

Notice of Meeting



Scan here to access the public documents for this meeting

Special Governance Committee

Monday 13 November 2023 at 6.00pm

in the Council Chamber, Council Offices,
Market Street, Newbury

Note: This meeting can be streamed live here: <https://www.westberks.gov.uk/governanceethicscommitteelive>

Date of despatch of Agenda: Wednesday 8 November 2023

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Stephen Chard on 01635 519462
e-mail: stephen.chard@westberks.gov.uk

Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



WestBerkshire
C O U N C I L

Agenda – Special Governance Committee to be held on Monday, 13 November 2023
(continued)

- To:** Councillors Erik Pattenden (Chairman), Howard Woollaston (Vice-Chairman), Dominic Boeck, Jeremy Cottam, Iain Cottingham, Owen Jeffery, David Marsh, Christopher Read, Louise Sturgess, Simon Carey, Bill Graham and David Southgate
- Substitutes:** Councillors Anne Budd, Dennis Benneyworth, Carolyn Culver, Paul Dick, Janine Lewis and Stephanie Steevenson

Agenda

Part I

Page No.

- 1 **Apologies**
To receive apologies for inability to attend the meeting (if any).
- 2 **Declarations of Interest**
To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' [Code of Conduct](#).

Standards Matters

- 3 **NDC0823** 1 - 48
Purpose: To make a determination as to whether a breach of the Code of Conduct has occurred after considering the Investigator's report about a complaint received from the then Councillor Lynne Doherty (Complainant) in respect of Councillor Adrian Abbs (Subject Member) from West Berkshire Council submitted on 29 March 2023.

Should the Committee determine that a breach of the Code of Conduct has occurred they will need to determine an appropriate sanction.

Sarah Clarke
Service Director: Strategy and Governance

West Berkshire Council is committed to equality of opportunity. We will treat everyone with respect, regardless of race, disability, gender, age, religion or sexual orientation.
If you require this information in a different format or translation, please contact Stephen Chard on telephone (01635) 519462.



West Berkshire
C O U N C I L

Complaint: NDC0823

Committee considering report: Special Governance Committee

Date of Committee: 13 November 2023

Purpose of the Report

To consider the Investigator's report about a complaint received from the then Councillor Lynne Doherty (*complainant*) in respect of Councillor Adrian Abbs (*Subject Member*) from West Berkshire District submitted on 29 March 2023.

Recommendations

The Committee is asked to:

- a) consider if they agree with the outcome of the Advisory Panel that took place on 10 October 2023;
- b) identify any disputed facts;
- c) identify any aspects of the report that require further clarification.
- d) If they wish and if they agree that a breach of the Code of Conduct has occurred, any recommendation setting out an opinion on a suitable sanction.

Paragraphs of the Code of Conduct that the complaint might relate to:

Failure to adhere to the following Nolan Principles:

- Personal Judgement
- Respect for other
- Leadership

General Obligations:

- Failing to treat others with courtesy and respect.
- To not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- To not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

1 Monitoring Officer's Report

Introduction

- 1.1 A complaint dated 29 March 2023 was received from the then Councillor Lynne Doherty (Complainant), concerning an alleged breach of the Code of Conduct by Councillor Adrian Abbs (Subject Member). At the time, Councillor Lynne Doherty was a Conservative Councillor representing the ward of Newbury Speen and was Leader of West Berkshire Council. Councillor Adrian Abbs is an Independent Councillor representing the ward of Newbury Wash Common. At the time of the complaint he was a Liberal Democrat Councillor and the Shadow Portfolio Holder for the Environment.
- 1.2 The complaint was considered by the Assessment Sub-Committee of West Berkshire Council's Governance Committee on 20 April 2023 where, taking account of the views of the Independent Person, the Monitoring Officer determined that the complaint should be fully investigated by an independent investigator.
- 1.3 Mr Richard Lingard was appointed to investigate the matter on behalf of West Berkshire Council.

2 Procedure

- 2.1 In considering the complaint, Mr Richard Lingard sets out in his report (Appendix E) that he considered the complaint, the Subject Member's response and the YouTube link for the recording of the Executive that took place on 23 March 2023.
- 2.2 In addition, Mr Lingard interviewed both the Complainant and Subject Member via Zoom on 14 July 2023.

- 2.3 Mr Lingard had available to him West Berkshire Council's Code of Conduct for Members.

3 Outcome of independent investigation

- 3.1 In considering the Code of Conduct paragraph 4.1 (a), the independent person found that there was evidence of breach by failing to show courtesy and/ or respect to Councillor Ardagh-Walter and the Complainant by interrupting and talking over them.
- 3.2 In considering the Code of Conduct paragraph 4.2 (a) found no breach.
- 3.3 In considering the Code of Conduct paragraph 4.2 (f) found no breach.

4 Advisory Panel

- 4.1 The Advisory Panel considered the complaint and the independent assessment. In addition, they benefited from the Investigator's attendance to clarify any points in the assessment and ask questions.
- 4.2 The Advisory Panel recommendation to the Governance Committee is that they agree with the outcome of the independent assessment and that it should be referred to Governance Committee in line with the Constitution.
- 4.3 The Advisory Panel's view on a suitable sanction may be that the Subject Member should be formally advised, in a formal letter from the Chairman of the Governance Committee, that their conduct amounted to a breach of the Code of Conduct.
- 4.4 The Advisory Panel recommended that the following people be invited to attend the Special Governance Committee:
- (a) Investigator (Mr Richard Lingard)
 - (b) Complainant
 - (c) Subject Member
 - (d) Monitoring Officer

5 Order of Business for Governance Committee

- 5.1 The Governance Committee must consider the information provided as part of the standards complaint that includes:
- a) The original complaint
 - b) The Subject Member's response
 - c) Independent Assessment by Mr Richard Lingard
 - d) Responses from the Complainant and the Subject Member
 - e) Minutes of the Advisory Panel and the recommendation

- 5.2 There is an opportunity for the Complainant or their representative to raise any issue in the Independent Report that they have disputed in their written submission, and they may wish to introduce witnesses on these points.
- 5.3 The Subject Member may make a presentation and they may only raise issues in the report that they have disputed in their written submission.
- 5.4 It will be for the Governance Committee to consider the evidence and representations and shall then make a final determination on the matter.

6 Outcome

- 6.1 Should the Governance Committee determine there is no breach then there will be no further action and the matter will be closed.
- 6.2 Should Governance Committee determine that there is a breach of the Code of Conduct, then they must consider the sanctions available:
 - a) Formal letter from the standards Committee
 - b) Remove from Committee via Group Leader
 - c) Formal censure via motion to Council
 - d) Press release
 - e) Local Resolution

Appendices

Appendix A – West Berkshire Council’s Code of Conduct

Appendix B – Complaint and associated paperwork

Appendix C – Response to complaint by the Subject Member

Appendix D – Initial Assessment Notice

Appendix E – Investigator’s Report

Appendix F – Comments from Complainant and Subject Member on the Investigator’s Report

Appendix G – Advisory Panel Decision Notice

Appendix H – Sanctions which can be applied

West Berkshire Council Councillors' Code of Conduct (September 2016)

1. Introduction

The initial version of this Code of Conduct ("this Code") was adopted by the [Council](#) at its meeting on 10 May 2012 and confirmed at its meeting on 16 July 2012 pursuant to the duty to promote and maintain high standards of conduct by [Councillors](#) and others set out in the [Localism Act 2011](#) ("the Act"). It came into effect on 1 July 2012 and revisions were adopted on 12 December 2013 and 15 September 2016.

