



STANDARDS COMMITTEE

DATE:	Wednesday, 15 July 2026
TIME:	10.00 am
VENUE:	Committee Room, Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor Wiggins (Chairman)
Councillor Talbot (Vice-Chairman)
Councillor Alexander
Councillor Baker

Councillor Casey
Councillor Codling
Councillor J Henderson

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DATE OF PUBLICATION: Tuesday, 7 July 2026

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 7 - 16)

To confirm and sign as a correct record, the minutes of the meeting of the Standards Committee, held on Wednesday, 22 April 2026.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District and which falls within the terms of reference of the Committee.

5 Report of the Monitoring Officer - A.1 - Licensing and Registration Probity Protocol - Results of Consultation and Revised Licensing and Registration Probity Protocol (Pages 17 - 54)

This report is submitted to the Committee to enable it to consider the Licensing and Registration Probity Protocol following consultation with the members of the Licensing and Registration Committee, the Portfolio Holder for Assets and Community, Officers responsible for licensing services in the Governance and the Environment & Housing Directorates and the Independent Persons. This report also sets out the outcome of the consultation and a revised Licensing and Registration Committee for approval and recommendation to Full Council for its adoption.

6 Report of the Monitoring Officer - A.2 - Review of Social Media Guidance for Members (Pages 55 - 68)

To present the Committee with the outcome of the review of the Social Media Guidance for Members, presented to the Committee at its 22 April 2026 meeting, and subsequent Members' training session and feedback; for subsequent approval and adoption of the final version.

7 Update by the Monitoring Officer covering Complaints and National Policy Changes (Pages 69 - 70)

The Committee will receive the Monitoring Officer's update regarding standards complaints and an update on national policy changes, as necessary.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Standards Committee is to be held in the Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 10.00 am on Wednesday, 21 October 2026.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

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Your calmness and assistance is greatly appreciated.

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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 22ND APRIL, 2026 AT 10.00 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors J Henderson (Chairman), Talbot (Vice-Chairman), Alexander, Casey and Wiggins
In Attendance:	Lisa Hastings (Corporate Director (Law & Governance) & Monitoring Officer), Karen Hayes (Corporate Governance, Performance & Procurement Manager), Bethany Jones (Democratic Services Officer) and Katie Koppenaal (Democratic Services Officer)
Also Present:	David Irvine (Independent Person) and Jane Watts (Independent Person)

16. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Codling (with no substitution) and Sue Gallone (one of the Council's Independent Persons).

17. MINUTES OF THE LAST MEETING

It was moved by Councillor Casey, seconded by Councillor Alexander and unanimously:-

RESOLVED that the Minutes of the last meeting of the Committee held on Wednesday, 11 March 2026 be approved as a correct record and be signed by the Chairman.

18. DECLARATIONS OF INTEREST

There were no Declarations of Interest made on this occasion.

19. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

No Questions on Notice had been submitted by Members pursuant to Council Procedure Rule 38 on this occasion.

20. TOWN AND PARISH COUNCILS' STANDARDS SUB-COMMITTEE

The Committee formally **NOTED**, for its information only, the minutes of the meeting of the Town and Parish Councils Standards Sub-Committee held on Thursday 12 February 2026.

21. REPORT OF THE MONITORING OFFICER - A.1 - ANNUAL REPORT ON DECLARATIONS OF INTEREST AND ASSOCIATED MATTERS

Members recalled that it had been agreed at the meeting of the Standards Committee held on 29 June 2016 that, as part of its annual work programme, the Committee would receive an annual report on declarations of interest and associated matters. The report now before the Committee covered the period from 1 April 2025 to 31 March 2026 and provided statistics on:

- *the number of Declarations of Interest made at meetings;*

- the number of offers of gifts and hospitality that had been registered by Members during this period; and
- updates to the Members' Register of Interests.

The data had been collated from the Committee system Modern.Gov which the Council had started using as of August 2016 and from Members' submissions.

Register of Members' Disclosable Pecuniary Interests

The Committee was made aware that the Council was required to publish the 'Register of Disclosable Pecuniary Interests' on its website in accordance with the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, which prescribed the categories of interest.

It was confirmed that the Council's website included a Register of Disclosable Pecuniary Interests and Other Registerable Interests for all District Councillors and that this was updated when an individual Member provided details of an amendment directly to the Monitoring Officer. Any entry which was relevant to a business item on an agenda, must be declared by the individual Member and they must subsequently remove themselves from the meeting, unless a prior dispensation had been granted by the Monitoring Officer.

The Committee was informed that there had been a dispensation for all District Members granted by the Monitoring Officer at full Council on 17 February 2026 for the purpose of the report of the Corporate Director (Finance & IT) as follows:

*"Tendring District Council adopted the LGA Model Members' Code of Conduct which does not include the provisions confirming Members do not have a declarable interest which relates to the function of setting the Council Tax under the **Local Government Act 1992**. Therefore, to enable you to debate and vote on the budget item to set the Council Tax, the email of 9 February 2026 provided all District Councillors with a dispensation under Section 33(2)(a) to (e) of the Localism Act 2011. Consequently, you will not be required to declare an interest based on the fact that you live in the District and therefore have to pay Council Tax.*

*However, Members are importantly reminded of **Section 106 of the Local Government Act 1992**, which provides that any Member, who is in arrears by at least 2 months with their Council Tax payments cannot vote on matters concerning either the level of or administration of Council Tax. It is important to note that this also covers Council Tax liabilities outside of the District and property which may not be your main residence. If present at the meeting, a Member to whom this provision applies must disclose the fact and may speak on the item but cannot vote. Non-compliance with this section is a criminal offence. Therefore, should this provision apply to any Member, this should be declared at the Declaration of Interest agenda item."*

Declarations of Interest at meetings

Members were required to declare Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests at meetings and those recorded on the Committee system, as declared by District Councillors for the period 1 April 2025 to 31 March 2026 were set out in the Appendix A to the Monitoring Officer's report (A.1). The minutes of the relevant meetings also recorded the declarations.

Use of blanket dispensations

The Committee was reminded that this Council's Members' Code of Conduct did not include blanket dispensations. Consequently, the Monitoring Officer had provided District Members with a blanket dispensation for the purposes of setting Council Tax under the Local Government Finance Act 1992, at the District Council's budget meeting on 17 February 2026 (minute 108 referred) (as referred to earlier within the Officer report (A.1). The Monitoring Officer had also stated the following in relation to that item:-

"A recorded vote is mandatory on any decision relating to the budget or Council Tax. This includes not only on the substantive budget motions agreeing the budget and setting Council Taxes, but also on any amendments proposed at the meeting.

I can inform Members that no budget amendments were submitted to the Council's Section 151 Officer by the deadline set out in Council Procedure Rule 2.

For other types of Interest, which need to be considered, Disclosable Pecuniary Interests (DPIs), Other Registerable Interests (ORIs) or Non-Registerable Interests, are defined in the Code of Conduct and for DPIs and ORIs, these have been (or should have been) registered in advance, and with the exception of the Council Tax exemption for residing in the District, you should still consider if any other interest do apply. A blanket exemption/dispensation has not been applied for all."

Declarations of offers/receipt of gifts and hospitality

Following the Standards Committee's previous review of the Council's Gift and Hospitality Policy for Members, guidance and a notification form had been produced for all District Councillors in May 2016. Reference to declarations of offers/receipt of gifts and hospitality had been included within the mandatory Members' Code of Conduct training delivered by the Monitoring Officer in June and July 2023, and any subsequent Code of Conduct training.

There had not been any recorded declarations of offers/receipt of gifts and hospitality made by District Councillors in the time period covered by this Officer report.

Members' Register of Interests

The Committee was made aware that, pursuant to the Localism Act 2011, within 28 days of becoming a Member or re-election or re-appointment to office, Members must register with the Monitoring Officer their interests which fell within the categories set out in Table 1 of the Members' Code of Conduct, namely Disclosable Pecuniary Interests (DPIs) which were as described in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012'. Members should also register details of other personal interests which fell within the categories set out in Table 2 (Other Registerable Interest (ORIs)).

It was reported that, at the conclusion of the May 2023 District, Town and Parish Council elections, all Members had received the relevant Disclosable Pecuniary Interest and Other Registerable Interests form as part of their induction procedure, to complete and return to the Monitoring Officer, for inclusion on the Council's website within a central register. Registration and the obligations to disclose DPIs, ORIs and Non-Registerable

Interests and the effect on participation had been covered within the mandatory Members' Code of Conduct training delivered by the Monitoring Officer in June and July 2023 and the refresher training provided on 18 June 2025.

In line with the requirements of the Council's External Auditors, an annual reminder had been sent to all District Members to ensure that all interests were up to date and that remained ongoing. At the time of writing this Officer report (A.1), 23 out of 48 had been received; that figure was updated to 35 out of 48 at the meeting.

It was moved by Councillor Wiggins, seconded by Councillor Talbot and unanimously:-

RESOLVED that the Committee requests that Members be formally reminded to keep their Register of Interests' entries up to date and to respond to Officer requests to confirm that their Members' Register of Interests entries are up to date.

22. REPORT OF THE MONITORING OFFICER - A.2 - REVIEW OF THE MEMBERS' GIFTS AND HOSPITALITY POLICY

The Committee heard that the current Members' Gifts and Hospitality Policy (the Policy) had been last considered by the Standards Committee at its meeting held on 14 March 2016.

Members were informed that the Council had adopted the Local Government Association's Model Members' Code of Conduct (the Code) with effect from May 2023, which Members must adhere to. The General Principles of Councillor conduct stated:-

"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. 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 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"*

The Committee was told that under the "protecting your reputation and the reputation of the local authority" heading within the Code, Members were required to register and disclose their interests and consider their position with regard to Gifts and Hospitality.

"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."

Members were made aware that Section 2 of the Bribery Act 2010 made it a criminal offence for a person to request, agree to receive, or accept a financial, or other advantage, to improperly perform or not perform, whether by her/himself or another, a relevant function or activity. In the context of the Council, the relevant function or activity meant a public activity which a reasonable person would expect to be performed in good faith, impartially, or in a particular way by a person performing it in a position of trust.

Officers also made the Committee aware that the Members' Gifts and Hospitality Policy had been based upon the previous guidance which had essentially remained unchanged; however, the Code provisions had been replaced with the current Code of Conduct requirements.

Members also heard that the Policy aimed to provide a clear set of rules for the protection of both Members and the Council, and which set out the General Principles to be applied when deciding whether it would be proper to accept any gift or hospitality; along with the procedure for declaring any such gift or hospitality.

It was reported that the Policy included at section (b)(viii) a list of circumstances, which the Committee was requested to agree, in which it would be appropriate for Members to choose to accept gifts and hospitality. Declarations would still be required in accordance with the Policy.

It was the responsibility of each individual Member to observe the Policy, but that the Monitoring Officer and Leadership Support Officers would assist where possible. It was moved by Councillor Alexander, seconded by Councillor Wiggins and unanimously:-

RESOLVED that the Committee:-

- 1) notes the outcome of the review of the Members' Gifts and Hospitality Policy, as set out in Appendix A of the Officer report (A.2); and
- 2) approves the updated Members' Gifts and Hospitality Policy for circulation to all District Councillors.

23. REPORT OF THE MONITORING OFFICER - A.3 - REVIEW OF SOCIAL MEDIA GUIDANCE FOR MEMBERS

Members heard that the current Social Media Guidance for Members (the Guidance) had been last considered by the Standards Committee at its meeting held on 2 February 2022 and was attached as Appendix A of the Officer report (A.3), detailing Officers' comments after conducting their review.

The Committee was informed that, whilst the 2022 guidance was not incorrect, it was felt necessary to produce a new draft based on current use of social media platforms and terminology.

Members were also informed that the Council recognised the benefits of communication between Members and residents that social media platforms afforded and utilised by most Members with varying frequency. Social media could reach a demographic of society that might not always be reached by more traditional methods, along with the speed with which communication could take place, providing both potential benefit and pitfall, than traditional correspondence.

The Committee was told that, as part of their work programme, the Committee was requested to review the Guidance in association with Officers, to ensure that it was clear in order to assist elected Members in understanding social media and their use of it.

The Committee was made aware that Members had last received dedicated social media training on 27 January 2022 which had broadly covered the following topics:

- *Identifying strengths and weaknesses of major social media channels*
- *Working within the majors 'dos' and 'don'ts' of social media*
- *Finding and targeting an audience*
- *Building a 'brand' across social media platforms*
- *Managing trolls and keyboard warriors*
- *Applying the Seven Principles of Public Life (Nolan Principles) and Members' Code of Conduct to the use of social media*
- *Identifying Tending District Council's existing policies for social media use (and development of future policies)*
- *Identifying the point for reporting misuse of social media*

Officers reported that, through the Members' induction programme in 2023, Code of Conduct training (which had been refreshed in 2025) had referenced the Council's Social Media Guidance and the Local Government Association's published Social Media Guidance for Councillors.

Following the Committee's consideration of the draft Social Media Guidance for Members, it was planned to develop an updated training session in association with the

Council's Communications Team, to deliver to Members to accompany the reviewed Guidance, taking into consideration the review and the Committee's subsequent comments.

The Guidance and proposed training package would highlight that inappropriate use of social media could amount to a breach of the Members' Code of Conduct, and that it was the individual responsibility of each Member to consider the Guidance when using social media.

