

You are requested to attend a meeting of the Standards Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 19 January 2010 at 14:30.

Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Standards Committee held on 9 December 2009 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 Member Officer Protocol. Report of the Monitoring Officer (attached).
Reporting Officer: Tonya Meers
- 6 Ethical Governance Toolkit - Approval of covering letter. Report of the Monitoring Officer (attached).
Reporting Officer: Tonya Meers
- 7 Guidance on Personal and Prejudicial Interests (attached). Monitoring Officer to report.
Reporting Officer: Tonya Meers
- 8 The Annual Report. Verbal report of the Monitoring Officer.
Reporting Officer: Tonya Meers
- 9 Attendance at Taunton Deane Committee meetings by the independent Members.
- 10 Letter to the Adjudication Panel following the hearing into the complaint against a former Councillor. Monitoring Officer to report.
Reporting Officer: Tonya Meers
- 11 Forward Plan of the Standards Committee (attached).
- 12 Date of next meeting.

The following items are likely to be considered after the exclusion of the press and public because of the likelihood that exempt information would otherwise be disclosed relating to the Clause set out below of Schedule 12A of the Local Government Act 1972.

- 13 Update on complaints made against Councillors under the Local Assessment Framework. Report of the Monitoring Officer (attached).
Clause 2 - Information which would reveal the identity of an individual.
Reporting Officer: Tonya Meers
- 14 Report on other action. Report of the Monitoring Officer (attached).
Clause 2 - Information which would reveal the identity of an individual.
Reporting Officer: Tonya Meers

Tonya Meers
Legal and Democratic Services Manager

12 January 2010

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

If a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: www.tauntondeane.gov.uk



Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

For further information about the meeting, please contact Democratic Services on 01823 356382 or email d.durham@tauntondeane.gov.uk

Standards Committee Members:-

Councillor D House
Councillor J Allgrove
Councillor S Brooks

Standards Committee – 9 December 2009

Minutes of a meeting of the Standards Committee held in the John Meikle Room, The Deane House, Belvedere Road, Taunton on Wednesday, 9 December 2009 at 3.30 p.m.

Present: Mrs A Elder (Chairman)
Mr M Stanbury (Vice-Chairman)
Councillors Mrs Allgrove and House
Mr A Cottrell, Mr D Macey, Mr P Malim OBE, Mr L Rogers and
Mr R Symons

Officers: Mrs P James (Chief Executive), Mrs T Meers (Monitoring Officer) and
Mr R Bryant (Democratic Services Manager)

54. Apologies

Councillor Brooks, Mr M Marshall and Mr B Wilson.

55. Minutes

The minutes of the previous meeting of the Committee held on 20 October 2009 were taken as read and were signed.

The Chairman reported that she had been invited to attend a meeting of the Somerset County Council's Standards Committee following Mr Park's attendance at the last meeting of Taunton Deane's Committee. She had attended County Hall on 2 December 2009 and gave Members a resume of her experience. The main differences were the way in which the County Council's Committee operated and the excessive length of their agenda.

56. Declaration of Interests

The Chairman declared a personal interest as a Member of the House Management Committee of one of the premises operated by the Royal Agricultural Benevolent Institution. Councillor Mrs Allgrove declared a personal interest as Chairman of the Somerset Association of Local Councils.

57. Standards and Taunton Deane Borough Council

The Chairman welcomed Mrs Penny James, Taunton Deane's Chief Executive, to the meeting.

Mrs James explained that she had been invited to attend to not only reinforce her support for the work of the Standards Committee but to answer any specific queries Members of the Committee might have.

The Chairman stated that although the support received from both Tonya Meers and Richard Bryant was greatly appreciated there were times in recent months where it had appeared that more resources would be needed in the

future if the anticipated workload of the Committee was to be effectively carried out. She asked how further resources could be obtained.

Mrs James stated that if it was obvious the level of support was not as it should be, a clear case for additional resources could be submitted at the appropriate time when the budget for the next financial year was under discussion.

The Vice-Chairman, Mr Maurice Stanbury, referred to the recent investigation into alleged breaches of the Code of Conduct by former Councillor Andrew Woolley. The investigation had thrown up a number of issues as to procedure which the Committee's Consideration Sub-Committee had recommended should be looked at further.

Although he was aware these issues were being considered internally, Mr Stanbury was concerned that there was no formal route available for the Standards Committee to make recommendations to the Council.

Mrs James explained that it might be possible for such issues to be included within the Corporate Improvement Plan which in turn, could be considered by the Council's Committee structure. However, she would discuss with Mrs Meers the best way of resolving the points made.

Councillor Mrs Allgrove felt that any major changes to the way the Committee operated would be, in her opinion, unnecessary. The Committee had always sought to pre-empt the introduction of Regulations and this had been shown to have been prudent to do so.

She went on to say that she regretted the decision at Full Council last night not to increase the small allowance paid to the independent Members of the Committee particularly as their responsibility had increased considerably since the introduction of the Local Assessment Framework.

