

Notice of Meeting

Overview & Scrutiny Committee

Date: Wednesday, 18 March 2015

Time: 17:30

Venue: Crosfield Hall (Romsey), Broadwater Road, Romsey, Hampshire,
SO51 8GL

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Legal and Democratic Service

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The recommendations contained in the Agenda are made by the Officers and these recommendations may or may not be accepted by the Committee.

PUBLIC PARTICIPATION SCHEME

If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.

Membership of Overview & Scrutiny Committee

MEMBER		WARD
Councillor C Lynn	Chairman	Winton
Councillor P North	Vice Chairman	Alamein
Councillor I Andersen		St.Mary's
Councillor G Bailey		Blackwater
Councillor D Baverstock		Cupernham
Councillor K Bird		St.Mary's
Councillor C Borg-Neal		Harroway
Councillor P Bundy		Chilworth, Nursling & Rownhams
Councillor E Charnley		Penton Bellinger
Councillor C Dowden		North Baddesley
Councillor B Few Brown		Ampert
Councillor A Finlay		Chilworth, Nursling & Rownhams
Councillor K Hamilton		Harroway
Councillor B Page		Harroway
Councillor I Robin		Millway
Councillor K Tilling		Valley Park
Councillor J Whiteley		Alamein

Overview & Scrutiny Committee

Wednesday, 18 March 2015

AGENDA

The order of these items may change as a result of members of the public wishing to speak

- 1 Apologies
- 2 Public Participation
- 3 Declarations of Interest
- 4 Call in Items
- 5 Urgent Items
- 6 Urgent decisions taken since last meeting
- 7 Minutes of the meeting held on 18 February 2015
- 8 **Project Integra Presentation** 5 - 5
A presentation to update on the progress of Project Integra.
Head of Project Integra (45 Minutes)
- 9 **A New Draft Corporate Plan for 2015-19** 6 - 25
This report is to provide members of OSCOM with an opportunity to consider the new draft corporate plan prior to its submission to Council for final approval in April 2015.
Report by Corporate Director (45 Minutes)
- 10 **Review and Revision of the Code of Conduct** 26 - 65
This report reviews and revises the Code of Conduct and Arrangements for dealing with Complaints.
Report by Head of Legal and Democratic Services (45 minutes)

11 Programme of Work for the Overview and Scrutiny Committee

66 - 79

To enable Members to keep the Committee's future work programme under review, including consideration of the Housing report previously circulated. (30 Minutes)

ITEM 8

Project Integra Presentation

Report of the Environmental Portfolio Holder

Recommended:

SUMMARY:

- A presentation to update on the progress of Project Intergra.

Background Papers (Local Government Act 1972 Section 100D)

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:

-

File Ref:

(Portfolio: Environmental) Councillor Stallard

Officer:

Paul Wykes

Ext:

8351

Report to:

Overview and Scrutiny
Committee

Date:

18 March 2015

ITEM 9 A New Draft Corporate Plan for 2015-19

Report of the Policy Manager

(Portfolio: Leader)

Recommended:

That OSCOM notes the draft corporate plan proposed for 2015-19 that will be submitted to Council for final approval in April 2015.

SUMMARY:

- This report is to provide members of OSCOM with an opportunity to consider the new draft corporate plan prior to its submission to Council for final approval.
- Final approval of the new draft corporate plan lies with Council. Council will consider the plan at its meeting in April 2015.

1 Introduction

1.1 This report is to provide members of OSCOM with an opportunity to consider the new draft corporate plan prior to its submission to Council for final approval.

2 Background

2.1 The Council's current Corporate Plan was approved in 2011 and adopted for a period of four years until April 2015. A new draft Corporate Plan has been developed and is proposed for the period 2015-19. This is attached as an Annex.

2.2 The plan has been developed using a robust evidence base which takes into account the views of local people, statistical information and external influences, such as government policy.

2.3 Cabinet has considered the draft plan at its meeting on the 11th March 2015. A copy of the report to Cabinet is attached as an Annex.