It was proposed that the training be delivered to District Councillors on the draft Guidance, to seek feedback and comments on the draft Guidance, in particular whether anything else needed to be covered, and report to the Committee, to enable it to approve a final version.

The Committee and the Independent Persons present put forward the following comments/views/suggestions/requests et cetera:-

- *The percentage of how many complaints related to social media;*
- *A few training sessions on the Social Media Guidance such as a morning session, evening and one on MS Teams;*
- *Would more training be provided after the Guidance came back to the Committee?; and*
- *Would there be Freedom of Expression training?*

The Monitoring Officer responded to the points made as appropriate.

It was moved by Councillor Talbot, seconded by Councillor Casey and unanimously:-

RESOLVED that the Committee:-

- 1) note the contents of the Officer report (A.3) and the new draft Social Media Guidance for Members, as set out in Appendix A of that report;
- 2) following the comments as mentioned above, approves Appendix A of the report, as draft guidance for the purposes of training with District Councillors; and
- 3) receives feedback following that training with Members, to approve a final version of the Social Media Guidance to ensure it is comprehensive and clearly understood.

24. REPORT OF THE MONITORING OFFICER - A.4 - STANDARDS COMMITTEE WORK PROGRAMME 2026/27

The Committee considered the following draft Work Programme for 2026/27:-

April 2026

- Annual report on Declarations of Interest (including meetings, gifts and hospitality)
- Updates by Monitoring Officer covering complaints and national policy changes
- Annual Work programme for 2026/27

- Social Media Guidance review
- Gifts and Hospitality Policy review

July 2026

- Updates by the Monitoring Officer covering complaints and national policy changes
- Social Media Guidance review update
- Case review and guidance update for the Committee on decisions and actions taken nationally
- Update on mandatory Members' Code of Conduct training
- Licensing and Registration Probity Protocol

October 2026

- Updates by the Monitoring Officer covering complaints and national policy changes
- Town and Parish Councils' Code of Conduct and Interests review – including Local Government Reorganisation (LGR) implications
- Role of the Monitoring Officer and review of administrative delegated powers

February 2027

- Updates by the Monitoring Officer covering complaints and national policy changes
- Update on mandatory training for Members

Members were made aware that the above meeting dates were provisional pending ratification at the Annual Meeting of the Council to be held on 19 May 2026 and that, in addition, individual matters might be referred to those meetings by the Monitoring Officer, in accordance with the Committee's Terms of Reference as necessary, for example, an appeal against a dispensation decision or a Code of Conduct hearing.

Having duly considered and discussed the contents of the draft work programme:-

It was moved by Councillor Wiggins, seconded by Councillor Alexander and unanimously:-

RESOLVED that the Work Programme for the Standards Committee for 2026/27 be approved and adopted.

25. UPDATE BY THE MONITORING OFFICER COVERING COMPLAINTS AND NATIONAL POLICY CHANGES

The Committee had before it, as set out below, the Monitoring Officer's update on existing and new conduct complaints cases.

TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE April 2026				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
Council	Complainant	Current status	Final outcome	Comments
PARISH	PARISH CLLR – received 05 Mar 2025	CLOSED	No further action as the investigation did not identify evidence of a breach of the Code. Recommendations had been given to the Parish Council for training and operating procedures.	Matter related to behaviour between Parish Councillors whilst acting in an official capacity.
DISTRICT	PUBLIC – received 11 Mar 2025	ONGOING	Investigation – internally appointed Investigator	Matter relates to communications between parties.
PARISH x 3	PUBLIC – received 28 Oct 2025	ONGOING	External investigator appointed	Matter relates to conduct at public meetings and declaration of interests.
PARISH	PUBLIC – received 06 Nov 2025	ONGOING	External investigator appointed (to be run in parallel with above investigation)	Matter relates to use of social media.
DISTRICT	DISTRICT CLLR – received 02 Feb 2026	CLOSED	No further action – complaint was without merit & politically motivated	Matter related to declaration of interests.
<u>General Notes – 2025/26 Summary:</u>				
Overall, eleven cases had been received in 2025/26. In 2026/27, so far, no complaints had been received.				
Since the last update, one case remained being investigated by an internally appointed investigator and two cases were being investigated by an externally appointed investigator. One case had been closed with no further action as the complaint was politically motivated. One investigation had been concluded and closed with no further action. No breaches of the Members' Code of Conduct had been identified, but recommendations had been given to the relevant Parish Council relating to training needs and fully adhering to operating procedures.				

Those had been acknowledged by the Clerk.
Requests for dispensations:
None since the last update.

The Committee **NOTED** the foregoing.

The meeting was declared closed at 10.57 am

Chairman

STANDARDS COMMITTEE

15 JULY 2026

REPORT OF THE MONITORING OFFICER

A.1 LICENSING AND REGISTRATION PROBITY PROTOCOL – RESULTS OF CONSULTATION AND REVISED LICENSING AND REGISTRATION PROBITY PROTOCOL

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report is submitted to the Committee to enable it to consider the Licensing and Registration Probity Protocol following consultation with the members of the Licensing and Registration Committee, the Portfolio Holder for Assets and Community, Officers responsible for licensing services in the Governance and the Environment & Housing Directorates and the Independent Persons. This report also sets out the outcome of the consultation and a revised Licensing and Registration Committee for approval and recommendation to Full Council for its adoption.

EXECUTIVE SUMMARY

This report presents the updated revised version of the Licensing and Registration Probity Protocol, as set out in Appendix A, following a consultation with the members of the Licensing and Registration Committee, the Portfolio Holder for Assets and Community, Officers responsible for licensing services in the Governance and the Environment & Housing Directorates and the Independent Persons.

Some themes from the consultation were:-

- expand more on 'prejudicial' interest;
- add to member training section about training to be allowed to sit on the Committee should be from the Council but can be topped up through other means such as the LGA;
- make 'to stay open-minded' stronger;
- to add that Members are not allowed to discuss blue pages documents outside of the Committee membership; and
- to add that the fourth or standby Member of the Premises/Personal Licences Sub-Committee can leave the room if they are at the meeting.

The outcome of the consultation is set out in detail in Appendix B.

RECOMMENDATION(S)

It is recommended that the Standards Committee:

- (a) notes the outcome of the consultation with members of the Licensing and Registration Committee, the Portfolio Holder for Assets and Community, Officers responsible for licensing services in the Governance and the Environment &**

Housing Directorates and the Independent Persons; and

(b) endorses the revised Licensing and Registration Probity Protocol (subject to tracked changes being accepted) and recommends to Full Council that it be adopted and incorporated into the Council's Constitution.

REASON(S) FOR THE RECOMMENDATION(S)

In order to enable the Licensing and Registration Probity Protocol be adopted by Full Council.

ALTERNATIVE OPTIONS CONSIDERED

Not to proceed further with the review. However, this would equate to a missed opportunity to refresh the Protocol and to produce a more user-friendly document following recognised best practice.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Members' Licensing and Registration Probity Protocol will form part of the Council's Constitution in Part 6 and will demonstrate effective and positive governance arrangements and promotes the maintenance of integrity, both real and perceived within the Licensing and Registration Committee and Sub-Committee's decision making as well as high standards of conduct.

The Council has approved and adopted a Local Code of Corporate Governance, which is consistent with the principles of the **CIPFA / SOLACE *Delivering Good Governance in Local Government Framework (2016 Edition)***. The principles and standards set out in the 2016 Framework are aimed at helping local authorities to develop and maintain their own codes of governance and discharge their accountability for the proper conduct of business.

The first principle of the CIPFA/Solace Framework – Principle A expects local government to give on-going assurance (through its Annual Governance Statement) that it is '*Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.*'

The Role of the Standards Committee within the governance environment is to:

- Promote and maintain high standards of conduct
- Develop culture of openness, transparency, trust and confidence
- Embed a culture of strong ethical and corporate governance

Corporate governance is about how we ensure that we are doing the **right** things, in the **right** way, for the **right** people in a timely, inclusive, honest and accountable manner.

Keeping under review and updating its protocols demonstrates the Council's commitment to ensuring good governance sits at the core of its arrangements and culture.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

[THIS WILL BE GIVEN AT THE MEETING]

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are no financial implications for the Council directly from the content of this report. The development of the Protocol set out in Appendix A has been undertaken within existing resources. Likewise, the consultation proposed through this report will be carried out within the same resource limits.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Good decision making should underpin financial sustainability, and the proposed protocol supports good decision making.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Key messages from local government failures include the absence of the right culture and understanding of the Nolan Principles and the need for greater transparency in decision making. The proposed Licensing and Registration Probity Protocol builds on the Council's existing culture of embedding the Nolan Principles within the way services are delivered, and decisions are made.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	There are no direct matters concerning economy, efficiency and effectiveness.

MILESTONES AND DELIVERY

Standards Committee 24 October 2024 – Agreed to undertake review.

Standards Committee 9 July 2025 – Considered the outcome of the review.

Licensing and Registration Committee 17 September 2025 – Undertook consultation with Members of the Licensing and Registration Committee, the Portfolio Holder for Assets and Community Safety, Officers responsible for licensing services in the Governance and the Environment & Housing Directorates and the Independent Persons.

Standards Committee July 2026 – report outcome of consultation to Standards Committee for consideration and recommendations onto Full Council.

Full Council September 2026 – Council considers and adopts the proposed new Licensing and Registration Probity Protocol.

ASSOCIATED RISKS AND MITIGATION
The Council must ensure that any Codes and Protocol which provide guidance for Councillors are up to date with current policy, legislation, case law, good practice and national guidance. Through this report, and its recommendations, the Council seeks to achieve this and thereby avoid the risks associated with no protocol or an out-of-date protocol.
OUTCOME OF CONSULTATION AND ENGAGEMENT
The draft Licensing and Registration Probity Protocol submitted to the Committee at its meeting of 9 July 2025 was subject to consultation with the Members of the Licensing and Registration Committee, the Portfolio Holder for Assets and Community Safety, Officers responsible for licensing services in the Governance and the Environment & Housing Directorates and Independent Persons. The outcome of the consultation is set out in Appendix A.
EQUALITIES
Part of the review of the Licensing and Registration Probity Protocol has been to ensure that it meets the requirements of the Public Sector Equality Duty in that the Council must, in the exercise of its functions, give due regard to the need to eliminate discrimination, harassment victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex and sexual orientation. The Committee, in its decision making should likewise consider the requirements of the Public Section Equality Duty.
SOCIAL VALUE CONSIDERATIONS
Not applicable in this report.
IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION
On the basis that local government reorganisation proceeds following the submission of proposals to Government by 26 September 2025, there will be a need to look at harmonising a range of policies and procedures across the Councils that will be combined (in full or in part). The Probity Protocol will be one of those documents and the adoption of the finalised Protocol will be a useful position statement to inform the harmonisation process.
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050
Not applicable to this report.
OTHER RELEVANT IMPLICATIONS
Consideration has been given to the implications of the proposed decision in respect of

the following and any significant issues are set out below.	
Crime and Disorder	None.
Health Inequalities	None.
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	None.
Area or Ward affected	All.
ANY OTHER RELEVANT INFORMATION	
The draft Licensing and Registration Probity Protocol is intended to be a 'sister' protocol to the adopted Planning Probity Protocol.	

PART 3 – SUPPORTING INFORMATION

BACKGROUND
At its meeting held on 24 October 2024, the Committee agreed its Revised Work Plan, and this included a review of the Council's Licensing Guidance for Councillors and Officers to ensure it was adhering to the best practice and easy to follow. In undertaking the review, other Councils Licensing Protocols were examined with a view to assessing best practice to assist the drafting of this Council's Licensing and Registration Probity Protocol. Various examples identified different elements, such as interests, lobbying, Officer Member relationship, Ward Councillor involvement, site visits, training etc. Some of the Council's Licensing Protocols that was used were: - Bedford Borough Council; - London Borough of Hammersmith and Fulham; - Somerset Council; and - South Holland District Council. A report to the Standards Committee in July 2025 set out initial proposals following a review by the Monitoring Officer and following consideration by the Committee it was agreed to consult with members of the Licensing and Registration Committee, Portfolio Holder for Assets and Community, Officers responsible for licensing services in the Governance and the Environment & Housing Directorates and the Independent Persons on the draft revised Licensing and Registration Probity Protocol.
PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.
<u>Standards Committee 24 October 2024 – Minute 28 (refers)</u> • <i>“Licensing and Registration Committee Probity Protocol – Initial Draft for Consultation</i>

Purposes

RESOLVED that the revised Work Plan for the Standards Committee for the remainder of the 2024/2025 Municipal Year be approved and adopted.”

Standards Committee 9 July 2025 – Minute 6

RESOLVED that:-

- a) the outcome of the review of best practice to produce a revised Licensing and Registration Probity Protocol be noted;
- b) the consultation be undertaken on the draft revised Licensing and Registration Probity Protocol; and
- c) the outcome of the consultation be reported to the Standards Committee for its consideration prior to recommendation on to Full Council for adoption and inclusion in the Council’s Constitution.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

[Licensing Protocol July 2010](#) – TDC original Licensing guidance document

[Minutes Template](#) – Standards Committee 24 October 2024

[Item 7 Guidance for Members dealing with Licensing Matters](#) – Bedford Borough Council – Guidance for Councillors dealing with Licensing Matters

[GUIDANCE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING AND LICENSING](#) – London Borough of Hammersmith & Fulham – Guidance for Councillors and Officers Dealing with Planning and Licensing

[Part 5](#) – Somerset Council – Local Code of Best Practice for the Licensing Process

[SOUTH HOLLAND DISTRICT COUNCIL](#) – South Holland District Council – Protocol on Good Practice in Licensing for Members and Officers Dealing with Licensing Issues

[Report Template Part A](#) – Standards Committee report – 9 July 2025

APPENDICES

Appendix A: New revised TDC Licensing and Registration Probity Protocol – following consultation.

