

HAVANT BOROUGH COUNCIL
PUBLIC SERVICE PLAZA
CIVIC CENTRE ROAD
HAVANT
HAMPSHIRE P09 2AX



Telephone: 023 9247 4174
Fax: 023 9248 0263
Website: www.havant.gov.uk

EXTRAORDINARY GOVERNANCE & AUDIT COMMITTEE AGENDA

Membership: Councillor Smith K (Chairman)

Councillors Davis, Lenaghan, Rees, Seal and Wade

Meeting: Governance & Audit Committee

Date: Monday 24 April 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

14 April 2017

Contact Officer: Nicholas Rogers 023 9244 6233
Email: nicholas.rogers@havant.gov.uk

- | | Page |
|---|------------------|
| 1 Apologies | |
| To receive apologies for absence. | |
| 2 Declarations of Interest | |
| 3 Review of the Constitution | To Follow |
| To: | |
| a) Receive recommendations from the Budget Scrutiny and Policy Development Panel; and | |
| b) Consider the Monitoring Officer's report on changes to the | |

Constitution.

4 Changes to the Councillor Code of Conduct

1 - 10

GENERAL INFORMATION

IF YOU WOULD LIKE A VERSION OF THIS AGENDA, OR ANY OF ITS REPORTS, IN LARGE PRINT, BRAILLE, AUDIO OR IN ANOTHER LANGUAGE PLEASE CONTACT DEMOCRATIC SERVICES ON 023 9244 6231

Internet

This agenda and its accompanying reports can also be found on the Havant Borough Council website: www.havant.gov.uk

Public Attendance and Participation

Members of the public are welcome to attend the Public Service Plaza and observe the meetings. Many of the Council's meetings allow the public to make deputations on matters included in the agenda. Rules govern this procedure and for further information please get in touch with the contact officer for this agenda.

Disabled Access

The Public Service Plaza has full access and facilities for the disabled.

Emergency Procedure

Please ensure that you are familiar with the location of all emergency exits which are clearly marked. In the unlikely event of an emergency an alarm will sound.

PLEASE EVACUATE THE BUILDING IMMEDIATELY.

DO NOT RE-ENTER THE BUILDING UNTIL AUTHORISED TO DO SO

No Smoking Policy

The Public Service Plaza operates a strict No Smoking policy in all of its offices, corridors, meeting rooms and toilets.

Parking

Pay and display car parking is available in the Leisure Centre car park opposite the Plaza.



Havant

BOROUGH COUNCIL

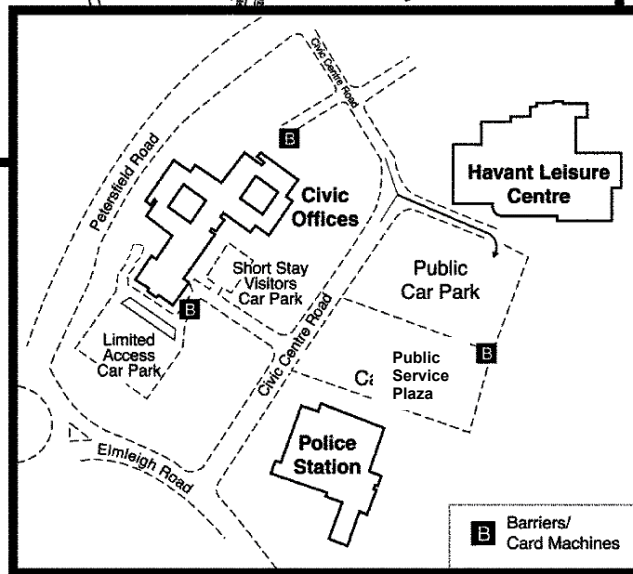
PROTOCOL AT MEETINGS – RULES OF DEBATE

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



Havant
BOROUGH COUNCIL
 Civic Offices, Havant, Hants, PO9 2AX
 Telephone (023) 9247 4174

This page is intentionally left blank

NON EXEMPT

HAVANT BOROUGH COUNCIL

Governance & Audit Committee

24 April 2017

CHANGES TO THE COUNCILLORS' CODE OF CONDUCT Monitoring Officer

FOR RECOMMENDATION TO COUNCIL

Cabinet Lead: Cllr M Wilson

Key Decision: No

1.0 Purpose of Report

- 1.1** To consult with the Governance & Audit Committee on changes to the Council's Code of Conduct for Councillors.

