

West Berkshire Council Constitution

Part 13

Codes and Protocols

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Author:	Moira Fraser – Democratic Services Manager		
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13.1 Protocol on Member/Officer Relations

13.1.1 Purpose and Scope

Member and Officer relations within the Council are positive and effective. This Protocol provides guidance to Members and Officers, and is intended to strengthen and develop those relationships for the benefit of the Council, the community and effective service delivery by setting out the appropriate standard. The Protocol reflects the recommendations of the Nolan report.

The Protocol is a working document to assist both Members and Officers and, as such:

- it is not exhaustive, and will evolve over time;
- it aims to set the context and tone for working relationships;
- it seeks to clarify how day to day, practical Member/Officer relationships will work.

13.1.2 Definition of ‘Officers’

For the purpose of this protocol ‘Officer’ means any Employee/ Manager/Director employed by West Berkshire Council.

13.1.3 Associated Documents

The Protocol should be read in conjunction with the following documents:

- The Council’s Rules of Procedure;
- The Members’ Code of Conduct;
- The Officers’ Code of Conduct.
- The Council’s Code of Conduct for Planning.

13.1.4 Principles Underlying Member/Officer Relations

The Council’s values include Respect, Integrity and Efficiency in reaching our goals. These are reflected in the corporate style and culture which includes close working between Members and Officers.

13.1.5 Reasons for Close Working Relations

Close working relations are essential to:

- maintain mutual trust, confidence and respect between Members and Officers;
- provide the right environment for partnership working;
- facilitate good communications and understanding of political aims and objectives;
- ensure clarity about management and operational responsibilities;
- avoid potentially damaging misunderstandings or tensions which might harm service delivery.

As a general principle, relationships between Members and Officers should be conducted on the basis of mutual respect, openness and partnership.

The approach will be supported by regular and effective two-way communications at both an informal and formal level.

13.1.6 Role of Members

The role of elected Members is defined nationally by legislation and locally with the Council's Constitution.

The role of Members may be broadly described as:

- setting the strategic direction and policies of the Council;
- representing the interests and views of their Constituents;
- monitoring the performance of services;
- overseeing the implementation of policy.

In practice, Members discharge several different roles at the same time depending upon their interests and their position within the Council. The new decision-making arrangements set out Member responsibilities for taking particular decisions, for scrutiny and for other matters such as area working. The relationship is different where the Member is part of the Executive and is empowered to take a decision. All Members are, however, representatives of their [Constituents](#) and need to be supported by all Officers in this duty.

Members are also, through the Council, the 'employers' of staff and this relationship is dealt with elsewhere in the Constitution (see Part 12, Personnel Rules of Procedure).

13.1.7 Role of Officers

The key responsibilities of Officers are to:

- provide professional, technical or other advice to the Council, the Executive, Overview and Scrutiny Management Commission, Committees, Sub-Committees and other Member forums;
- manage the staff;
- implement effectively the decisions of the Council, the Executive and Overview and Scrutiny Commission, Committees and Sub-Committees;
- exercise any statutory or delegated powers in the best interests of the Council and in accordance with legislation and the Scheme of Delegation;
- provide information when requested by Members in order that they can discharge their duties;
- respect the rights of individual Members;
- refrain from expressing personal or political opinions on Council matters;

- observe their contract of employment, including provisions relating to the Code of Conduct, political restrictions and confidentiality.

Many Officers will also have management responsibilities and are accountable, through their line manager, to the Head of the Paid Service (Chief Executive) for these duties.

13.1.8 Political Neutrality

Officers are employed by the Council and serve the Council in the delivery of services. As such, Officers are politically neutral and have a duty to provide information to all Members and all Party Groups, subject to the Rules on confidentiality.

13.1.9 Responsibility to Council

The responsibility of Officers to the Council as a whole means that:

- Officers may report to the Council, the Executive or other Member bodies on any matter where they consider that this is required;
- Officers may express a contrary view to that of the Executive or other Member body where there are sound professional or technical reasons for doing so;
- Officer reports may not be changed by Members.

13.1.10 Officers' Advice

Any individual Member may seek the advice of an Officer on a matter relating to the Council's services. The Statutory Officers of the Council have a duty to provide independent advice to the Council and Members on specific matters. These politically restricted posts are:

- Head of the Paid Service: Chief Executive;
- Monitoring Officer: Head of Legal Services;
- Section 151 Officer: Head of Finance.

13.1.11 ~~Role of Group Executives~~ Politically Restricted Roles

Group Executives have been appointed in the Council to support the functioning of the ~~Conservative and Liberal Democrat~~ political groups. These posts are politically restricted and postholders are Officers of the Council. A list of the posts within the Council that are politically restricted is maintained by the Monitoring Officer.

13.2 Relationships between Members and Officers

13.2.1 Chairman of the Council

The Chairman of the Council is the first citizen of the District with particular statutory responsibilities, including chairing meetings of the full Council.

Officers will provide appropriate support to the Chairman in ~~his/her~~ their role of promoting the interests of the District and the Council. For example, by inviting the Chairman to community or staff events, ensuring that the Chairman is kept up to date with major service developments, or supporting the representational role of the Chairman with the Council's key

partners. The Chairman will be supported in ~~his/her~~their duties by Members' Services Staff.

13.2.2 Support by Officers to the Executive

The Executive Leader and other Members of the Executive will receive all necessary advice and support to enable them to discharge their functions effectively. They will need to respect the political neutrality of Officers in giving advice or support.

The Council has decided not to establish a separate team of Officers to work with the Executive; any Officer may be called upon to advise Executive Members or to attend meetings of the Executive. In practice, there will be particularly frequent contact between Executive Members and senior Officers. The Chief Executive and other Officers will attend Executive meetings as necessary.

In addition, Executive Members with specific portfolios will have day-to-day dealings with the relevant Corporate Directors, Heads of Service, senior managers on particular service and policy issues. It is essential that arrangements for these regular meetings are agreed and that a proper record is kept of the purpose and outcome to avoid any unnecessary misunderstanding. Executive Members and their principal Officer contacts will need to work co-operatively and openly and respect each other's responsibilities.

Where an Executive Member has specific delegated powers they should ensure that they adhere to the appropriate protocol on decision-making by Executive Members and obtain all relevant legal, financial and professional advice before any decision is made. They should also consider to what extent they should consult other Members of the Executive or local Ward Members. Decisions made must be recorded as required by Regulations and this Constitution. The Protocol for Decision-Making by Individual Executive Members is set out in Appendix B.

13.2.3 Support by Officers to the Overview and Scrutiny Management Commission

The Chairman and Members of the Overview and Scrutiny Management Commission will receive all necessary support to enable them to discharge their functions effectively.

Any Officer of the Council may be called upon to advise or attend meetings of the Overview and Scrutiny Management Commission. However, to ensure that the scrutiny and policy development role is developed, the Lead Officer for Scrutiny in conjunction with the appropriate Corporate Director ~~and Principal Policy Officer, based in Strategic Support~~, will work with the Overview and Scrutiny Management Commission.