Appendix B: Consultation responses.

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

Name	Lisa Hastings Bethany Jones
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APPENDIX A

Tendring District Council



Part 6 – Licensing and Registration Probity Protocol

Contents:

- 1 Introduction
- 2 Role of Councillors
- 3 Relations to Members' Code of Conduct
- 4 Applications submitted by Council, Members or Officers
- 5 Member Training
- 6 Predisposition, Bias and Predetermination
- 7 Contact with Applicants, Objectors and Interested Parties
- 8 Lobbying of and by Councillors
- 9 Pre-application Discussions
- 10 Site Visits
- 11 Meeting of the Licensing and Registration Committee and Sub-Committees
- 12 Right to Fair Determination & Open and Fair Hearing
- 13 Appendices

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1 INTRODUCTION

1.1 In this Protocol:

- **“Councillors” or “Members”** - Unless stated otherwise, references to Councillors/Members in this Code are to those Councillors dealing with Licensing matters via their appointment to Licensing Committee.
- **“Licensing Committee”** means the Licensing and Registration Committee, the Premises/Personal Licences Sub-Committee and Miscellaneous Licensing Sub-Committee. It also refers to the Planning Committee should it consider a combined matter involving premises matters under the Licensing Act 2003 and to the Full Council when dealing with licensing matters.
- **“Licensing matters”** include all applications for, and reviews of, licences, consents, permits and registrations etc. as set out in the Committee’s terms of reference within Part 3 of the Council’s Constitution.
- **“Party”** for Licensing purposes includes an applicant, or an objector.
- **“Interested party”** is any other person who has submitted a valid representation within the prescribed timescales in respect of the matter concerned and has a right to attend the hearing.
- **“Licensing administrative fairness duty”** means the particular responsibilities of the Licensing Committee Members who sit in formal administrative hearings and consider matters fairly following rules of natural justice and the relevant principles of the Human Rights Act 1998 in a non-political manner and make decisions in the public interest within (and for the purposes) of the particular licensing legislative framework.
- **“Monitoring Officer”** means the designated Officer and in their absence the reference to Monitoring Officer shall be deemed to include the Deputy Monitoring Officer.
- “Open-minded” means the willingness to consider new, different, or opposing ideas, perspectives, and experiences without immediate judgement. It involves setting aside personal biases to evaluate alternative viewpoints fairly, often stemming from an awareness that one’s own beliefs might be limited.

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1.2 There are fundamental principles of English Law that every decision-making body must observe and be seen to observe. These are called “the principles of natural justice” and they include:-

- (1) the right to have a fair determination;
- (2) there should be no bias leading up to, or in, the decision reached.

In arrangements for licensing matters to be heard and determined the Council will be focused on these principles. ~~It will. In certain cases, the Council will be a party to a hearing by the Licensing Committee. In seeking to apply rules of natural justice in those cases, there will be clear separation of roles between those supporting the administrative process concerned and support for the Committee from those acting as the party to the licensing matter to be heard. In the spirit of openness, the Committee will be requested to note this separation at the commencement of the hearing. , in so far as it is able, also seek to minimise situations where it will be determining cases it itself would be a party in and otherwise make specific provisions for a separation of such roles.~~

1.3 This Protocol has been prepared:-

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- (1) to assist Members to observe these principles in relation to reaching decision on licensing matters; and
- (2) to provide guidance to Members on how to maintain high standards of conduct in relation to their licensing responsibilities and also on how the Council's Code of Conduct applies to the licensing systems. It does not however replace or in anyway modify that Code.

- 1.4 In view of 1.2 and 1.3 above, Members should follow this Protocol when they deal with licensing matters. It is also important that Members follow all other Protocols of the Standards Committee as the Protocol ~~has been adopted is given~~ in accordance with the Standards Committee's delegation to promote and maintain high standards of conduct by Members ~~and co-opted Members~~ of the Council.

Licensing Act 2003 Licensing Matters

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- 1.5 One of the single largest areas of licensing that the Council is the licensing authority for relates to authorisations under the Licensing Act 2003. The activities regulated under this Act are:

- the sale of alcohol
- the supply of alcohol by a members' club
- regulated entertainment
- late night refreshment

- 1.6 The Licensing Act 2003 is underpinned by four specific licensing objectives, which the licensing authority and the responsible authorities are required to promote in relation to premises and people licenced under the Act. The objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

- 1.7 ~~Each of the objectives carries an equal significance. For Licensing Act 2003 matters, each of the objectives carries an equal significance.~~

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- 1.8 The Licensing Act 2003 identifies the Authority itself as a designated Responsible Authority along with ~~the likes of~~ the Police, Trading Standards, Environmental Health, Planning, Children's Services etc. In very specific parts of the Licensing Act 2003 there are allocations of specific powers to individual Responsible Authorities. Other than in these specific areas all Responsible Authorities have identical powers across all four licensing objectives. Accordingly, there is an importance of effective co-operation and liaison to ensure that licence holders, designated premises supervisors, personal licence holders and club premises certification holders both understand and comply with the law and the requirements of their authorisation under the Licensing Act 2003. Members considering licensing matters in a Licensing Committee are entitled to question Responsible Authorities who are parties to a hearing on the use of their powers in respect of the matters being considered. Each Responsible Authority has their own enforcement responsibilities in relation to premises licensed under the Act and each recognises the importance of effective co-operation and liaison to ensure that licence holders, designated premises supervisors, personal licence holders and club premises certificate holders both understand and comply with the law.

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- 1.9 ~~The Government strongly recommends that licensing authorities establish protocols on enforcement issues and, more generally, work collaboratively to promote the four licensing objectives in respect of matters covered by the Licensing Act 2003. Section 20 of the Licensing Act 2003 provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under Section 4 of the Video Recordings Act 1984 specified in the licence, currently only the British Board of Film Classification (BBFC), or by the Licensing Authority itself.~~

~~The Licensing Authority may be requested to authorise the showing of an unclassified film(s) within the Tendring District Council area. Typically this will be for:-~~

- ~~• A film festival covering a specific period of time;~~
- ~~• A one-off screening of a film(s); and~~
- ~~• A trailer for a film.~~

~~As such, the provisions of this protocol shall apply in respect of the intended site for the showing of the film. This though, of itself, does not preclude showings at other sites in the District once a determination of the classification has been made.~~

~~Applications for authorisations of film(s) shall be determined by the appropriate Licensing Committee.~~

~~Gambling Act 2005.~~

- 1.10 The Licensing Act 2003 is not the only legislative framework that the Council is the Licensing Authority for. Each framework applies different tests and responsibilities on the Council and others. One other such licensing framework is the Gambling Act 2005 and the Council (as Licensing Authority) is charged with promoting the three objectives in that Act in respect of applications, notices and determinations under that Act. The 2005 Act objectives are:

- * preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- * ensuring that gambling is conducted in a fair and open way; and
- * protecting children and other vulnerable people from being harmed or exploited by gambling.

- 1.11 ~~The Licensing Act 2003 and the Gambling Act 2005 put local authorities firmly at the centre of decision making upon licences for regulated entertainment, the provision of alcohol, late night refreshment and the Licensing of Gambling/gaming Establishments and sSmall Lotteries. In exercise of its powers under the Gambling Act 2005, the Council must have regard to guidance issued by the Gambling Commission which sets the overall direction of regulation nationally and within which the Council, as Licensing Authority, may exercise its discretion. Members in a hearing are entitled to seek clarity on the evidence available to it in relation to the national guidance referenced. Another large part of the work of the Council in respects of licensing is that related to Taxi and Private Hire Services. The framework for this area of licensing is set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 (as amended and otherwise impinged by a range of other more recent legislation). Nationally there is guidance around vehicle standards and statutory guidance around driver expectations. While there are not the~~

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same 'objectives' clauses in the relevant Acts for Taxi and Private Hire Services, there is a clear approach that the fundamental consideration of the licensing Authority is public safety and consumer protection.

1.12 As with the Licensing Act 2003, the Gambling Act 2005 identifies Responsible Authorities who have responsibilities and powers under the 2005 Act concerning gambling/gaming provision locally. Many of the Responsible Authorities are the same as under the Licensing Act 2003. However, there are differences and the Gambling Licensing Principles are distinct from those in the Licensing Act 2003. It is important that Members of Licensing Committee apply the relevant requirements of the appropriate legislation in the hearing they are involved in. They are entitled to seek clarification from those supporting them. In addition, and as referenced in relation to the Licensing Act 2003, the Council itself is a Responsible Authority under the Gambling Act 2005. A similar separation of functions must be observed where those Responsible Authority powers are applied.

1.13 Regulation of the National Lottery is not a matter within the scope of this Council.

Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976

1.14 Another significant area of work of the Council in respects of licensing is that related to Taxi and Private Hire Services. The framework for this area of licensing is set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 (as amended and otherwise impinged by a range of other more recent legislation). Nationally there is guidance around vehicle standards and statutory guidance around driver expectations. While there are not the same 'objectives' clauses in the relevant Acts for Taxi and Private Hire Services, there is a clear approach that the fundamental consideration of the licensing Authority is public safety and consumer protection.

1.15 The following are circumstances where matters are often referred to the Miscellaneous Licensing Sub-Committee for determination:-

- Renewal applications for Hackney Carriage and Private Hire Licences where the application has more than 3 penalty points on his/her DVLA licence or does not meet the current policy requirements, save where the Committee has previously be determined that an application need not be referred back to it, and can instead be determined by Officer under delegated powers;
- Hackney Carriage and Private Hire Licences where the Taxi licence has received 12 or more Enforcement Penalty Points;
- Applicants for licences who have convictions or who do not meet the current policy requirements;
- Applications for renewal of licences where the circumstances of the applicant have changed since the grant of the previous licence; and
- Any other circumstances where Officers wish the case to be referred to the Committee.

1.16 The Sub-Committee will usually meet in private in order to protect personal and sensitive information relation to an applicant. Each meeting will have to formally decide to exclude the public. To ensure impartiality, all Officers (apart from the Council's legal advisor and Democratic Services Officer) are absent during the decision-making process.

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Commented [BJ1]: Reference to other licensing legislation that L&R is responsible for including Caravan sites and Acupuncture etc to be inserted here! - will have more complete sense of what may come to a hearing

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1.17 Members of the Licensing Committee are also responsible for Caravan sites, Acupuncture, Charity Collectors, Sexual Establishment Venues, Street Trading, Scrap Metal, and Pavement Licences.

1.18 The role of ~~Elected~~ Members as part of the Licensing Committee is to examine the matters before them and apply the requirements upon them (and the Authority more generally) with an open mind and consider all relevant facts in determining the appropriate outcome of the matter. In doing so the Elected Member must maintain his/her impartiality and, as public perception of probity is critical, his/her appearance of impartiality too, during the decision-making process. This protocol is intended to ensure that this is achieved.

1.19 This Protocol is part of the Council's Constitution, and all Members ~~and Officers~~ are expected to comply strictly with its provisions. Any breach of the Protocol will be referred to the Monitoring Officer. If the ~~alleged~~ breach is also a breach of the Code of Conduct for Members the matter will be dealt with through its associated complaints process for breaches of that Code.

4.14 1.20 The Protocol can be changed at any time by resolution of Council.

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2 ROLE OF COUNCILLORS

2.1 The role of an ~~Elected~~ Member at the Licensing Committee involves sitting in a formal hearing and following the rules of natural justice and the relevant principles of the Human Rights Act 1998 in making decisions within the relevant framework for the licensing matter concerned.

2.2 Applying those principles, the following approach to hearings will be applied:-

~~(1) A party at a Committee must be provided with the written report together with any other information received regarding the substance of any allegation or objection or allegations (which may be relevant in the context of a proposed revocation of a licence or details of the application) and this is usually in the form of the written report to attendees (see (2) below)~~

~~(2) The written report must be provided to the party in a reasonable time for them to read and understand the content of the objection, allegation or, as the case may be, details set out in the report and the arrangements for representation~~

~~(3) A party must be able to put their case and be represented if they so wish and is entitled to a fair hearing~~

~~(4) A party must be able to present their case under conditions that do not place them at a disadvantage~~

~~(5) A party must be entitled to have their representations taken into account by the Committee~~

~~(6)~~(1) Any member of the Committee having a Disclosable Pecuniary Interest or a local interest in the matter before the Committee must declare the nature of that interest and in the case of a Disclosable Pecuniary Interest must withdraw from the room in which the meeting is being held whilst the matter is being considered.

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~~(7)(2)~~ The Committee should not make an irrational decision by taking into account matters it ought not to take into account of and/or taking into account matters of which it should take account.

~~(8)(3)~~ There should be no bias leading up to, or in, the decision reached: and

~~(9)(4)~~ In its decision making, the Committee must ensure that its decision is proportionate to the case before it.