2.0 Recommendation

That the Committee recommends to Council to adopt changes to the Council's Code of Conduct for Councillors as detailed in Appendix A.

3.0 Summary

- 3.1** The current Code of Conduct for Councillors was adopted by the Council on the 25 July 2012 following the bringing into force of the Localism Act 2011. The Localism Act 2011 allowed every Council to decide on the form and content of their own Code of Conduct. It also removed sanctions previously available to the Council for Councillors found to have breached the Code.
- 3.2** The Monitoring Officer has dealt with 11 complaints about the conduct of Borough Councillors since July 2012 . The proposed changes reflect lessons learnt over that period of time. Following the meeting of the Governance & Audit Committee on the 8 March 2017, further small changes have been proposed to the new Code of Conduct to be adopted by full Council.

4.0 Subject of Report

- 4.1** Complaints about the conduct of Councillors since 2012 have mostly fallen in one of three categories:

- complaints relating to social media
- complaints relating to contents of e-mail
- complaints relating to Councillor's verbal communication in meetings.

4.2 Having considered the nature of many of the complaints it is considered that changes to the code of conduct for Councillors are needed in order to help concentrate Councillors' minds on the live issues which have led to such complaints being made. In summary, the following changes have been made:

- More explanation is given as to when the Code applies
- An explanation is given as to relevance of the law on 'bias'
- More examples are given in relation to obligations of Councillors when carrying out their day-to-day business
- Reference is made to the need to be particularly careful when using social media and when sending e-mails

4.3 Further to the previous meeting of the Governance & Audit Committee, further changes to the draft Code have been proposed. These are shown at Appendix 1. The further changes include the following:

- Reference to the Council's power to make sanctions following a breach of the Code
- The definition of 'Disclosable Pecuniary Interest' is included.

5.0 Implications

5.1 Resources:

None

5.2 Legal:

Every Council has the power to draft their own Code of Conduct for Councillors as they think fit.

5.3 Communications:

The new Code will be communicated widely and further training undertaken.

Appendices: **Draft new Code of Conduct for Councillors**

Agreed and signed off by:

Legal Services: 29/03/17

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

This page is intentionally left blank



Havant Borough Council Code of Conduct for Councillors

1. The Havant Borough Council ('the Council') has adopted the following code ('the code') dealing with the conduct that is expected of Councillors and co-opted¹ members of the Council ('Co-opted Members') when they are acting in that capacity as required by section 27 of the Localism Act 2011 ('the Act').
2. The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Councillors and Co-opted Members and the Code sets out the standards that the Council expects them to observe.
3. The Code is not intended to be an exhaustive list of all the obligations that are placed on Councillors and Co-opted Members. It is the responsibility of individual Councillors and Co-opted Members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to five years.
4. The Code is intended to be consistent with the seven principles as attached to this Code and applies whenever a person is acting in his/her capacity as a Councillor or Co-opted Member in the conduct of the Council's business or acting as a representative of the Council or when giving the impression that they are acting as a representative of the Council.
5. This Code of Conduct applies to you whenever you are acting in your capacity as a Councillor or Co-opted Members of Havant Borough Council², including:
 - (i) at formal meetings of the Council, its Committees and Sub-Committees, Cabinet and Cabinet Panels.
 - (ii) when acting as a representative of the Council.
 - (iii) in taking any decision as a Cabinet Member.

¹ A "co-opted member" for the purposes of this code is, as defined in the Localism Act 2011 Section 27 (4) " a person who is not a member of the council but who

- a) is a member of any committee or sub-committee of the council; or
- b) is a member of, and represents the council on, any joint committee or joint sub-committee of the council; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

² In the case of [Livingstone v Adjudication Panel for England](#), the court found that The Code covers misconduct in a councillor's official capacity or if a member otherwise 'misuses his position as a member'. However, there does need to be a link with the member's membership of the Council.