2. Gifts and Hospitality Protocol and Appendices

- 2.1 The [Councillors' Gifts and Hospitality Protocol](#) is an associated document to be read in conjunction with this Code.
- 2.2 [Appendix 1](#) contains definitions used in this Code and its Appendices (or identifies where they may be found). Within the electronic version of this Code defined words or phrases are hyperlinked for ease of reference (on the first occasion they appear): to the relevant definition within Appendix 1 or elsewhere within the Appendices as relevant; or to an external document (eg legislation).
- 2.3 [Appendix 2](#) contains the [Ten Principles of Public Life](#) ('the Nolan Principles').
- 2.4 [Appendix 3](#) gives guidance for declaring and registering interests.
- 2.5 [Appendix 3a](#) sets out the prescribed definitions relating to [Disclosable Pecuniary Interests](#).
- 2.6 [Appendix 3b](#) contains a flow chart relating to the declaration of interests.
- 2.7 [Appendix 4](#) sets out the rules relating to [Dispensations](#).
- 2.8 [Appendix 5](#) sets out the process for investigating alleged breaches of this Code.

3. Application

- 3.1 This Code applies to Councillors and [Co-Opted Members](#) (eg whenever they are acting, claiming to act, or giving the impression they are acting in their [Capacity](#) as a Councillor or Co-Opted Member). Where a [councillor](#) is not acting with Capacity no breach of this Code is likely to occur.
- 3.2 It is a Councillor's or a Co-Opted Member's personal responsibility to comply with this Code.
- 3.3 This Code is consistent with and based upon the Ten Principles of Public Life (also known as the Nolan Principles).
- 3.4 Should a complaint be made against a Councillor or Co-Opted Member it will be dealt with in accordance with the Act and its supporting regulations.
- 3.5 If a Councillor or Co-Opted Member needs any guidance on any matter relating to this Code, they should seek it from the [Monitoring Officer](#) or their own legal adviser (but it is repeated that it is entirely their personal responsibility to comply with the provisions of this Code).

4. General Obligations

4.1 Councillors and Co-Opted members **must**:

- (a) Treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- (b) When involved in the decision making of the Council:
 - (i) ensure that they are aware of and comply with the requirements of the [Bribery Act 2010](#);
 - (ii) have regard to any advice provided to them by the Council's Chief Financial Officer or Monitoring Officer pursuant to their statutory duties;
 - (iii) give reasons for decisions made in accordance with any legal requirements and/or reasonable requirements of the Council.
- (c) When using or authorising the use by others of the resources of the Council, use the resources properly and in accordance with the Council's relevant policies.
- (d) Have regard to the applicable Local Authority Code of Publicity under the Local Government Act 1986.

4.2 Councillors and Co-Opted Members **must not**:

- (a) Engage in [bullying or intimidating behaviour](#) or behaviour which could be regarded as bullying or intimidation.
- (b) Do anything which may cause the Council to breach any of the equality enactments as defined in section 33, Equality Act 2006.
- (c) Disclose information given to them in confidence or information acquired by them which they believe or are aware is of a confidential nature except where:
 - (i) they have the consent of a person authorised to give it;
 - (ii) they are required to do so by law;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice;
 - (iv) the disclosure is reasonable and in the public interest;
 - (v) the disclosure is made in good faith and in compliance with the reasonable requirements of the Council or its professional advisers.
- (d) Prevent another person from accessing information if that person is entitled to do so by law.
- (e) Improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of their Disclosable Pecuniary Interests.
- (f) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

5. Interests, Dispensations, Sensitive Interests and Bias

- 5.1 Councillors **must** declare any interests (Disclosable Pecuniary Interests, [Other Registrable Interests](#) and [Personal Interests](#)) that relate to their public duties and **must** take steps to resolve any conflicts arising in a way which promotes openness and transparency, including registering and declaring interests in a manner conforming with the procedures. Further guidance is contained within Appendix 3.
- 5.2 Councillors who have a Disclosable Pecuniary Interest may apply for a Dispensation to enable them to speak and/or vote at a [Meeting](#) on the specific grounds set out in the Dispensation Procedure in Appendix 4.
- 5.3 If the Monitoring Officer agrees that an interest is a [Sensitive Interest](#) the Councillor **must** disclose its existence at a relevant Meeting but is not required to provide specific details (see Appendix 3). The Monitoring Officer shall also exclude the details of the Sensitive Interest from the published version of the Register of Interests.
- 5.4 When exercising a quasijudicial function (eg Planning, Licensing and Appeals), interests which do not qualify as Disclosable Pecuniary Interests or Other Registrable Interests could nevertheless lead a reasonable member of the public to conclude that there was a real possibility of bias on the part of a Councillor. In such circumstances the Councillor should not participate in the decision making process (ie the Councillor should not vote nor, unless they are requested to do so by the Chairman of the Meeting on a point of clarification, speak on the matter). The interest should be registered with the Monitoring Officer.

6. Gifts and Hospitality

Councillors **must** disclose and record any [gift or hospitality](#) they are offered or receive in accordance with the Councillors' Gifts and Hospitality Protocol.

7. Alleged breaches of this Code

- 7.1 Any allegation that a Councillor has breached this Code will initially be considered by the Monitoring Officer in consultation with one of the [Independent Persons](#). Where a matter is referred for investigation the Governance and Ethics Committee's Advisory Panel will consider the findings of the investigation. The Advisory Panel shall be chaired by an Independent Member and make recommendations to the Governance and Ethics Committee for final decision.
- 7.2 Appendix 5 is a flowchart outlining the process for dealing with alleged breaches of this Code.

West Berkshire Council Councillor's Gifts and Hospitality Protocol

September 2016

1. Introduction

This Protocol is intended to complement the [Councillors' Code of Conduct](#). It offers guidance to [Councillors](#) with regard to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect both individual Councillors and the [Council](#) itself. The intention of this Protocol is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the Council and its stewardship of public funds.

This Protocol adopts the definitions in [Appendix 1](#) to the Code.

This Protocol sets out Councillors' obligations to declare any relevant gifts and hospitality which might be offered to or received by them in their [Capacity](#) as a Councillor or to their spouse or partner as a result of their relationship with the Councillor.

The corollary of this is that gifts and hospitality offered to a [councillor](#) in their private capacity, of whatever value, do not need to be registered at all. Further, this Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to a councillor by the Council.

It is the Councillor's responsibility to ensure any gifts and hospitality received or offered to them or their spouse/partner are declared to the Council's [Monitoring Officer](#) in accordance with the agreed procedures.

Transparency is the issue: councillors should always consider whether any gifts or hospitality could be seen as being connected with their public role as a Councillor. It is public perception that matters.

A breach of this Protocol amounts to a breach of the Code and a complaint can be reported to the Monitoring Officer or the Governance and Ethics Committee and dealt with in accordance with the [process for alleged breached of the Code](#).

2. The Rules

(a) A Councillor or their spouse/ partner must never:

- accept a gift or hospitality as an inducement or reward for anything which they do as a Councillor; or
- accept a gift or hospitality which might be open to misinterpretation; or
- accept a gift or hospitality which puts them under an improper obligation; or
- solicit a gift or hospitality.

(b) Prior to the acceptance of any hospitality with a value of £25 or more, a Councillor should whenever possible seek authorisation from the Monitoring Officer, and only if consent has been given should the Councillor or their spouse/partner accept the hospitality.

(c) A Councillor must register every individual gift or item of hospitality over £25 in value that is offered to them and indicate whether or not it was accepted.

(d) A Councillor's registration of the gift or hospitality must be made within 28 days of the date of offer or receipt as the case may be.

(e) Registration is made by a declaration in writing to the Member Services Officer(s) working on behalf of the Monitoring Officer, preferably electronically (eg by email), and giving details of:

- the value (or estimated value) and details of the gift or hospitality offered or received;
- if the gift or hospitality has been accepted, the reason for that acceptance;
- whether to the Councillor's knowledge the donor of the gift has, or has had in the past, or is likely to have in the future, dealings with the Council.

(f) A Councillor should be aware of serial givers or repeat offers of hospitality as these may indicate a pattern of behaviour that might result in a breach of the Code of Conduct.

(g) An offer of a gift or hospitality that appears over-generous must be declined; it could be seen as an inducement to affect a Council decision.