2.3 Councillors serve the public and are responsible to the electorate. Officers advise Councillors and the Council and carry out the Council's work. Officers are employed by the council, not by individual Councillors, and it follows that instructions may only be given to Officers through a decision (within the relevant powers):-

- at a meeting of the Executive or of the Council, or a Committee or a Sub-Committee of either, or
- by an individual decision of the Leader or a Portfolio Holder properly taken in accordance with the decision-making protocol.

In so far as this Protocol is concerned, instructions will be taken by the Licensing Committee and relate to the matter being considered by the Committee. Members should seek advice about their powers to make decisions to ensure they are capable of being made within the Council's Constitution.

2.4 It is crucial that Councillors serving on the Licensing Committee, or who become involved in the process by which making a licensing decisions are to be made (by Officers or by a Licensing Committee), must observe the requirement that a Member:-

"must not use or attempt to use [their] position as a Member improperly to confer on or secure for [themselves] or any other person, an advantage or disadvantage"

2.5 Councillors and Officers have different but complementary roles. Both Officers and Councillors are also subject to Codes of Conduct with which they must comply.

2.6 Councillors and Officers will treat each other with respect at all times and not engage in personal criticism in the course of any meeting and, more generally, when performing their respective roles. Concerns about Officer and Councillor conduct should be addressed to the Monitoring Officer, Corporate Director (Law & Governance) (Monitoring Officer) or the Assistant Director (Corporate Policy & Support).

2.7 Councillors can expect Officers to give them all reasonable assistance in answering questions on licensing matters. Such a right does not extend beyond their 'right to know' for the performance of their role and does not over-ride, except where that would infringe this or other codes, or contravene legal rules such as data protection. An Officer will state the reason if there are any such limitations on their ability to provide information in response to a ~~assist with~~ Councillor's queries.

2.8 Councillors serving on the Licensing Committee must determine each application/matter on the evidence presented by (or on behalf of) both the applicant/licensee and interested parties at a hearing. Councillors need to take account of relevant representations made by the applicant/licensee and interested parties but should not favour any person, group, company or locality, not put themselves in a position where they appear to do so, in making the decision. Councillors are barred from sitting on any Licensing Sub-Committee determining applications which fall within their own Wards only where they have a prejudicial interest under the Members' Code

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of Conduct. If the Member has a partner who is also an elected Councillor, they should not sit on the Licensing Committee hearing a matter concerning a premises in the Ward their partner represents or a person who lives in that Ward.

~~2.9 Members must comply with the provisions of the Code of Conduct for Members which has been adopted by the Council, and which sets out the required standards of conduct for Councillors. The Code not only covers issues central to the preservation of an ethical approach to council business but also appropriate relationships with other Members, staff and the public which will impact on the way in which Members participate in the licensing process.~~

~~2.10 Members are not allowed to discuss any blue page documents outside of the Licensing Committee membership~~

3 RELATIONSHIP TO MEMBERS' CODE OF CONDUCT

~~3.1 Members must comply with the provisions of the Code of Conduct for Members which has been adopted by the Council, and which sets out the required standards of conduct for Councillors. The Code not only covers issues central to the preservation of an ethical approach to council business but also appropriate relationships with other Members, staff and the public which will impact on the way in which Members participate in the licensing process.~~

3.24 The rules contained in the Members' Code of Conduct must always be complied with first. These are both the rules on Disclosable Pecuniary Interests (DPIs) and any other interests identified by the Council, and the general rules and obligations giving effect to the (Nolan) Seven Principles of Public Life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

3.32 The requirements set out in the Code of Conduct on dealing with gifts and hospitality can be particularly relevant when dealing with licensing issues. Councillors and Officers should be very circumspect in response to any offers of gifts and hospitality, should seek appropriate advice where necessary, and should record in the relevant register any gifts and/or hospitality they do receive or refuse. This applies particularly in circumstances where it is known that licensing applications have been submitted, or are likely to be submitted, by the parties making such offers.

DECLARATIONS OF INTEREST

3.3 The Council's Code of Conduct sets out requirements for Members on declaring Disclosable Pecuniary Interests, Other Registerable Interest and Non-Registerable Interests and the consequences on participation of having such an interest. These must be followed scrupulously, and Members should review their situation regularly. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.

3.4 A Member sitting on the Committee at the time of hearing with a Disclosable Pecuniary Interest in respect of a particular licensing matter must declare it and take no part in the discussion or the determination of the proposal. Preferably this should take place prior to the hearing itself as a consequence of enquiries proceeding the despatch of the meeting papers or following this point upon the Member reading those papers. If the declaration takes place at the hearing, he or she should leave the room before the item is considered. The responsibility for this rests with each Member. Advice can be obtained in advance from the Monitoring Officer if required, in advance of a Licensing Committee. It is unsatisfactory if a Member asks for guidance in the course of a debate.

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3.5 Do take into account when approaching a decision that the principle of Integrity (one of the Nolan Principles – one of the Seven Principles of Public Life) is defined as

*“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 declare and resolve any interests and relationships.**”*

3.6 It is therefore advisable that Members:

- (i) Note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate Officer, in person or in writing, but that your role as a Councillor may place additional limitations on you in representing the proposal in which you have an interest; ~~and-~~
- (ii) Notify the Monitoring Officer in writing where it is clear to you that you have a Disclosable Pecuniary Interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of that application where you can;
 - provided the licensing framework permits this, the proposal will be reported to the Committee as a main item and not dealt with by Officers under delegated powers or, if the framework prevents this, it will be reported for information to the Committee at its next meeting setting out relevant officer decision and the decision;
 - you must not get involved in the processing of the application; and
 - it is advisable (but not mandatory) that you employ an agent to act on your behalf in respect of the proposal when dealing with Officers and in public speaking at Committee

4 APPLICATIONS SUBMITTED BY COUNCIL, MEMBERS OR OFFICERS

- 4.1 A ~~L~~icensing application to the Council as Licensing Authority by serving ~~and/or~~ former Councillors, their family members and close associates, are perfectly legitimate. However, it is vital to ensure that they are handled in such a way that provides no grounds for accusations of favouritism or genuine suspicion of impropriety.
- 4.2 Councillors on the Licensing Committee should not act as agents for people pursuing licensing matters within their Authority's administrative area. Similarly, if they submit their own proposal to the Council as Licensing Authority they should state the nature of their interest and play no part in its processing and should, unless they are named specifically as the applicant on the requisite forms, notify the Council's Monitoring Officer of its submission.
- 4.3 Submission of an application by, or concerning, a Councillor would be regarded as a Disclosable Pecuniary Interest for the Councillor under the Council's Code of Conduct and as such, ~~she or he~~ they must not attend any hearing during the consideration of the matter other than to exercise any rights that applicants or the wider public have to make representations, answer questions or give evidence.

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4.4 The Council's Code of Conduct provides that Members should "not seek improperly to influence a decision about this matter" – this however does not imply that a Member is not able to explain their position to an Officer in advance of consideration by a Committee. The Member should take great care, of course, not to compromise the impartiality of anyone who works for, or on behalf of, the Council. They should also be aware that:

- they should have no further access to Officers, documentation, etc than would be available to a member of the public;
- they should scrupulously avoid placing pressure on any Officer; and
- their position as a Councillor creates a public expectation that the Member will observe the requirements of licensing legislation in relation to their own private property interests, or a property-owning company in which they have a material interest.

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4.5 Applications under the Licensing Act 2003/Gambling Act 2005 may be received by the Council as the Licensing Authority from the Council itself acting in another capacity. This could include a licence application for a Council sponsored event or for Council owned premises. In addition, there could be an application for a review of a premises licence/club premises certificate (including for a premises not owned by the Council) by the Council as a Responsible Authority under the Licensing Act 2003/Gambling Act 2005 in respect of its functions as Environmental Health, Planning or Licensing Authority. Such applications will be dealt with in the same way as any other application and will give no advantage or disadvantage to the fact that it has been submitted by the Council (or following a recommendation).

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~~Although a Member may make a written submission in a private capacity to relevant Officers, they should not be made to individual Members. If a proposal is submitted by a family member, close associate or other "relevant person" then the Member must consider whether they have a Disclosable Pecuniary Interest in the application, and, if so, take no part in its processing. In any event, they should outline the association at the hearing for the record.~~

~~4.6 Applications may be received by the Council as the Licensing Authority from the Council itself acting in another capacity. This could include a licence application for a Council sponsored event or for Council owned premises. This could also include an application for a review of a premises licence/club premises certificate following a determination by the Council as an Environmental Health, Planning or Licensing Authority itself. Under the Licensing Act 2003, this situation is expressly permitted. Such applications will be dealt with in the same way as any other application and will give no advantage or disadvantage to the fact that it has been submitted by the Council (or following a recommendation). This should be no recommendation for a review of a premises licence/club premises certificate from the Full Council.~~

4.67 No Member of the Executive or any Committee making an application under the Licensing Act 2003/Gambling Act 2005 should seek to influence in any way the determination of the application/review by the Licensing Committee other than by having participated in the decision to apply for the licence/call for a review. Where the application is on behalf of the Council and is to be determined by the Licensing Committee, that Committee shall not be comprised of a Member of the Cabinet/Executive. They shall excuse themselves from participation as a Member of the Cabinet.

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4.78 As identified earlier ~~within Section 4, (at 3.6 above),~~ applications submitted by Councillors, or by Officers in the Licensing Service, will where legally permissible and where relevant elements of the application impinge on the Council's own policies (or otherwise where relevant representations from others require), as a general principle, be referred to the Licensing Committee for information. However, for legal reasons it will not be possible for the Licensing Committee to determine all such applications – for example, the Council normally has no option but to grant an uncontested application under the Licensing Act 2003. However, where such applications are received, an information report will be submitted to the next meeting of the Committee in the spirit of openness and transparency summarising the application and its determination (by Officers or in Committee). At that meeting, Members of the Committee will be free to ask about compliance with this Protocol by those involved in the application.

~~4.9 In the processing of relevant applications, references will be made to the Council, Councillors or Officer interest. The Councillor or Officer concerned will take no part in handling the application or determining the recommendation or making the decision on the application.~~

4.840 Where a Councillor frequently declares an pecuniary or other registerable interest in the business transacted at a Committee meetings and therefore is unable to take part in the proper consideration of licensing matters it will be referred to the Monitoring Officer who will decide whether to raise the matter with the relevant Group Leader, solely, for the purposes of determining whether another Member of that Group should take that allocated seat on the Committee.

~~4.11 A decision on the Council's own licensing applications will be made in accordance with the same procedures applying to licensing applications submitted by other applicants. Licensing Committee members must give no regard to the interests of the Council itself, aside from receiving and taking into account, as permitted by law, any relevant representations received.~~

4.942 Members who are part of the Council's decision to apply for a licence, or who express a view in respect of such an application, should not be part of any hearing to determine the licence. Expressly there must not be any predetermination to grant the application solely because it has been submitted by the Council.

~~4.13 Councillors serving on other Council Committee/Scrutiny and Review Panels who also sit on the Licensing Committee are not permitted to have any prejudicial interest, which would disqualify them from taking part in the decision. If individual Councillors in this situation consider that they should declare an Other Registerable or Non-Registerable interest, they may still be permitted to speak and vote. Councillors are also at liberty to withdraw from the meeting if they so wish. Relevant Council Officers and, in particular, the Monitoring Officer will be pleased to give advice when Councillors are concerned over a conflict of interest.~~

~~4.14 The Council could apply for their own Premises Licences. Such applications must be, and be seen to be, dealt with fairly. During such an application process it is therefore important to be aware of any potential appearance of bias.~~

5 MEMBER TRAINING

5.1 A Member (or designated named Substitute Member) cannot sit as a member of the Licensing and Registration Committee unless they have received specific training with regard to the determination of licensing applications (Part 4 – of the Constitution – Council Procedure Rules).

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- 5.2 From time to time, the Council will provide training for Councillors on licensing matters. This will achieve compliance with the requirements for training under paragraph 5.1 above, new legal requirements on changes in national guidance from Government, the Gambling Commission etc or otherwise to extend the knowledge of Councillors sitting on the Licensing Committee. Training is also available 24/7 on the LGA's Learning Portal and is a good basis for introducing the requirements of the various licensing frameworks. The LGA also has an annual licensing conference and the Committee's Chairman and Vice-Chairman will be invited to attend this each year.
- 5.3 Members should not participate in decision making at meetings dealing with licensing matters if they have not attended the mandatory licensing training prescribed by the Council or otherwise feel that their knowledge of licensing requirements is below that which is fair-minded and informed observer would expect of a Member of the Committee hearing the licensing matter.
- 5.4 In relation to licensing issues, the procedures followed by the Council's Licensing Committee are set down in detailed guidance documents issued to both the applicant and other interest parties. These are reviewed periodically in the light of experience.
- 5.5 The Council is committed to a culture of continuous improvement in all of its services and will ensure that Officers and Members involved in the licensing process receive proper training/development to ensure that they are able to undertake their responsibilities ~~easy role~~.
- 5.6 Members are only allowed to sit on the Licensing and Registration Committee and Sub-Committees if they have received training from the Council itself, but Members are allowed 'top-up' training through other means such as the LGA.