Mr Lynn Rogers agreed with this latter point. He had attended the meeting of the Corporate Scrutiny Committee in November where Members' Allowances had also been discussed and it had been clear that Councillors did not know very much at all about the work of the Standards Committee.

Mrs James agreed that the profile of the Committee needed to be raised and suggested that a presentation could perhaps be made to a future meeting of Full Council in a further attempt to do this.

On behalf of the Committee, the Chairman thanked Mrs James for her contributions to the meeting.

58. Ethical Governance Toolkit

Reference Minute No. 42/2009, reported that following the Committee's support at the last meeting for a "light touch" health check to be undertaken to establish how far the Ethical Governance Framework had been embedded

into the Council, Mrs Meers submitted for consideration drafts of a questionnaire and covering letter to be used to gather information.

Mrs Meers explained that the questionnaire would be sent to all Taunton Deane Councillors and Managers and, eventually, to all Parishes Councils too. She added that, in her view, with the Core Council Review currently taking place, it was a good time to circulate the questionnaire internally.

In response to comments from Members, Mrs Meers stated that she would attempt to simplify the questionnaire and re-word the letter and that Unison would also be invited to participate. Members suggested that the questionnaire was sent electronically as it was thought it could be answered quite quickly as most of the answers would be a simple yes or no.

The Committee went on to discuss how the results of the questionnaire should be reported back. In the previous discussion with the Chief Executive it had been suggested that a presentation could be made to Full Council about the work of the Standards Committee. It was felt this would be the ideal route for also feeding the information received from the questionnaire back to the Councillors and to inform them as to how it would be used to facilitate focused workshops and an action plan for the future.

Mrs Meers reported that if the questionnaires were distributed following the next meeting of the Committee in January 2010, it would be feasible to target the April Full Council meeting for the presentation.

This was accepted by the Committee.

59. Joint Standards Committees

Reference Minute No. 43/2009, Mrs Meers reported that she had informally discussed with Somerset County Council the possibility of forming a Joint Standards Committee.

The County Council had indicated that they were not interested in doing so formally but might consider joint working on an ad-hoc basis. Standards for England had confirmed however that ad-hoc arrangements would not be acceptable.

Mrs Meers asked whether the possibility of forming a Joint Committee should continue to be considered. Having looked at this again she was of the view that although there would be some advantages with such a Committee, there would be disadvantages too through the inflexibility of the regulations and the additional cost burden that would no doubt result.

Resolved that the formation of a Joint Standards Committee with another Local Authority in Somerset be not pursued for the foreseeable future.

60. Leaflet on Dispensations

Reported that The Standards Committee (Further Provisions) (England) Regulations 2009 had come into force on the 15 June 2009.

Amongst other things, the Regulations had extended the power of Standards Committees to give Members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest.

As a result it had been agreed at a previous meeting that guidance on dispensations should be sent to all Parish Councils in the form of a leaflet. A draft of the leaflet was circulated for comment by the Committee.

Members felt that the leaflet should be accompanied with a brief covering letter summarising the guidance and that once the leaflet had been produced a copy should be sent to the Somerset Association of Local Councils for information.

Resolved that the leaflet titled "Guidance on Dispensations for Town and Parish Councillors" be agreed.

61. Better working with other Committees

Although the Committee had already discussed making a presentation to Full Council as a means of raising its profile, Mrs Meers reported that there were other means of doing so too. These included:-

- The independent Members continuing to attend meeting of Taunton Deane's Full Council, Executive and Committee meetings. In this regard, Members requested names plates to be provided so the Councillors present were aware who from the Standards Committee was present;
- Better use of Taunton Deane's website to highlight the work of the Committee and to provide suitable links, for example to the Standards for England Website and that of the Adjudication Panel;
- Taking photographs of each Member for use on the website and other publications to enable Councillors to better recognise the Members of the Standards Committee; and
- Using the Council's Weekly Bulletin to keep Councillors informed of the work being undertaken by the Committee.

The Committee agreed that these suggestions should be implemented.

62. Exclusion of the Press and Public

Resolved that the press and public be excluded from the meeting for the following item because of the likelihood that exempt information would otherwise be disclosed relating to Clause 12 of Schedule 12A to the Local Government Act 1972 and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

63. Update on complaints made against Councillors

Mrs Meers circulated an updated spreadsheet which outlined the current position relating to complaints that had been received to date against Councillors under the Local Standards Framework. A total of eight complaints had been received, all which related to Borough Councillors.

Councillor Bowrah had made the required written apology to the Planning Committee for the comments he had made in relation to a particular planning application.

The Adjudication Panel had met on Friday, 13 November 2009 to consider the complaint that had been made against former Councillor Andrew Woolley.

Even though the Panel had found that Mr Woolley had breached the Code of Conduct and had been barred from being a Councillor for a two year period, those Members of the Committee who had attended the hearing had been concerned as to how it had been conducted.