(h) Even if all Councillors, or a large number of them, are offered or receive the same gift or hospitality, they must each make individual notifications.

Please note that the press and public have the right to inspect gift and hospitality declarations as submitted (and that Officers cannot edit the declarations).

Guidance

3. Should a Councillor accept gifts and hospitality?

It is not sufficient just to register gifts or hospitality; a Councillor **must** consider whether it is appropriate or sensible to accept them in the first place. The general test of caution is one of common sense and perception, ie would a reasonable member of the public question the appropriateness of hospitality or gifts offered to or received by the Councillor or their spouse/partner? If a Councillor is concerned the acceptance could be misinterpreted they **must** decline it and declare it.

A Councillor or their spouse/ partner **must never** solicit a gift or hospitality, or accept any gift or hospitality offered as an inducement or which puts them under any obligation.

Particular care must be taken in relation to gifts and hospitality offered by current or potential contractors for the Council. In certain cases, the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement, then the matter **must** be reported in accordance with established procedures.

The Bribery Act 2010 has offences of "bribing another person" (active bribery) and of "being bribed" (passive bribery). The offences consist of "promising, offering or giving" or "requesting, agreeing to receive or accepting an advantage (financial or

otherwise)” in circumstances involving the improper performance of a relevant function or activity.

In the context of the Council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust. There is a maximum penalty of 10 years’ imprisonment or an unlimited fine for these offences.

4. Must a Councillor register all gifts and hospitality that they are offered?

A Councillor **must** register any gift or hospitality worth £25 or more that they or their spouse/partner are offered, and whether it was accepted. Where the value of any gift or hospitality is under £25 a Councillor **may** wish to declare receiving it.

5. What about gifts or hospitality that a Councillor is offered but did not accept?

A Councillor **must** register any offer of gifts and/or hospitality over £25 even if declined, since this protects both their position and that of the Council.

6. What is the value of the gift / hospitality?

A Councillor may have to estimate how much a gift or some hospitality is worth in their written declaration. It is suggested that they take a common sense approach, and consider how much they reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result they estimate that the value is £25 or more, then the Councillor **must** declare it.

Where hospitality is concerned, a Councillor can disregard catering on-costs and other overheads, eg staff and room hire. If the refreshments, of whatever kind, would cost £25 or more in a comparable establishment providing food of comparable quality, the Councillor **must** register it.

If a Councillor is not certain whether the value is under £25, the safest course of action is to register it and give an approximate value.

7. What about gifts of low value?

There is no requirement to declare gifts of a value of less than £25. However, in order to be transparent, if a Councillor or their spouse/ partner receive a series of related gifts which are all under £25, but together total above £25, then they **must** register them if they are from the same person. If the small gifts offered by or received from different persons are connected in some way, it is good practice to register them.

8. How does a Councillor register gifts and hospitality that they receive?

A Councillor **must** give the Member Services Officer(s) working on behalf of the Monitoring Officer written details about the gifts and hospitality they or their spouse/ partner are offered, preferably by email. The best advice is to get into the habit of registering things as soon as possible.

9. Which organisation does a Councillor make declarations to?

A Councillor **must** also consider that they might be offered gifts and hospitality in their capacity as the Council’s representative on an outside body. It is a Councillor’s

responsibility to ensure that they declare any gifts and hospitality in accordance with that organisation's rules and procedures.

10. How to deal with the issue of when gifts or hospitality are offered or received in different capacities or where there are overlapping roles

Councillors need only declare gifts and hospitality to the Monitoring Officer where they are offered or received in their Capacity as a West Berkshire District Councillor.

If a councillor receives gifts or hospitality in another capacity, eg arising from holding another public office, they should register in accordance with whatever code is in place for that other body. If a particular body does not actually require the councillor to register anything, then they do not need to do anything in respect of the receipt of a gift or hospitality directly attributed to their role within that organisation.

If the councillor is not sure what capacity they or their spouse/partner was offered or received something in, provided they declare the gift or hospitality *at least once* with the body that appears to be the most appropriate, they will have fulfilled their duties. The overriding purpose is public transparency.

11. What happens if a Councillor does not register a gift or hospitality?

Failure to notify the Monitoring Officer, or the Members Service Officer(s) acting on their behalf, of the offer or receipt of a gift or hospitality with a value of £25 or more is a breach of this Protocol and consequently also a breach of the Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Monitoring Officer or Governance and Ethics Committee which could result in the matter becoming the subject of an investigation.

12. Gifts which are more likely to be considered acceptable

It is the responsibility of the Councillor to decide whether or not to declare gifts and hospitality.

The Council has however agreed that in appropriate circumstances Members of the Council may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority;
- Modest refreshments offered or received in the ordinary course of duties as a Councillor eg at formal meetings, training or working meetings or when in contact with constituents;
- Tickets for sporting or cultural events which are sponsored or supported by the Council;
- Small gifts of low intrinsic value branded with the name of the company or organisation making the gift (eg pens, diaries, calendars etc);
- Modest souvenir gifts from another public body given on the occasion of a visit by or to that body;
- Hospitality offered or received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by Officers rather than the Councillors who will be benefiting and hospitality should be commensurate with the nature of the visit; and

- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence. In such cases the Councillor may wish to pass the gift to the Chairman's Charity.

Offers/receipt of gifts and hospitality of these types are still subject to the requirements of this Protocol regarding the notification to the Monitoring Officer of gifts and hospitality of greater than £25 in value. The appropriateness of acceptance must always be considered beforehand. It must also be noted that the fact that a gift or hospitality does not have to be notified under this Protocol does not necessarily mean that it is appropriate to accept it.

13. Will the register be open to the public?

The register is available to the public in the same way as the register of Disclosable Pecuniary Interests is. It is open for inspection at the Council Offices, Market Street.

Regular updates of declarations will be reported to the Governance and Ethics Committee as part of the quarterly performance monitoring reports.

14. Further assistance

It is each Councillor's own individual responsibility to observe this Protocol, but the Monitoring Officer will help where possible. If a Councillor has any questions at all please contact the Monitoring Officer, Deputy Monitoring Officer(s) or the Democratic and Electoral Services Manager for advice and assistance.

Appendix 1 West Berkshire Council - Councillor's Code of Conduct

Definitions

This appendix provides definitions to some of the words and phrases used in the Code of Conduct and its Appendices.

'Bullying or intimidating behaviour' means offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group.

(Such behaviour can have a damaging effect on a victim's confidence, capability and health.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs, [but within the scope of the Code of Conduct].

It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a councillor will be found guilty of bullying when both parties have contributed to a breakdown in relations.)

'Capacity' – a Councillor or Co-Opted Member is acting in their Capacity as such when they are:

- acting as a representative of the Council; or
- participating in a [Meeting](#); or at briefing meetings with officers and members of the public; or
- corresponding with the authority other than in their private capacity.

'Council' means West Berkshire Council.

'councillor' means an elected member of the Council.

'Councillor' means a councillor where they are acting in their Capacity.

'Co-Opted Member' means a person who is not a councillor but who:

- is a member of any committee or sub-committee of the Council; or
- is a member of, and represents the Council on, any joint committee or joint sub-committee of the Council.

'Disclosable Pecuniary Interest' has the meaning given to it in the Act (see Appendix 3).

'Dispensation' has the meaning given to it in Appendix 5.

'Independent Person' means a person appointed by the Council in accordance with the Act who is consulted before the Council makes any decision on an allegation of a breach of this Code.

'Meeting' means any meeting of:

- the Council;

- the executive of the Council;
- any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, task groups, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of councillors.

'Monitoring Officer' means the Monitoring Officer of the Council (*who has the specific duty to ensure that the Council, its Officers, and its councillors, maintain the highest standards of conduct in all they do*).

'Other Registrable Interest' has the meaning given to it in Appendix 3.

'Personal Interest' has the meaning given to it in Appendix 3.