Members will need to respect the role of Officers in providing advice to the Executive as well as to the Overview and Scrutiny Management Commission in a politically neutral way. The Chairman of the Overview and Scrutiny Management Commission will, in particular, have a role in ensuring that questioning of Officers is conducted in a positive and

constructive way and that the respective accountabilities of the Executive for decision-making and Officers for providing advice are understood.

13.2.4 Questions for Officers Attending Overview and Scrutiny Management Commission

Officers attending the Overview and Scrutiny Management Commission may be asked questions of fact about:

- a particular policy;
- the justification for the policy and its objectives;
- the extent to which those objectives have been met;
- how operational factors relate to the policy;
- what advice they gave to the Executive;
- their reasons for taking decisions under Delegated Powers.

13.2.5 Support by Officers to Other Committees

The Chairmen and Members of the Area Planning Committees, [Licensing Committees, Governance and Audit Committee, Personnel Committee and Standards Committee](#) and other relevant Member bodies will receive all the necessary advice and support to enable them to discharge their functions effectively.

These Committees will be supported by a wide range of Officers depending upon the function under discussion.

13.2.6 Political Groups

Officers will provide impartial advice and support to all political Groups on the Council.

13.2.7 Request for Officer to attend a Political Group Meeting

Requests for an Officer to attend a Political Group meeting will be on the following basis:

- Any request must be made through the Chief Executive or a Corporate Director normally five working days in advance of the meeting;
- Officers below senior manager level will not normally attend Group meetings;
- Officers below Head of Service level must not attend Group meetings unless there is another Officer present;
- No Officer can be required to attend a Group meeting;
- Advice given at Group meetings and the views of Members of the Group thereon will be treated as strictly confidential (unless otherwise agreed);
- Any policy formulated as a result of the advice will be regarded solely as the policy of the Group, and not a policy supported by Officers;
- Officers attending Group meetings must be treated fairly and their political neutrality respected;

- Any non-Councillors present at a Group meeting, except Group Executives, must not be given confidential papers and will be asked to leave the meeting if the Officer briefing is confidential.

13.3 Relationships between Individual Members and Officers

13.3.1 Mutual Respect

All contacts, formal or informal, between individual Members and Officers must be on the basis of mutual respect, trust and courtesy. This is particularly important in relation to the reputation of the Council with the community.

13.3.2 Member/Officer Relations

In their dealings with Officers, particularly junior ones, Members need to be aware that staff may feel uneasy or at a disadvantage, and to make allowances for this accordingly.

A Member must not apply pressure on an employee to make a particular decision, to act improperly, or to provide a service to an individual where there is no entitlement.

Similarly, Officers must not apply pressure on a Member to make a decision, nor raise personal matters relating to employment etc. with a view to influencing the Member.

Close personal familiarity between an individual Member and Officer should be avoided. Any close relationship between a Member and an Officer must be made known to the relevant Group Leader and the Officer's manager.

Where a Member is involved in an Officer appointment, grievance or disciplinary panel, they should not let their personal or political views influence their judgement or discuss the matter with others outside the Panel. The overriding consideration must be the best interests of the Council following the procedures as laid down.

Any Member who proposes to act in a professional or private capacity against the Council, must notify the Chief Executive/Monitoring Officer in writing. This notification should also apply to a Member's spouse, partner, employer or company within which the Member has an interest.

Any Member who considers that ~~he/she has~~ they have not been treated with respect and courtesy by an Officer, or has any other concern about the conduct of an Officer (and this has not been resolved by direct discussion with the Officer), may raise this with the Chief Executive or a relevant Corporate Director. Any concern will be investigated and, if appropriate, action may be taken.

If an Officer considers that ~~he/she has~~ they have not been treated appropriately by a Member, or has any other concern about the conduct of a Member, ~~he/she~~ they may raise it with their Manager or Head of Service. Any concern will be investigated and discussed with the relevant Group Leader and the Chief Executive. If the matter cannot be resolved satisfactorily, the Council's Grievance Procedure or Standards Committee procedures may be invoked.

13.3.3 Support by Officers to Ward Members

Officers will support Members in their role as representatives of their local Constituents. This will include:

- providing information on service delivery;
- answering queries from constituents;
- meeting constituents with a Member to hear their views.

13.3.4 Requests for an Officer to attend a Public Meeting

Any request for an Officer to attend a public meeting arranged by a local Member will be dealt with on the following basis:

- the request must be made to the relevant Head of Service or Director, who will consider whether attendance is possible;
- the purpose of the meeting must be clearly stated;
- any publicity for the meeting (e.g. a Ward newsletter) must make it clear that it is not a Council meeting;
- the relevant Spokesperson and other Ward Members (if appropriate) will be advised if an Officer is to be present;
- any Officer attendance will be strictly on an impartial basis;
- no representative of the media should be invited, unless this has been agreed with the Officer.

13.3.5 Informing Members

Officers will seek to keep Members informed about the major issues facing the Council and, in particular, on issues and events affecting their ward. This will include notification of issues coming before the Executive or other Member body. A regular information bulletin which contains Planning Information will be issued and will contain Officer contact details.

13.3.6 Member Access to Information

Where a Member seeks information or advice from an Officer, the request should normally be responded to within two working days. If longer time is needed to prepare a substantive response an acknowledgement should be given and a full response should be provided, at the latest, within 10 working days (which is the Council's performance target for answering all enquiries). The response should be provided on a confidential basis to the Member making the enquiry unless the original correspondence was copied to other Members or the Member agrees that this should happen.

Where the relevant Director or Head of Service considers that the cost of providing the information requested is unreasonable, the request may be declined. In such cases the relevant Group Leader should be advised.

If a Member is seeking information or advice on a politically contentious or controversial issue they should direct their request to the relevant Director or Head of Service. If a request is made of an Officer by a Member for information/advice of other than a factual nature, the Officer may need to liaise with ~~his/her~~ their manager.

Where a Director or Head of Service provides general information to individual Group Leaders, spokespersons or Members, this information will also be provided to other Party Groups.

Where Officers consider that information is of a confidential nature which should not be openly available to the public or press, this information will be supplied by Officers to Members on a private and confidential basis. Any information provided to Members on this basis will be treated as such and will not be circulated outside the Council.

The Council's Access to Information Rules contain the formal legal provisions relating to access to documents by Members. This is supplemented in the Code of Conduct in relation to confidentiality.

13.3.7 Inspection of / Access to Documents (see also Access by the Public to Information Rules of Procedure)

A Member of the Executive, Overview and Scrutiny Commission and other Committees or Sub-Committees, has the right to inspect documents about the business of that body. If not a Member of the specific body, ~~he/she~~ they must satisfy the Chief Executive or the relevant Director why sight of the documents is necessary to perform ~~his/her~~ their duties.

Except as otherwise provided, any Member of Council may inspect any document, or have access to information, held by the Council where such inspection or access is necessary to perform ~~his/her~~ their duties as a Member of the Council.

A Member of Council is not entitled to inspect any document, or have access to any information about a matter in which ~~he/she/they~~ have a disclosable pecuniary or prejudicial interest or where the Member is acting against the Council in a professional capacity. However, this does not remove from the Member the basic rights of a member of the public.