2.4 Final approval of the new draft corporate plan lies with Council. Council will consider the plan at its meeting in April 2015.

3 Conclusion

3.1 The draft Corporate Plan seeks to outline the Council's vision and priorities for the Borough for the next four years of the newly elected council. It will set our direction and provide a focus for our activities and services. As a result, it will inform decision making and allocation of resources across the Council.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	2		
Author:	James Moody	Ext:	8130
File Ref:			
Report to:	OSCOM	Date:	18 March 2015

Adoption of a New Corporate Plan for 2015-19

Report of the Leader

Recommended:

That the draft Corporate Plan proposed for 2015-19 be approved

Recommendation to Council

SUMMARY:

- The Council's current Corporate Plan "Doing things differently" was approved in 2011 and adopted for a period of four years until April 2015. A new Corporate Plan has now been developed for the period of 2015—19. This is attached as an Annex.
- The draft Corporate Plan seeks to outline the Council's vision and priorities for the Borough for the next four years of the newly elected council. It will set our direction and provide a focus for our activities and services. As a result it will inform decision making and allocation of resources across the Council.
- The plan has been developed using a robust evidence base which takes into account the views of local people, statistical information and external influences, such as government policy.

1 Introduction

- 1.1 The Corporate Plan is a key corporate document and an important link in the council's overall strategic planning framework. It will set out the Council's medium term priorities and sit alongside other key documents such as the Medium Term Financial Strategy and the Local Plan. Together as a set of documents they will help deliver the priorities.
- 1.2 The current Corporate Plan "Doing things differently" comes to an end in April 2015. As a result a new draft Corporate Plan has been developed and is proposed for the period 2015-19. This is attached as an Annex.

2 Background

- 2.1 The Plan has been developed using a robust evidence base which takes into account the views of local people, statistical information, external influences such as government policy.
- 2.2 During the summer of 2014, local councillors spoke to more than 1000 people right across the borough to ask them what issues were important to them and what the council should focus on for the next four years.

Councillors went out to towns and villages to meet people at local events and markets. Members of the public were also invited to take part in the survey via the council's website. We also used a range of creative techniques in order to engage with a broader range of people which included the "Great Test Valley Trout Hunt." Each of these important activities has enabled councillors to consider the issues that matter most to residents alongside the other evidence and statistical data that has been collected.

- 2.3 In developing the plan we have looked closely at the external influences on the borough, such as government policy, and we have also considered the major challenges and opportunities that the council will be dealing with over the coming four years. In particular, the challenges and opportunities that flow from a growth in population, economic activity and commercial and residential developments which we expect to see over the lifetime of the plan. This is set against the backdrop of the financial environment remaining a significant challenge.
- 2.4 The plan seeks to build on the strong foundations of the last one. Its focus is about investing our energy, skills and resources to achieving the best results for our residents and communities across the Borough. As a result, it has been called "Investing in Test Valley."

3 Consultations/Communications

- 3.1 As part of the development of the Corporate plan, wide ranging consultations took place with local people during the summer of 2014.

4 Options

- 4.1 The options facing the Cabinet are to recommend approval the plan, recommend amendments or to decide not to recommend. Final approval of the plan lies with Council so these will be recommendations to Council.

5 Option Appraisal

- 5.1 The plan has been developed by considering a range of options available. The options have been assessed taking into account the views of local people, statistical information about the borough and external influences, such as government policy.

6 Risk Management

- 6.1 A risk assessment has been completed in accordance with the Council's risk management process and the existing risk controls in place mean that no significant risks (Red or Amber) have been identified.

7 Resource Implications

- 7.1 The Corporate Plan will guide the Council's allocation of its resources over the next four years. The plan itself has no resourcing implications, at this stage.

8 Legal Implications

8.1 There are no legal implications arising from this report.

9 Equality Issues

9.1 An **EQIA screening** has been completed in accordance with the Council’s EQIA methodology and no potential for unlawful discrimination and/or low level or minor negative impact have been identified, therefore a full EQIA has not been carried out.