'Relevant Person' has the meaning given to it in Appendix 3.

'Sensitive Interest' has the meaning given to it in Appendix 3.

Appendix 2

West Berkshire Council - Councillor's Code of Conduct

The Ten Principles of Public Life ('the Nolan Principles')

Selflessness

Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

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

Objectivity

Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Councillors should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement

Councillors may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others

Councillors should promote equality by not discriminating against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law

Councillors should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

Councillors should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Leadership

Councillors should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Appendix 3 West Berkshire Council - Councillor's Code of Conduct

Interests

Introduction

Councillors and Co-Opted Members **must** declare any interests that relate to their public duties and **must** take steps to resolve any conflicts arising in a way which promotes openness and transparency, including registering and declaring interests in a manner conforming to the procedures.

There are three types of interest:

- Disclosable Pecuniary Interests
- Other Registrable Interests
- Personal Interests

Councillors should also always consider whether any interest could be seen as being prejudicial to their decision making as a councillor. It is public perception that matters.

1 Disclosable Pecuniary Interests (DPIs)

1.1 [Schedule 2 of the Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) lists the disclosable pecuniary interests specified for the purpose of the Act. This list is in [Appendix 3a](#).

1.2 The requirements to register interests apply to either an interest of the councillor or an interest of the councillor's spouse, civil partner or partner. However, the councillor does not have to differentiate between their own or their spouse/civil partner/partners' interests or to name them.

2 How to declare a DPI

2.1 Councillors **must** notify the Monitoring Officer of any DPI, within 28 days of taking up office or becoming aware of their interest. As with the Code, the requirement to disclose DPIs applies to Co-Opted Members as well as to councillors.

2.2 Any interests **must** also be disclosed at a Meeting if they are relevant to the matters under discussion.

2.3 The Act makes participation in such matters a criminal offence if the Councillor has a DPI.

2.4 Where, as an Executive Member, a Councillor may discharge a function alone, and they become aware of a DPI in a matter being dealt with, or to be dealt with by them, the Councillor **must** notify the Monitoring Officer of the interest and **must not** take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

3 Other Registrable Interests

3.1 Councillors are required by law to register Other Registrable Interests.

3.2 An Other Registrable Interest is one which a member of the public who knows all the relevant facts relating to it would reasonably consider that interest is so significant that it is likely to prejudice or influence the councillor's judgement of the public interest.

3.3 These relate to:

- (a) any body of which a councillor is a member or in a position of general control or management and to which they are appointed or nominated by their authority;
- (b) any body exercising functions of a public nature; directed to charitable purposes; or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which they are a member or in a position of general control or management;
- (c) any easement, servitude, interest or right in or over land which does not carry with it a right for the councillor (alone or jointly with another) to occupy the land or to receive income.

4 How to declare an Other Registrable Interest

4.1 Councillors **must** notify the Monitoring Officer of any Other Registrable Interests, within 28 days of taking up office or becoming aware of their interest. As with the Code, the requirement to disclose Other Registrable Interests applies to Co-Opted Members in addition to councillors.

4.2 A Councillor may participate in decision making relating to their Other Registrable Interests to make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. The Councillor **must** leave the Meeting immediately after making representations, answering questions or giving evidence.

4.3 Subject to the Councillor disclosing the interest at the Meeting, they may attend a Meeting and vote on a matter where they have an Other Registrable Interest that relates to the functions of their authority in respect of:

- (a) housing, where they are a tenant of their authority provided that those functions do not relate particularly to their tenancy or lease;
- (b) school meals or school transport and travelling expenses, where they are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where they are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to councillors;
- (e) any ceremonial honour given to councillors; and

- (f) setting council tax or a precept under the Local Government Finance Act 1992.

5 When an Other Registrable Interest becomes a Personal Interest

- 5.1 The Council has many dual-hatted councillors who are also town or parish councillors. Membership of a body exercising functions of a public nature, such as town and parish councils, is an Other Registrable Interest and usually restricts a Councillor's participation in decision making. A Councillor would however be permitted to participate in decision making at Planning Committee meetings because their membership of a town or parish council is unlikely to prejudice or influence the Councillor's judgement of the planning application before the Committee. In this instance the Councillor should follow the rules on how to declare a Personal Interest.
- 5.2 Conversely, there might be times when a councillor's membership of a town or parish council is likely to prejudice or influence the Councillor's judgement of the planning application before the Committee. The Councillor should seek advice from the Monitoring Officer if they are unsure.

6 Personal Interests

- 6.1 A Councillor has a Personal Interest in any decision of their authority where the interest might reasonably be regarded as affecting their well-being or financial position or that of a [Relevant Person](#) to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward
- 6.2 A Relevant Person is:
 - (a) a parent, grandparent, sibling, child, aunt, uncle, cousin (or partner/spouse of any of those people) by birth or by marriage; or
 - (b) any person or body who employs or has appointed a Relevant Person, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom a Relevant Person has a beneficial interest in a class of securities exceeding the nominal value of £25,000.00; or
 - (d) any body of a type described in Other Registrable Interests.

7 How to declare a Personal Interest

- 7.1 Where a Councillor has a Personal Interest in any business of the Council a Councillor needs to disclose to the meeting the existence and nature of that interest when they address the meeting on that business.
- 7.2 Personal interests do not need to be declared to the Monitoring Officer, but Councillors should seek advice if they are not sure what type of interest they have.

8 When a Personal Interest becomes an Other Registrable Interest

- 8.1 As outlined in [the Code](#), a situation may arise where a member of the public who knows all the relevant facts relating to it would reasonably consider that

an interest is so significant that it is likely to prejudice or influence the Councillor's judgement of the public interest. In that circumstance their interest would be considered to be an Other Registrable Interest.

- 8.2 A Councillor would have an Other Registrable Interest in a planning application that their parent had submitted because that Relevant Person is likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward or parish. A DPI would not cover this aspect as they relate to Councillor and their spouse/partner only. The existence of a close family tie would mean that the public might consider that it would prejudice the Councillor's view when considering the application.
- 8.3 In this instance the Councillor should follow the rules on how to declare an Other Registrable Interest.

9 Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of their authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, they were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee they were present when that decision was made or action was taken,

a Councillor may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and they **must** leave the room where the meeting is held immediately after making representations, answering questions or giving evidence. The Councillor should not stay in the meeting for the purposes of taking part in the committee's general debate.

10 Register of Interests

The Council will maintain a register of councillors' interests, and make it available to the public on their website.

11 Sensitive Interests

- 11.1 Where a councillor is concerned that the disclosure of the details of an interest (whether a DPI or Other Interest which the councillor is required to disclose) at a Meeting or on the Register of Members' Interests, and such disclosure would lead to the councillor or a person associated with them being subject to violence or intimidation, the councillor may request the Monitoring Officer agree that such interest is a Sensitive Interest.
- 11.2 If the Monitoring Officer agrees that the interest is a Sensitive Interest the councillor **must** still disclose the existence of the interest at a relevant Meeting but the councillor is not required to provide the details of the Sensitive Interest during the meeting. The Monitoring Officer shall also exclude the details of the Sensitive Interest from the published version of the Register of Members' Interests.

Appendix 3a
West Berkshire Council - Councillor's Code of Conduct

Prescribed Definitions for Disclosable Pecuniary Interests

The following table replicates [Schedule 2 of the Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) and gives the prescribed definitions for Disclosable Pecuniary Interests.

