made any payments to you towards your expenses as a Councillor or towards your election expenses. You do not need to declare the amounts of any payments, only the name of the person or body making them.</p> <p>It refers to payment of election expenses by a third party – you do not need to declare if you pay your election expenses yourself. This would usually mean a political party at election time.</p>

<p>Contracts Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority –</p> <p>(a) Under which goods or services are to be provided or works are to be executed; and (b) Which has not been fully discharged.</p>	<p>You should list any contract made between yourself or your spouse/partner or a body in which either of you have a beneficial interest and Slough Borough Council (or an organisation contracted to carry out business on its behalf):-</p> <p>(a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>
<p>Land Any beneficial interest in land which is within the area of the relevant authority.</p>	<p>You should include any land and buildings in the area of the Borough in which you or your spouse/partner have a beneficial interest. You should give the address or a brief description to identify it.</p> <p>If you live in the Borough you should include your home under this heading whether as owner or lessee.</p> <p>You should also include any property from which you receive rent, or of which you are the mortgagee.</p> <p>The Monitoring Officer has also advised that any land in the Borough area in the ownership of a charity or organisation of which you or your spouse/partner are a trustee should also be included in this section.</p> <p>“Land” also includes any buildings or parts of buildings.</p>
<p>Licences Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</p>	<p>You should include land in the area of the Borough which you or your spouse/partner have a right to occupy, but neither own nor have tenancy of. You should give the address or a brief description to identify it.</p> <p>“Land” includes any buildings or parts of buildings.</p>
<p>Corporate Tenancies Any tenancy where (to your knowledge) – (a) The landlord is the relevant authority; and (b) The tenant is a body in which the relevant person has a beneficial interest.</p>	

<p>Securities Any beneficial interest in securities of a body where –</p> <p>(a) That body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) Either –</p> <p>(i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class</p>	<p>You should list the names of any companies, industrial and provident societies, co-operative societies, or other bodies corporate that (to your knowledge) are active in the Borough and in which you or your spouse/partner have a substantial interest. You do not need to show the extent of your interest.</p> <p>You have a substantial interest if you own shares or other securities in the company with a nominal value of more than £25,000 or more than 1/100th of the issued share or securities. If there are several classes of shares or securities, the fraction of 1/100th applies to any of these classes.</p> <p>The company or body corporate is active in the Borough if it has land or a place of business in the Borough.</p>
--	--

Pecuniary and Non Pecuniary Information to be registered

<u>Membership of other bodies</u>
a. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council.
b. Any body exercising functions of a public nature of which you are a member or in a position of general control or management.
c. Any body directed to charitable purposes of which you are a member or in a position of general control or management.
d. Any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Declaring Interests Flowchart, Questions to ask yourself

Breaching those parts identified as a disclosable pecuniary interest is potentially a criminal offence.

Helpful Reminders for Members

- Is your register of interests up to date?
- In particular, have you declared to the Monitoring Officer all disclosable pecuniary interests?
- Have you checked the register to ensure they have been recorded correctly?

When should you declare an interest at a meeting?



- What matters are being discussed at the meeting:

Does the business to be transacted at the meeting

- **Relate to; or**
- **Is likely to affect**

any of your registered interests Disclosable Pecuniary Interests include your interests and those of:

- Your spouse or civil partner
- A person you are living with as husband/wife or as a civil partner

Where you are aware that this other person has the interest.

Please seek advice from the Monitoring Officer about disclosable pecuniary interests.

What is a non-disclosable pecuniary interest or a Non-Pecuniary Interest? – this is an interest which is not a disclosure pecuniary interest (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

DPI

Non-DPI

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting.



If the interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register.



Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- Not participate, or participate further, in any discussion of the matter at a meeting;
 - Not participate in any vote or further vote taken at the meeting; and
 - Leave the room while the item is being considered/voted upon
- If you are a Cabinet Member they may make arrangements for the matter to be dealt with by a third person but take no further step.

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature. You should declare the interest and decide whether you can properly speak and remain in the meeting or should not participate further..

not participate further..

CODE OF CONDUCT FOR MEMBERS DECLARATION OF INTERESTS AT MEETINGS

This form should be completed by Members who declare an interest at any meeting of the Authority, the Executive of the Authority, or any of the Authority's or its Executive's Committees, Sub-Committees Joint Committees or Area Committees.

Name of Member

Meeting :..... Date:

Agenda Item: Time:

Type of Interest declared (Please tick as appropriate)

Personal Interest

A Member with a personal interest in any matter may remain, speak and vote when the matter is considered.