6 PREDISPOSITION, PREDETERMINATION AND BIAS

PREDISPOSITION

- 6.1 A distinction is drawn by the Courts between a Councillor having clearly expressed an intention to vote in a particular way before a meeting (pre-determination) and a predisposition to an initial view. Where the Councillor is clear they have an open mind and are willing to listen to all the material considerations presented at the Licensing Committee before deciding on how to exercise their vote, there is no predetermination.
- 6.2 The following diagram is produced to help Councillors appreciate the range of circumstances (the following guidance only; any specific questions should be raised with the Council's Monitoring Officer):

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Lawful	No view	
	Predisposition	• Manifesto pledges/commitments • Policy making and setting
Unlawful	Predetermination	• Clearly expressed intention to vote in a particular way on an individual application whatever the information provided
	Bias	• Membership of an organisation that supports or opposes particular developments or development types

PREDETERMINATION

~~6.32~~ Predetermination occurs where someone closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The leading case on local authority bias and predetermination acknowledges the difference between Judges sitting judicially and Councillors making decisions in a democratic environment. Given the role of Councillors, there must be 'clear pointers' before predetermination is established. Where there is predetermination, the Councillor should not participate in the consideration of a licensing matter.

~~6.3~~ The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a "closed mind" and likely to leave the Committee's decision susceptible to challenge by Judicial Review. The latter is the perfectly normal process of someone making up their mind.

~~6.4~~ The following diagram is produced to help Councillors appreciate the range of circumstances (the following guidance only; any specific questions should be raised with the Council's Monitoring Officer):

BIAS

~~6.45~~ Councillors should not participate in the consideration of a licensing application if to do so would give the appearance of bias, and the decision may be challenged on the grounds of bias in the Courts. The test for bias is: "Would the fair-minded observer, knowing the background, consider that there was a real possibility of bias?" It is not the Councillor's view of whether they are biased that is relevant but the view of the independent observer. Perception is important and can lead a fair-minded observer to consider that there is a real possibility of bias, they should not participate in making the decision and should withdraw from the room. Further, Councillors do not have to have a Other Registrable or Non-Registrable interest in order to come within the definition of bias. The Courts have held that it is primarily a matter that the Councillor should-always err on the side of caution. Whilst not every application will raise the

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question of bias, there will be occasions when a member of the public in possession of all facts might consider that there is a real risk of bias. In these circumstances, the Councillor should seek early advice ahead of the Committee hearing concerned from the Monitoring Officer.

6.56 To avoid an appearance of bias:

- no Member sitting on the Licensing ~~and Registration Sub~~ Committees can represent one of the interested parties or the applicant. If ~~they s/he~~ wishes to do so ~~s/he~~ they must excuse ~~him/herself/herselves~~ from membership of the ~~Sub~~ Committee which is considering the application and address the Committee as an 'interested party' or as the applicant's representative/witness.
- If a Member who sits on the Licensing Committees is approached by persons wishing to lobby~~ing, please refer to the section in this document regarding lobbying. him/her as regards the licence application then that Member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her Ward Member or the Licensing Officer who can explain the process of decision making. If the Member who sits on the Licensing Committees wishes to represent them then s/he will need to excuse him/herself from the Committee.~~
- A Member who are part of the Licensing Committee must avoid expressing personal opinions prior the the Committee decision. To do so may indicate that the Member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the relevant licensing legislative and policy framework (including taking account of any relevant national guidance).
- Political group meetings should never be used to decide how any Members on the Licensing Committee should vote. The view of the Local Government and Social Care Ombudsman is that using political whips in this manner may well amount to findings of maladministration.
- Councillors must not be Members of the Licensing Committee if they are involved in campaigning on the particular application (for or against its approval).
- Other Members (ie those which do not sit on the Licensing Committee) need to be careful when discussing issues relating to matters which may come before the Licensing Committees as this can easily be viewed as bias/pressure and may well open that Member to accusations of such.
- Members must not pressurise Licensing Officers to make any particular decisions or recommendations as regards applications (such as the ability to decide whether a representation is frivolous or vexatious).

6.67 Any attempt to put pressure on a Licening Officer from any Member (whether they sit on the Licensing Committee or not) shall be recorded by the Officer and the application referred to the Assistant Director (Corporate Policy and Support) to oversee the remaining elements of the determination of the application and reference the intervention to the Monitoring Officer.

6.78 It should be noted that a Member for a Ward, which would be directly affected by the application, is most as risk to being accused of bias. Such Members are also likely to be put under pressure to represent local 'interested parties' (i.e. objectors/supporters) or indeed 'responsible authorities' as regards a licence application. It is for this reason that, whilst there are no statutory requirements for Ward Members to excuse themselves from such licence applications (unless they have an interest), Members whose Ward includes the application, or whose Ward is likely to be affected by the application, will not sit on the Committees considering the application but s/he may

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wish to act as/or represent an 'interested party'. In this respect they must observe the same timelines as anyone else seeking to be an 'interested party'. Earlier in this Protocol, there is reference to the same approach as described in this paragraph applying to the Ward represented by the spouse of the Member concerned.

6.89 Bias has been defined as "an attitude of mind which prevents the decision-maker from making an objective determination of the issues that he/she has to resolve". The importance concept as regards bias is that there is no need for proof of actual or potential bias for there to be 'procedural impropriety' shown. It is sufficient that there is an appearance of bias. Accordingly, the test for bias is 'whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias'.

6.940 'Bias' also includes the situation where it is felt that the decision-maker has pre-determined the case upon his/her own prejudices. In the local government context, the most obvious example of pre-determination is where the impression is clearly given to persons (such as members of the public or a lobbyist) beyond conveying a mere pre-disposition, that 'the Member or authority will approach the matter with a closed mind and without impartial consideration of all relevant issues'. In short, to avoid a claim of determination, you must be able to say with honesty that your mind is open and that you will determine the matter on the evidence, regardless of any pre-disposition that you may have conveyed.

PARTICIPATING IN DECISION MAKING

~~6.11 Councillors are entitled, and are often expected, to have expressed views on licensing issues and that these comments have an added measure of protection under Section 25(2) of the Localism Act 2011. The Section provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because:~~

~~— the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter; and~~

~~— the matter was relevant to the decision.~~

~~6.12 The Section makes it clear that if a Councillor has given a view on an issue, this, is considered in isolation, does not show that the Councillor has a closed mind on that issue. So, the mere fact that a Councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that Councillor from being able to participate in discussion of that issue and to vote on it.~~

6.103 However, ~~d~~Decision-makers must not fetter their discretion by approaching the decision to determine a licensing application with a closed mind. It is a legal requirement to approach the determination of a licensing application with an open mind to prevent a legal challenge for pre-determination or bias (both being judicial grounds in administrative law).

6.114 When Councillors come to make the decision, they:

- are entitled to have and to express their own views on the matter, provided they are prepared to consider their position in the light of all the evidence and arguments;

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- must keep an open mind and hear all of the evidence before them, both the Officers' presentation of the facts and their advice as well as the arguments from all sides; and
- must be prepared to change their view right up to the point of making the decision.

6.1~~25~~ Councillors can listen to applicants and objectors, and indicate their view, but must not be biased in their consideration of their issues. Councillors can support or oppose an application and represent the views of their residents in their role as a Ward Councillor. To do so as a Licensing Committee Member MIGHT compromise their role on the Committee and Councillors are advised to seek advice from the Monitoring Officer.

7 OFFICER DISCUSSION & MEETINGS WITH APPLICANTS, OBJECTORS AND INTERESTED PARTIES

7.1 Councillors should refer those who approach them for licensing, procedural or technical advice to Officers.

7.2 Councillors should only attend those meetings organised in accordance with this Protocol and must not attend private meetings with applicants or groups of objectors.

7.3 Discussions between applicants, interested parties, and responsible authorities (where relevant) can often be encouraged to understand issues entailed and can explore areas of agreement and contributing to resolution of issues when the application is submitted. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Assistant Director (Corporate Policy and Support) ~~Corporate Director of Law and Governance or Assistant Director of Corporate Policy and Support~~ to organise it. The Officer(s) will ensure that those present at the meeting are advised from the start that the discussions will not bind the Authority to any particular course of action, that the meeting is properly recorded on the public file at the earliest convenience. In all cases, the involvement of Councillors will be recorded in any subsequent licensing application, whether in any delegated report or in any Committee report.

7.4 Do otherwise:

- follow the Authority's rules on lobbying set out in Section 8;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Assistant Director ~~of~~ (Corporate Policy and Support) or Licensing Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the licensing file.

7.5 Discussion between a potential applicant and the Council as Licensing Authority prior to the submission of an application can be of benefit ~~considerable~~ to both parties. Such discussions should however only be dealt with by Officers.

~~7.6 Any pre-application discussions on licensing matters are normally between Officers and either the applicant or interested parties.~~

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7.67 Discussions between the licence applicant and the Licensing Authority to the submission of an application (or prior to a decision being made) are often helpful to both parties. For example, a premises licence applicant may ask for advice on how to complete an 'operating schedule'. However, these discussions can often be viewed by objectors as a form of lobbying and the Authority must ensure it is not open to accusations of appearance of bias. Accordingly, Licensing ~~and Registration Sub-Committee~~ members should ensure that they do NOT take part in any pre-application/pre-decision discussions and that applicants are referred to the Licensing Officer.

8 LOBBYING OF/BY COUNCILLORS AND EXPRESSING VIEWS

8.1 Although lobbying is a normal and perfectly proper part of the political process, it is **not** acceptable in the case of Members who serve on the Licensing Committee about licensing matters given the "Licensing administrative fairness duty".

8.2 With the possible exception of Ward Councillors who are not involved in the decision-making process, Councillors should avoid organising support for or opposition to a forthcoming licensing decision and should not lobby other Councillors. Councillors who decide to go public in support for a particular outcome will not be able to argue convincingly when it comes to a decision being made on the application that they have maintained an open mind. In such cases, the appropriate course for the Councillor to take is to make a declaration, withdraw from the meeting, and take no part in the decision-making process.

8.3 Ward Councillors have an important role to play as representatives of their communities and to bring local information to the decision-making process. Ward Councillors may therefore become involved in discussions with Officers about individual licensing issues. They should however remember that it is very easy to create the impression that they are using their position to influence the outcome.

8.4 Lobbying can be oral or by the circulation of letters or documents to all or some Councillors. Problems can occur if Councillors are given information or assurances by, for example, the licensee or applicant, their agents, neighbours, objectors or business colleagues/rivals, which are not part of the formal application or hearing process. Problems can also arise if the information provided to Councillors outside the formal process is misleading or untrue. Furthermore, there is a danger Councillors are manoeuvred into inadvertently confirming or denying confidential information to a third party. In the Hope and Glory case the judge ruled Licensing Act 2003 applications are not considered in quasi-judicial manner but an administrative one (with ultimately the same safeguards). ~~relation to the quasi-judicial processes of the Licensing Committee and the need to conduct certain hearings in private, this action could leave the Council open to legal challenge. Caution may be necessary even after a matter is formally decided, if it is subject to legal appeal.~~

8.5 Councillors on a Licensing Committee must not put themselves in a position where they appear to favour a person, company or group. Even a 'friendly' private discussion with an interested party could cause others to mistrust the impartiality of Councillors. ~~All Councillors, not just those on the Licensing Committee, should exercise caution in this regard. They should generally avoid any situation where they might be seen to be biased in advance of any official Council Licensing decision, and while not in possession of the full facts.~~

8.6 Specific guidance for Councillors who are also Members of the Licensing Committee is as follows, in relation to external lobbying:

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The Member:

- should endeavour to avoid the hearing, and must avoid entering into correspondence over, a case that is being put to them by any interested party outside of the official process for dealing with Licensing matters. It may be necessary to politely interrupt a person trying to raise such an issue.
- should politely point out the reason why the matter must not be heard or considered by them in this situation, asking the person kindly not to continue, and not to raise further points direct with them. If the matter has been raised by correspondence, the Member need only pass the letter or email to the Licensing Officer and Officers will respond with the appropriate advice.
- should explain how the matter may be raised in the correct manner, i.e. in writing, to the Licensing Service.

The Member may also:

- provide procedural advice e.g. how to obtain further advice via Licensing Officers, the right to address the Licensing Committee as a deputation, how to make representations, where to obtain advice on appealing a decision, and so on
- should not under any circumstances indicate how they are going to vote, ~~or give any opinion on~~, or reaction to, the matter being raised~~;~~
- should report all such contacts, with the details and any connected correspondence/paperwork, as soon as possible after they have occurred to the Licensing department, so that the incident can be recorded~~;~~
- should not provide any information on the matter gained by virtue of their position that is not already in the public domain e.g. details from a report that may be heard with the press and public excluded by the Licensing Committee. In any case, where information is requested, best practice is to signpost the enquirer to official ~~where~~ Council sources of information. This avoids any accidentally selective provision of information by the Member, which although well intentioned, could be interpreted as bias
- refer the person to a Councillor who is not a Member of the Licensing Committee e.g. a colleague Ward Councillor, if the interested party is insistent on speaking to a Councillor. If despite the best efforts of the Member in compliance with the above, the person has not desisted as requested, and continues to put forward his/her, view by contacting or making submissions direct to the Member, the Member must:
 - in the absence of any written submission from the person appearing with the official papers at the Licensing Committee hearing, **or**
 - ~~in the event that the official submission from the person is not the same as the information given to the Member~~
 - declare at the relevant Committee meeting the nature of the lobbying, who with, when, and the content of the issues raised, by whom and when.

8.7 Failure to follow these procedures above could prejudice the proper legal processing of the licensing matter, and this may have serious legal and financial consequences for the Council, also implications for the individual Councillor involved.