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by a Councillor in carrying out duties as a member, or towards the election expenses of a councillor.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the Councillor's partner/ spouse (or a body in which the Councillor's partner/ spouse has a beneficial interest) and the Council—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Councillor's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the Councillor's partner/ spouse has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the Council; and</p>

Subject

Prescribed description

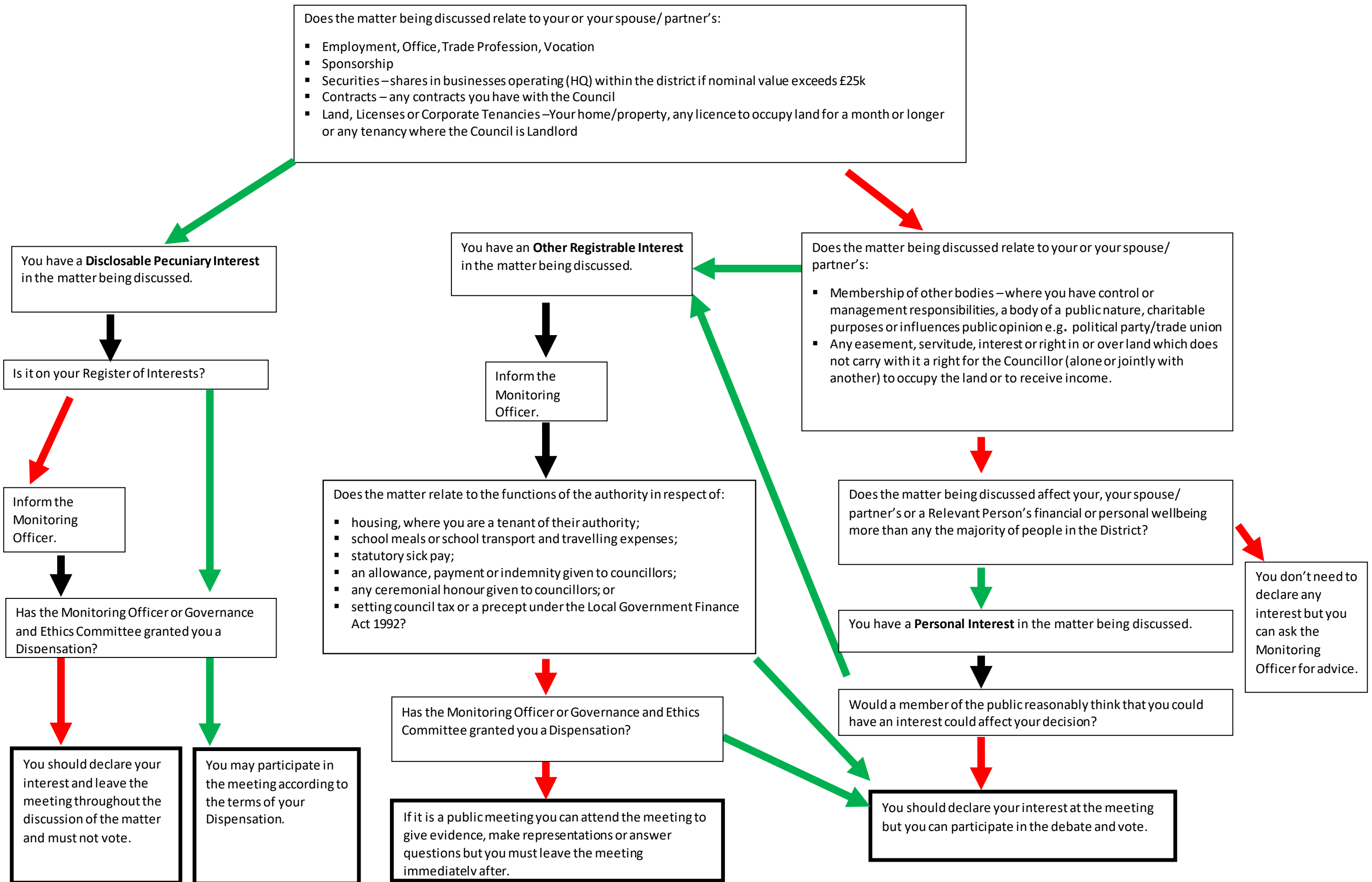
(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor's partner/spouse has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

This page is intentionally left blank.

Interests Flowchart



This page is intentionally left blank.

Appendix 4
West Berkshire Council - Councillor's Code of Conduct
Dispensations under the Localism Act 2011

Introduction

Regulations came in to force on 1 July 2012 following the introduction of the Localism Act 2011. Section 33 of these regulations prescribes the circumstances in which the Governance and Ethics Committee and the Monitoring Officer may grant Dispensations to Councillors to speak and/or vote at a meeting in which they have a Disclosable Pecuniary Interest under Section 31 of the Act.

If a Councillor acts in accordance with the granting of such a Dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct is not a failure to comply with the authority's Code. These regulations refer to the circumstances where a Councillor, finds they are in a position where they have to declare a Disclosable Pecuniary Interest or Other Registrable Interest under the Code of Conduct which would ordinarily then require them to leave the meeting. These councillors might be able to obtain a Dispensation from the Governance and Ethics Committee or Monitoring Officer to stay in the meeting after declaring the interest and either speak or speak and vote according to any Dispensation granted.

Dispensations

1 Circumstances in which a Dispensation can be Granted

1.1 The Governance and Ethics Committee or Monitoring Officer may grant a Dispensation to a Councillor in the following circumstances:

- (a) That so many Councillors of the decision making body have Disclosable Pecuniary Interests in a matter that it would "impede" the transaction of the business of that body. [In practice this means the decision making body would be inquorate as a result].
- (b) That without the Dispensation the representation of different political groups on the body transacting the business would be such as to alter the outcome of the vote on that particular matter.
- (c) That the authority considers that the Dispensation is in the interests of persons living in the authority's area.
- (d) That without a Dispensation no Member of the Executive would be able to participate in a particular matter. They suggest that where the Executive would be inquorate as a result then the particular decision could be dealt with by an individual Member of the Executive. It may be necessary to make provision in the Scheme of Delegation to enable this to occur although it does appear to be an unlikely event.
- (e) That the Council considers that it is "otherwise appropriate" to grant a Dispensation. This is a particularly wide provision as to some extent is (c) above.

- 1.2 It is considered that grounds (a) and (d) are objective. Dispensations on these grounds are delegated to the Monitoring Officer with an appeal to the Governance and Ethics Committee.
- 1.3 Grounds (b), (c) and (d) are rather more complex and subjective. The discretion to grant Dispensations on these grounds remains with Governance and Ethics Committee after consultation with the Independent Person.

2 Requesting a Dispensation

Requests for Dispensations **must**:

- (a) be made in writing;
- (b) be made to the Monitoring Officer of the Council;
- (c) be made by an individual Councillor or Co-Opted Member of the authority;
- (d) provide sufficient information to base a decision on.