The Chief Executive or relevant Director may, with good reason, refuse a Member of the Council access to, or inspection of, a document or other information. This is likely to be in cases where the information is of a highly sensitive or personal nature and the Member has not demonstrated adequately why ~~he/she/they~~ has a genuine 'need to know' about the information.

If a Member is not satisfied with a decision of the Chief Executive or relevant Director to refuse access to a document or information, ~~he/she~~ they may refer it to the Monitoring Officer. If a Member remains dissatisfied, ~~he/she/they~~ may ask for the matter to be considered by the Standards Committee, who may decide to refer the issue to Council for decision.

13.3.8 Press Releases

Arrangements for the issue of Press Releases will be in accordance with the Code of Practice on Local Authority Publicity ~~(under review)~~. In particular, Council Press Releases will reflect the policies and decision of the Council, the Executive and Executive Members or other Member bodies, not the views of Party Groups. Press Releases will be circulated available to all Members of the Council ~~on a weekly basis~~.

13.3.9 Members' Support Services

Member Support Services will be provided through Strategic Support. These services will assist Members to discharge their various roles as elected representatives and cannot be used for party political or private purposes, or for any campaign unrelated to the Council's functions.

13.3.10 Review of Protocol

This Protocol will be kept under review in the light of experience and will be reviewed at the request of the Leader of the Council and after the Council's Elections.

13.3.11 Links with Other Council Policies

There are close links between this Protocol and the following Council policies:

- Members' Code of Conduct
- Officers' Code of Conduct
- Anti-Fraud Strategy
- Confidential Reporting Code
- Access to Information Procedure Rules

13.4 Members' Code of Conduct

13.4.1 Purpose of the Code

The Code of Conduct provides, by way of guidance to Members of Local Authorities, recommended standards of conduct in carrying out their duties, and their relationships with the Council and the Council's Officers.

~~13.4.2 Adoption of Code~~

~~The Code was adopted by the Council on 01 July 2007 under the provisions of Part III of the Local Government Act 2000. The Council has also adopted a Procedure for Local Determination of Allegations which can be found at Appendix E.~~

~~The initial Code of Conduct was adopted by the Council at its meeting on 10th May 2012 and confirmed at a meeting on 16th July 2012 pursuant to the Localism Act 2011 and its duty to promote and maintain High Standards of Conduct by members and co-opted members of the Council. It is effective from 1st July 2012. The revised Code was adopted at the Council meeting on the 12 December 2013.~~

~~Details of the Code of Conduct are attached at Appendix H to Part 13 (Codes and Protocols).~~

~~13.4.3 Application of the Code~~

~~The Code applies to all elected, co-opted and independent Members of all Local Authorities, including Town and Parish Councils, Fire, Police and National Park Authorities.~~

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13.4.4 The Code

The overriding duty as a Councillor is to the whole local community. Councillors have a special duty to their constituents, including those who did not vote for them.

Whilst they may be strongly influenced by the views of others, and of their party in particular, it is their responsibility alone to decide what view to take on any issue which the Council has to determine.

If they have a prejudicial interest in a question which Councillors have to decide, they should never take part in the decision, except in special circumstances described below. Where such decisions do permit them to participate, they should never let their interest influence the decision.

They should never do anything as a Councillor which they could not justify to the public. Their conduct, and what the public believes about their conduct, will affect the reputation of the Council, and the party if they belong to one.

It is not enough to avoid actual impropriety. They should at all times avoid any occasion for suspicion and any appearance of improper conduct.

13.4.5 Personal Interests

The law makes provision requiring Members to disclose both personal and prejudicial interests (including those of a spouse/partner with whom they are living) which they may have in any matter coming before the Council, Executive, Committee, Sub-Committee or Task Groups etc.

A personal interest under the Code is briefly described as follows:

“A Member must regard himself/herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under Paragraphs 14 and 15 (Registration of Financial and other interests) or if a decision upon it might reasonably be regarded as affecting to a greater extent than other Council taxpayers, ratepayers or inhabitants of the authority’s area, the well-being or financial position of himself/herself, a relative or friend.”

They should not allow the impression to be created that they are, or may be, using their position to promote a personal interest, rather than forwarding the interest of the general public.

If they have a personal interest in a matter, they may, having declared it, take part in the discussion of the matter and may vote on it.

13.4.6 Prejudicial Interests

A prejudicial interest under the Code is briefly described as follows:

“A Member with a personal interest in a matter will also have a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member’s judgement of the public interest.”

Under Schedule 1 (Part 2— Paragraph 10) of the Model Code of Conduct — Authorities operating Executive Arrangements — a Member may regard

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himself/herself as not having a prejudicial interest in a matter if that matter relates to:

- another relevant authority of which he/she is a member.
- another public authority in which he/she holds a position of general control or management.
- a body to which he/she has been appointed or nominated by the authority as its representative.
- the housing functions of the authority where the Member holds a tenancy or lease with a relevant authority, provided that he/she does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the Member's tenancy or lease.
- the functions of the authority in respect of school meals, transport and travelling expenses, where the Member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends.
- the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the Member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
- the functions of the authority in respect of an allowance or payment under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

In the above circumstances, a Member must declare a personal interest and clarify that the interest is not prejudicial by virtue of one of the exemptions.

A Member, with a prejudicial interest in any matter at a meeting, must:

- withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter in which he has an interest is being considered at that meeting, unless he has obtained a dispensation from the authority's Standards Committee;
- not exercise Executive functions in relation to that matter; and
- not seek improperly to influence a decision about that matter.

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13.4.7 Dispensations

Section 81(4) of the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 permits the Standards Committee to grant dispensations in the following circumstances:

- If the transaction of business of the authority would, on each occasion on which the dispensation would apply, be impeded by the mandatory provisions because:
 - the number of Members of the authority that are prohibited from participating in the business of the authority exceeds 50% of those Members that are entitled or so required to participate.

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- ~~the authority is not able to comply with any duty which applies to it under Section 15 (4) of the Local Government and Housing Act 1989.~~

13.4.8 Disclosure in Other Dealings

~~A Member should always apply the principles about the disclosure of interests to their dealings with Council Officers, and to their unofficial relations with other Councillors (at party group meetings, or other formal occasions), including informal meetings with other Members and/or Officers relating to the discharge of the Authority's functions no less scrupulously than at formal meetings of the Council, Executive, Executive Committees, Sub-Committees, Joint Committees, Joint Sub-Committees or Area Committees.~~

~~They, or some firm or body with which they are personally connected, may have professional, business or other personal interests within the area for which the Council is responsible. Such interests may be substantial and closely related to the work of one or more of the Council's Committees or Sub-Committees.~~

13.4.9 13.4.2 Leadership and Chairmanship

A Member should not seek, or accept, the leadership of the Council if they, or any body with which they are associated, has a significant financial interest in, or is closely related to, the business or affairs of the Council. Likewise, they should not accept the chairmanship of the Executive, a Committee or Sub-Committee if they have similar interest in the business of that Committee or Sub-Committee.

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13.4.10 13.4.3 Councillors and Officers

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. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, Executive and/or its Committees and Sub-Committees.

Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

The law and the Council's Constitution lay down rules for the appointment, discipline and dismissal of staff. Councillors must ensure that they observe these scrupulously at all times. In all other circumstances, if they are called upon to take part in appointing an Officer, the only question they should consider is which candidate would best serve the whole Council. They should not let their political or personal preferences influence their judgement. They should not canvass the support of colleagues for any candidate and they should resist any attempt by others to canvass theirs.

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~~13.4.11~~**13.4.4 Use of Exempt, Confidential and Private Information**

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As a Councillor or a Committee or Sub-Committee Member, they necessarily acquire much information that has not yet been made public and is still exempt or confidential. It is a betrayal of trust to breach such confidences. They should never disclose or use exempt or confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or discredit of the Council or anyone else.

~~13.4.12~~**13.4.5 Gifts and Hospitality**

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(Further information is supplied at Appendix D)

A Member should treat with extreme caution any offer or gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.

~~The Council, at its meeting of 17 December 2002, whilst noting the provisions contained in Schedule 1 of Part 3 of the Model Code of Conduct – Authorities Operating Executive Arrangements (Paragraph 17 – a Member is required within 28 days of receiving any gift or hospitality over the value of £25, to provide written notification to the Monitoring Officer of the existence and nature of that “gift” or “hospitality”), agreed that all gifts, irrespective of value, should be recorded in the appropriate register of gifts and hospitality which will be open to public inspection.~~

Members are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government.

~~13.4.13~~**13.4.6 Expenses**

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There are rules enabling Members to claim expenses in connection with their duties as a Councillor or Member of a Committee or Sub-Committee. These rules are set out in Part 14 (Members’ Allowances Scheme) and must be scrupulously observed.

~~13.4.14~~**13.4.7 Dealings with the Council**

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A Member may have dealings with the Council on a personal level, for instance as a Uniform Business Rate payer or Council Tax payer, as a tenant or as an applicant for a grant or planning permission.

They should never seek or accept preferential treatment in those dealings because of their position as a Councillor or Member of a Committee or Sub-Committee.

They should also avoid placing themselves in a position that could lead the public to think that they are receiving preferential treatment in those dealings because of their position as a Councillor or Member of a Committee or Sub-Committee.

They should also avoid placing themselves in a position that could lead the public to think that they are receiving preferential treatment; for instance, by being in substantial arrears to the Council, or by using their

position to discuss a planning application personally with Officers when other members of the public would not have the opportunity to do so (Planning Code of Conduct also refers).

Likewise, they should never use their position as a Councillor or Member of a Committee or Sub-Committee to seek preferential treatment for friends or relatives, or any firm or body with which they are personally connected.

~~13.4.15~~**13.4.8 Use of Council Facilities**

A Member ~~should~~**must** always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the Council for use in their duties are used strictly for those duties and for no other purpose. In relation to the use of ICT equipment supplied to Members, please see the ICT Protocol attached at Appendix F.

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~~13.4.16~~**13.4.9 Appointment to Other Bodies**

A Member may be appointed or nominated by the Council as a member of another body or organisation – for instance, to a Joint Authority or a voluntary organisation. They should always observe this Code in carrying out their duties on that body in the same way they would with their own Authority.

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13.5 Officers' Code of Conduct

13.5.1 Introduction

This Code of Conduct for West Berkshire Council ~~non-school based~~ employees ~~sets out the expected standards of~~ ~~gives information on the types of~~ behaviour ~~for employees of the Council that are acceptable and unacceptable for employees of the Council other than those based in schools.~~

The public is entitled to expect the highest standards of integrity from local government employees and to know that decisions and actions taken are fair and impartial. Public confidence is shaken if there is the least suspicion, however ill-founded, that there has been improper conduct or that decisions and/or actions have been influenced by improper motives or pressures. Councils are expected to provide clear guidance to their employees on what is acceptable conduct and what is not.

The Council, ~~as employer,~~ also has a right to expect high standards of conduct and loyalty ~~from its employees.~~ In ~~the delivery of services~~ ~~Council of,~~ ~~employees should maintain the high standards of services,~~ behaviour ~~of employees should, at all times, be to the highest standard~~ that the public is entitled to expect. Employees ~~are should~~ also ~~expected to~~ behave in a fair, courteous and supportive manner to colleagues within the Council, and ~~to~~ operate within the Council's employment policies.

~~The Council has three organisational values which help guide its philosophy and culture. The values underpin what the employer, employees and the public can expect in terms of delivery of services, standards and styles of management. These values are:~~

- ~~respect in all relationships;~~

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- integrity in everything we do:

~~efficiency in reaching our goals~~ The Council has declared values by which it operates and which underpin, in the broadest sense, what the employer, employees and the public can expect in terms of delivery of services, standards and styles of management. These values are:

~~Respect;~~

- Integrity;

~~Ambition.~~

This Code of Conduct reflects those values and provides staff with information about the rules and standards expected of them.

Breaches of the Code of Conduct will normally result in disciplinary action being taken. Serious breaches may result in dismissal from the Council's employment.

The Code of Conduct is in three sections:

- Gifts and Hospitality
- Financial and Personal Interests, Other Employment and Activities and Confidentiality
- General Behaviour and Conduct.

13.5.2 Gifts & Hospitality - General

~~Providing the public with the highest quality of service possible not only involves being responsive, helpful and polite but above all, it requires integrity and honesty at all times.~~

The acceptance of gifts and hospitality is a sensitive area where actions can easily be misconstrued. ~~There are always dangers in accepting a gift or hospitality.~~ Much of what is acceptable practice in the private sector is not acceptable in local government employment ~~where.~~ ~~Unlike private industry,~~ actions of employees are ~~totally~~ open to public scrutiny. In deciding whether to accept gifts or hospitality, employees should consider how their actions might be considered by a member of the public; they should not be embarrassed to explain them. ~~Therefore, the actions of employees should be such that they would not be embarrassed to explain them to anyone.~~ These guidelines will help to judge what sort of gift, and what level of hospitality is acceptable.

13.5.3 Rules and Procedure for Gifts and Hospitality

Acceptance of gifts or hospitality should be the exception. If in any doubt, they should be refused.

~~The following general rules apply and must guide decisions on receipt of gifts and hospitality as an employee of the Council:~~

- ~~to accept gifts should be the exception.~~ Employees may accept small "thank you" gifts of token value, such as a diary, a coffee mug or bunch of flowers, if they have not asked for any such gift and if their manager agrees (in advance as far as possible). ~~Their~~ manager ~~will~~must note all such gifts in the hospitality register (see (e) below).