APPENDIX A

- (iv) in discharging your functions as a Ward Councillor.
 - (v) at briefing meetings with Council employees.
 - (vi) at site visits. ~~and~~
 - (vii) when corresponding with the Council other than in a private capacity.
6. Failure to comply with the requirements of paragraph 9–12 of this Code constitutes a criminal offence for which you may be prosecuted. Failure to comply with any of the other sections of the Code may result in censure of you by the Council and may lead to the Council and/or your political group (if any) being recommended to impose further sanctions on you.
7. Common law developed by the courts indicated that, at least in relation to “quasi-judicial” functions such as Planning, Councillors and Co-opted Members should not participate if a reasonable member of the public who is neither complacent nor unduly sensitive or suspicious would in the circumstances conclude that there is a real possibility of bias by a Councillor or Co-opted Members. This Code requires Councillors and Co-opted Members to excuse themselves from involvement in decision making where they have a “Disclosable Pecuniary Interest” in the matter under consideration. However, it is possible that when exercising their powers in, for example, planning, other interests could lead a reasonable member of the public to conclude that there was a real possibility of bias on the part of the Councillor or Co-opted Member. In such circumstances they should not participate in the decision-making process (i.e. they should not vote nor, unless they are requested by the Chairman of the Committee on a point of clarification, speak on the matter). In cases of doubt or difficulty, advice should be sought from the Monitoring Officer.

8. General obligations of Councillors and Co-opted Members

As a Councillor or Co-opted Member, your conduct will address the principles of the Code of Conduct by:

- (i) Representing ~~the needs of~~ residents and putting their interests first.
- (ii) Dealing timely (and in case, within 28 days) with ~~representations of~~ enquiries from residents, members of communities, within the administrative area of Havant Borough Council and visitors fairly, appropriately and impartially.
- (iii) Not allowing other pressures (such as personal friendship etc and including the financial interests of yourself or others connected to you) to deter you from pursuing constituents’ casework, the interests of the Council’s area, or the good governance of the Council in a proper manner.

APPENDIX A

- (iv) Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
- (v) Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit.
- (vi) Being accountable for your decisions and co-operating when scrutinised internally and externally.
- (vii) Contributing to making the Council's decision-making processes as open and transparent as possible.
- (viii) Restricting access to information when the wider public interest, the Council's Constitution, or the law requires it.
- (ix) Behaving in accordance with all the Council's legal obligations, alongside any requirements contained in the Council's policies, protocols and procedures relating to conduct, including the Councils Lone Working Policy.
- (x) Not bullying³ any person.
- (xi) Ensuring that when using or authorising the use by others of the resources of the Council that such resources are not used improperly or for political purposes.
- (xii) Having regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or otherwise.
- (xiii) Not knowingly doing anything which might cause the Council to breach any legislation.
- (xiv) Valuing your colleagues and Officers of the Council and engaging with them in a respectful and courteous manner.
- (xv) Always treating all people and organisations with respect and propriety.
- (xvi) Providing leadership through behaving in accordance with these principles.

³ Bullying is defined as offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying.

APPENDIX A

- (xvii) Being careful not to bring your role as a Councillor into disrepute with the use of your language when using social media by, for example posting inappropriate messages.
- (xviii) Being careful with the use of your language when using social media in your personal capacity as it may conflict with your role as a Councillor and impact on your reputation in the Council.
- (xix) When engaging in the use of e-mail be careful not to disclose information not intended to reach others or those who do not need to see the information.

REGISTERING AND DECLARING DISCLOSABLE PECUNIARY INTERESTS⁴

9. You must within 28 days of taking office as a Councillor or Co-opted member, notify the Council's Monitoring Officer of the disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of someone with whom you are living with as a husband or wife, or as if you were civil partners.
10. You must disclose the disclosable pecuniary interest at any meeting of the Council at which you are present, where you have a disclosable pecuniary interest in any matter being considered and where the matter is not a 'sensitive interest'⁵.

⁴ "Disclosable Pecuniary Interest" includes:

- any employment, office, trade, profession or vocation carried on for profit or gain.
- any payment or provision of any other financial benefit (other than from the Council) made or provided within the last 12 months in respect of any expenses incurred in carrying out duties as a member, or towards election expenses.
- any contract which is made with the Council under which (a) goods or services are to be provided or works are to be executed and (b) which has not been fully discharged.
- any beneficial interest in land within the District.
- any licence to occupy land in the District for a month or longer.
- any tenancy where the landlord is the Council.
- any beneficial interest in the securities of a body where (a) that body has a place of business or land in the District; and (b) either (i) the total nominal value of the securities held exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which a beneficial interest exists exceeds one hundredth of the total issued share capital of that class.

⁵ A "sensitive interest" is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

APPENDIX A

11. Following any disclosure of a disclosable pecuniary interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
12. Unless dispensation has been granted, you must not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

This Code is based on and consistent with the following seven Nolan principles.

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about the decision and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

This page is intentionally left blank