There had been a lack of formality as to the proceedings, no opportunity for Mrs Meers, as Taunton Deane's Monitoring Officer, to address the Panel and even more surprisingly, the Members of the Panel seemed unsure of the Regulations.

As a result, it was agreed that a letter should be sent to the Chairman of the Adjudication Panel setting out these concerns and asking for their comments.

Further reported that an outside investigator had now been appointed to carry out the investigation into complaint No. 2009/03.

Resolved that the report be noted.

64. Report on Other Action

Submitted report previously circulated concerning the latest complaint received against a Taunton Deane Councillor.

The Committee's Assessment Sub-Committee had decided that in this particular case, 'Other Action' (instead of the complaint being referred for formal investigation) was appropriate.

Mrs Meers reported on the action she had taken with the Councillor concerned.

Resolved that the report be noted.

65. Date of the next meeting

The next meeting would be on Tuesday, 19 January 2010 at 2.30 p.m. in The John Meikle Room at The Deane House.

(The meeting ended at 5.35 p.m.)

Taunton Deane Borough Council

Standards Committee - 19 January 2010

Member Officer Protocol

Report of the Monitoring Officer, Tonya Meers

1. Purpose of the Report

- 1.1 To agree a revised protocol for inclusion within the Constitution.

2. Background

- 2.1 The Constitution is undergoing a complete review and the current protocol, a copy of which is attached at Appendix A, has been in place since 2001.
- 2.2 Therefore it seemed appropriate for the protocol to be reviewed and brought up to date with changes that have occurred over the years.
- 2.3 A revised protocol is attached at Appendix B and members are requested to review the revised protocol and agree a new protocol for inclusion within the revised Constitution.

3. Recommendation

- 3.1 To approve a revised Member Officer Protocol.

Contact Tonya Meers, Monitoring Officer,
t.meers@tauntondeane.gov.uk Tel: 01823 356391

Appendix A

PROTOCOL FOR MEMBER-OFFICER RELATIONS

Protocol for Member/Officer Relations

1. Introduction

Members and officers are both involved in furthering the best interests of the community they serve. Although they work together to fulfil certain goals, the roles played out by members and officers are different and the relationship between elected member and professional officer needs to reflect those roles.

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 serve only so long as their term of office lasts. Officers are responsible to the Council as a whole.

Comment [apf1]: Update needed

- 1.3 In TDBC the culture between members and officers is one of openness and approachability, with members able to contact officers at the most appropriate level to discuss an issue or raise a query. This approach has worked well for both members and officers, and it has built up good working relationships. In the interests of maintaining these good relationships this protocol aims to offer guidance to members and officers in their dealings with one another. It will not cover every possible situation, but is intended to be a framework for good relations.

2. Members' Access to Information

- 2.1 Members are free to approach any Service Unit to provide them with such information, explanation and advice (about the Unit's functions) as they may reasonably need to assist them in their role as councillors. This can range from a request for general information about some aspect of a Unit's activities to specific information on behalf of a constituent. There is a presumption towards disclosure under the FOI Act unless exceptional circumstances apply. The most important of these is the need to protect personal information about an individual under the DPA.
- 2.2 This balance between an individual's right to confidentiality and a councillor's need to have full information as a member of the Council is a delicate one. There may well be a conflict between a councillor's request and the protection provided to individuals by the DPA. Members have a right to inspect council documents *so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council.* This principle is commonly known as the 'need to know' principle. But, on the other hand, a member has no right to a 'roving commission' to examine council documents. Mere

curiosity is not a sufficient reason. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Service Manager whose Unit holds the document in question. In the case of continuing disagreement the issue shall be decided by the Monitoring Officer or Head of Paid Service.

- 2.3 In most cases, the FOI Act will give a councillor the right to disclosure of the information requested. But - in other circumstances (for instance where a member wants to inspect documents which contain personal information about third parties) - a member will be expected to justify that request. This may be done - for example - by producing a letter from a third party giving permission for the councillor to have access to such personal information.
- 2.4 Any Council information provided to a member must only be used by the member for the purpose for which it was provided, that is, in connection with the proper performance of the member's duties as a member of the Council - and not for any personal or business purpose.
- 2.5 The importance of non-disclosure of confidential information is a point which is heavily emphasised in the Council's Code of Conduct:-

(take in 4a from Code – not the numbered sub-**paras**)

Comment [apf2]: Code

3. Officer/Executive or Chairman Relations

- 3.1 It is important that there should be a close working relationship between Executive Councillors and Directors. A similar approach is needed with Chairmen of Panels and other senior reporting officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other members and other party groups.
- 3.2 While the Leader of the Executive or the Chairman of a Panel will be fully involved in the process of drawing up agenda, it must be recognised that there will be some situations where an officer has a duty to submit a report on a particular matter. Similarly, an officer (in the same way as any member) will always be fully responsible for the contents of any report which is submitted in their name. Any disagreements arising between an Executive Councillor or Chairman and an officer over this kind of issue should be referred to the relevant Director to resolve with the Executive Councillor or Chairman. Where necessary any unresolved issues should be referred to the Chief Executive and the Leader of the Executive or (where appropriate) the Chairman of the Review Board.