Personal/Prejudicial Interest

A Member with a Prejudicial Interest must:-

- withdraw from the room where the meeting is being held wherever it becomes apparent that the matter is being considered at that meeting.
- not seek improperly to influence a decision about the matter.

[Unless you are at a meeting where members of the public have a right to address the meeting in which case Members have the same rights as an ordinary member of the public but must take not part or have any role in the decision making process.]

Note: A Member's Disclosable Pecuniary Interests are always prejudicial.

Nature/Detail of Interest

.....

.....

.....

.....

.....

Action to be taken following declaration (tick as appropriate)

Withdraw from meeting

Remain and speak

Remain and speak and vote

Signed: Date:

To: The Monitoring Officer

DECLARATION OF RECEIPT/OFFER OF GIFTS OR HOSPITALITY

Name of Member	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Did you accept it and were there any special circumstances justifying acceptance of this gift or hospitality?	
Signed	Date

PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees.

This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest”

under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer

REQUEST FOR A DISPENSATION

Request to Monitoring Officer

Please complete the following details and give as much information as possible (you can attach additional sheets of paper, if required).

1. **Please summarise the matter to which your interest relates**

2. **What is the nature of your interest?**

3. **For which meeting(s) or period are you seeking a dispensation?**

4. **Please set out in detail the reason(s) why you consider you should be granted a dispensation.**

	Name	Signature	Date

When completed, this form should be sent to the Monitoring Officer

Trustees and Councillors' Duties towards the Trusts

1. Introduction

- 1.1 There are a number of different roles that the Council may have in relation to the day to day administration and functioning of registered charities and trusts.
- 1.2 The Council can find itself in any of the following roles in relation to a charitable trust:-
- 1.2.1 either be appointed as a corporate trustee;
 - 1.2.2 appointed as a holding trustee, holding land on trust, possibly with the right to appoint trustees;
 - 1.2.3 as a party who has a right under a charity's constitution or trust deed to appoint trustees to the charity's board; or
 - 1.2.4 simply as a funder through the process providing grants to a registered charity.
- 1.3 There are a variety of duties and obligations that arise depending on what role the Council has under the conveyance or instrument under which the trust arises.
- 1.4 This report deals exclusively with the position where the Council is appointed as a Corporate Trustee of the Salt Hill Playing Field and the Langley War Memorial Field (collectively, the Properties and the Trusts)
- 1.5 It is clear that under both conveyances of the Properties under which the Trusts arose that Slough Borough Council is the corporate trustee and holds the property as such.

2. Corporate Trustees

- 2.1 Councillors and Council Officers may attend meetings and deal with the Trust's day to day administration and property, the capacity in which they doing so are as Councillors and Council Officers and not as Trustees of the above Trusts.
- 2.2 Corporate trustees are liable for breaches of trust to the same extent as a natural person, but the cause of action that the beneficiaries of the Trusts will have is against the corporate trustee.
- 2.3 As the corporate body is a legal and not a natural person; it acts exclusively through natural persons and in the case of Slough Borough Council, those are its Councillors and Council Officers.
- 2.4 Slough Borough Council is the trustee of the charitable Trusts. The Councillors, and indeed Council Officers, are not. The Councillors and Council Officers rather manage the Trust's affairs on behalf of the Council.
- 2.5 When Councillors are making decisions on behalf of the Council dealing with Trust matters, they do not have the same responsibilities and hence liabilities as that of trustees.

3. Councillor's Duties

- 3.1 Whilst it is clear that Councillors are not trustees and hence do not have the same responsibilities and liabilities as a trustee, even when making decisions on behalf of the Council when the Council is acting as Trustee; Councillors do conduct the affairs of the Trust and their decision making directly affects how the Trusts are managed and could put the Council in breach of its duties to the Trusts.

4. Key Duties of Trustees

- 4.1 Although Councillors are not trustees under the Trusts, these duties have to be considered when contemplating decision making on behalf of Slough Borough Council, when it is acting as the corporate trustee in relation to the Trusts.
- 4.2 Trustees must ensure that the Trust is carrying out its purpose for the public benefit and comply with their governing document and the law.
- 4.3 Trustees must always act in the Trust's best interests. This means making balanced and informed decisions based on professional advice. Trustees must deal appropriately with any conflicts of interest.
- 4.4 Trustees must manage their Trust's resources responsibly and this entails implementing the necessary financial controls and managing any risks.
- 4.5 Trustees must act with reasonable care and skill and this necessitates using their accumulated skills and experiences and tempering it with the appropriate legal and professional advice.