3 Procedure and Considerations

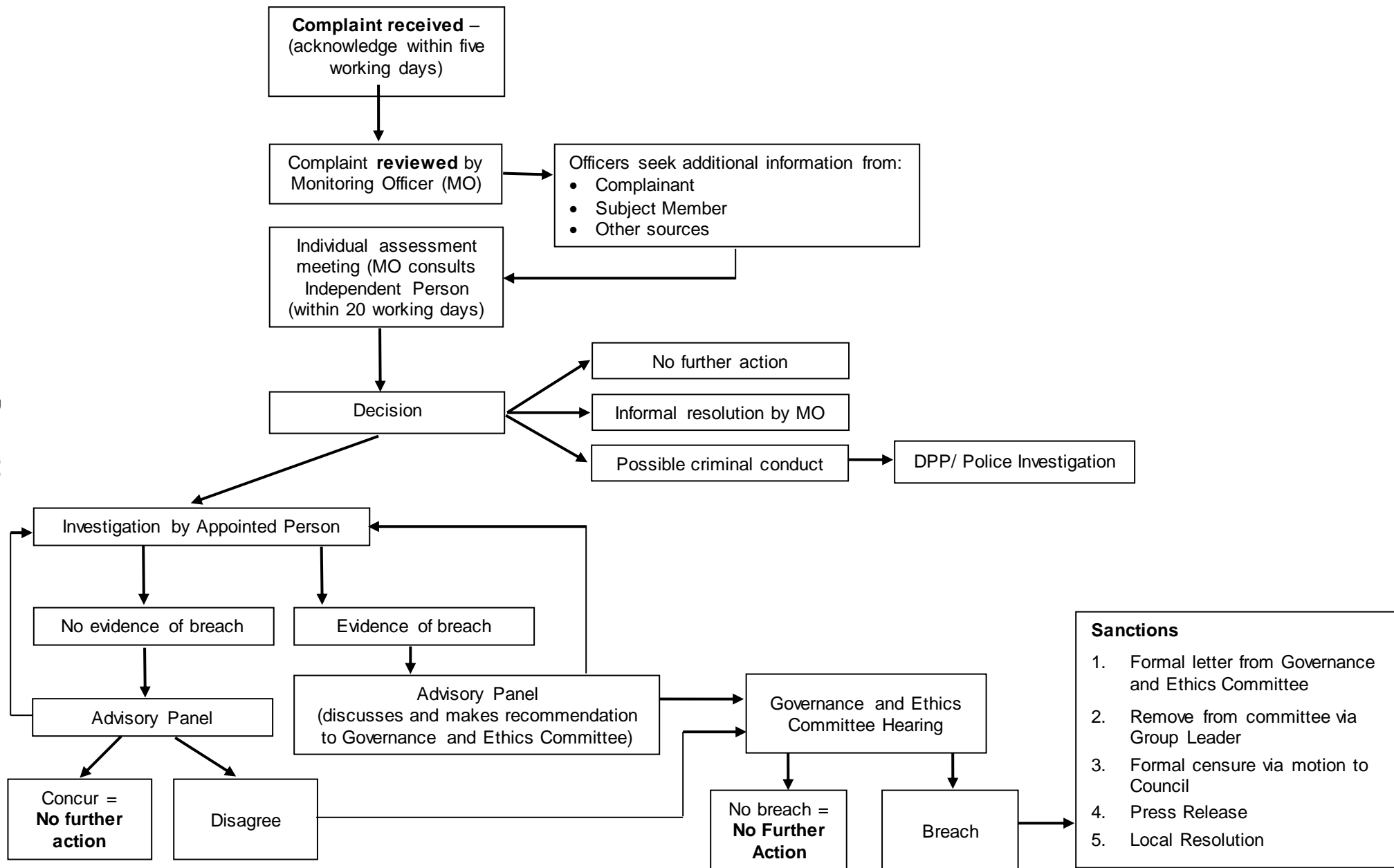
- 3.1 The Governance and Ethics Committee or Monitoring Officer will take the following into consideration when determining whether or not a Dispensation should be granted:
 - (a) They will weigh up the effect of Councillors' Disclosable Pecuniary or Other Registrable interest against the outcome of the vote if they are not participating in the vote.
 - (b) They will consider whether the nature of the interest in question is such that public confidence in the authority would be damaged if that Councillor were allowed to vote.
 - (c) They will look at whether the interest in question is one that is common to both the Councillor and to a significant proportion of the population.
 - (d) They will take account of the expertise and knowledge of the Councillor and whether this justifies their participation in the item in question.
 - (e) They will have regard to whether the business in question relates to a voluntary or public body and additionally whether the interest is a financial one.
 - (f) They will consider whether a Dispensation not being granted would mean the meeting was inquorate, this might be a reason to grant the Dispensation.
- 3.2 This consideration may also take account of any other relevant circumstances or local criteria.
- 3.3 The Monitoring Officer or Governance and Ethics Committee will determine the nature of any Dispensation they are minded to grant:
 - (a) Whether the applicant can speak and not vote; or
 - (b) Whether the applicant can participate fully and vote.

- 3.4 The Monitoring Officer or Governance and Ethics Committee can also decide the length of the Dispensation (not more than four years).
- 3.5 The regulations do not allow for the Monitoring Officer or Governance and Ethics Committee to grant a general Dispensation to cover any situation where a Disclosable Pecuniary Interest may arise.
- 3.6 If the Monitoring Officer or Governance and Ethics Committee grants a Dispensation it should do so in writing and before the Meeting(s) in question is/are held.
- 3.7 The Monitoring Officer or Governance and Ethics Committee may decide to refuse an application for a Dispensation. This is within their discretion under the regulations.
- 3.8 A written record of the decision taken must be kept and placed with the Register of Interests maintained under Section 81(1) of the Local Government Act 2000.

Appendix 5

See separate flow chart

Processing Complaints: Code of Conduct: Localism Act 2011



- Sanctions**
1. Formal letter from Governance and Ethics Committee
 2. Remove from committee via Group Leader
 3. Formal censure via motion to Council
 4. Press Release
 5. Local Resolution

Dear Sarah,

I would like to submit in writing to you my official complaint against Councillor Adrian Abbs, following his conduct at the Executive Meeting of the 23rd of March 2023. I believe that Councillor Abbs has breached both our own Code of Conduct for Members and the Nolan Principles.

The evidence of this can be found at 1hour 36 minutes of this video recording - <https://www.youtube.com/live/eAEWzt-ZeA8?feature=share&t=5760>

Cllr Abbs disrupted the meeting by refusing to let Cllr Ardagh-Water respond to him. On the first occasion as Chairman I let this go but when Cllr Abbs continued, despite Cllr Ardagh Waters polite request for him to be able to answer, I attempted to end the disruption with use of the gavel.

You can watch for yourself what happened next.

I believe the evidence shows the following breaches of our Code of Conduct –
4.1 a) Treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
4.2 (a) Engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation
4.2 (f) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

I would particularly highlight to you 4.2 a and the Nolan Principle of Respect for Others.

You will hear on film Cllr Abbs comments to me about ‘no respect for me’ specifically.

As I walked passed him he repeated these in an insulting and intimidating manner. I believe that Cllr Abbs treatment specifically direct at me was an attempt to undermine my position and was highly intimidating.

I am sure that those witnesses in the Chamber will be able to support this, especially the way in which he responded to me when I asked him to leave the Chamber, which he flatly refused to do and sat challenging me as to what happens next.

All of my actions were guided by both the CEO and the legal representative at the meeting.

I would appreciate if you would investigate this matter.

Kind Regards

Lynne

Cllr Lynne Doherty

Leader, West Berkshire Council
Newbury Speen Ward - Conservative

This page is intentionally left blank

Subject Member Response

The YouTube video shows the exact sequence of events so should be seen in the whole not just the event itself.

From my perspective neither the leader or Cllr Steve Ardagh-Walter has allowed any possibility of actual debate during the exec meeting.

The constitution is arranged in such a way as to actively avoid debate.

Whilst it is correct that I interrupted Cllr Ardagh-Walter, it is also correct that there is no mechanism by which what an exec member is saying can be challenged

I believe Cllr Doherty was far too aggressive with the Gavel meaning the situation was exacerbated not calmed. I also contend that by any measure the leader was far too aggressive with her demand for me to leave the chamber.

This is especially so, given that on the one hand the leader chose to use the constitution as a way of stopping debate, and on the other to ignore the constitution when asking me to leave.

As for a comment made about having lost respect for the position of leader this is not the case. My comment was made direct to Cllr Doherty because of her personal choice of actions. The loss of respect is for her as a person not for the position of leader. More importantly the comment was after she had closed the meeting unless my recall is incorrect?

My own complaint against her is specifically because she chose not to follow correct process and so effectively denied my rights as an elected Cllr to continue to scrutinize executive decision being made in this in the public forum.

I see this whole thing as more of a failure of the Leader to show good judgement than anything specific to do with me not having respect for the position of leader.

This page is intentionally left blank

Initial Assessment Decision Notice

Complaint Reference: NDC08/23

Complainant: Councillor Lynne Doherty

Subject Member: Councillor Adrian Abbs

On 20 April 2023, the Monitoring Officer, Sarah Clarke, and Independent Person of this Authority, Alan Penrith, considered a complaint from Councillor Lynne Doherty concerning the alleged conduct of Councillor Adrian Abbs, a member of West Berkshire Council. Jack Karimi, Democratic Services Officer, was additionally present.

Brief Summary of the Complaint is set out below:

- That at the Executive meeting held on 23 March 2023, the Subject Member was disruptive by not allowing Councillor Steve Ardagh-Walter to respond to a question put to him.
- That the Subject Member refused to leave the Council Chamber when requested to, and later commented that he had “no respect” for the Complainant.

Potential breaches of the Code of Conduct identified

The following potential breaches of the Code of Conduct were discussed:

Nolan Principles:

- Personal Judgement
- Respect for Others
- Leadership

General Obligations:

- 4.1(a). Councillors and Co-opted members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- 4.2(a). Councillors and Co-opted members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- 4.2(f). Councillors and Co-opted members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

Decision

In accordance with the Localism Act 2011, following the Initial Assessment the Monitoring Officer, in consultation with the Independent Person, is able to decide on one of the following four outcomes:

1. The complaint will be investigated fully by an independent investigator;
2. No further action will be taken on your complaint;
3. Some form of informal resolution will be sought;
4. The matter will be referred to the Director of Public Prosecution or the Police where it is suspected that some form of criminal conduct has occurred in relation to interests that have not been disclosed.

The Monitoring Officer in consultation with the Independent Person has concluded that in this case:

- The complaint will be investigated fully by an independent investigator.

In considering the Complaint, the Monitoring Officer in consultation with the Independent Person (hereafter “the Panel”) had regard to the West Berkshire Council Code of Conduct, the information submitted by the Complainant, the response provided by the Subject Member, and a recording of the Executive meeting held on 23 March 2023.

In her complaint, the Complainant stated that the Subject Member disrupted the meeting and continued despite requests by Councillor Ardagh-Walter and herself to stop. The Complainant additionally stated that the Subject Member’s comments were intimidating and made in an effort to undermine her position as Leader whilst chairing the meeting.

In his response, the Subject Member stated that his disruption was due to his inability to adequately respond to and debate the answer given to him by Councillor Ardagh-Walter. He suggested that this was exacerbated by what he stated was the Complainant’s aggressive use of the gavel, which the Subject Member viewed as a failure to demonstrate good judgement. The Subject Member clarified that his comments regarding having “no respect” were directed at the Complainant because of her personal choice of actions and this was not intended to undermine the position of leader.

Without making any findings of fact, the Panel concluded that the Subject Member’s conduct during the meeting may have constituted a breach of the Code of Conduct. In reaching this decision, the Panel noted both the behaviour and comments of the Subject Member. It was also noted that the incident took place during a public meeting of the Council’s Executive, where some of the most significant decisions of the Council are taken.

The Subject Member suggests in his response that his comment that he had “no respect” for the Complainant, was made after the meeting had been adjourned. The recording of the meeting records the Subject Member informing the Complainant that he had no respect for her. The Complaint and the Subject Members response both indicate that there was a further exchange after the meeting was adjourned.

It is likely that when the meeting was adjourned, Members who were in attendance at the meeting continued acting in their capacity as Members, and it is therefore likely that the Code of Conduct continued to apply to any comments made at that stage.

The Panel noted that that Members have a right to freedom of expression, which may only be restricted when there are convincing and compelling reasons to do so, within the terms of

Article 10(2) of the European Convention on Human Rights. The Panel considered that even if the content of the statements made by the Subject Member were protected by Article 10, the level of disruption caused by the incident to a public meeting of the Council's Executive, gave rise to potential breaches of the Code of Conduct.

Having regard to the above information, it was determined that this complaint should be referred for an independent investigation, which will investigate whether there have been breaches of any or all of the following obligations:

- 4.1(a). Councillors and Co-opted members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- 4.2(a). Councillors and Co-opted members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- 4.2(f). Councillors and Co-opted members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

What happens now?

This Decision Notice is sent to the Complainant and the Subject Member about which the complaint was made.

Independent Investigation

The Monitoring Officer will appoint an external investigator to undertake an investigation on behalf of the Governance and Ethics Committee. The Council will notify the Complainant and Subject Member of the details of the investigator who will contact them in due course to arrange an interview with them. In addition, the investigator may wish to interview additional witnesses. All information provided to the Governance and Ethics Committee already will be given to the investigator. You may wish to consider whether there is any additional information you would want them to consider.

What if I am unhappy with the outcome?

The Localism Act does not provide any appeals mechanism to review this decision. However the decision may be reviewed by means of an application to the High Court for Judicial Review of the decision.

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

We can also help if English is not your first language.

West Berkshire Council is committed to promoting and demonstrating fairness and equality of opportunity. We will ensure that no one is treated less fairly on the grounds of age, disability, gender, gender identity, marriage/civil partnership, pregnancy/maternity, race, religion/ belief, sexual orientation, or on any other grounds, as set out in legislation, which cannot be justified.

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to contact Jack Karimi on Telephone 01635 503605, who will be able to help.

Signed *Sarah Clarke*

Date: 24 April 2023

Monitoring Officer Sarah Clarke

Signed *Alan Penrith*

Date: 24 April 2023

Independent Person Alan Penrith

Appendix F1 - Comments from Complainant on the Investigator's Report

Dear Mr Lingard,

Thank you for sharing your considerations with me.

While you have recognised the breach of 4.1 (a) you have not within this recognised the fundamental point of how debate is enabled.

In my view if there is a lack of courtesy and respect for the position of the Chairman (whoever that might be) then no debate can take place. In my 8 years at West Berkshire Council I have been impressed that this has been a principle that has been followed and adhered to.

While you recognise Cllr Abbs breach in terms of Cllr A-W you make no mention of the lack of courtesy and respect given to the Chair.

While I appreciate your comments that I may have handled that situation differently you are viewing this as an isolated incident, whereas I unfortunately had experienced this type of behaviour many times from Cllr Abbs and therefore wanted to be clear it would not be tolerated yet again.

Other than those two points I have nothing further to add.

Kind Regards
Lynne Doherty

This page is intentionally left blank

Appendix F2 - Comments from Complainant on the Investigator's Report

E-mail dated 25 August 2023 to the Investigator:

Dear Richard,
I have no real comment to add.
Regards
Adrian Abbs

E-mail exchange dated 5 September 2023 with the Deputy Monitoring Officer:

From: Nicola Thomas <Nicola.Thomas1@westberks.gov.uk>
Sent: Tuesday, September 5, 2023 9:25 AM
To: Adrian Abbs <Adrian.Abbs1@westberks.gov.uk>
Subject: FW: FINAL REPORT ON DOHERTY / ABBS COMPLAINT

Dear Cllr Abbs,

Please find attached the password to enable you to access the report.

Regards,
Nicki

Nicola Thomas (she/ her)
Solicitor –Service Lead, Legal and Democratic Services

-

From: Adrian Abbs <Adrian.Abbs1@westberks.gov.uk>
Sent: Tuesday, September 5, 2023 12:38 PM
To: Nicola Thomas <Nicola.Thomas1@westberks.gov.uk>
Subject: RE: FINAL REPORT ON DOHERTY / ABBS COMPLAINT

Thank You Nicola,
I have a major concern having now read the "Final" compared to the draft I was sent.

Draft said

8.6 I have therefore concluded that Cllr Abbs breached Paragraph 4.1 (a) of the WBC Code of Conduct by failing to show courtesy and / or respect to Cllr Ardagh-Walter by interrupting and talking over him.

Final says

8.6 By his own admission, Cllr Abbs interrupted Cllr Ardagh-Walter and as can be seen from the video, he talked loudly over Cllr Doherty and answered her back 10 when she attempted to restore order. Although as explained in paragraph 8.17 below, I do not consider that Cllr Doherty handled the situation in the best way but that does not detract from the fact that Cllr Abbs was, in my view, disrespectful towards her as well as towards Cllr Ardagh-Walter.