- 3.3 Finally, to avoid misunderstandings, it must be remembered that officers are accountable to their Director. So, while officers will always seek to assist an Executive Councillor or Chairman (or indeed any member), they must not, in doing so, go beyond the bounds of whatever authority they have been given by their Director.

4. Members Requesting Action from Officers

- 4.1 Members are encouraged to approach the relevant officer for any issue or query they wish to raise. Every Executive/Panel report and Bulletin item will have the name of a contact officer printed on it. For other issues, if members are not sure who to contact, they should ask someone in the Member Services Unit for help.
- 4.2 Because of the limits placed on officers' authority, there will be times when members may approach an officer with a request which they are unable to respond to because it lies outside the officer's remit, the budget or Council policy. If this occurs, the officer can properly refuse that request and, instead, advise the member to take the issue to the officer's Service Manager or Director for clarification.

5. Officers Providing Advice to Political Groups

- 5.1 The only officers who should normally be invited to give presentations or to respond to questions from the political groups are the Chief Executive and the Directors. Any invitation for any other officer to attend such a meeting should similarly be made to the Chief Executive or a Director.
- 5.2 All officers, in their professional capacity, must be seen to be politically neutral and any such support given to one party should, as a matter of course, be offered to the other parties. Support offered to political groups should only relate to matters of Council business and great care should be taken to avoid officers becoming involved in any way in matters of party business.
- 5.3 Party group meetings, while they form part of the preliminaries to Council decision making, are not empowered to make decisions on the behalf of the Council. Conclusions reached at such meetings are not Council decisions and should not be interpreted or acted upon as such. Similarly, where officers provide information and advice to a party group meeting, this should not be seen as a substitute for their duty to provide all necessary information and advice to the relevant decision-maker when the matter in question comes formally before the Council.
- 5.4 Care should be exercised when officers are providing information and advice to any party group meeting which includes people who are not

councillors. Such people are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declarations of interests and confidentiality) and for this reason officers may not be able to provide the same level of openness as they would to a members-only meeting.

- 5.5 Officers must respect the confidentiality of any discussions or correspondence they have with representative(s) of a party group, and should not relay the content of any such discussion to another party group.
- 5.6 Any cases of difficulty or uncertainty in this area should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

6. Support for Members

- 6.1 The basis on which the Council provides support services (for example, stationery, typing, printing, photocopying, IT services, personal computers and fax machines) to members is to help them to be fully effective in undertaking their role as members of the Council. Such support services must therefore only be used on Council business. They should not be used in connection with any party political or campaigning activity or for private purposes.

7. Correspondence

- 7.1 Correspondence between an individual member and an officer should not normally be copied by the officer to any other member. Where exceptionally it is necessary to copy correspondence to another member, this should be made clear to the original member. In other words, a system of 'silent copies' should not be employed.
- 7.2 Any quote or text attributed to a member in a press release or correspondence with the public, must first be approved by that member with an opportunity for them to make amendments as they see fit.

8. Involvement of Ward Councillors

- 8.1 Officers should be aware of the ward implications of a Councillor's work and keep them informed of any development or consultation happening in their ward. The Democratic and Legal Services Unit provides a ward-based information service which aims to find items which will help members in their local representative role. For consultation exercises, such as public meetings organised by the Council, officers should ensure that ward members are invited to attend.

9. Members' and Officers' Free Time

- 9.1 Both members and officers have a right to free time outside their Council roles. Council business should only be discussed when both member and officer are acting in their official capacity and free time outside those roles should be respected.

10. Disputes Between a Member and an Officer

- 10.1 If a dispute arises between a member and an officer, the issue should be referred to the relevant Director or to the Chief Executive. They will take the issue up with the member's Group Leader and/or the individual member concerned.
- 10.2 Local Government is dependent on good working relations and respect between members and officers. It is important, therefore, that members do not harass or verbally abuse officers, and vice versa. (Note: Paragraph 3 of the Members' Code of Conduct proscribes any bullying conduct by a councillor). Officers may not feel in a position to respond to the member's criticism. If such an incident should occur - and has not been settled - it should be drawn to the attention of the Chief Executive or the Monitoring Officer for it to be resolved in consultation with the Leader of the Executive and the individual councillor's Group Leader.

Appendix B

**PROTOCOL
FOR
MEMBER-OFFICER
RELATIONS**

Protocol for Member/Officer Relations

1. Introduction

Members and officers are both involved in furthering the best interests of the community they serve. Although they work together to fulfil certain goals, the roles played out by members and officers are different and the relationship between elected member and professional officer needs to reflect those roles.