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- Gifts that their manager ~~does not permit them to~~ refuses permission to accept must be returned;
- (b) Employees should always say no if it is ~~thought~~ believed that the giver has an ulterior motive. ~~They should~~ Be sensitive to the possibility that the giver may think that even small gifts or simple hospitality will elicit a more prompt service or preferential treatment;
- (c) Employees should not accept gifts or hospitality ~~should not be accepted~~ from anyone who is, or may be in the foreseeable future, tendering for any contract with the Council, seeking planning consent, seeking employment with the Council, or in dispute with the Council, even if the employee is not directly involved in that service area;
- (d) if an employee is in doubt about the acceptability of any gift or offer of hospitality ~~it is their responsibility to~~ they should consult the Head of Service or ~~ir~~ Corporate Director ~~or Head of Service~~;
- (e) ~~Employees must prevent an employee from being suspected of dishonesty, each Head of Service will keep a hospitality register. This will enable managers to record any offer of a gift or hospitality, whether accepted or not. It is the employees' duty to report in writing (if requested to do so) to their manager, straight away, any offer of hospitality made to them. The manager will make sure it is entered in the Service Unit's gifts and hospitality register. Each Head of Service will keep a hospitality register to record any offer of a gift or hospitality, whether accepted or not and this should be reported to Strategic Support.~~

13.5.4 Hospitality

A gauge of what is acceptable hospitality is whether this Council would offer a similar level of hospitality in similar circumstances.

Occasional working lunches with customers, providers or partners are generally acceptable as a way of doing business provided ~~they are not to an unreasonable level or cost,~~ that the frequency and costs are reasonable.

Invitations to corporate hospitality events must each be judged on their merit. Provided the general rules at 13.5.3 above have been taken into account, it may be acceptable to join other company/organisation guests at:

- sponsored cultural and sporting events, or other public performances, as a representative of the Council
- special events such as jubilee or millennium celebrations.

In all such cases, Corporate Directors or Heads of Service must be consulted. When deciding acceptability, employees and managers should take account of:

- the number of events attended

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- the possible public perception of the attendance of employees at such events
- the appropriateness of the invitations, in terms of the level of hospitality, the frequency and the status of the invited employee.

~~But, the number of these events should be considered, taking into account what public perception is likely to be if they knew employees were attending.~~

~~Acceptability depends on the appropriateness of the invitations, in terms of the level of hospitality, the frequency and the status of the invited employee. In all such cases, Corporate Directors or Heads of Service must be consulted.~~

~~Acceptance of Paid holidays, or concessionary travel rates, are not acceptable. Neither are offers of hotel accommodation or the use of company flats is not acceptable.~~

If an employee is visiting a company to view equipment that the Council is considering buying, ~~they should ensure that~~ expenses ~~of for~~ the trip ~~are~~ should be paid by the Council. Acceptance of refreshments and/or a working lunch may be acceptable, but care must be taken to ensure that the Council's purchasing and/or tender procedures are not compromised.

Acceptance of sponsored hospitality that is built into the official programme of conferences and seminars related to an employee's work is acceptable.

Offers to speak at corporate dinners and social gatherings, or events organised by, for example, a professional body, where there is a genuine need to impart information or represent the Council ~~may be accepted must be if~~ agreed in advance with the Head of Service. ~~In such cases ~~W~~where~~ a spouse or partner is included in the invitation, ~~and approval has been given by the relevant Head of Service for an employee to attend, it will be is~~ acceptable for the ~~m~~ spouse or partner to attend as well, ~~but if provided that~~ expenses ~~are~~ incurred, ~~these will be are~~ met ~~personally by the employee.~~

Any invitation accepted should be made to the employee in their professional/working capacity as a representative of the Council.

13.5.5 Personal and Prejudicial Interests, Other Employment and Activities, and Confidentiality

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~~Local Government employees must, at all times, be seen to be acting fairly and impartially and must consider how their actions appear to members of the public. Everything they do is open to public scrutiny. The public must never have reason to suspect that an employee's personal needs or interests or those of their family or friends influence actions or decisions.~~

13.5.6 Interests

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~~These can be Personal or Prejudicial. Further details of these interests can be found in Rules 13.4.5 and 13.4.6.~~

~~Although generally, off-duty hours are an employee's personal concern, they must not engage in any additional employment or outside activity which conflicts with the Council's interests or which could damage public~~

~~confidence. Rules 13.5.7 and 13.5.8 below provide more information about additional employment.~~

~~13.5.7~~**13.5.5 Rules Governing Interests**

~~The following rules are to assist Officers in determining whether they have a financial or personal interest that should be declared. These rules also outline the actions they must take should such an interest exist or if they wish to take up additional employment or engage in certain other activities: Local Government employees must, at all times, be seen to be acting fairly and impartially and must consider how their actions appear to members of the public. Everything they do is open to public scrutiny. The public must never have reason to suspect that an employee's personal needs or interests or those of their family or friends influence actions or decisions.~~

~~Further details of personal or prejudicial interests can be found in Rules 13.4.5 and 13.4.6.~~

~~The following rules set out what constitutes an interest that may conflict with the interests of the Council and the actions that employees must take should such an interest exist.~~

- Financial interests can be either direct (e.g. an employee or family member making application for planning consent or a grant from the Council) or indirect (e.g. an employee or family member being a committee member of a club that is making such an application).
- A personal interest ~~would be exists~~ when an employee or their family or close friends or any organisation they belong to could at sometime gain or lose (other than financially) from an act or decision of the Council.
- ~~Employees must disclose to the Head of Service if they have if an employee has~~ a friend, associate or relative who is involved in providing goods or services to the Council or who is receiving grants or benefits from the Council of a kind that they deal with directly or monitor in any way in the course of their work, ~~this is disclosabl_e.~~
- If ~~in an employee's job~~ circumstances arise during employment in which the ~~employeee~~ could exploit Council information or procedures ~~in any way~~ they should inform the Head of ~~Service~~ Human Resources in writing, ~~with a copy to their manager.~~ ~~Thus t~~ The manager should be informed if the employee, their partner or a close relative:
 - is applying for a service or benefit that in the job the employee supplies, administers or influences; or
 - is or could be affected by a change to service delivery, enforcement or control procedures which in the job the employee carries out, administers or influences.
- An employee should register with the Council their membership with any organisation not open to the public that has secrecy about rules, membership and/or conduct, for example Freemasons.

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Disclosures must be made in writing to the Head of ~~Human Resources~~Service, with a copy to the ~~employee's~~ Head of ~~Service~~Human Resources. ~~He or she~~The Head of Service will enter brief details of the enclosure in a register that is open for inspection by elected Members of the Council, but not the general public. Disclosures will also be circulated to other Heads of Service for the attention of any Officers who might need to know.

The Head of Human Resources will liaise as appropriate with the Head of Finance and the Audit Manager, who will also have access to any disclosures.

~~13.5.8~~13.5.6 **Other Employment and Activities**

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~~Employees must not engage in any additional employment, unpaid appointments or other outside activity which conflicts with the Council's interests or which could damage public confidence. In some circumstances permission must be sought before taking on additional employment, as follows:~~

~~(a)~~ **Senior Employees**

Senior employees (on or above ~~spinal column point~~ point 33) must not engage in any other business or take up any additional appointment or employment without the written consent of their Head of Service. ~~To avoid doubt, they should obtain such consent in writing.~~

~~(b)~~ **All Employees**

There is no requirement, ~~in terms of conduct,~~ for ~~other~~ employees on spinal column point 32 or under to obtain the consent of their Head of Service before taking up additional employment. However, all employees must inform their manager if they do so because the Working Time Directive requires employers to know the total number of hours worked by their employees, ~~all employees must inform their manager if they do so.~~

~~Any additional employment/appointments taken up must not conflict with the Council's interests or in any way weaken public confidence.~~

~~Engagement or involvement in other activities, whether for pay or not, must not conflict with the Council's interests or in any way weaken public confidence.~~

The Council owns any inventions, writings and drawings created in the course of employment (intellectual ownership). Employees must obtain their Head of Service's written permission to publish or use this material for any other purpose.