8.7 I have therefore concluded that Cllr Abbs breached Paragraph 4.1 (a) of the WBC Code of Conduct by failing to show courtesy and / or respect to Cllr Ardagh-Walter and Cllr Doherty by interrupting and talking over them.

This is significant and substantial change without explanation of why – I am especially concerned as I had no sight of the changes that are now made.

I have to ask why such a significant change between a draft, which I was invited to comment on, and what you have just sent.

Why did the inspector change his mind when no new evidence was presented?

Regards
Adrian

-

From: Nicola Thomas <Nicola.Thomas1@westberks.gov.uk>
Sent: Tuesday, September 5, 2023 1:52 PM
To: Adrian Abbs <Adrian.Abbs1@westberks.gov.uk>
Subject: RE: FINAL REPORT ON DOHERTY / ABBS COMPLAINT

Dear Cllr Abbs,

Thank you for your email.

Under the constitution the complainant and you can comment on the initial report. On considering the comments, the final report is produced by the independent assessor. The report, along with comments from the relevant parties is then assessed at the Governance Committee's Advisory Panel. Whilst the report is in a final version, it will be for the Advisory Panel to consider if they concur with the investigator's finding and if necessary, make recommendations to the Governance Committee.

The full details are in Part 13 Appendix E https://www.westberks.gov.uk/media/38477/Constitution-Part-13-Codes-and-Protocols/pdf/Part_13_-_Codes_and_Protocols_update_September_2019.pdf?m=638182952139030000

I hope that clarifies the process.

Best wishes,

Nicola Thomas (she/ her)
Solicitor –Service Lead, Legal and Democratic Services

-

Understood and thanks

It's the dramatic change that I find strange.
Can that be brought to the attention of the Advisory Panel?

Regards
Adrian

Written Decision of West Berkshire Council's Advisory Panel

Date of the Advisory Panel:	10 October 2023
Reference Number:	NDC08/23
Member who this Decision relates to:	Councillor Adrian Abbs
Person who made the original allegation:	Mrs Lynne Doherty
Authority:	West Berkshire Council
Chair of the Advisory Panel:	Mike Wall (Independent Person)
Other Members of the Advisory Panel:	Councillors Anne Budd, Carolyne Culver, Jane Langford and David Marsh
Apologies:	Councillor Lee Dillon, Councillor Geoff Mayes, Alan Penrith (Independent Person) and Councillor Jo Stewart
Declarations of Interest:	None
Monitoring Officer:	Nicola Thomas (Deputy)
Investigator:	Mr Richard Lingard
Clerk of the Advisory Panel:	Stephen Chard
Date Decision Issued:	

Summary of the Original Complaint

The complaint was received following the meeting of West Berkshire Council's Executive, held on 23 March 2023, and relates to the alleged conduct of Councillor Abbs (the Subject Member) at that meeting.

Mrs Doherty, the Complainant, who was the Leader of the Council at that time and chairing the Executive, felt that the conduct of the Subject Member was a breach of the Council's Code of Conduct and the Nolan Principles.

The Complainant has alleged that the Subject Member disrupted the meeting by refusing to allow Councillor Steve Ardagh-Walter, a Member of the Executive, to respond to a question that had been put to him by the Subject Member. This disruption continued despite requests by the Complainant and Councillor Ardagh-Walter for this to stop.

The Subject Member initially refused to leave the Council Chamber when asked to do so and commented that he had no respect for the Complainant.

Outcome of the Initial Assessment

The complaint was received on the 29 March 2023 and was initially assessed on 20 April 2023 by the Monitoring Officer and Independent Person (Alan Penrith) of West Berkshire Council.

In considering the complaint the Monitoring Officer, in consultation with the Independent Person, had regard to the West Berkshire Council Code of Conduct, the information submitted by the Complainant, the information submitted by the Subject Member, and the recording of the Executive meeting.

It was concluded that in this case, while not making any findings of fact, the Subject Member's conduct during the meeting may have constituted a breach of the Code of Conduct.

The Initial Assessment concluded that the complaint be referred for an independent investigation.

Conclusion of the Independent Investigator

Mr Richard Lingard was appointed to undertake the investigation on behalf of the Monitoring Officer. He considered the same information made available at the Initial Assessment stage and interviewed the following people as part of the investigation:

- Mrs Lynne Doherty (then Councillor Doherty) (Complainant).
- Councillor Adrian Abbs (Subject Member)

Mr Lingard's draft report was shared with the Subject Member and the Complainant, and further comments were invited. These were incorporated into the final report where relevant.

In summary, Mr Lingard's findings are as follows:

1. That there is evidence of Councillor Abbs breaching paragraph 4.1(a) of the Council's Code of Conduct:
'4.1 Councillors and Co-Opted Members must:
(a) Treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.'

By failing to show courtesy and/or respect to Councillor Ardagh-Walter and the Complainant by interrupting and talking over them.

In considering paragraph 4.2(a) of the Council's Code of Conduct:
'4.2 Councillors and Co-Opted Members must not:
(a) Engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.'

There was found to be no evidence of a breach.

In considering paragraph 4.2(f) of the Council's Code of Conduct:
'4.2 Councillors and Co-Opted Members must not:
(f) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.'

There was found to be no evidence of a breach.

Views of the Advisory Panel

A summary of the Advisory Panel's discussions is provided below to aid the Governance Committee's deliberations:

The Panel agreed with the point made by the Investigator that the Subject Member had been given adequate opportunity to ask questions on the agenda item and therefore the situation need not have arisen.

There was some concern as to whether the Constitution had been followed with regard to the Subject Member's removal from the meeting and there was felt to be a level of uncertainty. As a result, and having regard to the recording, the situation appeared to have been poorly handled and came across as slightly chaotic. This 'chaos' was not felt to be entirely due to the Subject Member.

It was disappointingly the case that it was not possible to hear all of the Subject Member's comments on the recording as his microphone had been turned off.

In conclusion, the Advisory Panel unanimously concurred that there was evidence of a breach of paragraph 4.1(a) of the Council's Code of Conduct.

The majority of the Advisory Panel concurred that there was no evidence of a breach of paragraph 4.2(a) of the Council's Code of Conduct. The consensus was held that Executive meetings were a robust political arena and as such there was not evidence of bullying. A Panel Member acknowledged the point around holding robust debates, but held the view that there was evidence of bullying.

The Advisory Panel unanimously concurred that there was no evidence of a breach of paragraph 4.2(f) of the Council's Code of Conduct. The point was however made that the situation portrayed the Council in a bad light.

The Advisory Panel did not identify any areas of the Investigator's report that required further clarification.

The Advisory Panel recommended that the following people be invited to attend the Governance Committee where the matter will be determined:

1. Investigator (Mr Richard Lingard)
2. Complainant
3. Subject Member
4. Monitoring Officer

The Advisory Panel recommended that if the Governance Committee concurred with the finding that a breach of the Code of Conduct has occurred the Panel would recommend that the following sanction be applied:

1. A formal letter to the Subject Member from the Chairman of the Governance Committee indicating the failure to comply with the Code.

Right to Appeal

Under the revised Localism Act 2011 there is no appeals mechanism in place. Parties may challenge the decision by way of Judicial Review in the High Court. Parties are advised to seek independent legal advice prior to pursuing this option.

Sanctions Which Can be Applied to Councillors Deemed to Have Breached the Code of Conduct

- (i) A formal letter to the Member from the Chairman of Governance and Ethics Committee indicating the failure to comply with the Code.
- (ii) Removal of a Member from a particular committee which can only be achieved in consultation with the Group Leader of the Members' party.
- (iii) Formal censorship motion via Council initiated by the Chairman of the Governance and Ethics Committee.
- (iv) A formal press release sanctioned by Governance and Ethics Committee summarising the breach.
- (v) A local resolution acceptable to the complainant and subject member and sanctioned by Governance and Ethics Committee.

This page is intentionally left blank