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 serve only so long as their term of office lasts. Officers are responsible to the Council as a whole

In TDBC the culture between members and officers is one of openness and approachability, with members able to contact officers at the most appropriate level to discuss an issue or raise a query. This approach has worked well for both members and officers, and it has built up good working relationships. In the interests of maintaining these good relationships this protocol aims to offer guidance to members and officers in their dealings with one another. It will not cover every possible situation, but is intended to be a framework for good relations.

This protocol should be recognised both as a central element of the Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It's one way of demonstrating to the public at large that local government is serious about protecting and its integrity and reputation.

Members and officer must at all times observe this protocol. It should not be considered simply as a list of do's and don'ts but also as guidance on cultural and behavioural matters to ensure that the Council benefits from good working relationships and achieves its full potential in delivering services to the community it serves.

2. Fundamental Principles

- Members and Officers of the Council are obliged to act within the law and in compliance with relevant standards and codes of conduct.

- The role of a Member is defined by Statute. In law all Members are equal and have the responsibility of trustees.
- The over-riding duty of a Member is to the whole community, with a special duty (if a councillor) to their constituents.
- Officers serve the whole Council as a single statutory corporate body.
- Officers advise the Executive, the Council and its committees and are responsible for ensuring that the decisions of the Council are effectively implemented.
- Officers are required to be politically neutral and, for some employees, this is enforced through political restrictions imposed by the Local Government and Housing Act 1989.
- The interests of the Council are best served where there is mutual confidence and trust between all Members and Officers.
- Both Members and Officers have responsibility for decision making within the schemes of delegation for both Council and Executive functions as set out in the Council's Constitution
- Members should understand and respect the roles of the Council's main statutory officers (namely, the Chief Executive as Head of Paid Service, the Legal & Democratic Services Manager as Monitoring Officer and the Strategic Director as Section 151 Officer)
- The Chief Executive and Senior officers working with her should work closely with members of the ruling group to ensure effective policy development and efficient executive decision making.
- Officers will provide adequate support to all Members in their local or representational role.

3. The relationship between members and officers: general

Respect and courtesy

- (a) For the effective conduct of Council business there must be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Members and Officers. It is very important that both Members and Officers remember their respective obligations

to enhance the Council's reputation and to do what they can to avoid criticism of Members and Officers.

- (b) If an Officer is in breach of this requirement, some form of disciplinary action may result as a consequence of investigation by a Strategic Director or Chief Executive.
- (c) If a Member is in breach, then the matter will be discussed, if appropriate with the Chief Executive and/or Monitoring Officer, and can then be dealt with within their political group or referred to the Council's Standards Committee

Undue Pressure

- (a) In their dealings with Chief Officers and, more particularly, other Officers, Members must remain aware at all that Officers have no discretion to act outside Council policies.
- (b) A Member should not apply undue pressure on an officer either to do anything that they are not empowered to do, or to undertake work outside normal duties, or outside normal hours. A Member should not seek to instruct, or direct the work of, individual employees, nor create a situation that places, or could place, any Officer in conflict with his or her line manager.
- (c) Similarly, an Officer must neither seek to use undue influence on an individual Member to make a decision in that Officer's favour or to his or her advantage, nor raise with a Member personal matters to do with their work, nor make claims or allegations to a Member about another Member or Officer.

Familiarity

Close familiarity between Members and Officers must be avoided. It can damage the principle of mutual respect and could lead to passing of confidential information, or information which should not properly be passed between them. Such familiarity could also cause embarrassment to other Members and/or Officers or could give rise to a suspicion or perceptions of favouritism.

4. Provision of Advice

- (a) Members should recognise that Officers have the duty and right to provide appropriate professional advice, and the right to have that advice recorded, so that all Members are fully aware of the implications of their decisions.
- (b) Officers should recognise that it is the right of the Members to take the final decisions in the light of their advice.
- (c) The provision of that advice is that principal means by which Members can gain assurance that their decisions comply with the law and relevant standards or codes of conduct and are in accordance with Council policies and procedures. Members must avoid taking actions, which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct to have regard to, when reaching decisions, to any advice provided by the Monitoring Officer or the S151 Finance Officer
- (d) The advice provided by the Officers should be factual, honest, objective and politically neutral and based on professional experience and expertise.
- (e) The advice should be sensitive to the political aspirations and constraints of Members but should not reflect, or be influenced by, those aspirations and constraints.
- (f) The advice given by Officers will have the ultimate aim of serving the interests of the Council as a whole, irrespective of whether the current emphasis of an Officer's role and to help members attain their policy goals.
- (g) It is improper for any Member to seek to influence Officer advice and/or recommendations by subjecting any officer to undue pressure. Such advice and recommendations must be those of the officer only.