Employees should consider with caution any requests to do private work, using their professional/technical skills, and must always be aware of the potential for conflict of interest and damage to public confidence in those circumstances.

~~13.5.9~~13.5.7 **Confidentiality**

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Some Council documents are public documents e.g. the Constitution and Complaints Procedures. Other information is strictly exempt/confidential

e.g. personal information about staff and clients and tendering information. Such information must not be made public or disclosed without authorisation.

Employees must not disclose any information that is exempt and/or confidential or that, if it were made public, may lead to a breakdown in the trust and confidence that the Council is required to provide to the public and therefore to expect of its' employees. It may be necessary to discuss confidential information with colleagues, but ~~when this is the case, it should always be borne in mind that the~~ sensitive information ~~is sensitive and~~ should not be discussed in public, where it may be overheard. Employees should not disclose exempt/confidential information gained through employment in a social or public setting. ~~Employees are sometimes asked for information about the Council when they are socialising. It is important to remember that information an employee may be party to is exempt/ confidential, and should not be discussed in public.~~

~~It is particularly important to ensure that exempt/confidential information does not become generally public.~~ Employees must not pass any information, or make comment, to the press or other media unless they are expressly authorised to do so. Media enquiries in particular should be handled with care and employees should notify the appropriate Head of Service and the Public Relations Team if they have been approached by the media.

~~13.5.10~~ 13.5.8 **Recruitment and Appointment**

If an employee is involved in recruitment or making an appointment, they must apply the Council's Recruitment and Selection processes, and ensure that fairness and equity is applied at all stages.

~~If they are~~ Employees involved in recruitment or making an appointment, ~~they~~ must inform their manager if they are closely associated with any of the candidates (e.g. ~~he/she is they are~~ a relative or close friend).

~~If they are~~ Employees making a work-related application to the Council (e.g. for a different job, secondment or development opportunity) ~~they~~ must disclose to the decision-maker any information that could affect the outcome or cause public concern, ~~however groundless~~ (e.g. the relationship to an important contractor or client of the service or a conviction relevant to the work).

~~When applying for a post or other work related opportunity~~ they must not seek the help or influence of Members of the Council or senior employees.

~~13.5.11~~ 13.5.9 **General Conduct**

All employees are expected to apply the Council's values to all aspects of their behaviour and conduct at work. The Council has an Equality Opportunities Policy that must be applied in all dealings; with work colleagues as well as with those individuals and organisations ~~they that~~ employees have contact with in their work.

The Council has agreed ~~procedures for the Management of~~ Disciplinary Rules, which contain examples of conduct which is unacceptable.

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Employees must make themselves aware of ~~these procedures and the~~ ir content of these rules.

~~In general terms, t~~The Council expects ~~that~~ the conduct of its employees ~~is to be~~ such that no justifiable complaint can be made by members of the public, other bodies and agencies, other employees, managers or Council Members. Any complaints about inappropriate conduct will be dealt with ~~fairly and reasonably~~ using the Council's ~~agreed procedures~~ Disciplinary Procedure.

All employees are expected to ~~obey~~ comply with the law relating to their work and general conduct. If they break the law outside of working time and the offence is one that could damage public confidence or have a direct effect on their work, they may be subject to disciplinary procedures.

All employees are expected to treat the equipment and facilities that they use at work with care. Abuse of Council property and facilities will be considered as a serious matter and dealt with under the Disciplinary Procedure.

~~13.5.12~~13.5.10 **Dress and Presentation**

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The Council expects its employees to dress in a manner that ~~creates~~ gives a good impression to the public, and is suitable for the type of work being carried out. Clothes should provide sufficient cover at all times of the year ~~not to be offensive~~. Managers will advise employees of the type of clothes that are appropriate for the type of work they are employed to do. ~~If in doubt, ask for clarification~~.

~~Employees who are required to wear~~ If an employee provides a service that requires the wearing of a uniform ~~they~~ must conform to those requirements. If they have personal, cultural or religious objections to these requirements, they must raise them with their Head of Service, who will consider each case on its merits and take appropriate action, including using the Council's agreed procedures where appropriate, seeking advice from Human Resources where necessary.

Clothes should be clean and tidy unless soiled by work duties on that day.

~~13.5.13~~13.5.11 **Service Delivery**

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~~Good customer care is essential. The first impression created with service users, either in personal contact or on the telephone, will often determine how the interaction will proceed and how the Council will be perceived.~~

Employees must treat all service users with courtesy and respect. If a service user is aggressive or offensive, an employee may firmly and politely end their interaction with him or her or summon assistance, but they should not be aggressive or rude in response. They should inform their manager in writing immediately of details of any aggressive or offensive customer or colleague they have dealt with. Details of the protocol that operates in each ~~S~~service area for dealing with aggressive or offensive customers ~~can be accessed through Managers should be~~ provided by the Head of Service.

Training programmes are provided for staff to help develop ways of dealing with difficult customers appropriately. Managers should provide details if an employee believes it may help them in their job.

-It may be necessary for security staff to use reasonable force to remove a person who has acted violently and refused to leave the premises. Staff Employees who are directly assaulted may be entitled as a last resort to take reasonable action to defend themselves, but over-reaction can constitute a criminal offence. The Council ~~would wish to will~~ support and take appropriate action on behalf of staff employees who are assaulted in the course of their duties.

Employees should try at all times to make service users feel that they are receiving the best attention. Every effort should be made to satisfy the service user or enquirer at ~~his/her the fir~~ irst point of contact. If an employee needs to refer the enquiry or matter to another member of staff or another agency, they must explain the reason why.

~~13.5.14~~ 13.5.12 Working with the Manager

Managers should deal with staff courteously, reasonably and fairly at all times.

~~It is important to keep a good working relationship with the manager. As part of this, the m~~ Managers will use the Council's Employee Performance Management scheme to appraise performance and provide feedback. ~~They will define expectations, advise on; with advice on~~ how to improve; ~~define what is expected of employees~~ and deal with any concerns they may have about ~~their an employee's~~ work.

Managers should ~~also provide~~ advise of relating to the Council's ~~personnel human resources~~ policies ~~where they affect employees~~ and provide access to appropriate training and career development within the context of budget and service delivery needs.

~~Managers should also will deal with staff courteously, reasonably and fairly at all times. Managers will~~ support staff in the proper performance of their duties, including assistance, where necessary, in dealing with other employees or members of the public.

Employees should treat managers with respect and courtesy and carry out any reasonable and lawful instructions their manager gives them to the best of their ability.

~~Employees should carry out any reasonable and lawful instructions their manager gives them to the best of their ability.~~

Employees should fill in complete any document, form or record in an honest way and never damage, alter or falsify them. ~~They should never conceal any matter that is known should be reported.~~

~~All dealings with managers should involve the same emphasis on honesty as with the public or colleagues.~~

Employees have a responsibility to report any breaches of disciplinary or other Council rules.