9 PRE-APPLICATION DISCUSSIONS

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9.1 Any pre-application discussions on licensing matters are normally between Officers and either the applicants or interested parties, not with Members other than in general terms to determine what the local Ward Councillors may think.

9.2 Members will send applicants to the Licensing Officers for pre-applications discussions if approached.

10 SITE VISITS

10.1 Site visits are generally unnecessary in respect of licensing applications and should only be held under exceptional circumstances where particular site factors cannot be ascertained from plans provided with the application. Where a site visit is deemed necessary, it will be part of the Licensing Committee's formal hearing process. No representations from the applicant or other interested parties will be heard or accepted on site. No indication of the likely outcome of the application will be given on site. The Council does not do site visits. If one was to happen, it would be under exceptional circumstances with specialist advice given.

10.2 Councillors on the Licensing Committee are advised not to conduct their own site visits.

11 MEETINGS OF THE LICENSING AND REGISTRATION COMMITTEE AND SUB-COMMITTEES

11.1 Councillors must have the proper information to make an informed decision. An Officer recommendation is not provided in cases where this may prejudice Licensing and Registration Members, who must reach a collective decision based solely on the facts (subject to legal guidance).

11.2 The following information will be included in an Officer report to the Licensing and Registration Committee:-

- A clear description of the issue, application and/or decision required;
- Any relevant history in relation to the matter;
- All relevant evidence (even if apparently conflicting) that will enable Members to reach an informed decision;
- Details of any persons making witness statements and indicating willingness to provide verbal evidence to the Licensing and Registration Committee/Sub-Committees – such persons shall normally be available at the time of the meeting to be called if required, unless some other arrangement is made for the taking of evidence; and
- A list of the options available.

11.3 Members of the Licensing Committee are entitled to this information and question if they consider that anything is not there.

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11.43 Details of any persons making representations, (are also given to the Members but may not be contained within the report) together with an advance indication of a wish to address the hearing personally, or through their representative. Members should consider these in respect of whether they have an interest and declare.

11.54 Where a change in policy is being considered the following information will be included:

- Relevant existing requirements and policies-

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- An appraisal of the implications of the decision
- An accurate summary of the response to consultation, or if this is to be a decision 'in principle', the recommended consultation that is to be carried out if Members agree.
- An Officer recommendation.

11.65 The majority of reports will be available for public inspection in accordance with the provisions for access to information and freedom of information. Occasionally the Licensing ~~and Registration Committee/Sub~~ Committees will be asked to hear matters in private with the press and public excluded due to a need to respect personal confidentiality and privacy where sensitive issues are involved. This most often occurs in connection with Public Carriage driver hearings. In these circumstances the papers will not be publicly available in advance of the meeting, and the Licensing ~~and Registration Committee/Sub~~ Committees will be asked to determine whether the meeting should be held in private to consider the report. Legal advice will be provided where necessary to assist with this decision. The Licensing Committee will also normally adjourn a public hearing to consider evidence together ahead of then returning to conclude the hearing in public where the decision will (again, normally) be provided orally.

11.7 The fourth (standby) Member of the Premises/Personal Licences Sub-Committee can leave the room during the deliberations if the Member is invited to the meeting.

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COUNCILLOR ATTENDANCE

11.86 It is important that the Councillors' decision takes account of all material issues, not solely those contained in the Officers' report, but also those which may be legally permitted to be presented orally or otherwise at the meeting. Any Councillor absent from any part of the meeting during consideration of a ~~report~~ licensing matter must not vote on that matter.

MAKING REPRESENTATION ON LICENSING APPLICATIONS

11.97 Members of the Licensing ~~and Registration Committee/Sub~~ Committees may from time to time make representations on licensing applications. In these circumstances they are required to make their comments in writing and will also be afforded the opportunity to present their view at the appropriate meeting of the Licensing ~~and Registration Committee/Sub~~ Committee. They may not participate in any part of the determination process.

PUBLIC SPEAKING AT COMMITTEE MEETINGS

11.108 Where applications are considered pursuant to the Licensing Act 2003 or the Gambling Act 2005, by the Licensing ~~and Registration Committee/Sub~~ Committees, the conduct of the meeting will be governed by the appropriate Hearings Regulations. The right to make representations under these Acts and Regulations is accordingly limited.

11.119 Consideration of applications for drivers of public carriages are held in closed sessions due to the sensitive nature. Consideration of other Licensing matters at a Licensing Committee will be judged against the information to be disclosed and the likelihood of exempt information being considered. The public, who are not parties to the application hearing (by virtue of having submitted representations) will not normally be permitted to address the Committee. The Council's hearing procedures will be followed in all cases.

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DEFERMENT

- 11.1²⁹ The Licensing ~~and Registration Committee/Sub~~ Committees should only defer a decision where there are clear and legally permissible reasons for doing so.

12 RIGHT TO FAIR DETERMINATION & OPEN AND FAIR HEARING

- 12.1 It is important that all the Licensing ~~and Registration Committee/Sub~~ Committee Members read all of the agenda papers prior to each meeting and listen to all points raised during those meetings. Members have a duty to take into account all relevant matters, including licensing advice, and to ignore relevant matters. Members should present during the whole discussion of an item, or they should take no further part in the debate and should not vote on that item. Infrequently, certain applications may be adjourned at meetings for site visits etc and it is important that the same Members attend the subsequent meeting in order to determine the application.

- 12.2 Councillors, and Members of the Licensing ~~and Registration Committee/Sub~~ Committees in particular, need to take account of the public's expectation that a licensing matter will be processed and determined in an open and fair manner, in which the Members taking the decision will take account of all of the relevant evidence presented before arriving at a decision, and that committing themselves one way or another before hearing all the arguments makes them vulnerable to an accusation of partiality. Determination of a licensing matter is a formal and fair administrative process involving the following rules and procedures, including the rules of natural justice, and is subject to rights of appeal and an expectation that people will act reasonably and fairly. There is an added possibility that an aggrieved party may seek judicial review of the way in which a decision has been arrived at; or complain to the Ombudsman on the grounds of maladministration; or that a Member has breached the local Code of Conduct.

- ~~12.3 Councillors on the Licensing and Registration Committee/Sub Committees must therefore not organise or get involved in organising support for the opposition to a licence application and must not lobby other Licensing and Registration Committee/Sub Committee Councillors on a particular matter. Such actions can easily be misunderstood by parties to an application and by the general public and leave Committee Members and the Committee's decision open to attack.~~

- ~~12.4 A Councillor who does not sit on the Licensing and Registration Committee/Sub Committee may wish to express an opinion and decide that a particular licensing issue is of such importance that he or she wishes to actively campaign either for or against the application in question. This would typically be in respect of a high-profile issue within the Ward which the Member represents. This is a legitimate political position for a Member to take, but in such special circumstances it would be impossible for that Member to be seen to remain impartial. Councillors not involved in the determination of a licensing matter may attend the public element of the hearing. Their status as a Councillor does not enable them to make any representations on licensing matters not available to members of the public. In line with any rights available to members of the public they may however make representations on licensing matters in accordance with the procedures approved by the Licensing and Registration Committee. A Member with a Disclosable Pecuniary Interest may not attend even in a private capacity and sit in the public gallery of any meeting of the Council, including one involved in the determination of a licensing matter.~~

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~~12.5 A Member of the Licensing and Registration Committee that is to determine a licensing matter must not campaign for or against it prior to it being considered otherwise a challenge could be made for bias. If a Member of the Committee that is to determine a licensing matter feels that they must express an opinion on licensing matters before they are determined their continued membership of the Committee would not be possible having regard to their Licensing administrative fairness duty.~~

~~12.6 Members are entitled to hold a particular view for or against a particular decision and this is known as a predisposition, but they must still be able to consider and weigh relevant factors before reaching the final decision at a Committee meeting.~~

~~12.7 Section 25 of the Localism Act 2011 has sought to clarify the law regarding allegations that a decision is affected by bias or predetermination. Section 25 states that:~~

~~“a decision maker is not to have had, or appeared to have had, a closed mind when making a decision just because:~~

- ~~(a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to that matter, and~~
- ~~(b) the matter was relevant to the decision.”~~

12.48 Whilst Section 25 provides some comfort to Member on the extent to which they are entitled to express firm views on matters before decisions are made it is still the case that Members must retain an open mind at the time the decision is made and be prepared to listen to and consider the arguments, together with any advice or information from Officers, at the Committee meeting before finally making up their mind on how to vote.

12.59 Given the formal hearings nature of licensing matters and the licensing administrative fairness duty. Members of the Licensing ~~and Registration~~ Committee should not participate in any discussion on the merits or otherwise of particular cases including whether or not to grant or refuse any application. There should be no discussions at political group meetings to decide how Members will vote; this includes any pre-committee meeting or discussions between Licensing ~~and Registration~~ Committee members of a political group.

12.640 The fundamental principle is that a Member on a Committee determining a licensing matter must both:-

- (a) have an open mind; and
- (b) be capable of being seen by an objective and reasonable third party as having an open mind.

12.744 A Member of the Licensing ~~and Registration~~ Committee can pass on the views of a resident to the appropriate Officer prior to its hearing, but the Member must be careful not to be seen to be an advocate trying to influence the decision in any way on behalf of the resident. It would be inappropriate for the Member to pass on the views to a Member involved in the determination of the licensing matter.

12.842 Even if a Member of the Licensing ~~and Registration~~ Committee has not expressed a view on a licensing matter, if their mind is closed the Member should not participate in the hearing/determination of the matter. In these circumstances, another Member of the Committee or a substitute may attend to replace the Member (subject to the rules

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permitting or preventing such replacements and to them having undertaken the required training). It is not possible for a Member merely to act as a replacement for part of the meeting only while a particular licensing matter is determined. Any replacement Member must accept all of the principles set out in this guidance, including the need to have an open mind. In other words, the Member has declared an interest must not give an instruction or even an indication to the replacement Member on how that Member should vote. In addition, the Member should not seek or be seen to seek to influence the decision in any way, otherwise the integrity of the licensing processes would be damaged.

~~12.13 A Member should declare a Disclosable Pecuniary Interest if they are the partner of the applicant. Normally for the purposes of the Code of Conduct a Member can participate in and vote on an item having local interest where, for example, the applicant is a close associate or another family member. However, owing to the particular responsibilities of Licensing and Registration Members in respect of the licensing administrative fairness duty a Member with a local interest should not only disclose it but also should not participate in in and determine that application:~~

~~• A Member who is or has been regular customer of an applicant licensee or a former licence holder who would not even have any local interest should nevertheless not participate in the determination of that application~~

~~• A Member who has had any previous dealings regarding the premises should consider very carefully before they decide it is appropriate for them to participate in the determination of an application.~~

~~12.14 Ward Councillors are able to attend a Committee hearing as a party provided that they have submitted valid representation in advance and, therefore, they would have the same legal rights in this respect as any other person. They would have no other right to attend and speak at a meeting.~~

~~12.15 At no time should Councillors put pressure on Officers for a particular recommendation. Discussions between Councillors and Licensing Officers is beneficial and to be encouraged but should be only for the exchange of information and personal/professional views.~~

13 APPENDICES

DECISIONS CONTRARY TO THE STATEMENT OF LICENSING POLICY (LICENSING ACT 2003 OR GAMBLING ACT 2005) AND/OR OFFICER RECOMMENDATIONS

13.1 The law requires that regard should be had to the statement of licensing policy in making decisions.

13.2 If a Licensing Committee intends to make a decision contrary to the statement of licensing policy or to an Officer's recommendation (whether for approval or refusal), the Officer should first be given an opportunity to explain the implications of the contrary decision. The Chairman should ensure that the Committee's reasons made clear at the meeting. A full record of the reasons should be made in the minutes and a copy placed on the application file. The courts have expressed the view that such reasons should be clear and convincing.

LICENSING SUB-COMMITTEE HEARINGS GENERAL INFORMATION

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- 13.3 The Licensing Sub-Committees will undertake those functions of the Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 which have been delegated to the Sub-Committees, as defined in the Council's Constitution.
- 13.4 A Licensing Sub-Committee consists of three Members of the Licensing Committee.
- 13.5 Each Licensing hearing will be in public and will usually be conducted virtually. Each hearing will be recorded, and the recording of the meeting will be publicly available on the Council's YouTube channel.
- 13.6 Only those parties who have made written representations will be invited to and allowed to address the licensing hearing. A party may be assisted or represented by any person at the meeting, whether or not that person is legally qualified. A party may be represented by a Councillor, usually their Ward Councillor, but not by a Member of the Licensing Sub-Committee. The Committee Officer must be notified in advance of the meeting with the details of any assistant or person representing any party.
- 13.7 For each hearing the Licensing Sub-Committee will consider a report from the Licensing Authority which will be displayed on the Council's website and available to all parties in advance of the hearing.
- 13.8 Only those parties who have made written representations will be invited to and allowed to address the licensing hearing. A party may be assisted or represented by any person at the meeting, whether or not that person is legally qualified. A party may be represented by a Councillor, usually their Ward Councillor, but not by a Member of the Sub-Committee. The Democratic Services Officer must be notified in advance of the meeting with the details of any assistant or person representing any party.
- 13.9 For each hearing, the Sub-Committee will consider a report from the Licensing Authority which will be displayed on the Council's website and available to all parties in advance of the hearing.
- 13.10 The Licensing Authority may take into account additional material produced by a party in support of their application, representation or notice (as applicable) supplied after the closing date for making written representations. Such material must be supplied to the Democratic Services Officer 5 working days before the date of the hearing. Additional material submitted after that date will not be considered and permission to rely upon it must be sought from the Sub-Committee at the hearing. Where permission to rely upon additional material is sought at the hearing, the Sub-Committee may grant permission and may seek advice from the Legal Advisor to the Sub-Committee as appropriate.
- 13.11 The Sub-Committee will disregard such additional documents or information which is not relevant to:-
- (a) the application, representations or notice (as applicable), or
 - (b) the promotion of licensing objections or,
 - (c) in relation to a hearing to consider a notice given by a Chief Officer of Police, the crime prevention objective. If accepted, the material submitted 5 days prior to the hearing date will be published with the remainder of the hearing papers.

CONDUCT OF THE MEETING

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- 13.12 Meetings will be conducted virtually. The onus is on all parties to be conversant with the technology required.
- 13.13 When joining the virtual meeting, the party joining online will be held in a lobby to start with.
- 13.14 During the meeting, all participants will be in control of their own microphone. The microphone should be set to mute at all times, until the Chairman invites you to address the Sub-Committee. The online chat facility on the virtual platform for the virtual hearing is not permitted.
- 13.15 The Chairman will have complete discretion of the procedure to be adopted for the meeting and the order in which those entitled to address the Sub-Committee are permitted to make their submissions.
- 13.16 The Chairman will strictly manage time allocations. The applicant and those making representations will be afforded equal time to present their case. The maximum time for a party to speak will be determined by the Chairman, taking into account the complexity of the case and the number of participants. By default, the maximum time will be set at 15 minutes; however, for more complex cases or numerous participants, the Chairman may adjust time allocations where needed.
- 13.17 Those addressing the Sub-Committee should avoid repetition and use their allocated time efficiently.
- 13.18 The hearing shall not be adversarial but will take the form of a discussion led by Members. Cross-examination of any party will not be permitted unless the Chairman of the Sub-Committee considers, in exceptional circumstances, that cross-examination may be appropriate for a specific issue.
- 13.19 At the end of the hearing, the Chairman will announce a general discussion. Should the party wish to speak during this part, the party should activate the 'raised hand' function. Please be patient, the Chairman will be aware the party wishes to speak and will come to them in due course.
- 13.20 The Sub-Committee may require any person attending the hearing who, in their opinion, is behaving in a disruptive manner to leave the hearing and may:-
- (a) refused to permit that person to return, or
 - (b) permit them to return only on the conditions that they give assurance of no further interruptions, or
 - (c) exclude the individual from the hearing.

PROCEDURE AT THE MEETING OF THE SUB-COMMITTEE SHALL HAVE THE OPPORTUNITY TO ASK QUESTIONS AT ANY TIME

- 13.21 The Chairman will ascertain whether the parties and their assistant, if any, are present. If any party has indicated that they will not attend or failed to indicate whether or not they will attend, or do not attend, the Sub-Committee will normally hold the hearing in that party's absence but may decide to adjourn depending upon the circumstances and nature of the hearing.
- 13.22 The Chairman will ascertain that parties understand that they may be assisted or represented, legally or otherwise.

APPENDIX A

13.23 The Licensing Officer will give details of each application case and of the number and type of objections/representations received as set out in the Officer report.

13.24 The applicant and/or their representative and their witnesses will then be invited to address the Sub-Committee confirming why they consider the issues that have been raised by written representations against the application are not relevant with regard to the licensing objectives and why they consider the Sub-Committee should grant the application, or notice, as applicable. The maximum amount of time allowed will normally be 15 minutes; however, this may be extended at the discretion of the Chairman depending on the complexity of the application.

13.25 Those making representations, or their representatives, will be invited to address the Sub-Committee confirming why they consider the issues they have raised to be relevant to the licensing objectives and how they impact upon the promotion of the licensing objectives, to enable the Sub-Committee in its deliberation of its decision. The maximum amount of time allowed will normally be 15 minutes; this may be extended at the discretion of the Chairman depending on the complexity of the application.

13.26 A discussion involving parties will ensue at the discretion of the Chairman of the Sub-Committee. Cross-examination of any party shall not be permitted; however, it may be allowed in exceptional circumstances at the discretion of the Chairman of the Sub-Committee.

13.27 Upon conclusion of submitted and discussions, the hearing will come to an end. The Sub-Committee will then retire to deliberate its decision. The decision of the Sub-Committee will be notified to all parties by email within 5 working days, or earlier where required by law, together with the right of appeal.

PROCEDURE FOR CONSIDERING LICENSING ISSUES OTHER THAN THOSE THAT FALL UNDER THE LICENSING ACT 2003 OR THE GAMBLING ACT 2005

The procedure will be as follows:-

1. The Chairman will ascertain that the applicant knows that they may be represented.
2. The Lead Officer will give details of each application in each case and of the number and type of objections received.
3. The applicant, or the applicant's representative, and the applicant's witnesses will then be invited to address the Sub-Committee.
4. The objectors, or their representatives, will then be allowed to speak. They should cover the points that relate to something that the applicant may have raised during their address that was previously unknown to the objector. (The applicant should be advised to note specific points during the objectors' presentation.)
5. The applicant, or applicant's representative, will be permitted to put questions to each objector immediately after they have addressed the Sub-Committee and to answer any new points raised by the objector.

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6. The Sub-Committee Members will be able to ask questions at any time, but will generally restrict most questions to the end of the statement made by the objector, applicant or witness, as appropriate.
7. The Sub-Committee will then discuss the application and the objections, and give their decision, giving clear reasons for their decision reached.
8. Should Members wish to discuss certain issues such as whether an applicant is a "fit and proper person" to hold a licence, the Sub-Committee will move into a closed session, and the public will be excluded for the duration of the discussion prior to a decision on the application being announced.
9. A few days after the meeting, the written Decision Notice will be issued to the applicant, which will include details of the applicant's right of appeal if appropriate. Notification of the decision will be sent to the objectors.

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CONSULTATION RESPONSES:

COUNCILLOR EMAIL RESPONSE:

Appendix A 6.6 last line. "...decide whether a representation is frivolous or vexatious)."

Vexatious?

LICENSING AND REGISTRATION, LICENSING OFFICERS AND INDEPENDENT PERSONS RESPONSES:-

- expand more on 'prejudicial' interest;
- add to member training section about training to be allowed to sit on the Committee should be from the Council but can be topped up through other means such as the LGA;
- make 'to stay open-minded' stronger;
- to add that Members are not allowed to discuss blue pages documents outside of the Committee membership; and
- to add that the fourth or standby Member of the Premises/Personal Licences Sub-Committee can leave the room if they are at the meeting.

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STANDARDS COMMITTEE

15 July 2026

REPORT OF THE MONITORING OFFICER

A.2 REVIEW OF SOCIAL MEDIA GUIDANCE FOR MEMBERS

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To present the Committee with the outcome of the review of the Social Media Guidance for Members, presented to the Committee at its 22 April 2026 meeting, and subsequent Members' training session and feedback; for subsequent approval and adoption of the final version.

EXECUTIVE SUMMARY

The current Social Media Guidance for Members (the Guidance) was last considered by the Standards Committee at its meeting held on 02 February 2022. A revised draft Social Media Guidance for Members, with a review conducted by Officers, based on current uses of social media, was presented to the Committee at its meeting held on 22 April 2026.

The Council recognises the benefits of communication between Members and residents that social media platforms afford and is utilised by most Members with varying frequency. Social media can reach a demographic of society that may not always be reached by more traditional methods, along with the speed with which communication can take place, providing both potential benefit and pitfall, than traditional correspondence.

The review of the Guidance has considered the Local Government Association's Model Social Media Guidance, [Model guidance for councils: elected members' use of social media | Local Government Association](#) and the published Social Media Guidance for Councillors [Social media guidance for councillors | Local Government Association](#).

A dedicated online Member Development Session was conducted on 24 June 2026 by an external trainer, incorporating the draft Guidance and covering the following topics:

- The landscape of social media in 2026
- Why be on social media? Building trust and engaging with residents
- Having a plan
- Which platforms are best? Exploring the main options
- Top tips for best engagement, including lessons from deep dive social media review of councils around the country
- Good practice for elected Member accounts
- Misinformation, disinformation, malinformation and deep fake
- Good governance, staying safe online and dealing with negative/hostile remarks
- Resources to assist going forward

The training also covered that inappropriate use of social media could amount to a breach of the Members' Code of Conduct, and that it is the individual responsibility of each Member to consider the Guidance and Members' Code of Conduct when using social media and indeed

all forms of communication.

13 Members attended the training session, at the conclusion of which a feedback form was circulated to all, requesting any further comment / inclusion to be incorporated within the final version of the Guidance. At the time of writing, one feedback form was received which did not contain anything further to be included within the Guidance.

RECOMMENDATION(S)

It is recommended that the Committee:

- (a) Notes the contents of the report and any associated feedback comments arising from the dedicated Members' Development Session on social media;**
- (b) approves and formally adopts the final version of the Social Media Guidance for Members, as set out in Appendix A and that it be circulated to all Members of the Council;**
- (c) Town and Parish Councils should take ownership of introducing the right policies / guidance for their own Town and Parish Councils and that Appendix A be circulated to all Town and Parish Councils with consideration to adopting it should they deem appropriate;**
- (d) that the Committee delegate authority to the Monitoring Officer to make minor and administrative amendments as required reflecting the ever changing landscape of social media and associated social media platforms available.**

REASON(S) FOR THE RECOMMENDATION(S)

To ensure that the Council has adopted an up to date Social Media Guidance for Members, reflecting the ever changing landscape of social media and the associated social media platforms available.

ALTERNATIVE OPTIONS CONSIDERED

There are no alternative options associated with this report.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Declarations of Interest, in accordance with the Members' Code of Conduct, forms part of effective and positive governance, being a theme of Financial Sustainability and Openness within the Corporate Plan for 2024-28, adopted by full Council at its meeting in November 2023 (minute no. 76).

Members' Declarations of Interests fall within Principle A of the Council's Annual Governance Statement, namely behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Whilst there is no additional legal or ethical burden around using social media, the usual rules still apply and need to be considered in this context. Predominantly, Members have the same legal duties online as anyone else, but failure to comply with the law may have more serious consequences. There are additional duties around using websites for electoral campaigning and extra care needs to be taken when writing on Council business, for example Planning or Licensing matters. Consideration should also be given during any pre-election period, guidance for which the Council produces for Members for each relevant period.

Libel – If an untrue statement is published about a person, which is damaging to their reputation, they may take a libel action against the Councillor (not the Council). This will also apply if the Councillor allows someone else to publish something libellous on their social media if the Councillor knew about it and didn't take prompt action to remove it. A successful libel claim will result in award of damages, even if only repeating statements made by others.

Copyright – Placing images or text on social media from a copyrighted source (for example extracts from publications or photos) without permission is likely to breach copyright. Councillors should avoid publishing anything they are unsure about or seek permission in advance. Breach of copyright may result in an award of damages.

Data Protection – Avoid publishing the personal or sensitive data of individuals unless express written permission has been obtained in advance.

Equality – Care must be taken in publishing anything that could breach Councillors' duties and responsibilities to have due regard to the principle that there should be equality of opportunity for all people taking into account protected characteristics.

Obscene Material – Councillors should avoid publishing anything on social media that people would consider to be obscene. Publication of obscene material is a criminal offence.

FREEDOM OF EXPRESSION

It is important for the Committee to understand the principles of the right to freedom of expression and its restrictions. Article 10 provides:

“(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.....

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of.....the protection of the reputation or rights of others.....”

It is also important to note the words of **Collins J in Livingstone v The Adjudication Panel for England [2006] EWHC 2533 (admin) [at para.39]**:

“The burden is on [the Adjudication Panel for England] to justify interference with freedom of speech. However offensive and undeserving of protection the appellant's outburst may have appeared to some, it is important that any individual knows that he can say what he likes, provided it is not unlawful, unless there are clear and satisfactory reasons within the terms of

Article 10(2) to render him liable to sanctions”.

The right to freedom of expression is a crucially important right in a democratic society and it is clear that it may only be interfered with where there are convincing and compelling reasons within the terms of Article 10(2) justifying that interference. Comments made on social media related to matters within legitimate concerns as a Councillor (political or quasi-political comment) would benefit from a high level of protection under Article 10.

The question as to whether information is fair and balanced should be, in the first instance, the stuff of political debate and journalistic analysis. A clear distinction exists between ‘rough and tumble’ politicking, which is aimed squarely at the competence of political opponents and making statements which would fall foul of the legal consideration set out above. In a democratic system the actions or omissions of any governing body must be subject to the close scrutiny not only of legislative and judicial authorities but also of the press and public opinion.

In *Heesom v Public Service Ombudsman for Wales*, Mr Justice Hickinbottom considered a Councillor’s right to free speech in some detail. His considerations drew attention to a number of earlier cases in which the following propositions could be derived:

- While freedom of expression is important for everyone, it is especially so for an elected representative of the people. They represent their electorate, draw attention to their preoccupations and defend their interests.
- The enhanced protection applied to all levels of politics, including local.
- Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside the context, is tolerated.
- Whilst, in a political context, Article 10 protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false.
- The protection goes to “political expression”, but that is a broad concept in this context. It is not limited to expressions of or critiques of political views, but rather extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others.
- Past cases draw a distinction between facts on the one hand, and comment on matters of public interest involving value judgement on the other. As the latter is unsusceptible of proof, comments in the political context amounting to value judgements are tolerated even if untrue, so long as they have some – any – factual basis. What amounts to a value judgement as opposed to fact will be generously construed in favour of the former; and even where something is expressed is not a value judgement but a statement of fact (e.g. that a council has not consulted on a projects), that will be tolerated if what is expressed is said in good faith and there is some reasonable (even if incorrect) factual basis for saying it, “reasonableness” here taking into account of the political context in which the thing was said.
- As Article 10(2) expressly recognises, the right to freedom of speech brings with it duties and responsibilities, however any restriction must respond to a “pressing social need”.