Information and the political perspective

- (a) All information will be open and accessible, subject to legislative requirements on exempt and confidential information and the Data Protection Act.
- (b) For the proper functioning of the Council as a whole, Officers will normally be permitted to share information freely between each other.
- (c) Where the information has been supplied/received subject to a request for party political confidentiality, an Officer will be permitted to share that information with other Officers if he/she believes that to be necessary - for example for the purpose of verifying the legality, financial probity or procedural regularity of any proposed course of action disclosed by that information. However, the request for party political confidentiality will be confirmed to, and honoured by, any Officers with whom the information is shared.
- (d) Appropriate and regular liaison between Members and Officers connected with the Executive and Overview & Scrutiny aspects of the Council should avoid the relationship between Overview & Scrutiny and the Executive becoming adversarial and polarised. This liaison, combined with the politically balanced nature of Overview & Scrutiny, should reduce the number of occasions on which it is necessary for information to be supplied by Councillors to Officers on a party political confidential basis at the Executive/Overview & Scrutiny levels.
- (e) Officers can share with the appropriate Portfolio holder any factual information supplied to any other Member.
- (f) Where information is supplied to Officers on a party political confidential basis, the Officers will respect that confidentiality unless the Officers believe that the proposed course of action appears to be in conflict with the law, or any relevant standards or codes of conduct, or would amount to an abuse of the processes of the Council.
- (g) Where party political confidentiality would be maintained in accordance with the preceding sub-paragraph, the Officers may, nonetheless, seek to persuade the Members requesting the confidentiality to agree to that information being shared with the other political groups on the grounds that it would assist the more effective functioning of the Council; however, in the absence of any

such agreement to waive the confidentiality, the Officers would continue to respect it.

- (h) Where there is a change in Political Administration, the Officers will act in relation to the new Administration and Opposition party or parties in the same way as they did for the old; and will continue to respect any continuing party political confidentiality.

Party group meetings and Officers

- (a) Senior officers may properly be asked to provide advice and information on matters concerning Council business by party groups but should not contribute to deliberations of the group. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf. In their dealings with party groups, officers must treat each group in a fair transparent and even-handed manner. If one group requests particular support then other groups will be offered the opportunity to have similar support.
- (b) Officers have the right to refuse such requests, and will not attend a meeting of a party group where some of those attending are not members of the Council, unless specific authority has been given by the Chief Executive who has the discretion to discuss the request with other group leaders.
- (c) Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
- (d) Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer does not confer formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- (e) Where officers provide factual information and advice to a party group in relation to a matter of Council business, this will not be a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- (f) It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because

he/she has attended or provided information to the meeting of the group.

- (g) Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- (h) Members must not do anything which compromises or is likely to compromise officers' impartiality. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- (i) An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.

5. Members' and Officers' free time

Both Members and Officers have a right to free time outside of their Council roles. Council business should only be discussed when both Member and Officer are acting in their official capacity and free time outside of those roles should be respected.

6. Redress

- (a) Local Government is dependent on good working relations and respect between members and officers. It is important, therefore, that members do not harass or verbally abuse officers, and vice versa. (Note: Paragraph 3 of the Members Code of Conduct proscribes any bullying conduct by a Member and the attached appendix to this Protocol). Officers may not feel in a position to respond to the Member's criticism. If such an incident should occur – and has not been settled – it should be drawn to the attention of the Chief Executive and/or the Monitoring Officer for it to be resolved in consultation with the Leader of the Executive and the individual Member's Group Leader.
- (b) If a Member considers that they have not been treated properly by an Officer, they should first try to resolve the matter through direct discussion with that Officer.
- (c) The Member may raise the matter with the officer's Line Manager or Strategic Director if the matter cannot be resolved through such

discussion. A Member may raise the issue with the Chief Executive if it remains unresolved. Where appropriate, disciplinary action may be taken against an Officer

- (d) Similarly, if an Officer feels that they have not been treated properly by a Member and they feel unable to resolve the matter directly with that Member, the Officer should raise the issue with the appropriate Strategic Director. In such circumstances the Strategic Director will take such action as is appropriate, including, if necessary, raising the matter with the relevant Group Leader.
- (e) The Strategic Director will inform the Chief Executive if the Group Leader becomes involved, and, in other cases, where appropriate.
- (f) If any matter covered by (d) above involves an actual or potential breach of the Code of Conduct for Members, it should be referred to the Monitoring Officer.

7. Arbitration

When necessary or appropriate, the Chief Executive will arbitrate on the interpretation of this Protocol.

PROTOCOL ON HARASSMENT, INTIMIDATION AND UNACCEPTABLE BEHAVIOUR

1. INTRODUCTION

Taunton Deane Borough Council expects the highest standard of behaviour from its Members and Officers. It recognizes acceptable behaviour as the norm and any form of inappropriate behaviour, including harassment or intimidation is unacceptable. The Council views any harassment or other inappropriate behaviour with the utmost seriousness and is committed to taking positive action to eradicate it.