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~~13.5.15~~13.5.13 Working with Councillors

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~~E~~When dealing with Councillors' enquiries employees are expected to must be both polite and efficient, when dealing with enquiries from elected Members while working within whatever procedures apply in each Service Service Unit. Councillors ~~should~~must deal with employees courteously and reasonably.

~~Employees must not discuss Anyany~~ personal matters to do with the job ~~should not be discussed~~ with CouncillorsMembers directly, but ~~should~~must go through ~~the accepted agreed~~ Council procedures, such as grievance and appeals procedures and consultative panels. ~~In the same way,~~ a Allegations or claims about other employees ~~should~~must be taken up with an appropriate manager and not ~~a Councillor~~with Members.

Employees ~~should~~must not use CouncillorMembers to bypass formal Council procedures in any way, for example to influence the outcome of any disciplinary matter. This does not affect the rights of trade unions to take up matters on behalf of their members through the recognised channels, or for CouncillorsMembers to be formally involved in Council procedures when appropriate - for example as a witness.

Employees ~~should~~must ~~not~~ever try to influence CouncilleMembers prior to any appointment, although this does not preclude them from approaching their local Ward Councillor in his/her their role as their elected representative.

~~13.5.16~~13.5.14 Working with other Employees

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Employees should show respect for their colleagues and should not disrupt or hinder their work in any way.

All forms of bullying, including violence or verbal aggression towards colleagues is unacceptable and will be dealt with ~~seriously by the Council under the Disciplinary Procedure~~. It is not acceptable for employees to abuse their position with the Council to take advantage of other employees. If there are important issues that they cannot resolve amicably with another employee, they must make the situation known to their manager.

All forms of harassment, including on the grounds of sex, race, religion or belief, sexual orientation, age, gender identity, political affiliation, or membership of a trade union, are unacceptable. The Council's approach is set out in the Responding to Bullying and Harassment Policy. Allegations will be investigated and dealt with under the terms of the Disciplinary Procedure where necessary.

~~All forms of harassment, including racial and sexual harassment, and harassment on the grounds of religion, class, sexuality, age and political affiliations and membership of a Trade Union are unacceptable. It is the person who is harassed, rather than the person who is alleged to be harassing, who defines harassment. If behaviour is beyond the behaviour of a reasonable person, or if the person concerned says that it is unwelcome, it must stop immediately. Failure to do so will be dealt with seriously by the Council.~~

Personal relationships with colleagues who would have a line or other management 'parent' or 'grandparent' relationship must be declared on appointment. If subsequent to appointment close personal relationships develop between colleagues who have a line management 'parent' or 'grandparent' relationship, the employees concerned must inform their Head of Service. If they are unsure about the need to inform their Head of Service about relationships with colleagues, they should seek clarity from their line manager, or from the Human Resources teams. Some Service Units have specific codes of conduct on this issue and employees must adhere to the rules they contain. This information will be treated with confidentiality.

13.5.15 Smoking, Alcohol and Prescription Drugs at Work

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The Council operates a no smoking policy. This applies to all Council buildings, buildings and those where Council services are provided. It also applies when transporting customers in Council or private vehicles.

Employees should not consume alcohol when they are on duty unless agreed beforehand by their manager for specific occasions.

Employees should ensure that any alcohol which is consumed whilst off duty but during the normal working day will not damage the reputation of the Council. For certain types of work, for example those which involve operating heavy machinery, driving Council vehicles and working in Social Services, it is not acceptable to consume any alcohol during the working day. ; the manager will be able to advise further and give a copy of local arrangements. Managers must provide employees with details of local arrangements

Prescribed drugs may be taken on the condition that they do not interfere with service delivery. If an employee is taking prescribed drugs that may affect their behaviour and/or their performance they should inform their line manager, who will take a view on their attendance at work.

13.5.17 13.5.16 Working with Money and making Financial Claims

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Employees receiving or responsible for public money need to take particular care. Monies collected on behalf of the Council must be banked by them or otherwise passed to responsible Officers without undue delay.

All processes and procedures laid down for the management of the Council's financial affairs must be followed, including Financial Regulations, Standing Orders and the Council's Anti-Fraud and Anti-Corruption Policy.

Claims submitted to the Council for reimbursement of expenditure or for legitimate allowances, the correct procedures must be followed and details of the claim are within set limits, are correct and can be substantiated.

13.5.18 13.5.17 Working Safely

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The Council and its employees have statutory responsibilities for ensuring that a healthy and safe working environment is maintained. These are set out in the Council's Health and Safety Policy.

Actions or omissions of any individual that place others in danger may lead to ~~serious~~ disciplinary action.

Employees are expected to:

- adhere to the Council's Health and Safety Policy and the safety rules relating to their particular service;
- make known to their manager any unsafe situations or practices that they become aware of;
- take appropriate steps to ensure the health and safety of other employees and any other users of the Council's premises;
- wear any safety clothing and use any safety equipment provided for work;
- report promptly any injuries, accidents or near misses suffered at work;
- report incidents of abusive/aggressive or bullying/threatening behaviour experienced by the employee or they come into contact with during their work;
- tell their manager if they are taking any medications that could affect their ability to work safely;
- comply with hygiene requirements.

~~13.5.19~~13.5.18 **Protecting the Council and its Standards**

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The Council needs its employees help to ensure that West Berkshire can continue to be a fair and equitable provider of services, a safe and rewarding place to work and a local authority with the highest standards and reputation. It recognises that ~~E~~employees are often the first to know when things are going wrong in the Council's operations.

However, there may be reasons why ~~the employees~~ is-are reluctant to draw attention to their concerns e.g. they feel that reporting on colleagues, managers or ~~e~~Elected Members is disloyal; they are worried that they may not be believed or they are afraid of possible victimisation or future disadvantage.

The Council values employees and others who are prepared to acknowledge when things are not right and to bring such matters to the attention of others that can deal with them. Only by encouraging those people to report inappropriate or unlawful conduct can the Council protect its reputation and maintain its high standards.

Improper or unlawful conduct can cover a wide range including financial irregularity; abuse of clients; abuse of power or position; neglect of duty; sexual or racial discrimination; bullying or harassment.

If an employee detects or has reason to suspect that colleagues, managers or ~~E~~Elected Members are acting improperly, the Council has a reporting process that can be followed without fear of victimisation, discrimination or disadvantage. The process is set out in part of the Council's Confidential Reporting Policy. (~~o~~-often referred to as athe whistle blowing policy.)

~~Improper or unlawful conduct can cover a wide range including financial irregularity; abuse of clients; abuse of power or position; neglect of duty; sexual or racial discrimination; bullying or harassment.~~

~~Further information about the Confidential Reporting Policy and process is available from managers, Heads of Service, Trade Union representatives or the Head of Human Resources.~~

~~The Council needs its employees help to ensure that West Berkshire can continue to be a fair and equitable provider of services, a safe and rewarding place to work and a local authority with the highest standards and reputation.~~

Appendix B

Protocol for Decision-Making by Individual Executive Members

1. Introduction

At its Annual Meeting on 7 May 2002, the Council approved a protocol for decision making by Individual Portfolio Members. The Protocol was drafted on the basis that individual Portfolio Members would not have powers to make “key decisions”. These are defined by the Government (Regulation 8 of the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2001) as:

- (i) Those which result in the Local Authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority’s budget for the service or function to which the decision is related.
- (ii) Those which are significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Local Authority.

