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CABINET AGENDA

Membership: Councillor Briggs (Chairman)

Councillors Bains, Bowerman, Pike, Guest, Turner and Wilson

Meeting: Cabinet

Date: Wednesday 11 October 2017

Time: 5.00 pm

Venue: Hollybank Room, Public Service Plaza, Civic Centre Road,
Havant, Hants PO9 2AX

The business to be transacted is set out below:

Nick Leach
Monitoring Officer

3 October 2017

Contact Officer: Penny Milne 02392446234
Email: penny.milne@havant.gov.uk

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PART 1 (Items open for public attendance)

1 Apologies for Absence

To receive and record any apologies for absence.

2 Minutes

1 - 4

To confirm the minutes of the last meeting held on 11 September 2017.

3 Matters Arising

To consider any matters arising from the minutes of the last meeting.

4 Declarations of Interests

To receive and record any declarations of interest.

5 Chairman's Report

To receive any matters the Chairman wishes to report since the last meeting of the Cabinet.

6 Cabinet Lead Delegated Decisions, Minutes from Meetings etc. 5 - 10

RECOMMENDED that the following Delegated Decisions and Minutes of Meetings be noted:

- (1) Minutes of the meeting of the Portchester Crematorium Meeting held on 18 September 2017; and
- (2) Standing Order 48 – Special Urgent Matters – Civica System Hosting Arrangements.

(Note: This decision was not subject to call-in and was communicated to the Chairman of the Governance and Audit Committee on 28 September 2017.

The financial information included in this decision is not for publication under Paragraph 3 of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972. Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information). The Cabinet will need to resolve to exclude the Press and Public if members wish to discuss the financial implications of the decision at the meeting).

Cabinet Lead For Governance and Organisational Development

7 Gifts and Hospitality Policy for Councillors 11 - 20

The Cabinet to consider a new policy for Councillors receiving gifts and hospitality.

8 Complaints and Vexatious Complaints Policy and Procedure 21 - 28

The Cabinet to consider a new policy and procedure for dealing with complaints and vexatious complaints.

PART 2 (Confidential items - closed to the public)

None.

GENERAL INFORMATION

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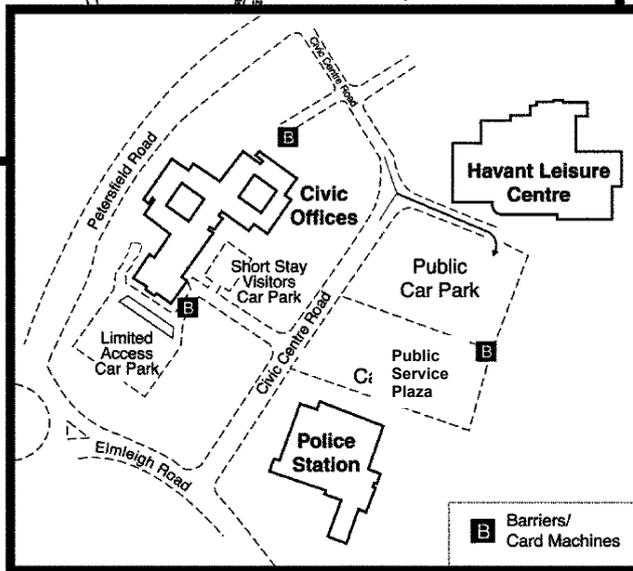
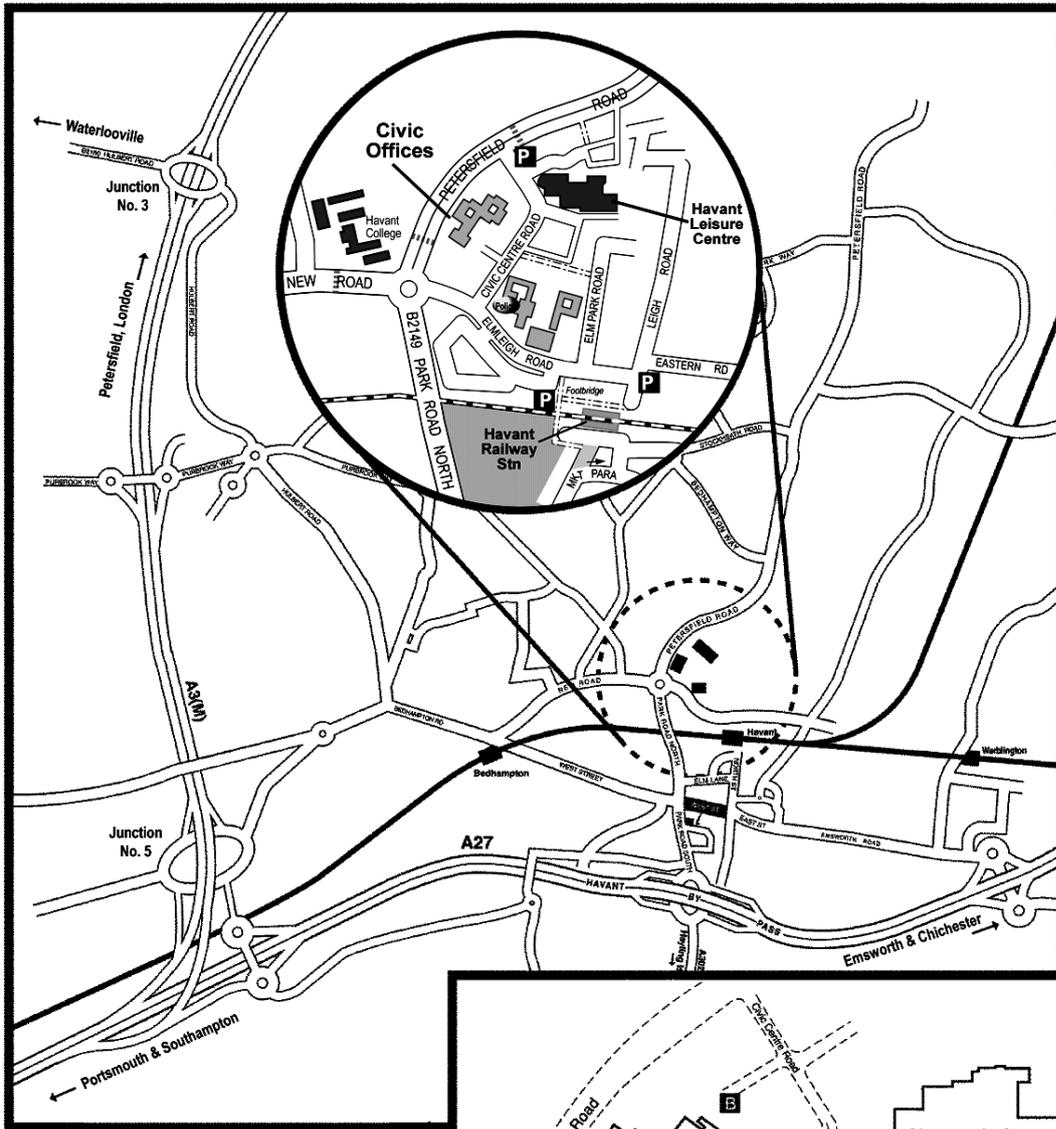
PROTOCOL AT MEETINGS – RULES OF DEBATE

Rules of Debate

- Councillors must always address each other as “Councillor ...” and must always address the meeting through the Chairman;
- A motion must relate to the business included on the agenda or accepted by the meeting as urgent business
- A motion must be proposed and seconded before it is debated until it is either accepted or rejected by a vote;
- An amendment can be proposed to the original motion and this must be seconded before it is debated;
- An amendment cannot be considered if it is inconsistent with an amendment previously adopted or repeats an amendment previously rejected;
- The mover of an original motion may, with the consent of the mover of an amendment, incorporate an amendment into the motion;
- Only one amendment may be moved at a time. No further amendments can be moved until the previous amendment has been dealt with;
- Each amendment must be voted on separately;
- If an amendment is carried, the amended motion becomes the substantive motion to which further amendments may be moved;
- If an amendment is lost, other amendments may be moved to the original motion.
- The mover may withdraw an amendment at any time
- After an amendment has been carried, the Chairman will read out the amended (substantive) motion, before accepting any further amendment, or if there are none, put it to the vote.

Voting

- Voting may be by a show of hands or by a ballot at the discretion of the Chairman;
- Councillors may not vote unless they are present for the full duration of the item;
- Where there is an equality of votes, the Chairman may exercise a second (casting) vote;
- Two Councillors may request, before a vote is taken, that the names of those voting be recorded in the minutes
- A recorded vote will always be taken in respect of approval of the Annual Budget
- Councillors may not vote unless they are in the meeting for the full debate on any particular item
- A Councillor may request that his/her vote be recorded in the minutes



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HAVANT BOROUGH COUNCIL

At a meeting of the Cabinet held on 11 September 2017

Present

Councillor Briggs (Chairman)

Councillors Bains, Bowerman, Pike, Guest, Turner and Wilson

21 Apologies for Absence

There were no apologies for absence.

22 Minutes

The minutes of the meeting of the Cabinet held on 28 June 2017 were approved as a correct record.

23 Matters Arising

There were no matters arising from the minutes of the last meeting.

24 Declarations of Interests

There were no declarations of interest.

25 Chairman's Report

There were no matters the Chairman wished to report.

26 Cabinet Lead Delegated Decisions, Minutes from Meetings etc.

RESOLVED that the minutes of the meeting of the Portchester Crematorium Joint Management Committee be noted.

27 Recommendations from the Scrutiny Board

27a Economic Development Service Scrutiny Review

In the absence of the Scrutiny Lead, Councillor Pike presented a report to Cabinet setting out the findings and recommendations of the Economy and Planning Scrutiny Panel following its review of the Council's role in relation to economic development in the Borough.

In response to Cabinet members' concerns, an assurance was given that any review of the CIL rate would also look at any potential impact on infrastructure and affordable housing delivery as part of the wider picture around future development in the Borough.

RESOLVED that:

- (1) the recent officers' review of the Council's economic development service be endorsed and that role of the service in the future to provide a clear project focus and deliver the outcomes as set out in the report be agreed;
- (2) the service concentrates on high impact projects and puts minimum resources into the current legacy activities such as market contract management until the impact of new aims and objectives of the economic development service can be evaluated;
- (3) the economic development service being provided to the Council by EHDC via a Section 101 Agreement be agreed;
- (4) the Council's current policy of updating CIL rate relative to changing construction costs and inflation be reconsidered to ensure that CIL does not detrimentally affect the economic viability of developments; and
- (5) a workshop be held to establish what the housing economic climate in the Borough should be and to rethink the Council's strategy for housing delivery in this climate.

28 Safeguarding

Councillor Turner presented a report seeking approval of a revised policy in relation to Safeguarding.

In considering a recommendation that training for Councillors be mandatory, the Cabinet was advised that there was no provision for sanctions to be applied for non-attendance. That being the case, the Deputy Leader, with the support of the Cabinet, undertook to write to members of his political group requiring their attendance at the training and to write to other political group Leaders to encourage a similar course of action. Cabinet was given an assurance that alternative dates and times for training sessions would be offered to Councillors.

Cabinet was given a further assurance that its contract procedures reflected the need for contractors to be aware of, and compliant with, the Council's safeguarding policy.

RESOLVED that

- (1) the new policy in relation to Safeguarding as set out in Appendix A to the report be approved; and
- (2) safeguarding training be undertaken by all Councillors.

29 Commissioning Advice Services

Councillor Turner presented a report to Cabinet setting out a proposal to re-shape the provision of advice services across the Borough, moving from grant funding to commissioning these services.

RESOLVED that

- (1) the timescale for commissioning services from the private sector be noted;
- (2) the change of delivery through commissioning of advice services from 2018/19 as outlined in section 3 of the report be noted, for a service up to the value of £114,300;
- (3) Havant's Citizen's Advice be issued with a 6 month formal notice to terminate the current Service Level Agreement (SLA) as good practice; and
- (4) Authority be delegated to the Head of Housing and Community Engagement to oversee the process in consultation with the Cabinet Lead for Communities and Housing.

30 Local Discretionary Business Rate Relief Scheme

Councillor Pike presented a report to Cabinet seeking approval of the new Local Business Rate Relief scheme that sought to mitigate the financial implications for those small and medium sized businesses most impacted by recent changes to business rates.

Councillor Pike advised that the wording of the Scheme as set out in the Appendix to the report should be amended as follows:

“Process

...

A revised Business Rate bill will be sent to the ratepayer together with a covering letter detailing the relief, explaining that the relief is for one year and requesting confirmation from the ratepayer **where** the granting of relief would not comply with EU Law on State Aid.”

RESOLVED that the new Local Business Rate Relief Scheme, as amended, be approved.

The meeting commenced at 2.00 pm and concluded at 2.39 pm

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Agenda Item 6

PORTCHESTER CREMATORIUM JOINT COMMITTEE

MINUTES OF THE MEETING of the Joint Committee held at the Public Services Plaza, Havant on Monday 18 September 2017 at 2.00 pm.

Present

Fareham Borough Council

Councillor Susan Bell

Gosport Borough Council

Councillor June Cully
Councillor Alan Scard

Havant Borough Council

Councillor Tony Briggs
Councillor David Guest

Portsmouth City Council

Councillor Frank Jonas (Chairman)

Apologies for Absence (AI 1)

Councillor Keith Evans (Fareham BC); Councillor Rob New (Portsmouth CC); Terry Garvey (Engineer and Surveyor), and Mark Pam (Deputy Engineer & Surveyor).

744 Declarations of Members' Interests (AI 2) – None

745 Minutes of the Meeting held on 26 June 2017 (AI 3)

RESOLVED that the minutes of the meeting held on the 26 June 2017 be signed as a correct record.

746 Matters Arising from the Minutes not specifically referred to on the Agenda (AI 4) - None

747 Clerk's Items (AI 5)

(a) Recycling of Metals Scheme – Charitable Nomination

The Clerk reported that following consultation with members Naomi House Children's Hospice had been nominated to receive an award under the metals recycling scheme operated by the Institute of Cemetery and Cremation Management. He was pleased to report that an award of £5,000 had now been received for presentation to Naomi House.

NOTED

748 Building Works Programme (AI 6)

(TAKE IN REPORT OF THE ENGINEER AND SURVEYOR)

RESOLVED that the contents of the report be noted.

749 North Chapel Refurbishment (AI 7)

(TAKE IN REPORT OF THE ENGINEER AND SURVEYOR)

Arising from questions, members were advised that there would be a further report to the Joint Committee at the December meeting, which would include examples of linked individual chairs, progress with the refurbishment scheme generally, and procurement arrangements.

RESOLVED that the report be noted.

750 Manager and Registrar's Report (AI 8)

(a) General Statistical Report

(TAKE IN REPORT OF THE MANAGER AND REGISTRAR)

The Manager and Registrar again updated members on the increasing popularity of early morning 'walk through' funerals.

RESOLVED that the report be received and noted.

(b) Environmental Issues

Arising from his statistical report and in response to questions the Manager and Registrar referred to the levels of energy used which were largely determined by the regulatory requirements of cremation. The possibility of utilising waste heat in the heating of buildings (and minimise the overall consumption of gas) had previously been identified within the Crematorium's current Development Plan, which had been approved by members. Provision had already been made to achieve this subject to some further engineering works that would be required.

RESOLVED that the relevant officers' report back to a future meeting on the further works required including costings to fully implement utilising waste heat in the heating of the Crematorium.

(c) Any other items of topical interest – public comments register

The Manager and Registrar reported that since June 2017 the following main comments had been received -

- An email of thanks for an informative 'behind the scenes' tour of the crematorium;
- A thank you card for being looked after when taken poorly during a service;

- A complainant was advised that Post 82 was not overgrown but in full growth and would be pruned in a few months;
- A complainant that posies had been removed prematurely was advised that gardeners clear dead flowers on a weekly basis;
- A telephone call thanking a member of staff for patience in choosing a location and scattering of ashes;
- A complaint that no member of staff was available (due to other commitments) to show a member of the public the garden area;
- A written apology was made following a complaint that a CD was not available at the start of a service, due to a misunderstanding between the funeral director and chapel attendant;
- A complainant that items had been allegedly removed from a garden store was advised of the system in operation for holding items removed from the grounds;
- A complaint about an overgrown shrub on the North Border was passed to the Horticultural Consultant for consideration.

RESOLVED that the report be noted with interest

751 Horticultural Consultant's Report (AI 9)

(TAKE IN REPORT OF THE HORTICULTURAL CONSULTANT)

In submitting his report the Horticultural Consultant drew particular attention to the theft of equipment from the garage used by the contractor and the action taken to protect the building.

RESOLVED that the report be received and approved.

752 Retirement of Engineer and Surveyor & Deputy Engineer and Surveyor to the Joint Committee (AI 10)

(TAKE IN REPORT OF THE CLERK)

In submitting his report the Clerk explained the arrangements to record formally the service given by both the Engineer and Surveyor and his deputy.

RESOLVED (1) that the Joint Committee places on record its grateful thanks to Terry Garvey for his 34 years' service as Engineer and Surveyor and to Mark Pam for his 7½ years' service as Deputy Engineer and Surveyor to the Joint Committee, and wishes them both a long and happy retirement.

(2) that it be noted that for the future Fareham Borough Council's Property Manager (Ian Cousins) will report direct to the Joint Committee in respect of Crematorium building works, capital equipment and maintenance programmes and related matters.

753 Portchester Crematorium Grounds Maintenance Contract (AI 11)

Before considering this item the Joint Committee -

RESOLVED that the public be excluded from the meeting during consideration of appendices 1 & 2 to the report because it is likely that if members of the public were present there would be disclosure to them of 'exempt information' within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

(TAKE IN REPORT OF THE CLERK)

The Clerk explained that the purpose of his report was to advise on the tenders received and a recommendation for the provision of horticultural grounds maintenance services when the current contract ends on the 31 December 2017.

Richard Lock, Senior Procurement Professional at Portsmouth City Council gave a detailed explanation of the procedure and process that had been followed to invite and evaluate the tenders received, the details of which were described in his report (Exempt Appendix 1) to the Clerk's open report.

Members gave consideration to the report and appendices, and following questions which were answered by officers it was -

RESOLVED (1) that having considered the evaluation of the tenders received, as set out in the exempt appendix 1 to the Clerk's Report, the contract for horticultural and grounds maintenance services from 1 January 2018 be awarded to Tenderer D;

(2) that Portsmouth City Council on behalf of the Joint Committee be authorised to enter into the contract and complete the necessary legal documentation.

754 Date of Next Meeting (AI 12)

RESOLVED that the next meeting be held at 2pm on Monday 11 December 2017 in Portsmouth

The meeting concluded at 2.45 pm

Chairman

JH/me
18 September 2017
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STANDING ORDER 48.0 – SPECIAL URGENT MATTERS

The following is a record of determination and decisions taken pursuant to this Standing Order.

1. CONSULTED AUTHORITY:



Councillor Michael Wilson, Deputy Leader, Acting Leader

2. DETAILS OF SUBJECT MATTER:

Civica System – Hosting Arrangements

3. DETAILS OF DETERMINATION AND DECISION:

Approval to enter into a hosting arrangement with the supplier Civica

4. REASON FOR URGENT DECISION:

Without the decision, the timelines for implementation of the revised hosting arrangements will not be met, putting the Council's financial management at risk

5. NAME OF COMMITTEE TO WHICH DECISION IS TO BE REPORTED:

Scrutiny

6. FINANCIAL IMPLICATIONS (as agreed by Financial Services):



7. LOCAL/OTHER MEMBER (in certain cases the nature of the determination requires that the local member be informed of the action taken):

Ward Member Informed: _____

Other Member Informed: _____

Date: _____

Signed: TOM HORWOOD

~~Chief Executive~~/Executive Director

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - 'CONFIDENTIAL' OR 'EXEMPT' INFORMATION INDICATOR

Report No: _____

Title: -----

Committee: -----

Date: -----

Please tick as appropriate:

1. This SO 46.0 contains neither confidential nor exempt information

OR: 2. This SO 46.0 contains confidential information:-

~~----- (i) The whole report should be marked 'Not For Publication'~~

~~----- (ii) The following paragraphs should be marked 'Not For Publication': -----~~

~~OR: 3. This SO 46.0 contains exempt information by virtue of Paragraph(s) ----- of Schedule 12A of the Local Government Act ----- 1972.~~

~~----- (i) The whole report should be marked 'Not For Publication'~~

~~----- (ii) The following paragraphs should be marked 'Not For Publication': -----~~

SECTION 100D (1) (a) - LIST OF BACKGROUND PAPERS

(i)

(ii)

(iii)

(iv)

(v)

NOTE:

If a background paper is exempt, it should be entered on this form with the appropriate exempt paragraph number.

NON EXEMPT

HAVANT BOROUGH COUNCIL

CABINET

11 OCTOBER 2017

GIFTS AND HOSPITALITY POLICY FOR COUNCILLORS

Report by Monitoring Officer

Cabinet Lead : Cllr Bowerman

Key Decision: No

1.0 Purpose of Report

1.1 To adopt an updated Gifts and Hospitality Policy for Councillors

2.0 Recommendation

2.1 Cabinet is recommended to adopt the updated Policy

3.0 Summary

3.1 The Council's current Gifts and Hospitality Guidance for Councillors requires Councillors to notify the Monitoring officer of any gift/hospitality received which is over 25 pounds in value. The Guidance also gives examples of both acceptable and unacceptable hospitality. A new Policy is proposed which gives guidance appropriate to a Council operating within a commercial world.

4.0 Subject of Report

4.1 It is considered that the current guidance needs to be updated to reflect the way that the Council operates in the commercial world. Whilst the current guidance gives examples of hospitality which is considered either acceptable or unacceptable, it is silent on giving further detail enabling a Councillor to decide whether or not to accept third-party hospitality.

4.2 The proposed policy makes it clear that hospitality should be accepted only if there is a benefit to the Council and sets out some consent procedures.

5.0 Implications

5.1 **Resources:** None

NON EXEMPT

- 5.2 **Legal:** It is important to have in place a policy reflecting Councillors' involvement in the commercial world.
- 5.3 **Risks:** Failure to adopt the policy could lead to higher reputational risk for Councillors.

Appendix: Gifts and Hospitality Policy for Councillors

Agreed and signed off by:

Monitoring Officer: 3 October 2017

Contact Officer: Nick Leach
Job Title: Monitoring Officer
Telephone: 01730 234088
E-Mail: nick.leach@easthants.gov.uk

GIFTS AND HOSPITALITY POLICY FOR COUNCILLORS

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Council as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010. These legal requirements are supplemented by the procedures which have been adopted by this Council, to provide a clear set of rules for the protection of both Councillors and the Council. This policy is to be read in conjunction with the Council's Code of Conduct for Members.

This Guidance sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Council.

The Council does operate within the commercial world and aims to act transparently but there may be times when published information is redacted to reflect the sensitivities of the Council's business affairs.

1. General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out in Section 2, you should not accept it if to do so would be in breach of one or more of these principles:

(a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Bribery Act 2010 makes it an offence for an individual to bribe another person or to accept a bribe. The maximum penalty for a conviction for one of these offences is up to 10 years imprisonment. There is an additional offence which applies to organisations of failing to prevent bribery. On a conviction for

this offence the organisation could face an unlimited fine.

Further, the Council's Code of Conduct for Members provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

(b) You should only accept a gift or hospitality if there is a benefit to the Council

The only proper reason for accepting any gift or hospitality is that there is a benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the Council's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Council, would be a breach of the Code.

(c) Never accept a gift or hospitality if acceptance might reasonably be open to Misinterpretation

The appearance of impropriety can be damaging to the Council and to you as a Councillor . The Council's ability to govern rests, in part, upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being reasonably interpreted as a sign that you or the Council favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must consider whether to refuse the gift or hospitality or what appropriate steps to take to reduce the likelihood of such a misunderstanding .

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.

- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination.
- (iii) funding decisions, when the Council is determining a grant application by any person or organisation

(d) Never accept a gift or hospitality which puts you under an improper obligation

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the Council.

(e) Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

2 Consent Regimes

(a) General consent provisions

For clarity, the Council has agreed that, provided the General Principles set out in Section 1 are not breached, you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public body
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the Council
- (iv) small gifts of low intrinsic value, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (v) a modest alcoholic or soft drink on the occasion of an accidental social

meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable

- (vi) a modest working lunch in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business.
- (vii) modest souvenir gifts with a value from another public authority or given on the occasion of a visit by or to the authority
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council.
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Mayor of the Council together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

b) Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer (MO), setting out:

- (i) the nature and your estimate of the market value of the gift or Hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Council

- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

The MO will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below. Any approval will also be placed on the Council's website.

3. Reporting

Where you accept any gift or hospitality, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the MO, setting out the information set out in Paragraphs 2(b) above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The MO will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

4 Gifts to the Council

Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Council. You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any disbenefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the MO, together with your recommendation. The MO will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the MO directly.

5 Definitions

(a) "Gift or hospitality" includes:

- (i) the free gift of any goods or services.

- (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public.
- (iii) the opportunity to obtain any goods or services which are not available to the general public.
- (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

(b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration
- (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

FAILURE TO FOLLOW THIS POLICY COULD LEAD TO A CODE OF CONDUCT COMPLAINT OR CRIMINAL PROCEEDINGS UNDER THE BRIBERY ACT 2010

IF YOU ARE IN DOUBT WHETHER TO ACCEPT A GIFT AND/OR HOSPITALITY YOU ARE ADVISED TO CONTACT THE MONITORING OFFICER OR LEGAL SERVICES

Declaration of Receipt of Gifts or Hospitality

Name	
What was the gift or hospitality?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Policy? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed:	Date:

Please return to the Democratic Services Team at Havant Borough Council

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NON EXEMPT

HAVANT BOROUGH COUNCIL

CABINET

11 October 2017

COMPLAINTS AND VEXATIOUS COMPLAINTS POLICY AND PROCEDURE

Report by Monitoring Officer

Cabinet Lead: Cllr Bowerman

Key Decision: No

1.0 Purpose of Report

1.1 To adopt an updated Complaints policy incorporating vexatious complaints

2.0 Recommendation

2.1 Cabinet is recommended to adopt the new Policy

3.0 Summary

3.1 The Council's current Policy is silent on how to deal with vexatious complaints.

3.2 The Council deals with a number of complaints which result in excessive officer time being spent whilst. Because of the nature or frequency of their contact with the Council's services, a few complainants behave unreasonably and hinder the consideration of their own, or other complainants' cases.

This policy covers 'unreasonable complainant behaviour', which may include one or two isolated incidents, as well as 'unreasonably persistent behaviour', which is usually a build-up of incidents or behaviour over a longer period. This also covers obsessive behaviour that is tantamount to victimisation of an individual or those associated with an individual, whether professionally or personally.

3.3 The Policy sets out how it is intended to deal with such complaints.

4.0 Implications

4.1 Legal

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An up-to-date complaints policy is required

4.2 Resources

There are no direct financial implications arising from the report.

4.3 Risks

Failure to make the changes to the Policy may impact upon the Council's resources, in particular officer time.

4.4 Communications

The new Policy will be placed upon the Council's 'Policy Hub'

Appendix: Complaints and Vexatious Complaints Policy and Procedure

Agreed and signed off by:
Monitoring Officer: 3rd October 2017

Contact Officer: Nick Leach
Job Title: Monitoring Officer
Telephone: 01730 234088
E-Mail: nick.leach@easthants.gov.uk

Havant Borough Council

Complaints and Vexatious Complaints Policy and Procedure

Introduction

A complaint is *an expression of dissatisfaction about a council service that requires a response*. We make no distinction between a 'formal' and an 'informal' complaint.

This policy covers general complaints to the council about its own services. It does **not** cover complaints that are covered by other rules, such as:

- Planning appeals.
- Benefits entitlement appeals.
- Council tax or business rates liability appeals.
- Complaints about councillor conduct.
- Reviews of decisions under the Information Request (Freedom of Information Act) and related legislation.
- In the event of a complaint against the Chief Executive the organisation will decide if the complaint is investigated by the Local Government and Social Care Ombudsman [LGO]. The decision will be made by an Executive Director and/or the Monitoring Officer independent of the complaint.

Aims of the policy

We aim to provide good quality services. Unfortunately, things go wrong sometimes. It is really important for us to know when things do not go well, so that we can try to resolve any problems and learn from them.

For this reason, we have a complaints process. We log complaints on our Customer Relations Management [CRM] system and report regularly to councillors and managers on how we are doing.

How we try to resolve your complaint

Before making a complaint, call the council service direct as it may be possible to resolve the problem immediately without having to go through the complaints process. If this is not possible or you are unhappy with the response then the stages below outline our complaints process.

Corporate Complaints Process

STAGE 1 – Team Leader/ Manager

The Team Leader or Manager for the relevant service will receive your complaint.

He or she will oversee the investigation and respond directly to you. He or she may need to contact you to clarify the details of your complaint. If this is done by telephone, he or she will follow this up with a letter or email. It is very important that we understand exactly what the complaint is before we investigate.

We aim to acknowledge your complaint in writing or email within 3 working days and provide an answer within 10 working days. Sometimes, a complicated complaint may take longer. We will keep you informed if this happens.

STAGE 2 - Head of Service

If you are not satisfied with the Team Leader or Manager's reply, you may contact the Head of Service, who will try to provide a full response within 15 working days. If their response is likely to take longer they will contact you and agree a resolution date.

You may wish to contact the Head of Service to make your first complaint, but he or she may decide to ask the appropriate Team Leader or Manager to respond directly to you.

Stage 3 – Ombudsman

If you are not satisfied with the Head of Service's reply, you may contact the LGO. This is the independent organisation that looks into complaints against councils.

You may obtain a leaflet about the Ombudsman by visiting:
www.lgo.org.uk/making-a-complaint.

How to complain

We are happy to receive your complaint in a variety of ways.