There have been other cases in which the courts have given consideration to freedom of expression, the public interest in such a freedom, and on the other side of the balance the public interest in proper standards of conduct by elected members. The Article 10 balancing process is highly fact sensitive and while decisions will provide valuable guidance on the general approach, the courts have stressed that it is important to keep in mind the particular

facts in any one case. What is essential is who comments are directed to, who is involved in the debate and if the recipient is not part of the political environment, the impact of the comments on them. In addition, it is possible to justify interference with the right to freedom of expression if the intention or impact results in civil or criminal activity, such as defamation, inciting public disorder or breach of equality duties.	
FINANCE AND OTHER RESOURCE IMPLICATIONS	
There are no finance or resource implications associated with this report.	
USE OF RESOURCES AND VALUE FOR MONEY	
The following are submitted in respect of the indicated use of resources and value for money indicators:	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Through this report the Best Value Theme of Culture is demonstrated, describing how the established governance procedures and leadership are exercised. The culture of a local authority is determined by an agreed set of shared values, ethics and beliefs, how decisions are made, as well as how elected members and officers behave, interact and carry out their roles. Characteristics of a well-functioning authority • Members and officers promote and demonstrate the highest ethical standards and appropriate working behaviours through established shared values and ways of working. • A culture of cooperation, respect and trust between members and officers, and between departments exists, along with a commitment to transparent decision-making. • A culture of compliance with legislation, strategies, policies and procedures throughout the organisation.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	
MILESTONES AND DELIVERY	
This report is presented to the Committee in accordance with the work programme and previous Committee decisions.	
ASSOCIATED RISKS AND MITIGATION	
Not presenting this information could have a detrimental impact on the Council's reputation.	
OUTCOME OF CONSULTATION AND ENGAGEMENT	
The draft Social Media Guidance for Members was presented to the Committee at its April 2026 meeting and associated comments considered. At the conclusion of the dedicated Members' Development Session, a feedback form was circulated to those Members that	

attended for any additional comment / inclusion to be considered within the guidance. At the time of writing, only form was received which did not include any additional comment.	
EQUALITIES	
Equality considerations are taken into account for each decision made.	
SOCIAL VALUE CONSIDERATIONS	
Social Value considerations are taken into account for each decision made.	
IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION	
Through the review of the Guidance, Officers have considered the guidance provided to Members on use of social media both at Braintree and Colchester Councils, both of which refer to the LGA's published Social Media Guidance for Councillors.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050	
This is taken into account for each decision.	
OTHER RELEVANT IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	Not applicable
Health Inequalities	Not applicable
Area or Ward affected	No Wards are directly affected by the contents of the report.
ANY OTHER RELEVANT INFORMATION	
None	

PART 3 – SUPPORTING INFORMATION

BACKGROUND
An ever-increasing number of Councillors use social media to communicate with residents regarding any issues that residents may have and also to promote the work that individual Councillors, or the Council as a whole, are doing. This is an efficient and fast paced means of communicating and information can be received by far reaching audiences. Social media is the term for online tools, websites and interactive media that enables users to interact with each other, share information, opinions, knowledge and interest. The various terms that social media describe are referred to throughout this report. The principles applied to using social media may also apply to any electronic communication. District Councillors are in a position whereby they may request information from Officers that may not be publicly available, in addition to being included on information sent out to all Members. Often this is privileged and sometimes sensitive information that is being provided in order that Councillors are aware of local issues to enable them to fulfil their role as a District Councillor. It must be considered how this information is used and Councillors should check before posting or sharing this information on social media. Anything posted on social

media becomes a publication and will be in the public domain, even if subsequently deleted by the originator.

With social media being an important and increasingly utilised tool in which Councillors may represent their residents, it is important that they use social media responsibly and consider not only the legal ramifications but also adhere to, and be mindful of, the Members' Code of Conduct.

MEMBERS' CODE OF CONDUCT

The 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

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.

The Code also applies if a Councillor conducts themselves in a manner which could reasonably be regarded as bringing their office or that of the Council into disrepute. It is important to understand that Councillors can have 'blurred identities'. This means they may have a social media account and comment both as a Councillor and as an individual, posting about personal events and also Council business. It may be clear to the Councillor whether they are posting in an official or private capacity but could be less clear to others.

Such blurred identities might have serious implications where a Councillor's views are taken by either as those of the Council rather than a personal opinion. It is recommended that Councillors consider making social media accounts/profiles clear on the capacity in which they are commenting. It is expected that Councillors will communicate and comment politically, but in the same way in which they are required to act in Council meetings or within their communities.

It is not permissible to use Council resources for personal or political purposes and during the pre-election period.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Standards Committee on 22 April 2026 (minute no. 23) **RESOLVED** that:

- (1) Note the contents of the Officer report (A.3) and the new draft Social Media Guidance for Members, as set out in Appendix A of that report;

(2) following the comments as mentioned above, approves Appendix A of the report, as draft guidance for the purposes of training with District Councillors; and

(3) received feedback following that training with Members, to approve a final version of the Social Media Guidance to ensure it is comprehensive and clearly understood.

The Town and Parish Councils' Standards Sub-Committee meeting held on 12 February 2026 recommended that:

(a) Town and Parish Councils take on a fuller education programme on the Code of Conduct and its terms of reference;

(b) Town and Parish Councils should be aware of the available social media guidance but that also they should adopt adequate policies and procedures for the use of social media in their respective Councils;

(c) the appropriate training be delivered to ensure that the requirements of the guidance and the social media policies are at the forefront of Councillors' minds to ensure that they understand and acknowledge its requirements; and

(d) Town and Parish Councils should take ownership of introducing the right policies for their own Town and Parish Council.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

There are no background papers associated with this report.

APPENDICES

Appendix A – Social Media Guidance for Members 2026

REPORT CONTACT OFFICER(S)

Name	Lisa Hastings
Job Title	Corporate Director Law & Governance and Monitoring Officer
Email/Telephone	lhastings@tendringdc.gov.uk
Name	Karen Hayes
Job Title	Corporate Governance, Performance and Procurement Manager
Email/Telephone	khayes@tendringdc.gov.uk

TENDRING DISTRICT
COUNCIL

SOCIAL MEDIA GUIDANCE
FOR MEMBERS

Social Media Guidance for Members (Revised 2026)

This guidance supports Members in using social media safely, effectively and responsibly. It incorporates relevant elements from the Local Government Association (LGA) model guidance on social media and their Guide to the role of Councillors on social media.

Purpose and Scope

This guidance applies to all elected Members when using social media **in their capacity as Councillors**, including circumstances where they are *reasonably perceived* as acting in an official role. It supports:

- Public confidence in local democracy
- Members' ability to communicate with residents
- Safe, lawful and respectful online engagement

Social media includes (but is not limited to): Facebook, Instagram, LinkedIn, X, WhatsApp, blogs, YouTube, TikTok, Reddit, and any other platform where content can be published or shared.

Members should be able to use social media to promote their 'council work' without fear of harassment, bullying, defamation or other hate speech; this is finely balanced with comment (and criticism) based upon freedom of speech and political debate. Members are reminded that all activity must align with:

- **Tendring District Council Members' Code of Conduct:**
[Microsoft Word - 1. Cover of Constitution](#)
 - **The Seven Principles of Public Life (The Nolan Principles)**
 - **Equality and data protection law**
 - **Copyright and defamation law**
 - **Article 10 (Freedom of Expression) of the European Convention on Human Rights.**
-

Key Principles

Acting as a Councillor

Because others judge whether you appear to be acting as a Councillor, assume your online activity may be linked to your role. Online actions and posts must not bring the Council into disrepute.

Personal Responsibility

You are personally responsible for the content you publish on any social media or messaging platform. Even if content is deleted, it may already have been copied, shared or archived.

Inappropriate use of social media can be a **criminal offence** and may also lead to a **breach of the Members' Code of Conduct**.

Respect and Civility

Comments must be respectful to:

- Other Members
- Officers and partner organisations
- Members of the public
- Volunteers

Members must comply with equality legislation and avoid harassment, bullying, discriminatory or offensive language. Some online behaviour may constitute a criminal offence.

Confidentiality and Information Security

Do not disclose confidential, personal, sensitive or privileged information. Information provided to you as a Councillor may not be publicly available and should not be shared unless you are certain it is appropriate to do so.

If notified of a potential safeguarding issue via social media, you must follow the Council's safeguarding procedures without delay.

Bias, Predetermination and Decision-Making

Where Members are involved in planning, licensing or other quasi-judicial decisions, they should avoid social media activity that could give the impression they have made up their mind in advance.

While expressing a preliminary view is not unlawful in itself, Members must be able to demonstrate that they approach formal decision-making with an open mind.

Staying Safe Online

The LGA highlights risks faced by Councillors online, including abuse, harassment and exposure of personal information. Members are encouraged to:

- Use strong, unique passwords
- Enable two-factor authentication
- Use secure email addresses that are not shared across platforms

If you feel harassed or unsafe, report concerns to Essex Police via 101.

Defamation, Libel and Copyright

Defamation and Libel

Defamation (including libel) occurs when an untrue statement is published about a person that damages their reputation. A person may take legal action against the **individual Councillor**, not the Council.

Members should note:

- Posting false or unverified allegations can be defamatory
- Repeating, sharing or re-posting a libellous statement can create the same legal liability as the original post
- Legal action may result in significant personal financial and reputational consequences

Members should exercise particular care when commenting on individuals, organisations and ongoing disputes.

Copyright

Copyright law applies to social media content. Members must not use text, images, videos or other material created by others unless:

- Permission has been granted
- The material is clearly licensed for reuse
- Use falls within a lawful exception

Always credit original sources where appropriate and ensure content is accurate.

Members' Code of Conduct

Failure to follow this guidance **may amount to a breach of the Members' Code of Conduct**, depending on the circumstances.

Even when using personal accounts, Members must ensure that:

- Comments are lawful
- Confidential information is not disclosed
- The Council is not brought into disrepute

Disclaimers such as "views my own" may help provide clarity but **do not remove responsibility** or disapply the Code of Conduct.

Do and Don't Guidance for Members on Social Media

Do	Don't
Listen to online conversations and engage where appropriate	Publish anything you would not say in traditional media, a public meeting, or in person
Remember that libel and copyright laws apply	Bring the Council or your role into disrepute
Clearly state when you are speaking personally, as a Councillor, or on behalf of a political group.	Say how you will vote on an issue where it creates a risk of predetermination
Be respectful and professional in all communications	Disclose confidential or privileged information
Share verified information from the Council's corporate accounts, particularly during major incidents	Use social media when angry, tired or under the influence of alcohol or other substances
Consider how the public may perceive who you follow or what you share	Use social media during committee meetings if it distracts from Council business
Think carefully before posting – content is persistent and shareable	Assume everyone shares your sense of humour or understands sarcasm

Managing Abuse, Harassment and Online Conflict

Members should be able to use social media without fear of harassment, bullying or hate speech.

If you experience online abuse:

- Use platform reporting and moderation tools
- Block or mute accounts where appropriate
- Keep records, including screenshots
- Seek legal advice in serious cases

Training and Further Support

Members may access:

- **LGA Model Guidance for Councillors' Use of Social Media**

[Social media guidance for councillors | Local Government Association](#)

[Model guidance for councils: elected members' use of social media | Local Government Association](#)

- Council-led training sessions
 - Support from the Corporate Communications Manager
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Approved and adopted by the Standards Committee on **15 July 2026**.

TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE July 2026				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
Council	Complainant	Current status	Final outcome	Comments
DISTRICT	PUBLIC – received 11 Mar 2025	ONGOING	Investigation – internally appointed Investigator	Matter relates to communications between parties.
PARISH x 3	PUBLIC – received 28 Oct 2025	ONGOING	External investigator appointed	Matter relates to conduct at public meetings and declaration of interests.
PARISH	PUBLIC – received 06 Nov 2025	ONGOING	External investigator appointed (to be run in parallel with above investigation)	Matter relates to use of social media.
DISTRICT	DISTRICT CLLR – received 08 Jun 2026	ONGOING	With MO for final Decision Notice	Matter relates to use of social media.
TOWN	PUBLIC – received 22 Jun 2026	ONGOING	Awaiting response from Subject Member (in line with Complaints Process timescales)	Matter relates to access to information and complying with the Code of Conduct.
PARISH	PUBLIC – received 25 Jun 26	ONGOING	Awaiting response from Subject Member (in line with Complaints Process timescales)	Matter relates to conduct at a public meeting.
New cases since last update – three at the time of writing				
<u>General Notes – 2025/26 Summary:</u>				
Overall three cases have been received so far in 2026/27.				
Since the last update, one case remains being investigated by an internally appointed investigator and two cases are being investigated by an externally appointed investigator, with all three in the latter stages of the investigation process.				

Requests for dispensations:
None since the last update.