5. Executive Summary

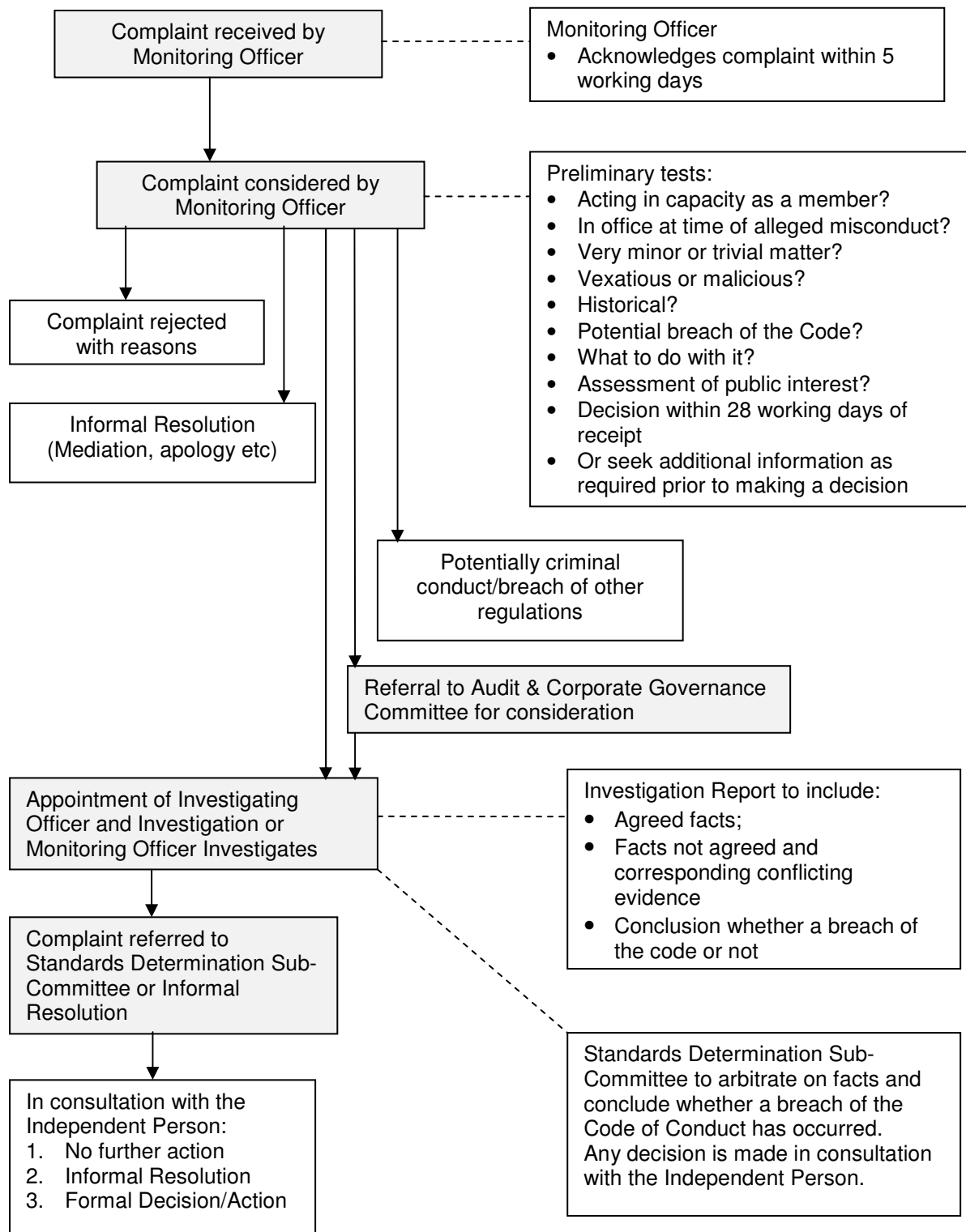
- 5.1 In summary, the trustee for both of the Trusts is the Slough Borough Council.
- 5.2 The Councillors are not trustees and hence do not have the same responsibilities and liabilities as if they were individual trustees.
- 5.3 The Councillors do, however, act and make key decisions on behalf of the Council, when it is acting in its capacity as corporate trustee on behalf of the Trusts.
- 5.4 Councillors should be extra vigilant and approach Trust matters within their respective contexts rather than as usual Council business.

Date: 23 August 201

PART 2: THE COMPLAINTS PROCESS

Complaints against Members process is set out in the flow chart below

Appendix 1
Complaints Procedure Flowchart



MEMBERS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

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

Complaints which may be referred to the Audit & Corporate Governance Committee

1. It is serious enough, if proven, to justify the range of actions available to the Standards Determination Sub-Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation.
3. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
4. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate.
5. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate.