Luton

Luton Borough Council Constitution

Section 4: Members and standards

Part 4 A: Code of conduct for Members

Contents

Section 4: Members and standards 1

Part 4 A: Code of conduct for Members 1

Introduction 1
Definitions 1
Purpose of the Code of Conduct 1
Procedure for dealing with allegations against councillors 1
General principles of councillor conduct 1
Application of the Code of Conduct 3
Part 1. Standards of councillor conduct 3
General conduct 3
Protecting your reputation and the reputation of the local authority 7
Part 2. Registration, disclosure and duties on interests held by a Member 9
Appendix A: Procedure for dealing with allegations of misconduct 14
Appendix B: Luton Council Dispensations Protocol 35
Appendix C: Social media guidance for councillors 39

Section 4: Members and standards

Part 4 A: Code of conduct for Members

Introduction

1. Luton Council is committed to promoting and maintaining high standards of conduct by councillors and co-opted members of the council. The actions of those who represent the council affect how the council as a whole is viewed. Misconduct can seriously damage the effectiveness and reputation of the council and will not be tolerated. Those serving their communities must adhere to the high standards expected of them to promote public confidence in local democracy.

Definitions

2. For the purposes of this code of conduct, a 'councillor' means a member or co-opted member of a local authority. A 'co-opted member' is defined in the Localism Act 2011 Section 27(4) as 'a person who is not a member of the authority but who:

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

   and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee'. The term 'councillor' is used throughout to refer both to elected members and co-opted members.

Purpose of the Code of Conduct

3. The purpose of this code of conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you.
4. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the code is to create and maintain public confidence in the role of councillor and local government.

5. Your Monitoring Officer has statutory responsibility for the implementation of the code of conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the code of conduct.

Procedure for dealing with allegations against councillors

6. Allegations of misconduct made against councillors are dealt with in accordance with the procedure attached at Appendix A to this code of conduct.

General principles of councillor conduct

7. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles, which are:

Selflessness
Holders of public office should act solely in terms of the public interest.

Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty
Holders of public office should be truthful.

Leadership
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

8. Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

9. This code of conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

10. This code of conduct applies to you when you are acting in your capacity as a councillor which may include when:

    - you misuse your position as a councillor;
    - your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

11. The Code applies to all forms of communication and interaction, including:

    - at face-to-face meetings
    - at online or telephone meetings
    - in written communication
    - in verbal communication
    - in non-verbal communication
    - in electronic and social media communication, posts, statements and comments.

    You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Part 1. Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General conduct

1 Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should

not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police.

This also applies to fellow councillors, where action could then be taken under this code of conduct, and local authority employees, where concerns should be raised in line with the Part 4 C of the Constitution (the Protocol on Member/Officer Relations).

2 Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I carry out my duties having regard to the Council's responsibilities under the Public Sector Equality Duty, ensuring that I promote fairness and social justice and do not unlawfully discriminate against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3 Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to

act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4 Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

a. given to me in confidence by anyone
b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:

i. I have received the consent of a person authorised to give it;
ii. I am required by law to do so;
iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
iv. the disclosure is:

a. reasonable and in the public interest; and
b. made in good faith and in compliance with the reasonable requirements of the local authority; and
c. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5 Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute and hold myself accountable for my decisions and actions, submitting myself to whatever scrutiny is appropriate to my office.

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public.

You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6 Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7 Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

a. act in accordance with the local authority's requirements; and

b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.
Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8 Complying with the Code of Conduct

As a councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9 Interests

As a councillor:

9.1 I register and disclose my interests in accordance with Part 2 of this Code of Conduct.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable.

You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1 of Part 2 of this Code of Conduct, is a criminal offence under the Localism Act 2011.

Part 2 of this Code of Conduct sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10 Gifts and hospitality

As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor.

The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.

However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family.

It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Part 2. Registration, disclosure and duties on interests held by a Member

1. Registration of Interests

1.1 Within 28 days of becoming a Member or re-election or re-appointment to office Members must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". Members should also register details of their other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).

1.2 "**Disclosable Pecuniary Interest**" means an interest of the Member, or of his or her partner if (s)he is aware of his or her partner's interest, within the descriptions set out in Table 1 below.

1.3 **"Partner"** means a spouse or civil partner, or a person with whom the Member is living as husband or wife, or a person with whom (s)he is living as if they are civil partners.

1.4 Members must ensure that their register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

1.5 A "**sensitive interest**" is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation.

1.6 Where the Member has a 'sensitive interest' (s)he must notify the Monitoring Officer with the reasons why t(s)he believes it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

2. Non participation in case of disclosable pecuniary interest

2.1 Where a matter arises at a meeting which directly relates to one of the Member's Disclosable Pecuniary Interests as set out in Table 1, (s)he must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless (s)he has been granted a dispensation. If it is a 'sensitive interest', (s)he does not have to disclose the nature of the interest, only that (s)he has an interest.

2.2 Dispensation may be granted in limited circumstances, to enable a Member to participate and vote on a matter in which (s)he has a disclosable pecuniary interest.

3. Disclosure of Other Registerable Interests

3.1 Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of a Member's Other Registerable Interests (as set out in Table 2), (s)he must disclose the interest. (s)he may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless (s)he has been granted a dispensation. If it is a 'sensitive interest', the Member does not have to disclose the nature of the interest.

4. Disclosure of Non-Registerable Interests

4.1 Where a matter arises at a meeting which directly relates to a Member's financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, (s)he must disclose the interest. (S)he may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise (s)he must not take part in any discussion or vote on the matter and must not remain in the room unless (s)he has been granted a dispensation. If it is a 'sensitive interest', (s)he does not have to disclose the nature of the interest.

4.2 Where a matter arises at a meeting which affects –

(1) The Member's own financial interest or well-being;

(2) a financial interest or well-being of a relative or close associate; or

(3) a financial interest or wellbeing of a body included under Other Registrable Interests asset out in Table 2

(s)he must disclose the interest (that is, a personal interest). In order to determine whether (s)he can remain in the meeting after disclosing his or her interest the following test should be applied:

4.3 where a matter (referred to in paragraph 4.2) above) affects the financial interest or well-being:

(1) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

(2) a reasonable member of the public knowing all the facts would believe that it would affect a Member's view of the wider public interest (that is, a prejudicial interest)

the Member may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise the Member must not take part in any discussion or vote on the matter and must not remain in the room unless (s)he has been granted a dispensation.

If it is a 'sensitive interest', the Member does not have to disclose the nature of the interest.

5. Dispensation

5.1 A Member may request a dispensation to permit him or her to participate in a meeting where it would not normally possible to do so. The protocol for applying for a dispensation is attached at Appendix B.

6. Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation (including pensions relating thereto)	Any employment, office, trade, profession or vocation carried on for profit or gain. This includes any pensions arising therefrom.

Subject	Description
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council: a) under which goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— a) the landlord is the council; and b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners has a beneficial interest in.
Securities	Any beneficial interest in securities* of a body where— a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and 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, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were a spouse/civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*‘director’ includes a member of the committee of management of an industrial and provident society.

*‘securities’ means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

7. Table 2: Other Registrable Interests

7.1 A Member must register as an Other Registerable Interest:

(1) any unpaid directorships

(2) any body of which (s)he is a member or is in a position of general control or management and to which (s)he is nominated or appointed by his/her authority

(3) any body:

(a) exercising functions of a public nature

(b) directed to charitable purposes or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which (s)he is a member or in a position of general control or management

8. No Prejudicial Interest

A Member does not have a Prejudicial Interest in any business of the Authority where that business:

(1) does not affect his/her financial position or the financial position of a person or body described in paragraphs 3 and 4 of this Part 2 of this Code

(2) does not relate to the determining of any approval, consent, licence, permission or registration in relation to that Member or any person or body described in paragraph 3 of this Part 2 of this Code

(3) relates to the functions of the Authority in respect of:

(a) housing, where the Member is a tenant of the Authority provided that those functions do not relate particularly to his/her tenancy or lease

(b) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or is a parent governor of a school, unless it relates particularly to the school which the child attends

(c) statutory sick pay under Part IX 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

(d) an allowance, payment or indemnity given to Members

(e) any ceremonial honour given to Members and

(f) setting Council Tax or a precept under the Local Government Act 1992

9. Prejudicial Interests arising in relation to Overview and Scrutiny Committee

9.1 A Member has a Prejudicial Interest in any business before the Overview and Scrutiny Committee (or of any Scrutiny Body established thereby) where:

(1) that business relates to a decision made (whether implemented or not) or taken by the Authority' Executive or another Local Authority's Committees, Sub-Committees, Joint Committees or Joint Sub-Committees and

(2) at the time the decision was made or action was taken, the Member was a member of the Executive, Committee, Sub- Committee, Joint Committee or Joint Sub-Committee mentioned in (a) above and the Member was present when that decision was made or action was taken

10. Compliance with Standing Orders relating to Interests

10.1 Every Member of Luton Borough Council must, in addition to the requirements above, comply with any and all obligations relating to rules contained within the Council's Standing Orders at Part 3 A of the Constitution, namely:

(1) Council Procedure Rules (Chapter 1)

(2) Executive Procedure Rules (Part 3)

Appendix A: Procedure for dealing with allegations of misconduct

1. Introduction

1.1 This procedure is made in accordance with section 28 (6) and (7) of the Localism Act 2011. It explains:

(1) how to make a complaint that a Councillor or co-opted Member of Luton Council has failed to comply with the Code of Conduct for Members; and

(2) how Luton Council will deal with the complaint.

Complaints will be dealt with in a transparent (in so far as natural justice permits) and timely (subject to the specific circumstances of the case) manner with a view throughout to achieving an informal resolution where possible.

1.2 Complainants and Councillors or Co-opted Members against whom a complaint has been made ("Subject Members") will, depending on the matter, be asked for their views on informal resolution at an early stage. Informal resolution remains open to the parties throughout the process even if a complaint has proceeded to the formal resolution stage.

1.3 Luton Council's Code of Conduct for Members is Part 4 A of its Constitution. It can be found on the Council's website at:

https://www.luton.gov.uk/council-elections/councillors-committees/constitution-how-decisions-are-made

or requested from the Monitoring Officer at Town Hall, Luton, LU1 2BQ.

1.4 The Council is required by section 28 (7) of the Localism Act 2011 to appoint at least one Independent Person whose views must be sought and considered before determining on a complaint that it has decided to investigate. There is a panel of Independent Persons appointed by the Council from which it chooses whom to consult on each complaint.

In addition, either the Council or the Subject Member may consult the Independent Person at various stages in the complaints process.

Any view given by the Independent Person will be recorded by the Monitoring Officer and kept on file.

1.5 The Monitoring Officer will, at each meeting of the Standards Committee, report on any complaints received since the last meeting of the Committee and any acton taken in respect of them. A report on all complaints received during a year shall be included in the Annual Report of the Chair of the Committee.

2. Making a Complaint

2.1 A complaint that a Councillor or a co-opted Member of Luton Council has failed to observe the Code of Conduct should be submitted to:

The Monitoring Officer
Town Hall
Luton
LU1 2BQ

or by email at: standards@luton.gov.uk

or online at: https://myforms.luton.gov.uk/service/Report_a_councillor_complaint

2.2 The Monitoring Officer is a senior officer at Luton Council who has statutory responsibility for maintaining the Register of Councillor's Interests and who is responsible for administering the arrangements for complaints about alleged misconduct by councillors and co-opted members.

2.3 To ensure that the Monitoring Officer has the information needed to process the complaint, it should be submitted using the model complaint form which can be found on the Council's website or requested from the Monitoring Officer at the above address.

2.4 The Council will not investigate an anonymous complaint unless there is a compelling public interest in doing so; therefore, complainants should provide their name, address and, where they have one, their email address. The complaint form allows for the complainant to request that his or her identity be treated in confidence.

2.5 Complaints that a Councillor has failed to declare a pecuniary interest, or allegations that a Councillor has committed a criminal offence will, unless the complainant has already done so, be referred immediately to the police. The Monitoring Officer shall take no further action except as advised by the Police and shall not refer the complaint to the Subject Member for response. The rest of this procedure will not apply unless the Police decide that the complaint does not meet their prosecution threshold. When it is appropriate to do so, the Monitoring Officer will report the outcomes of such complaints to the Standards Committee.

2.6 Similarly, if the Monitoring Officer is informed that the matter being complained of is subject to legal action by either the Complainant or Subject Member, so as not to prejudice the outcome of those proceedings, further action under this procedure shall be suspended until they are concluded.

3. Stage One – the Assessment Stage

3.1 Within five working days of receipt of a complaint, the Monitoring Officer will acknowledge receipt and initially assess the complaint.

3.2 The Monitoring Officer will consider and may (at his or her sole discretion) consult the Independent Person on the following:

(a) was the Subject Member in office at the time of the misconduct?

(b) has the Subject Member formally accepted the Code of Conduct?

(c) was the Subject Member acting in his or her capacity as a Councillor at the time of the alleged misconduct?

3.3 Complainants should note that, under the law as it currently stands, the Council cannot proceed under its Code of Conduct against a Subject Member who was acting in a private capacity at the time of the alleged misconduct. What this means is set out in the Code of Conduct.

3.4 In reviewing the grounds for the complaint, the Monitoring Officer may:

(1) Request further information from the Complainant including evidence to support claims made or background as to concerns raised;

(2) Refer the matter to an Independent Person for an independent assessment; and/or

(3) Determine that the complaint should not be taken forward for further assessment, based on the following criteria:

(a) When did the incident take place?

i. If the incident took place some time ago and the complainant has not provided legitimate justification for the delay in raising the matter(s) then it may not be considered.

ii. The evidence to support the complaint may be limited or impaired because of the delay. For example, if the complaint was based on a conversation that took place some time ago, recollection of the conversation may be limited. Generally, complaints that are about events that took place more than 3 months before will not be considered.

(b) Is the complaint of a nature that is persistent or unreasonable, vexatious, malicious, politically motivated or exercising a personal vendetta?

i. The complainant has made several complaints, often against the same person which have little or no merit.

ii. The complainant is using the complaints system as another avenue for raising matters already considered elsewhere.

iii. The complainant is primarily disagreeing with a decision or actions of a political group or party, not the actions or behaviour of the Subject Member.

(c) Is pursuing the complaint in the public interest?

i. The matter was an isolated incident.

ii. There are no consequences because of the matter (for example, it would not impact on the validity of a decision made).

iii. The making of a complaint is disproportionate to the issue.

iv. There is little or no evidence to support the complaint and it is unlikely such evidence could be found.

(d) Is the complainant unnecessarily abusive?

i. The complainant is overtly hostile or excessively abusive in their language and complaint, and clearly shows they have no regard for the Standards process.

3.5 Where the Monitoring Officer decides that a complaint should not be taken forward, (s)he will, within five working days of making that decision, refer the decision to a Review Panel, consisting of three elected Members of the Council (one of whom shall be the Chair of Standards Committee) nominated by each of the three political groups represented on the Council, and one Independent Member (each with a named substitute), all drawn from the membership of Standards Committee.

3.6 The Review Panel will consider the complaint and the Monitoring Officer's rationale for rejecting it, and will either:

(1) Ratify the decision of the Monitoring Officer, in which case the Decision Notice will contain no offer to the Complainant of referral to a Local Assessment Panel; or

(2) Challenge (but not overturn) the decision of the Monitoring Officer, in which case the Decision Notice will contain an offer to the Complainant of referral to a Local Assessment Panel.

3.7 The business of the Review Panel will be conducted by email. Each member shall have one vote, and the decision of the Review Panel shall be by majority, with the Chair of Standards Committee having a casting vote. The Review Panel shall respond to the Monitoring Officer's request for a review within three working days of the request being made.

3.8 Within two working days of the Monitoring Officer being informed of the decision of the Review Panel, the Monitoring Officer shall issue a Decision Notice (which may take the form of an email) to the Complainant explaining the reasons for the decision and, where the Review Panel has so decided, the option of a referral to a Local Assessment Panel. The Subject Member will be informed that a complaint has been received and rejected and whether the rejection is subject to a possible referral to a Local Assessment Panel..

3.9 The Monitoring Officer will, where the Independent Person has been consulted, include the Independent Person's views in this Decision Notice, but only where appropriate and particularly where the views of the Independent Person differ from those of the Monitoring Officer.

4. The Subject Member's Response

4.1 Where the Monitoring Officer is satisfied that a complaint should receive further consideration and that the alleged misconduct would, if proven, be a breach of the Code of Conduct, s/he will notify and supply a full copy of the complaint to the Subject Member and ask whether he or she is prepared to consider informal resolution.

4.2 The Subject Member will normally be given five working days to respond in writing to the allegations made. This period may be extended at the discretion of the Monitoring Officer if the complaint is extensive or complex.

4.3 When the Monitoring Officer is in receipt of the Subject Member's response:

(1) If appropriate, s/he will seek to resolve the matter informally without the need for a formal investigation. This may include the Subject Member accepting his or her conduct was unacceptable and offering an apology or other remedial action. Where the Subject Member makes a reasonable offer of informal resolution, but the Complainant is unwilling to accept the offer, or vice versa, the Monitoring Officer should take this into account in his/her assessment of the complaint and, where applicable, report it to the Local Assessment Panel.

(2) The Monitoring Officer may (but is not obliged to) consult with the Independent Person before deciding whether to:

(a) reject the complaint, with reasons, in which case the Monitoring Officer shall consult with the Review Panel as set out at paragraphs 3.5 to 3.8 of this Procedure;

(b) refer the matter to a Sub-Committee of the Standards Committee ("the Local Assessment Panel").

4.4 Where, on the evidence gathered through the assessment stage so far, the Monitoring Officer is satisfied that there has been a self-evident breach of the Code of Conduct, s/he may choose (but only following consultation with an Independent Person) to refer the complaint to a Local Adjudication Panel, in which case the matter moves immediately to Stage 3 of this procedure (see section 7).

4.5 The Monitoring Officer will issue a Decision Notice (which may take the form of an email) to the Complainant and the Subject Member explaining the reasons for the decision and setting out any other action that may need to be taken. This will be sent to the Complainant and the Subject Member within five days of the Monitoring Officer's decision.

4.6 The Monitoring Officer will, where the Independent Person has been consulted, include the Independent Person's views in this Decision Notice, but only where appropriate and particularly where the views of the Independent Person differ from those of the Monitoring Officer.

5. Referral of the matter to a Local Assessment Panel

5.1 Where the Monitoring Officer considers that:

(1) the matter is very serious;

(2) a conflict of interest has arisen;

(3) the matter is particularly complex;

(4) the matter is potentially going to attract a high level of public interest;

(5) the matter is politically sensitive; or

(6) there is any other substantial reason particular to the case in point

s/he will refer the matter to a Local Assessment Panel for a decision to be made on whether there appears to be a case to answer.

5.2 The Local Assessment Panel will be formed of three Councillors and two Independent Members drawn from the membership of the Standards Committee.

5.3 As far as practicable, the Local Assessment Panel should be representative of the three largest political groups represented on the Council.

5.4 The procedure to be followed at a Local Assessment Panel meeting is attached at Annex A. Meetings of the Local Assessment Panel are normally held in private.

5.5 The Chair of the Standards Committee, if a member of the Panel, will normally chair the meeting, if the Chair is not present and the Vice-Chair of the Standards Committee is a member of the Panel and present, the Vice-Chair will chair the meeting. If neither the Standards Committee Chair nor Vice-Chair is present, a chair will be elected from amongst the Councillors on the Local Assessment Panel.

5.6 Where the Monitoring Officer has sought the view of an Independent Person prior to the matter being considered by the Local Assessment Panel, that Independent Person will be invited to attend the meeting.

5.7 The Independent Person is not a member of the Committee; however, (s)he has the right to put forward his or her view which must be considered by the Local Assessment Panel prior to determining the matter.

5.8 The Local Assessment Panel will consider:

(1) whether, on the evidence provided so far, there appears to be a case to answer; and,

(2) whether to investigate the complaint would be in the public interest considering the nature of the complaint and the time and cost in undertaking an investigation.

5.9 The Local Assessment Panel can decide to:

(1) Take no further action regarding the complaint, with reasons; or

(2) refer the complaint to the Monitoring Officer for investigation; or

(3) refer the complaint to the Monitoring Officer further to seek informal resolution.

5.10 Where the decision of the Local Assessment Panel is to refer the complaint to the Monitoring Officer further to seek informal resolution, the Local Assessment Panel will:

(1) Specify a deadline by which such action should be concluded; and

(2) Determine, in the absence of an informal resolution, the further action to be taken in accordance with the provisions of paragraph 5.9 (1) and (2) of this procedure.

5.11 A Decision Notice (which may take the form of an email), setting out the Local Assessment Panel's decision will be prepared by the Legal Clerk and sent to the Subject Member and the Complainant within five working days of the decision.

6. Stage Two – the Investigation Stage

6.1 If the Local Assessment Panel determines that the complaint should be investigated, the Monitoring Officer will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator. The Investigating Officer should aim to complete the investigation within three months of the date of receiving the instruction from the Monitoring Officer.

6.2 The Investigating Officer will decide whether s/he needs to meet or speak to the Complainant to understand the nature of the complaint, to obtain an understanding of events, to identify what documents s/he needs to see and who s/he needs to interview.

6.3 The Investigating Officer will contact the Subject Member to obtain his or her explanation of events. The Subject Member will be invited to identify what documents the Investigating Officer needs to see and who in his or her opinion needs to be interviewed.

6.4 The Investigating Officer should provide regular progress reports on the investigation to the Monitoring Officer, who will, when appropriate, update the Complainant, Subject Member and Chair and Vice-Chair of Standards Committee.

6.5 At any point during the investigation the Investigating Officer may refer the matter back to the Monitoring Officer if s/he believes that the matter may be resolved without further investigation, or that the complaint should be rejected. The Monitoring Officer will refer the matter back to the Local Assessment Panel which may make the decision to:

(1) continue the investigation.

(2) reject the complaint with reasons

(3) ask the Monitoring Officer to seek informal resolution and instruct the Monitoring Officer what action to take should the complaint not be resolved informally.

6.6 If the investigation continues, at its conclusion, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Subject Member, to give them both an opportunity to identify any matter in the report with which they disagree, or which requires more consideration.

6.7 Having received and taken account of any comments made on the draft report, the Investigating Officer will submit his or her final report to the Monitoring Officer.

6.8 Upon receiving the Investigation Report, the Monitoring Officer will refer the matter to a Local Adjudication Panel for determination. In exceptional cases, the Monitoring Officer may decide on other action in relation to the matter (for example, following consultation with the Chief Executive, referring the matter to the Police if evidence of criminal activity has been found). The Monitoring Officer must consult with the Independent Person when making this decision.

6.9 A Decision Notice (which may take the form of an email), setting out the Monitoring Officer's decision will normally be sent to the Subject Member and the Complainant within five working days of the decision.

6.10 No decision on whether the Code has been breached will be made at this stage.

7. Stage Three – the Adjudication Stage

7.1 If the matter is referred to a Local Adjudication Panel for a hearing, where practicable, the same Members as formed the Local Assessment Panel will comprise the Local Adjudication Panel. The procedure for the conduct of the hearing is attached at Annex B. Local Adjudication Panel meetings are normally held in public.

7.2 The Independent Person will be invited to attend all meetings of the Local Adjudication Panel and his or her views must be sought and taken into consideration before the Local Adjudication Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and also as to any action to be taken following a finding of a failure to comply with the Code of Conduct.

7.3 The Local Adjudication Panel may conclude that the Subject Member did not breach the Code of Conduct and so will dismiss the complaint.

7.4 If the Local Adjudication Panel concludes that the Subject Member has breached the Code of Conduct, the Chair of the Panel will inform the Subject Member (if present) of this finding and the Local Adjudication Panel will then consider what action, if any, should be taken because of the Subject Member's failure to comply with the Code.

7.5 Before reaching a decision on sanctions, the Local Adjudication Panel will give the Subject Member (if present) an opportunity to make representations and will again consult with the Independent Person.

8. Sanctions

8.1 The Council has delegated to the Local Adjudication Panel authority to take such action in respect of Subject Members as may be necessary to promote and maintain high standards of conduct. Some examples of sanctions that may apply (singly or in combination) are:

(1) To censure the Subject Member;

(2) To report the findings of the Local Adjudication Panel to the Council for information;

(3) To instruct the Monitoring Officer to arrange training for the Subject Member;

(4) To recommend the Group Leader remove the Member from Committees or Executive;

(5) If applicable, to recommend Full Council replace the Subject Member as Leader;

(6) To withdraw facilities (only where this is an appropriate response in the context of the acts complained of and must not prevent the Subject Member from carrying out their duties as a Member); or

(7) To bar from the offices and put on single point of contact (only where this is an appropriate response in the context of the acts complained of and must not prevent the Subject Member from carrying out their duties as a Member).

8.2 The Standards Committee has no power to suspend or disqualify the Member or to withdraw any Special Responsibility Allowances to which the Member may be entitled under the Council's Members' Allowances Scheme. Any sanctions applied will, only commence after the appeal period has expired and, if applicable, any appeal has been concluded.

8.3 A Decision Notice (which may take the form of an email), setting out the Panel's decision will be sent to the Subject Member and the Complainant within five working days of the decision and subsequently published on the Council's website once the deadline for an appeal has passed with no appeal having been lodged.

8.4 The Monitoring Officer will decide if, for publication purposes, any redaction is necessary in respect of the documents that were provided to the hearing and the Decision Notice.

9. Stage Four – the Appeal Stage

9.1 If either the Complainant or the Subject Member is dissatisfied with the outcome, s/he may appeal to the Monitoring Officer at the address given at paragraph 2.1

9.2 Any appeal must be received in writing within 10 working days of issue of the written Decision Notice and may only be made on the grounds of:

(1) the procedure being wrongly applied; or

(2) new evidence has come to light since the meeting of the Local Adjudication Panel; or

(3) there has been a misdirection in law

which has, in the appellant's view, resulted in an unfair decision.

9.3 The Monitoring Officer will assess the appellant's submission to ensure it meets the grounds of appeal. In doing so, the Monitoring Officer may, but is not obliged to, consult the Legal Clerk to the Panel and the Independent Person. Where it is uncertain whether a submission meets the grounds of appeal, the Monitoring Officer will refer the submission to an Appeals Panel and, in that circumstance, the first item of business that the Appeals Panel will consider is to determine whether the submission has or has not met the grounds for appeal.

9.4 Where an appellant's submission meets, or may meet, the grounds for appeal, an Appeals Panel consisting of no fewer than three Members of the Council, where possible representative the three largest political groups represented on the Council, or, at the request of the Appellant, three Independent Members of Standards Committee, will be convened to hear the appeal.

9.5 The members of the Appeals Panel must not previously have sat on either the Local Assessment Panel or Local Adjudication Panel relating to the complaint in question. A different Independent Person will also be asked to give his or her views.

9.6 Depending on the subject matter of the appeal it may be appropriate to conduct the matter on papers only. Meetings of an Appeal Panel will normally be held in private.

9.7 The Appeals Panel may:

(1) Uphold the appeal and over-rule the decision of the Local Adjudication Panel and withdraw any sanction applied; or

(2) Uphold the decision of the Local Adjudication Panel and any sanction applied; or

(3) Uphold the decision of the Local Adjudication Panel but apply a lesser sanction.

9.8 A Decision Notice (which may take the form of an email), setting out the Appeals Panel's decision will be sent to the Subject Member and the Complainant within five working days of the decision and subsequently published on the Council's website.

9.9 There is no further right to appeal in the Council process.

10. Explanatory note

10.1 Independent Members – although no longer required by law, Luton Council has decided to continue to appoint members of the public to its Standards Committee as independent members. They bring a different perspective to the issues considered by the Committee. They sit on Local Assessment Panels and Local Adjudication Panels and take a full part in the discussion, but they do not vote. All decisions are made by those members of the panels who are Councillors.

10.2 Independent Person - the role of "Independent Person" has been created by the Localism Act 2011. The Act requires all local authorities to adopt a code of conduct for their elected members and to appoint at least one Independent Person to assist the Council in dealing with complaints that the code of conduct may have been breached. If the Council has decided to investigate an allegation that the code of conduct has been breached then the views of the Independent Person must be sought, and considered, before the Council makes its decision on any such allegation. The Council may (at the discretion of the Monitoring Officer) also seek the views of the Independent Person in relation to allegations where no decision to investigate has been made. Any Councillor who has been complained about may seek the views of the Independent Person.

10.3 An independent member of the Standards Committee may not act as the Independent Person in relation to any complaint being considered by the Council.

LUTON BOROUGH COUNCIL STANDARDS COMMITTEE

ANNEX A to APPENDIX A

LOCAL ASSESSMENT PANEL

PROCEDURE

1. As the Local Assessment Panel ("**the Panel**") will be considering exempt information under paragraphs 1 and 2 of Part 1 of Schedule 12A (Access to Information: Exempt Information) to the Local Government Act 1972, the presumption is that the hearing should be held in private.

2. Notwithstanding the presumption that the hearing be held in private, the Panel will need at the commencement of the hearing to formalise that position by passing a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting. If the Panel is minded that the meeting should be held in public, the Panel will have regard to any representations made by the Appellant, the Chair of the Local Adjudication Panel and the Independent Person as to why it should be held in private.

3. Where the Panel decides that a hearing that had been expected to be held in private shall be held in public, the relevant papers shall be published only after exempt information under paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972 has been redacted.

4. The Local Assessment Panel ("the Panel") will be assisted on matters of law and procedure by its Clerk who will be one of the Council's solicitors ("the Panel's advisor").

5. The Panel may take legal advice, privately if necessary, from the Panel's advisor at any time during the meeting or while they are considering the outcome. The substance of any legal advice given should be shared with the Monitoring Officer and the Complainant and Subject Member (if they are present).

6. The Complainant and Subject Member may attend as observers but shall not participate unless invited to do so by the Chair for a specific purpose.

7. The Chair of the Panel will be the Chair of Standards Committee, if present. If the that person is absent and the Vice-Chair of Standards Committee is present, the Vice-Chair shall Chair the Panel. If neither is present. a Chair of the Panel will be elected by the members of the Panel at the meeting from amongst the elected Members of the Council.

8. The Chair of the Panel ("the Chair") will give a very brief outline of the allegation before the Panel and introduce the Members of the Panel, the Independent Person (if present), the Panel's advisor and the Monitoring Officer (or his/her representative).. The Chair will briefly outline the procedure to be followed and confirm that those present understand it.

9. The Monitoring Officer (or their representative) will present the report into the allegation against the Subject Member, outlining the substance of the allegations, setting out the manner in which it is alleged that he/she has breached the Council's Code of Conduct for Members ("the Code") and any initial response from the Subject Member in relation to that allegation..

10. The Panel may question the Monitoring Officer.

11. The Monitoring Officer will sum up his/her case.

12. The Independent Person (if present) will give his/her views to the Panel.

13. The Panel's Advisor will then raise any points that need to be raised before the matter is determined.

14. The Panel will then retire and all those present except for the Panel, the Panel's Advisor, and any person present solely for the purpose of taking notes of the meeting, will then withdraw whilst the Panel makes its deliberations.

15. The Panel will announce their decision in the presence of all parties as to whether appears to be a case to answer and, if so, the steps that it considers should be taken in relation to the further investigation into the allegation and the adjudication of the allegation.

16. As soon as reasonably practicable thereafter, the Panel's advisor shall prepare a formal decision notice in consultation with the Chair of the Panel, and send a copy to the Complainant, the Subject Member and the Monitoring Officer. The Monitoring Officer will ensure that the decision notice is made available for public inspection and report the decision to the next convenient meeting of the Council's Standards Committee.

LUTON BOROUGH COUNCIL STANDARDS COMMITTEE

ANNEX B to APPENDIX A

LOCAL ADJUDICATION PANEL

PROCEDURE FOR HEARINGS FOLLOWING A FORMAL INVESTIGATION

1. Notwithstanding that a Local Adjudication Panel ("**the Panel**") hearing will be considering exempt information under paragraphs 1 and 2 of Part 1 of Schedule 12A (Access to Information: Exempt Information) to the Local Government Act 1972, the presumption is that the public interest in the proceedings is such that the hearing should be held in public.

2. Where the Monitoring Officer, taking into account the nature of the matters to be discussed and of its impact on the parties involved including any witnesses, is of the opinion that the public interest in withholding that information is greater than the public interest in disclosing it, s/he may recommend to the members of the Panel, prior to the publication of the agenda, that the meeting be held in private, and the majority view of the members of the Panel (including Independent Members) shall prevail.

3. Notwithstanding any decision taken by the members of the Panel prior to the meeting that the hearing be held in private, the Panel will need at the commencement of the hearing to formalise that position by passing a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting. In considering whether to pass such a resolution, the Panel will have regard to any representations made by the Complainant, the Subject Member, the Investigating Officer and the Independent Person and may, if it considers it necessary, request the Monitoring Officer to explain the rationale for recommending that the hearing be held in private.

4. Where the Panel decides that a hearing that had been expected to be held in private shall be held in public, the relevant papers shall be published only after exempt information under paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972 has been redacted.

5. The Panel will be assisted on matters of law and procedure by its Clerk who will be one of the Council's solicitors ("the Panel's advisor").

6. The Panel may take legal advice, privately if necessary, from the Panel's advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given should be shared with the Monitoring Officer, Investigating Officer, Complainant and Subject Member.

7. The Complainant and Subject Member may be represented or accompanied by counsel or a solicitor or, with the permission of the Panel, any other person.

8. The Chair of the Panel will usually be the member of the Panel who chaired the meeting of the Local Assessment Panel. If that person is not available, a Chair of the Panel ("the Chair") will be elected by the members of the Panel at the meeting from amongst the elected Members of the Council.

9. The Chair will give a very brief outline of the allegation before the Panel and introduce the Members of the Panel, the Monitoring Officer, the Independent Person, the Panel's advisor, the person presenting the findings of the investigation into the allegation ("the Investigating Officer"), the Complainant, the Member subject to the allegation ("the Subject Member") and any other persons present. The Chair will outline the procedure to be followed and confirm that those

present understand it.

10. The Investigating Officer will present the report into the allegation against the Subject Member including any findings of fact in the report and the Investigating Officer's findings in relation to whether the Subject Member has breached the Council's Code of Conduct for Members ("the Code").

11. The Complainant may question the Investigating Officer.

12. The Subject Member may question the Investigating Officer.

13. The Panel may question the Investigating Officer.

14. The Investigating Officer may call any witness(es).

15. The Complainant may question any witness(es) brought by the Investigating Officer.

16. The Subject Member may question any witness(es) called by the Investigating Officer.

17. The Panel may question any witness called by the Investigating Officer.

18. The Independent Person may question the Investigating Officer and any witness called by them.

19. The Investigating Officer may ask any witness further questions to clarify any point brought out in questioning of the witness by the Panel, the Complainant, the Subject Member or the Independent Person.

Where the report of the Investigating Officer dismisses the complaint against the Subject Member, paragraphs 20 to 28 shall apply.

20. The Complainant (or his/her representative) will present any statement s/he wishes to make in relation to the Investigating Officer's findings.

21. The Investigating Officer may question the Complainant.

22. The Panel may question the Complainant.

23. The Complainant may call any witness(es).

24. The Investigating Officer may question any witness called by the Complainant.

25. The Panel may question any witness called by the Complainant.

26. The Independent Person may question the Complainant and any witness called by them.

27. The Complainant may ask any witness further questions to clarify any point brought out in questioning of the witness by the Investigating Officer, the Panel or the Independent Person.

28. The Panel shall ask the Subject Member for his/her response to any points made by the Complainant or any witness called by him/her. In making such a response, the Subject Member shall address only the Panel.

Where the report of the Investigating Officer upholds the complaint against the Subject Member, paragraphs 29 to 37 shall apply.

29. The Subject Member (or his/her representative) will present his/her case in relation to the

Investigating Officer's findings and whether s/he agrees that s/he has breached the Code. If the Subject Member admits that s/he has breached the Code the Panel may move to Paragraph 38 below.

30. The Investigating Officer may question the Subject Member.

31. The Panel may question the Subject Member.

32. The Subject Member may call any witness(es).

33. The Investigating Officer may question any witness called by the Subject Member.

34. The Panel may question any witness called by the Subject Member.

35. The Independent Person may question the Subject Member and any witness called by them.

36. The Subject Member may ask further questions of any witness to clarify any point brought out in questioning of the witness by the Investigating Officer, the Panel or the Independent Person.

37. The Panel shall ask the Complainant for his/her response to any points made by the Subject Member or any witness called by him/her. In making such a response, the Complainant shall address only the Panel.

Where the report of the Investigating Officer partially upholds the complaint against the Subject Member, paragraphs 20 to 37 shall apply, with the Complainant addressing only those points where the complaint has not been upheld and the Subject Member only those where it has.

38. The Independent Person will give their views to the Panel. The Panel must consider the views of the Independent Person in reaching a decision

39. The Panel will then retire or all those present except for the Panel, the Panel's advisor and any person present solely for the purpose of taking notes of the meeting, will then withdraw. If the hearing has been in public the Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting.

40. The Panel will announce its decision as to whether there has been a breach of the Code in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting.

41. If the Panel decides that the Subject Member has not breached the Code, the Panel may consider whether there are any learning points from the investigation that should be reported to the Standards Committee.

42. If the Panel decides that the Subject Member has breached the Code paragraphs 43 to 51 below will apply.

43. The Panel may request or allow the Complainant, where s/he has not already made a statement at paragraph 20 above, to make a statement in relation to the effect on the Complainant of any conduct of the Subject Member towards the Complainant which is the subject of the allegation. Such a statement may be made in person to the Panel or may be submitted in writing, but if submitted in writing will be shown to both the Monitoring Officer and the Subject Member. A Complainant who makes such a statement may be questioned by the Panel and the Independent Person only.

44. The Investigating Officer may make representations as to whether the Panel should impose a sanction and what form any sanction should take.

45. The Panel may question the Investigating Officer in relation to any such representations.

46. The Subject Member may make representations as to whether the Panel should impose a sanction and what form any sanction should take.

47. The Panel may question the Subject Member in relation to any such representations.

48. The Independent Person will then give his/her views on the appropriate sanction, if any, to be imposed.

49. The Panel will then retire or all those present except for the Panel, the Monitoring Officer, the Panel's advisor and any person present solely for the purpose of taking notes of the meeting, will then withdraw. If the hearing has been in public the Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting.

50. The Panel will come to a decision as to the sanction to be imposed.

51. The Panel will announce its decision in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting. A full written decision will be prepared by the Panel's advisor, in consultation with the Monitoring Officer, for approval by the Chair and sent to the Investigating Officer, Complainant and Subject Member within five working days of the Hearing, and within two working days of the expiry of the period during which an appeal may be made and no appeal having been made, published on the Council's website.

52. An appeal against the decision of the Panel may only be made on specified grounds within 10 working days of the issue of the written decision. Details of that process will be set out in the written decision.

LUTON BOROUGH COUNCIL STANDARDS COMMITTEE

ANNEX C to APPENDIX A

LOCAL ADJUDICATION PANEL

PROCEDURE FOR HEARINGS WHERE NO FORMAL INVESTIGATION HAS TAKEN PLACE

1. Notwithstanding that a Local Adjudication Panel ("**the Panel**") hearing will be considering exempt information under paragraphs 1 and 2 of Part 1 of Schedule 12A (Access to Information: Exempt Information) to the Local Government Act 1972, the presumption is that the public interest in the proceedings is such that the hearing should be held in public.

2. Where the Monitoring Officer, taking into account the nature of the matters to be discussed and of its impact on the parties involved including any witnesses, is of the opinion that the public interest in withholding that information is greater than the public interest in disclosing it, s/he may recommend to the members of the Panel, prior to the publication of the agenda, that the meeting be held in private, and the majority view of the members of the Panel (including Independent Members) shall prevail.

3. Notwithstanding any decision taken by the members of the Panel prior to the meeting that the hearing be held in private, the Panel will need at the commencement of the hearing to formalise that position by passing a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting. In considering whether to pass such a resolution, the Panel will have regard to any representations made by the Complainant, the Subject Member, the Investigating Officer and the Independent Person and may, if it considers it necessary, request the Monitoring Officer to explain the rationale for recommending that the hearing be held in private.

4. Where the Panel decides that a hearing that had been expected to be held in private shall be held in public, the relevant papers shall be published only after exempt information under paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972 has been redacted.

5. The Panel will be assisted on matters of law and procedure by its Clerk who will be one of the Council's solicitors ("the Panel's advisor").

6. The Panel may take legal advice, privately if necessary, from the Panel's advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given should be shared with the Monitoring Officer, Complainant and Subject Member.

7. The Complainant and Subject Member may be represented or accompanied by counsel or a solicitor or, with the permission of the Panel, any other person.

8. The Chair of the Panel will be Chair of the Standards Committee, if present. If that person is not present, the Vice-Chair of Standards Committee, if present, will be the Chair of the Panel. If neither is present,, a Chair of the Panel will be elected by the members of the Panel at the meeting from amongst the elected Members of the Council.

9. The Chair will give a very brief outline of the allegation before the Panel and introduce the Members of the Panel, the Monitoring Officer, the Independent Person, the Panel's advisor, the Complainant and the Member subject to the allegation ("the Subject Member"). The Chair will outline the procedure to be followed and confirm that those present understand it.

10. The Monitoring Officer will present a report setting out the background to the complaint and explaining the grounds on which the Code of Conduct has been breached (thus obviating the need for a formal investigation) and referring to the statements prepared by the Complainant and Subject Member.

11. The Panel may question the Monitoring Officer.

12. The Complainant (or his/her representative) will present his/her statement in relation to the grounds for the breach of the Code of Conduct.

13. The Panel may question the Complainant.

14. The Complainant may call witness(es).

15. The Panel may question any witness called by the Complainant.

16. The Subject Member may question any witness called by the Complainant.

17. The independent Person may question the Complainant and any witness called by him/her.

18. The Complainant may ask further questions of any witness to clarify any point brought out in questioning of the witness by the Panel, Subject Member or Independent Person.

19. The Subject Member (or his/her representative) will present his/her statement in relation to the nature of the breach of the Code of Conduct and to ask the Panel to consider any extenuating circumstances.

20. The Panel may question the Subject Member.

21. The Subject Member may call any witness(es).

22. The Panel may question any witness called by the Subject Member.

23. The Complainant may question any witness called by the Subject Member.

24. The Independent Person may question the Subject Member and any witnesses called by him/her.

25. The Subject Member may ask further questions of any witness to clarify any point brought out in questioning of the witness by the Panel, Complainant or Independent Person.

26. The Independent Person will give his views to the Panel. The Panel must consider the views of the Independent Person in reaching a decision

27. The Panel will then retire or all those present except for the Panel, the Panel's advisor and any person present solely for the purpose of taking notes of the meeting, will then withdraw. If the hearing has been held in public the Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting.

28. The Panel will announce, in the presence of all parties, its decision as to whether it agrees there has been a breach of the Code, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting.

29. If the Panel decides that the Subject Member has not breached the Code, the Panel will dismiss the complaint.

30. If the Panel decides that the Subject Member has breached the Code, then Paragraphs 31 to 36 below will apply.

31. The Subject Member may make representations as to whether the Panel should impose a sanction and what form any sanction should take.

32. The Panel may question the Subject Member in relation to any such representations.

33. The Independent Person will then give his/her views on the appropriate sanction, if any, to be imposed.

34. The Panel will then retire or all those present except for the Panel, the Panel's advisor and any person present solely for the purpose of taking notes of the meeting, will then withdraw. If the hearing has been in public the Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting.

35. The Panel will come to a decision as to the sanction to be imposed.

36. The Panel will announce its decision on a sanction in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting.

37. A full written decision of the outcome of the hearing will be prepared by the Panel's advisor, in consultation with the Monitoring Officer, for approval by the Chair and sent to the Complainant and Subject Member within five working days of the Hearing and, within two working days of the expiry of the period during which an appeal may be made and no appeal having been made, published on the Council's website.

38. An appeal against the decision of the Panel may only be made on specified grounds within 10 working days of the issue of the written decision. Details of that process will be set out in the written decision.

LUTON BOROUGH COUNCIL STANDARDS COMMITTEE

ANNEX D to APPENDIX A

APPEALS PANEL

PROCEDURE FOR HEARING AN APPEAL AGAINST A DECISION OF A LOCAL ADJUDICATION PANEL

1. As the Appeals Panel ("**the Panel**") will be considering exempt information under paragraphs 1 and 2 of Part 1 of Schedule 12A (Access to Information: Exempt Information) to the Local Government Act 1972, the presumption is that the hearing should be held in private.

2. Notwithstanding the presumption that the hearing be held in private, the Panel will need at the commencement of the hearing to formalise that position by passing a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting. If the Panel is minded to agree that the meeting should be held in public, the Panel will have regard to any representations made by the Appellant, the Chair of the Local Adjudication Panel and the Independent Person as to why it should be held in private.

3. Where the Panel decides that a hearing that had been expected to be held in private shall be held in public, the relevant papers shall be published only after exempt information under paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972 has been redacted.

4. The Panel will be assisted on matters of law and procedure by its Clerk who will be one of the Council's solicitors ("the Panel's advisor") who shall not be the same person who advised the Local Adjudication Panel.

5. The Panel may take legal advice, privately if necessary, from the Panel's advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given should be shared with the Monitoring Officer, Appellant and the Chair of the Local Adjudication Panel.

6. The Appellant and Chair of the Local Adjudication Panel may be represented or accompanied by counsel or a solicitor or, with the permission of the Panel, any other person.

7. The Panel shall consist of three elected Members of the Council or, at the request of the Appellant, three Independent Members of Standards Committee. None of the members of the Panel should have had prior involvement in the case in any form whatsoever. A Chair of the Panel shall be elected by the members of the Panel at the meeting.

8. The Chair will introduce the Members of the Panel, the Monitoring Officer, the Independent Person, the Panel's advisor, the Appellant and the Chair of the Local Adjudication Panel and outline the procedure to be followed and confirm that those present understand it.

9. The Monitoring Officer will present a report setting out the decision of the Local Adjudication Panel, the grounds for appeal and the representations made by the Appellant to demonstrate that the grounds for appeal have been met.

10. The Appellant may question the Monitoring Officer.

11. The Chair of the Local Adjudication Panel may question the Monitoring Officer.

12. The Panel may question the Monitoring Officer.

13. The Monitoring Officer may call any witness(es).

14. The Appellant may question any witness(es) brought by the Monitoring Officer.

15. The Chair of the Local Adjudication Panel may question any witness(es) called by the Monitoring Officer.

16. The Panel may question any witness called by the Monitoring Officer.

17. The Independent Person may question the Monitoring Officer and any witness called by him/her.

18. The Monitoring Officer may ask any witness further questions to clarify any point brought out in questioning of the witness by the Panel, the Complainant, the Subject Member or the Independent Person.

19. The Panel will initially consider whether it is satisfied that the grounds for appeal have been met. If it decides that the grounds have not been met, the hearing will be concluded, and the decision of the Local Adjudication Panel shall be confirmed. If the Panel decides that the grounds have been met, the hearing shall continue as follows.

20. The Appellant (or their representative) will present any statement they wish to make in relation to their representations as to the grounds for appeal.

21. The Panel may question the Appellant.

22. The Chair of the Local Adjudication Panel may question the Appellant.

23. The Appellant may call any witness(es).

24. The Panel may question any witness called by the Appellant.

25. The Chair of the Local Adjudication Panel may question any witness called by the Appellant.

26. The Independent Person may question the Appellant and any witness called by them.

27. The Appellant may ask further questions of any witness to clarify any point brought out in questioning of the witness by the Panel, the Chair of the Local Adjudication Panel or the Independent Person.

28. The Chair of the Local Adjudication Panel (or their representative) will present the rationale for the Local Adjudication Panel having reached its decision in respect of the outcome of the Local Adjudication Panel hearing and any sanction applied as a result.

29. The Panel may question the Chair of the Local Adjudication Panel.

30. The Appellant may question the Chair of the Local Adjudication Panel.

31. The Chair of the Local Adjudication Panel may call any witness(es).

32. The Panel may question any witness called by the Chair of the Local Adjudication Panel.

33. The Appellant may question any witness called by the Chair of the Local Adjudication Panel.

34. The Independent Person may question the Chair of the Local Adjudication Panel and any witness

called by them.

35. The Chair of the Local Adjudication Panel may ask further questions of any witness to clarify any point brought out in questioning of the witness by, the Panel, the Appellant or the Independent Person.

36. The Independent Person will give their views to the Panel. The Panel must consider the views of the Independent Person in reaching a decision

37. The Panel will then retire or all those present except for the Panel, the Panel's advisor and any person present solely for the purpose of taking notes of the meeting, will then withdraw. If the hearing has been in public the Panel will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting. The Panel should consider whether the appeal is rejected or upheld in whole or in part and, if upheld, the consequence of this in relation to any sanction.

38. After passing a resolution that the public should no longer be excluded from the meeting, the Panel will announce, in the presence of all parties, its decision.

39. A full written decision notice will be prepared by the Panel's advisor, in consultation with the Monitoring Officer, for approval by the Chair of the Panel and sent to the, Appellant and Chair of the Local Adjudication Panel within five working days of the hearing, and within two working days thereafter published on the Council's website. Where the decision of the Panel is to reject the appeal, the full text of the decision notice of the Local Adjudication Panel shall be included in the decision notice of the Panel. Where the decision of the Panel is to uphold the appeal in part, the decision notice of the Local Adjudication Panel shall be amended to refer only to those parts of its decision that have not been overturned on appeal before being included in the decision notice of the Panel. Where the appeal is upheld in full, the decision notice of the Local Adjudication panel shall be quashed.