10 Other Issues

10.1 The Corporate Plan seeks to guide all of the council’s services in their work over the next four years and, as a result, covers all areas of the council’s work.

10.2 Wards/Communities Affected – All

11 Conclusion

11.1 The Corporate Plan outlines the Council’s vision and priorities for the Borough for the next four years of the newly elected council. It sets our direction and provides a focus for our activities and services. As a result it informs decision making and allocation of resources across the Council.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	1	File Ref:	
(Portfolio: Leader) Councillor Ian Carr			
Officer:	James Moody	Ext:	8130
Report to:	Cabinet	Date:	11 March 2015

Corporate Plan 2015-2019 and beyond

Investing in Test Valley

Welcome

Welcome to Test Valley Borough Council's Corporate Plan 2015 – 2019 – *Investing in Test Valley*

You might be surprised that we have called our new plan *Investing in Test Valley* at a time when local government budgets continue to be cut and the demand for our services is ever increasing.

But our ambition to be an investing council is about more than money; it is about devoting our energy, skills and resources to achieving the best results for our residents and communities across the Borough.

There is no doubt that, with a decreasing pot of funding and greater pressure on our services, we shall have to make some very tough, and no doubt brave, decisions. But our goal over the coming years will be to do the best we can with what we have - and to ensure the Borough remains a great place to:

- ❖ work and do business
- ❖ live, with the supply of homes reflecting local needs
- ❖ enjoy the natural and built environment, and
- ❖ contribute and be part of a strong community.

It isn't surprising that these were the issues our residents identified as being of the greatest importance when councillors went out and spoke with them last summer. They are each key to ensuring our communities and businesses are able to thrive. As we focus our efforts on achieving them, we aim to make a real difference to people's lives. Good quality jobs and homes lie at the core of our residents' quality of life – as does access to open spaces, the countryside and recreational facilities. Equally, our residents tell us that involvement in their community helps them to become more self sufficient, and more successful as a result. These are the issues which must drive our policies and activities.

We will deliver the priorities of this plan through our **Corporate Action Plan**, which will also run from 2015 to 2019 and will be updated annually. This will show how we intend to make progress by detailing the specific actions we will take forward against each of the priorities.

This plan has been built on the strong foundations of the last plan. Just as elements of the previous document live on in our new corporate priorities, we recognise that much of what we are working on now will still require focus beyond the next four years. And there is another constant issue, namely the need to ensure that we continue to achieve value for money. Prudent financial management is at the heart of our operating model and an imperative in everything that we do.

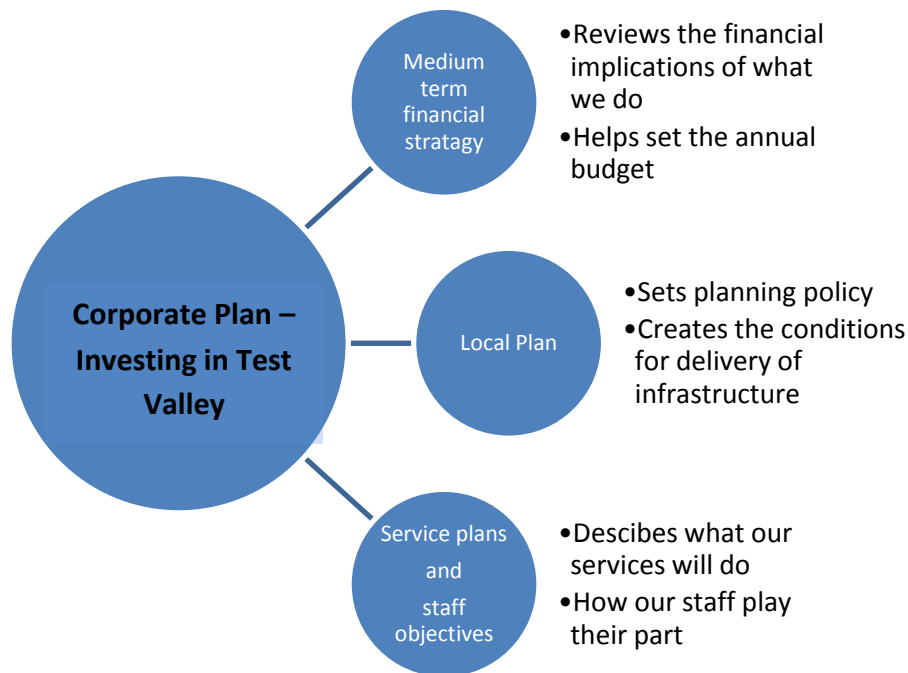
We know the coming years will pose challenges, but we shall meet them with an ambition and a willingness to find innovative ways of approaching the issues and opportunities which come our way. We do not have unlimited resources, but we will invest those we do have wisely to make the Borough of Test Valley the best it can be for its residents and businesses.