Unacceptable behaviour by Officers will be dealt with through the Council's grievance and disciplinary procedures. As Members and non-elected members are not employees and therefore not subject to employee disciplinary procedures this protocol will apply where a Member or non-elected member or officer feels that they are being treated in an unacceptable way by a Member or non-elected Member of the Council.

2. WHAT IS HARASSMENT AND INTIMIDATION?

Harassment and intimidation take many forms, therefore it is difficult to give a single definition. It may be directed at an individual or a group, and it may be unintentional. If you feel that you have been treated in a way that is detrimental to your dignity, then you may have been subjected to harassment. Essentially, harassment is unwanted, unreasonable, unwelcome and offensive treatment and includes bullying and threatening behaviour. It includes any treatment which the officer considers to be unreasonable and unwelcome and which causes intimidation or offence.

Members and non-elected Members are not employees of the Council and are therefore not part of the usual management arrangements. It is easy for Officers to be overawed by Members and non-elected Members and Members and non-elected Members need to be aware that they are not in the usual manager/subordinate relationship.

Harassment may show itself in different ways, including the following:

- . physical contact, from touching to serious assault;

- . bullying, e.g. threatening behaviour, constant unwarranted criticism, belittling or exclusion by colleagues;
- . intimidation including threats concerning job security or promotion;
- . jokes, offensive language, suggestive remarks or gossip;
- . visual display, e.g. pictures or posters which could cause offence;
- . discrimination, e.g. on the grounds of race, religion, ethnic origin, disability, gender or sexual orientation, or age coercion;
- . indecent, suggestive or over-familiar behaviour or obscene gestures;
- . undue pressure to take or make a particular decision;
- . misuse of powers in order to intimidate or undermine.

3. THE IMPLICATIONS OF HARASSMENT

There are many consequences for the Council if it accepts or tolerates intimidation, harassment, threatening and bullying and other forms of unacceptable behaviour. For example, it can result in a “blame culture” which hampers flair and innovation. Furthermore, such incidents could result in substantial employment claims against the Council for discrimination, stress or other matters. The Council is also mindful of the comments by the Society of Local Authority Chief Executives that they believe that:

“good local authorities are characterised by two things: clear political leadership and strong management competencies. We believe that these cannot exist in places where a climate of bullying and fear is seen as acceptable. We further believe that such behaviour provides a breeding ground for poor performance and may even contribute to corruption where Officers (and Members) feel unable to challenge decisions of overly powerful Councillors or colleagues.”

4. MAKING A COMPLAINT

Any complaints by an officer about a Member or a non-elected Member should be referred in the first instance to their Strategic Director or the Chief

Executive.

Complaints by a Member or non-elected Member about another Member or non-elected Member should be referred in the first instance to their Group Leader.

The response to a complaint of harassment will be:

- . the complaint will be treated seriously;
- . the complaint will be dealt with in a sensitive and confidential way;
- . help and support throughout the process of dealing with the issue will be provided;
- . anyone subjected to harassment will not suffer or be victimised through making a complaint;
- . The Council will regard any such incidents as serious and they will be fully investigated and acted upon as appropriate.

Initially unacceptable behaviour will be approached by mediation by or within the political group concerned where appropriate. In the event of no change in conduct or other acceptable outcome then, if appropriate, the matter may be referred to the Council's Standards Committee.

5. ENCOURAGING ACCEPTABLE BEHAVIOUR

Acceptable behaviour in the workplace is behaviour that demonstrates a commitment to the Council's Core values. In support of this all Members, non-elected Members and Officers can:

- . afford dignity, trust and respect to everyone and ourselves;
- . be aware of the effect of our behaviour on others;
- . only make reasonable and manageable demands;
- . communicate honestly and openly, clearly stating what we mean and expect of others;
- . provide honest feedback based on evidence and be open to constructive criticism;

. start from the assumption that everyone is working to the best of their ability, considering the current stage of personal and professional development.

Taunton Deane Borough Council

Standards Committee – 19 January 2010

Ethical Governance Toolkit

Report of the Monitoring Officer, Tonya Meers

1. Purpose of the Report

- 1.1 To agree the letter to go out in respect of the Ethical Governance Toolkit and to decide to whom it should be sent in the first tranche.

2. Background

- 2.1 In October this Committee agreed to carry out a 'light touch' health check to establish how far the ethical governance framework had been embedded into the Council.
- 2.2 The Committee agreed at its last meeting on 9 December 2009 that the questionnaire prepared by the Monitoring Officer should be sent out towards the end of January 2010 together with a suitably worded covering letter.
- 2.3 The proposed letter has been prepared and is attached at Appendix A to this report.

3. Recommendation

- 3.1 To approve the letter to accompany the previously agreed questionnaire and agree to whom it should be sent.