40. The decision of the Panel is final and there is no further right of appeal.

Appendix B: Luton Council Dispensations Protocol

1. Guide to Dispensations

1.1 The council is responsible for determining requests for a dispensation by a member under s.33 of the Localism Act 2011. The council may grant a dispensation to an elected or co-opted member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.

1.2 This guide explains:

(1) The purpose and effect of dispensations

(2) The procedure for requesting dispensations

(3) The criteria applied in determining dispensation requests

(4) The terms of dispensations

1.3 Until a dispensation is granted, a member may not participate in the consideration of the matter before the council (or any committee or sub-committee) in which they have a Disclosable Pecuniary Interest.

1.4 A member may also have a close Personal Interest under the Member Code of Conduct and should also use this same procedure to request a dispensation in respect of that interest.

2. Purpose and effect of dispensations

2.1 In certain circumstances, members may be granted a dispensation that enables them to take part in council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest or a close Personal Interest. Provided members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

2.2 Section 31(4) of the Localism Act 2011 states that dispensations may allow the member to:

(1) participate, or participate further, in any discussion of the matter at the meeting(s); and/or

(2) participate in any vote, or further vote, taken on the matter at the meeting(s)

2.3 If a dispensation is granted, the member may remain in the room where the meeting considering the business is being held.

2.4 Please note: if a member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.

2.5 The same procedure will be used for applications close Personal Interests, enabling a member to remain in the meeting and to speak and vote.

3. Process for making requests

3.1 A request for dispensation must be made on an individual basis. Any member who wishes to apply for a dispensation should fully complete a Dispensation Application Form (Appendix 1) and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation.

4. Approval Process

4.1 The Monitoring Officer (or Deputy Monitoring Officer where the Monitoring Officer is absent) may only grant a dispensation to a member who has a Disclosable Pecuniary Interest or close Personal Interest, allowing them to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider that:

(1) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

(2) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(3) without the dispensation, each member of the authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive,

(4) granting the dispensation is in the interests of persons living in the authority's area, or

(5) it is otherwise appropriate to grant a dispensation.

4.2 The Standards Committee also has the delegated power to agree dispensations.

4.3 Applications dealt with by the Monitoring Officer will normally be determined within 10 working days.

4.4 Applications made to the Standards Committee will go to the next ordinary meeting or it may be appropriate to arrange a special meeting at the discretion of the chair of the committee. Applications must be received at least 15 working days before a meeting to enable a report to be prepared and the agenda published in accordance with the Council's usual timescale.

4.5 The Monitoring Officer will formally notify the member of the decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

5. Criteria for determination of requests

5.1 In reaching a decision on a request for a dispensation, the Monitoring Officer (in consultation with an Independent Person) will consider:

(1) The nature of the member's interest

(2) The extent to which the request could have been avoided or other arrangements could be made

(3) The need to maintain public confidence in the conduct of the council's business

(4) The extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation

(5) The possible outcome of the proposed vote

(6) The need for efficient and effective conduct of the council's business

(7) Any other relevant circumstances

6. Terms of dispensations

6.1 Dispensations may be:

(1) Granted for one meeting or for a period not exceeding 4 years

(2) Subject to specific conditions, e.g. notification of any material change in circumstances arising from the dispensation

7. Disclosure of decision

7.1 Any member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

7.2 A copy of the dispensation will be kept with the Register of Members' Interests.

8. Dispensations for Conflicts of Interest when taking Executive decisions

8.1 Under regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of an Executive decision made either at meetings or by individuals, must include:

(1) details of any conflict of interest either declared by any member of the body which made the decision or declared by any Executive member consulted by the member or officer taking the decision which relates to that decision;

(2) In respect of any such conflict of interest, a note of dispensation granted by the Chief Executive.

8.2 Please note: A conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a member's duty to take decisions only in the public interest in the light of material considerations.

Annex 1 to Appendix B: Application for a dispensation under section 33 of the Localism Act 2011 in respect of a disclosable pecuniary interest

Form details

To: Luton Council's Monitoring Officer

Please provide the answers to the following questions

(1) Name of member:

A member who has a Disclosable Pecuniary Interest or close Personal Interest in a matter that is under consideration may not participate in the consideration of that matter by the council, a committee or sub-committee or by the Executive or a committee of the Executive unless they have first obtained a dispensation from the council.

You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

(2) What is the matter for which dispensation is sought?

Please provide full details including amounts where the matter involves funding or finance.

(3) For which type of meeting is dispensation sought?

(Full Council, Executive, Committee or Sub-Committee) (if a Committee or Sub-Committee, which?)

(4) What is the nature of the Disclosable Pecuniary Interest or close Personal Interest?

Please provide full details.

(5) What is the date of the meeting(s) at which this matter is to be considered?

(6) For how long is the dispensation needed?

Please note that it cannot be longer than 4 years nor exceed the term of office of the member concerned.

(7) Do you benefit personally from the business to which this application relates?

If "yes" the full details must be provided of the nature and extent.

(8) How is the business of the council being impeded in the absence of a dispensation?

(9) Are there any other factors that might help the council to reach a decision on the application?

(10) Are you seeking a dispensation to speak and vote?

Yes/ No

(11) Are you seeking a dispensation to speak but not vote?

Yes/ No

Please complete, sign and return to the Monitoring Officer

Appendix C: Social media guidance for councillors

Introduction

1. Three of the important Nolan Principles applying to those in public life are "Openness", "Accountability" and "Leadership". That means Councillors should be as open as possible about the actions and decisions they take, submit to an appropriate level of public scrutiny, and lead by example. Social media can be a vital tool for public debate and its use by councillors is increasing.

2. Councillors need to be aware that use of social media could fall within the scope of the Code of Conduct for Members. Whilst the Code is engaged only when a councillor is acting in that capacity or holding themselves out as such, **residents will generally and reasonably assume that councillors are acting in their official capacity when commenting on Council matters online**.

3. This document is supplementary to, and must be read alongside, the Members' Code of Conduct. Breaches of this guidance may amount to a breach of the Code of Conduct depending on the circumstances. It is intended to support good judgment, prevent harm and escalation and enable, early, informal resolution where possible.

Legal considerations

4. Like anyone else publishing material, councillors will need to be aware of the laws that apply to published material. In particular:

- Defamation
  If you publish an untrue statement about a person or organisation that is damaging to their reputation you may be liable to pay damages.

- Copyright
  Publishing information that is not yours, without permission, may also result in an award of damages against you.

- Harassment
  It is an offence to repeatedly pursue a campaign against a person that is likely to cause alarm, harassment or distress.

- Data protection
  Do not publish personal data of other people, including photographs, without their express permission to do so.

- Incitement

It is an offence to incite any criminal act.

- Discrimination and 'protected characteristics'
  It is an offence to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010).

- Malicious and obscene communications

It is an offence to send malicious or obscene communications.

5. Additional considerations apply to Councillors. These include:

- Bias and pre-determination

Statements of opinion made by a Councillor online may create the impression that the Councillor has already formed a view on a matter. Councillors sitting on regulatory committees, such as planning or licencing, should therefore avoid publishing anything that suggests they do not have an open mind on issues they may later be required to determine. Failure to do so may expose the Council's decision to legal challenge and could be invalidated. It could also result in the Code of Conduct being engaged, including the provisions relating to bringing the office of Councillor into disrepute.

- Equality and discrimination

The Council is a public authority required to comply with the Equality Act 2010. As noted above it is an offence to discriminate against anyone based on their protected characteristics. The Council must also have 'due regard' to the Public Sector Equality Duty (which consists of eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations) and that applies to Councillors when acting or appearing to act in their official capacity.

- Electioneering

Council resources, including any the use of social media on Council mobile devices or IT equipment, should not be used for political/campaign purposes. Particular care should also be taken when using social media during the pre- election period. The Electoral Commission has further guidance including on the requirements to provide a return of expenditure on election advertising which includes web advertising.

- Human Rights

Article 8 of the European Convention provides that public authorities should not interfere with the right of individuals to a private and family life without lawful authority to do so, and where it is necessary, proportionate, and in pursuit of one of the aims set out in Article 8(2). (These are national security, public safety, economic well-being, health or morals, prevention of crime or disorder, or protecting others' rights). Observing the use of social media by other people (even on 'open' profiles) can engage Article 8 and so Councillors should avoid 'sleuthing' activities that might amount to unlawful surveillance.