It was found that this protocol was too restrictive, particularly in relation to the second definition of a “key decision”, which restricted decisions to single wards or electoral divisions.

The Council, at its meeting on 17 December 2002, therefore agreed the following list of exceptions to the “key decisions”:

- (i) All decisions relating to Highway Matters which are within the approved budget and policy framework;
- (ii) With the exception of those strategic plans, strategies and policies requiring Council approval (as set out in Article 5 of the [Constitution](#)) decisions relating to all other plans, strategies and policies that the Council is required to produce;
- (iii) The Council’s response to Government and other consultation documents;
- (iv) Appointments to outside bodies.

A further exception was agreed at the Council meeting on 4 May 2004:

- (v) Insofar as the Public Rights of Way issues referred to in Part 3 of the [Constitution](#) (Scheme of Delegation) Rule 3.14.9 (Notices and Orders in Relation to Highways and Public Rights of Way) and 3.15.1 (Countryside including Rights of Way Functions) are concerned, it is proposed that, where these issues affect more than one Ward, whether objections are received or not, the decision shall be the subject of the Individual Decision-making process.

At the Council meeting on the 13 December 2005 the list of exemptions to “key decisions” was extended to allow the following to be the subject of the Individual Decision-making process:

- (vi) the Leader of the Council to approve the Council’s Forward Plan for subsequent publication in accordance with the Local Government Act 2000 later replaced by the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

At the Council meeting on the 22 September 2011 the list of exemptions to “key decisions” was extended to allow the following to be the subject of the Individual Decision-making process:

- (vii) Annual Reports and Statement of Purpose – e.g. Castlegate, Fostering and Adoption Annual Reports;
- (viii) Permission to go out to consultation – e.g. Home to School Transport and School Admissions.

A step by step guide to the Individual Decision Making Process is attached as Appendix B1 to this protocol.

2. West Berkshire Council Forward Plan

Subject to the provisions contained in Part 5 (Executive Rules of Procedure) Rule 5.4.6 (General Exception) and Rule 5.4.7 (Special Urgency) of the [Constitution](#) all decisions to be made by Executive Members **must** be included in the [West Berkshire Council Forward Plan](#).

A Forward Plan Submission Form **must** be completed and returned to Strategic Support in all cases. Deadlines for items to be included on the Forward Plan must be strictly adhered to. Failure to comply with these deadlines will result in the decision(s) having to be delayed by a further month. Revised regulations now require the forward plan to be published 28 clear days’ before a key decision can be taken. It should be noted that “clear days” means working days, from midnight to midnight, and excludes weekends and public holidays, so 28 clear days equates to around 5½ normal weeks.

The provisions contained in Rules 5.4.6 and 5.4.7 will apply when a decision is deemed to be urgent. The rules relating to call-in set out in the Rule 5.3 will not apply in the case of urgent decisions.

3. Dates when Individual Decisions can be made

The Executive Member will make their decision at a meeting with the relevant Corporate Director or their representative. An Officer from Strategic Support must also be in attendance. **It is the responsibility of the Service Areas to ensure that the Executive Member is aware of the forthcoming item and agrees the date when the decision will be taken.** In the absence of the Executive Member (and with their agreement) the Leader or Deputy Leader of the Council can be authorised to make a decision on their behalf at a meeting. The date and time of the meeting will, however, be at the discretion of the relevant Executive Member.

4. Formal Written Report

A written report will be prepared by the relevant Corporate Director or Head of Service. The report shall include the following information:

- The name of the Executive Member within whose portfolio the issue falls
- The issue to be decided with reasons for the decision
- Supporting information – a summary of the facts relating to the matter under consideration. This section of the report should confirm that the proposed course of action is in accordance with the approved policy and budget framework. It should also include all the necessary corporate implications (e.g. finance, personnel, legal etc)
- The Officer's recommendation and the reasons for that recommendation
- Other options considered (where appropriate)
- A list of background papers
- Implications e.g. policy, financial, personnel, etc
- Any consultations undertaken, **the method of consultation** and a summary of any representations
- A report which contains confidential or exempt information must state the reasons why such information is contained (**Rule 8.10.4 refers**).

The report should be e-mailed to Strategic Support seven clear working days before the decision is due to be made. This is in order that it can be sent out to all Members five clear working days prior to the decision being made. The five clear working days do not include the day of the meeting or day of despatch of the report. A copy of the Decision Record Notice should be completed by the Service Area and e-mailed with the report.

5. Decision Record Notice

An Officer from Strategic Support will bring a copy of the relevant report with the partially completed Decision Record Notice to the Decision Meeting. Prior to the meeting the Corporate Director or their representative will check with the Executive Member that they are content with the decision notice.

The Decision Record Notice shall contain the following information:

- The issue to be decided with reasons for the decision
- Other options considered (where appropriate)
- Any consultations undertaken and a summary of comments received. (including other Members consulted if appropriate)
- A list of background papers
- If the report contains confidential or exempt information this must be stated with the reasons why such information is contained (Rule 8.10.4 refers).
- Whether or not any Member consulted in connection with the matter or participating in the making of the decision has declared a conflict of interest under the Local Code of Conduct.

- If a conflict of interest has been declared, a copy of the minute of any dispensation granted by the Standards Committee or Monitoring Officer should be attached to the decision notice (if appropriate).

After each decision has been taken, the Executive Member, Corporate Director or their representative will finalise and sign the Decision Record Notice. The report and Decision Record Notice will then be handed over to the attending Officer from Strategic Support who will also sign it and a copy of the Notice will be sent to the Corporate Director or their representative for their records.

The Decision Record Notice will then be made available via the [Council's website](#).

6. Call-In

Decisions will usually be subject to call-in. The call-in procedure shall not apply where the decision taken by the Portfolio Holder has to be implemented before the expiry of the call-in period. This will only be the case if one of the following applies:

- If there were a delay in implementing the decision, this would have serious financial implications for the Council or could compromise the Council's position.
- The item has been considered by the Overview and Scrutiny Management Commission, or has been the subject of a review undertaken by another body e.g. Task Group, within the preceding six months.
- The item is deemed an Urgent Key Decision as set out in Rule 5.4.7 (Special Urgency – Key Decision).
- Reports that do not require a decision and are for information only will also not be subject to 'call-in'.

The reason why the item is "not subject to call-in" must be specified in the report. In the event of a dispute over the reason why the item is "not subject to call-in" the Monitoring Officer or the Section 151 Officer will be the final arbiter.

In the event that an item is called in an Officer from Strategic Support will inform the relevant Corporate Director and/or Head of Service if the item has been called-in. If the item has not been called-in after five clear working days have elapsed the decision can then be implemented.

Appendix B1

Individual Decision Making Process