Website: fill in the complaints form on the council website

Email: email your complaint to info@havant.gov.uk

Telephone: if you know it, call the telephone number of the appropriate service, or call our general number 023 9244 6019, and ask to speak with the Operator who will then transfer you to the senior manager of that service

Letter: address your letter to the "Team Leader or Manager", naming the relevant

service, or to the Customer Service Manager - "Complaints" at Havant Borough Council, Public Service Plaza, Civic Centre Rd, Havant PO9 2AX

In person: phone first to make an appointment if you wish to discuss your complaint with the appropriate Team Leader or Manager.

Through your local Councillor: they will forward your complaint to the relevant Team Leader or Manager.

Resolving the complaint

We aim to resolve 85% of all complaints within 10 working days. Sometimes, a complicated complaint may take longer and we will discuss a revised target date with you.

We regularly monitor this target to make sure complaints are resolved as quickly as possible.

We will work closely with you to get at the heart of the problem and do whatever we can to put things right. We will apologise if we have let you down and learn from our mistakes.

Policy in the management of unreasonable complainant behaviour (Vexatious)

Aim of this Policy

The aim of this policy is to contribute to our overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

It sets out how we will decide which complainants will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff, staff in the Borough of Havant, partner organisations and councillors, as well as customers.

Introduction

Havant Borough Council ("the Council") are committed to dealing with all complaints fairly and impartially, and to making our services as accessible as possible.

But because of the nature or frequency of their contact with the Council's services, a few complainants behave unreasonably and hinder the consideration of their own, or other complainants' cases.

This policy covers 'unreasonable complainant behaviour', which may include one or two isolated incidents, as well as 'unreasonably persistent behaviour', which is usually a build-up of incidents or behaviour over a longer period. This also covers obsessive behaviour that is tantamount to victimisation of an individual or those associated with an individual, whether professionally or personally.

Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with the Council, hinder the

Council's consideration of their, or other people's, complaints. These complaints may include complaints about Officers, Councillors and Council Services. Nothing in this policy in any way diminishes the Council's policies and procedures aimed at preventing and detecting fraud or improper behaviour.

Examples of unreasonable actions and behaviours

These are some of the actions and behaviours which organisations often find problematic. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper consideration of the complaint.

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

Unreasonable complainant conduct

The Council will not tolerate deceitful, abusive, offensive, threatening or other forms of unacceptable behaviour from complainants. When it occurs, we will take proportionate action to protect the wellbeing of our staff and the integrity of our processes. In certain circumstances such behaviour may be construed as harassment and the Council will consider taking legal action.

Our Officers manage a number of complaints at any one time, using their time and resources to best effect. They cannot do so if someone tries to dominate our attention with frequent, lengthy contacts and repetitive information. This hinders the consideration of their or other people's, complaints and their day to day duties as an Officer. When necessary, we will take action to restrict access to our service when unreasonable behaviour of this nature persists.

Forewarnings

In most instances when we consider someone's behaviour is unreasonable we will explain why and ask them to change it. We will also warn them that, if the behaviour continues, we may take action to restrict their contact with the Council.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Council's staff we may report the matter to the police and/or consider taking legal action. In such cases, we may not give the complainant prior warning.

Restricting access to the Council

An Executive Director, and/or the Monitoring Officer will decide whether the circumstances justify any restrictions of access. They will record the reason for their decision and explain it to the person concerned. They will also be notified that a marker/flag will also be applied to their record. They will state how long any restrictions will apply before it is reconsidered.

Example of the sort of restrictions imposed could include (this list is not an exhaustive list):

- Restricting telephone calls to specified days and limited times
- Limiting contacts to one form only (for example, a maximum of one letter or email a week)
- Requiring contact to take place with one named Officer
- Requiring the complainant to enter into an agreement about their future behaviour before their case proceeds, and/or
- Managing contact with the help of an independent advocate

Other suitable options will be considered in the light of the complainant's circumstances. Our objective wherever possible, is to complete consideration of the complaint on its merits in a managed way.

If the complaint is still under consideration six months later, we will review whether the restrictions imposed are still necessary and should remain.

Terminating access to the Council's complaint service

If a complainant continues to behave unreasonably, or overrides the restrictions placed on access to our service, we may decide to terminate contact with them and end any investigations into their complaint.

New complaints

New complaints from people whose behaviour has previously been deemed unreasonable will be treated on its merits. Restrictions imposed in respect of an earlier complaint will not automatically apply to any new matter.

Review We will review this policy at least once every two years. We will also occasionally seek feedback from complainants about the process to make sure that you are being treated fairly and complaints are dealt with professionally.

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