Code of Conduct

6. The Code of Conduct applies to councillors who are or appear to be acting in an official capacity. The Code does not apply to purely private matters; however, the public may perceive councillors as acting in an official capacity when it is not their intention. How councillors present their profile online (e.g. whether it states that the

individual is a councillor) will be instrumental but not necessarily conclusive in determining whether the Code of Conduct is engaged.

7. Councillors may choose to have two separate accounts, one for private matters and the other for council activities. However, care will still need to be taken to avoid giving the impression of acting as a councillor when using the private account. For example, a discussion about Council services or decision-making, even on a 'private' profile, could lead to the conclusion that the Code is engaged. Private profiles that carry a party-political slogan may be more likely to result in the Code being engaged even if council activity is not expressly mentioned.

8. The sections of the Code most likely to give rise to complaints are the requirements to treat others with respect, not to bring the office of councillor into disrepute and prohibiting the disclosure of confidential information. When using social media in connection with Council business, councillors are expected to:
   - act with integrity, honesty and reasonable care
   - treat others with respect and dignity
   - avoid conduct that could reasonably be considered to bring the Council into disrepute
   - uphold public confidence in lawful decision-making and governance; and
   - abide by the Nolan Principles and the Code of Conduct.

9. Councillors should consider carefully as to whether online 'followers' or 'friends' are "close associates", for the purpose of declaring interests and participation in meetings where their well-being or financial position would be affected.

Social media etiquette

10. Councillors should always be aware of the possibility that their individual social media account may reach larger audiences than those of official Council channels, and that therefore, the responsibility for exercising increased care when dealing with live, sensitive or complex issues is correspondingly greater.

11. Councillors should try to monitor and, where appropriate, censor or remove the contributions made by others to their sites in a reasonable time. Allowing defamatory or offensive statements to remain on a site can become the councillor's own legal problem as the 'publisher' of the material and could also give rise to a possible breach of the Code of Conduct, where allowing comments to remain could be seen as condoning or endorsing them. If you allow people to post comments then you should have clear and prominent guidelines (which you will not hesitate to implement) about when you will moderate comments or block people from posting to the account.

12. Where a Member of the Council (Member A), acting reasonably, requests another Member of the Council (Member B) to remove a post from Member B's social media account, Member B should do so within three working days of receiving the request or, again acting reasonably, explain to Member A why that is not felt to be appropriate or necessary.

13. 'Liking', 'sharing' or 're-tweeting' posts could be seen as an endorsement of them and legally this can be a separate instance of publication, by the councillor, to which all the legal and Code considerations would apply.

14. Beyond that it is generally best to allow disagreement rather than to seek to censor it. However, there is no need to respond to everything, and unhelpful online arguments should be avoided. Avoid posting about controversial events which may invite disagreement. Be professional, respectful and polite, even (or especially) when corresponding with those who do not return the courtesy. Always consider whether anything you write may be interpreted in a way you do not intend. **Promptly admit to mistakes of fact and apologise**.

15. Avoid using social media when you are tired, angry, upset or your judgment may be impaired. Be aware that 'trolling' posts may be intended to bounce you into an unwise response to be used against you.

16. Think carefully about who to 'follow' or 'befriend' online and be cautious about accepting 'friend' requests from anyone under the age of 18. Online 'friendships' with council officers should be avoided as they may compromise the appearance of impartial advice. It is inadvisable to 'follow' anyone without a good reason - some constituents may find it uncomfortable (and see the Human Rights comments above). Many councillors wait to be 'followed' before returning the compliment.

17. Councillors must be particularly careful not to disseminate, either directly or through sharing, “malinformation”, that is, information that may be true or partly true, but is used selectively, without material context, or in a way that misleads or causes harm. Malinformation is a specific risk because it can appear credible and authoritative; it is harder to correct than outright falsehoods, and it can significantly damage trust whilst remaining technically “true”. You should, therefore, take particular care with the framing, tone, timing and context as well as factual accuracy of any information you post online.

18. Examples of what is likely to constitute malinformation include:
    - selectively listing negative facts to imply systemic failure while omitting relevant context or constraints
    - presenting speculation about motives or intent as established fact; and
    - quoting partial extracts from reports, emails or statements in a way that changes their meaning.

19. Examples of what is unlikely to constitute malinformation include:
    - opinions or political disagreement that are clearly labelled as such
    - robust criticism of decisions or processes that fairly reflects the known facts; and
    - calling for transparency or scrutiny without emotive or misleading framing.

The use of social media during Committee meetings

20. Other than official equipment for the meeting, use mobile devices sparingly,

discreetly and with common sense at meetings, and consider the impression you may be giving to others. Councillors should be mindful that regulatory committees such as planning or licensing require the councillor to alert officers to any lobbying material they have received, which would be difficult if it arrives via social media and is read by the Councillor during a meeting.

21. Texting or emailing between councillors or with members of the public during a regulatory committee meeting should be avoided, as this could result in an allegation under the Code of Conduct that a councillor has been influenced during the decision-making process or has been biased.

22. Mobile devices enable councillors to manage their busy lives when time is at a premium. There may be occasions when texting or emailing during meetings is acceptable but is also important for councillors not to give the impression that insufficient attention is being given to the discussion at the meeting. That could lead to the relevant decision coming under challenge if councillors are perceived to have made a decision without having properly listened to the debate. It could also result in allegations under the Code of Conduct of a failure to treat others with respect or of bringing the Council into disrepute.

Online safety

23. It is often the case that individuals may say things via social media that they wouldn't say in person, and post false information, insults or messages that you would not want to be associated with. These can multiply and escalate quickly.

24. Luton Council has a zero-tolerance policy against harassment, bullying and discrimination. Any reports of harassment, bullying and discrimination will be taken seriously and handled confidentially and sympathetically. If you receive online abuse, you can report it to the Police or, if it is abuse from another Councillor, you can report it to the Monitoring Officer.

25. Some individuals post socially unacceptable, defamatory, inciting or intimidatory remarks to provoke online activity. The term 'internet troll' is used to refer to a person or group of persons who deliberately start arguments or upset people by posting inflammatory messages with the deliberate intent of provoking an emotional response or disrupting normal discussion, often for their own amusement.

26. If a person posts a disrespectful or abusive post about you, be aware that the intention may be to 'bounce' you into an unwise response to be used against you. If 'trolling' becomes unacceptably harassing, then you should report it to the police and seek advice from the Monitoring Officer.

27. Any intimidation or abuse on social media may constitute a criminal offence. If you feel a post or interaction is intimidating or abusive, and if you feel intimidated, you can take action to report it to the police. Every situation will be different and needs a personal judgement about whether it is worthwhile to pursue the incident, ignore it or politely acknowledge.

28. Even if you are not concerned or decide to ignore it, it is advisable to keep a record of any online abuse should it escalate in the future, for example by taking a screenshot.

29. It can be overwhelming when multiple abusive messages are sent in close succession, and this can escalate quickly. Again, you are advised to keep a record of the abuse, inform the social media platform, and the police. If the messages are in response to your original post, you can remove the original post.

30. For reasons of personal safety and identity security, you should not put personal information online, such as birthdays, routines and places you frequent, or telephone numbers, addresses and vehicle details.

31. A photo can provide personal information that you may not want shared on social media. It is advisable to publish photos or family, friends and colleagues only with your consent and theirs to ensure that photos do not reveal your home or places frequented with family such as schools or care homes. You can disable automatic location tagging so that you must approve another user including you in their photographs.

32. If someone has posted inaccurate information about you or the Council, and if the information is defamatory, the first step is to keep a record of the evidence. You may wish to contact the individual to request that the post is deleted and, if appropriate, to seek a correction or apology. If this approach is unsuccessful or where the post causes significant concern or is part of a concerted campaign, you should inform the Monitoring Officer and may also wish to take your own legal advice.

33. Finally, having a social media presence means that people can contact you at any time. It can mean that a reply is expected immediately which can create a sense of pressure. It is useful to set your own rules and limits for how you manage your social media presence; it is suggested that you add these to your page so those accessing information know when to expect responses if required.

Further information

Local Government Association guidance

The Local Government Association has produced a suite of guidance notes dealing with social media and online activity, including advice on how to deal with online abuse. These can be accessed at:

https://www.local.gov.uk/our-support/communications-and-community-engagement/social-media-guidance-councillors