Contact Tonya Meers, Monitoring Officer,
t.meers@tauntondeane.gov.uk Tel: 01823 356391

Tonya Meers

Legal and Democratic Services

The Deane House, Belvedere Road, Taunton TA1 1HE

Tel 01823 356391 Fax 01823 356329

email: t.meers@tauntondeane.gov.uk

Our Ref: TM/102567

Your Ref:

«Date»

«Name and Address (no more than 6 lines)»

Dear Member/Officer

Ethical Standards Self Assessment Survey

I am one of the Independent Members and also the Chairman of the Standards Committee of Taunton Deane Borough Council and with the support of the Leader of the Council, I am writing to you to introduce a self-assessment survey of Ethical Standards within the Council.

As you will hopefully be aware the Standards Committee has a statutory responsibility to promote and maintain high standards of conduct and to assist elected members to observe the Code of Conduct. The Committee is also responsible for guidance and training on matters relating to the Code. It is important that there is a check on whether there are issues that have not yet come to the surface that could be dealt with more easily by an earlier intervention. The Committee need to establish where and what the issues may be as part of an initial "health check".

As part of the first stage, we are surveying the views of both officers and members of the Borough council in relation to a wide area of ethical governance related matters. You are one of the "chosen" ones and your assistance in completing and returning the attached form will be greatly appreciated by the whole Committee. The survey results will help the Committee to identify and concentrate on those areas that require further development, improvement or support. It will also help the Council to demonstrate that it has arrangements in place designed to promote and ensure probity and propriety in the conduct of its business, in accordance with the key lines of enquiry for the Use of Resources Assessment carried out by the Audit Commission. Finally, it will provide a benchmark for comparison with surveys carried out in subsequent years.

No doubt you will appreciate that failure to achieve high ethical standards has consequences in terms of loss of credibility and public confidence, allegations of breaches of the Code of Conduct, poor decision-making and possible challenge. We

all have a responsibility to ensure that the reputation of local government is strengthened particularly at a time when the reputation of government generally is under such close public scrutiny and therefore your participation in this matter would be very much appreciated.

Therefore I would be grateful if you would complete the attached survey and return it to the address provided by 2010. Once all of the information has been collated it will enable the Standards Committee to assess areas that require further development as stated above and a programme of training/information sharing will be arranged.

Yours faithfully

Anne Elder

Chair of the Standards Committee

Ross Henley

Leader of the Council

Guidance for Members on Interests under the Code Of Conduct

Personal and prejudicial interests

Personal and prejudicial interests are covered by paragraphs 8-13 of the Code of Conduct.

What is a personal interest?

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- 1) An interest that you must register.
- 2) An interest that is not on your register but where the **well-being or financial position of you, members of your family, or people or bodies with whom you have a close association**, is likely to be affected by the business of your authority more than it would affect the majority of:
 - inhabitants of the ward or electoral divisions affected by the decision (in the case of authorities with wards or electoral divisions)
 - inhabitants of the assembly constituency affected by the decision (in the case of the Greater London Authority)
 - inhabitants of the authority's area (in all other cases).

What should I do if I have a personal interest?

You **must** declare that you have a personal interest and the nature of the interest as soon as it becomes apparent to you in all formal meetings before the matter is discussed.

However, where an interest arises solely from membership of, position of control or management on:

- any other body to which you were appointed or nominated by the authority
- any other body exercising functions of a public nature, for example if you have been appointed as a school governor
- **you will only need to declare your interest if and when you speak on a matter, provided that you do not have a prejudicial interest.**

What is a prejudicial interest?

Your personal interest will also be a prejudicial interest if it meets **all** of the following conditions:

- a) The matter does not fall within one of the exempt categories of decisions under paragraph 10(2) (c), for example setting the council tax.
- b) The matter affects your interests financially or is about a licensing, planning or other regulatory matter that might affect your interests.
- c) A member of the public, who knows the relevant facts, would reasonably think your personal interest so significant that it is likely to prejudice your judgment of the public interest.

What should I do if I have a prejudicial interest?

You must declare that you have a prejudicial interest and the nature of that interest as soon as that interest becomes apparent.

You should leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If this is the case, you can also attend the meeting for that purpose.

You must leave the room immediately once you have finished speaking, or when the meeting decides that you have finished (if that is earlier).

If your authority does not provide members of the public with any right to speak, you would need to leave the meeting room after declaring the nature and extent of your interest. However, you can:

- Make written representations in your private capacity. These should be addressed to officers rather than members of the authority.
- Use a professional representative to make an application, for example a planning application, on your behalf.
- Arrange for another member of the authority to represent the views of your constituents.

Future Work Plan – Standards Committee

ITEM/REPORT	DATE	RESPONSIBLE OFFICER/MEMBER
New Code of Conduct	April	Tonya Meers
Review of member/officer protocol	January	Tonya Meers
Update on complaints	Every meeting	Tonya Meers
Performance Indicators	April	Richard Bryant
Annual report	January	Tonya Meers/Anne Elder
Ethical Governance toolkit (Parishes)	June	Tonya Meers
Raising profile of the Committee update	Every meeting	All
Invite to group leaders	April	Anne Elder