What is the Corporate Plan?

The Corporate Plan outlines the Council’s vision and priorities for Test Valley over the next four years. It sets our direction and provides a focus for all our activities and services. As a result, it informs decision making and the allocation of resources across the Council.

The Corporate Plan in context

The Corporate Plan is an important link in the Council’s overall strategic planning framework. It describes the links between the key planning documents which together will help us to deliver our priorities.



We also use the Corporate Plan as our contribution towards meeting the long term aspirations for the borough that we share with our partner organisations through the Test Valley Partnership.

How we develop the Plan and our priorities

1. We start with four important principles:

We are vision led – We aim to be an organisation of excellence committed to improving the quality of life of all the people of Test Valley.

We are values driven – We are committed to high standards in everything we do, shaping our behaviours and building our reputation in the eyes of our residents. Our five values are:

Accountability / ambition / empowerment / inclusiveness / integrity

We are democratically accountable – Our councillors, elected by local people, shape what we do and bring together the needs and expectations of the communities they represent in order to make balanced decisions.

We use evidence-based decision making – We seek to understand the issues and then we take a full assessment of what's needed and why.

2. We build the evidence base:

- by reviewing the priorities outlined in the previous corporate plan, *Doing things differently 2011-2015*, to see where we have made an impact and where things have changed over time
- by taking into account the views of local people, statistical information about the borough and external influences, such as government policy

During the summer of 2014, local councillors spoke to more than 1,000 local people right across the borough to ask them what issues were important to them. Councillors went out to towns and villages to meet people at local events and markets. Members of the public were also invited to give feedback via the website and we used creative methods to engage with local families such as the *Great Test Valley Trout Hunt*. Undertaking these important activities has enabled our councillors to consider the issues that matter most to our residents as part of the process for setting our priorities.

3. We ask Councillors to consider and balance the evidence gathered

Our councillors set the priorities for the next four years and beyond. Their role has been to set the priorities of the plan by considering and balancing the evidence and information collected in order to inform what the Council will do over the next four years and beyond.

Looking forward - the next four years and beyond...

The Challenges and Opportunities

In developing this plan we have been looking ahead to understand the big challenges we will face over the next four years and beyond. Understanding these challenges means that we can also view them as opportunities and can continue our programme to do things better for our residents.

1. Test Valley is seeing a growth in population, economic activity and residential and commercial developments. The challenge this presents is that it will place additional pressures on the services our residents and businesses need and expect from us. However, it also brings opportunities that our communities will benefit from, such as jobs, homes and new infrastructure.
2. The financial environment remains a significant challenge. Over the past four years we have seen the money we receive from central government grants reduce by 40 per cent and it is anticipated that the next four years will be even more challenging as the grants we receive continue to fall. However, our track record in facing this challenge is strong. In order to provide the best deal for our council tax payers, the Council has delivered budget reductions over the last eight years totalling £8.517million equivalent to £1million per year. This is as a result of using our assets better, sharing resources and services where it makes sense, investing in ways to generate income through enterprise and focusing on efficiency and effectiveness in all that we do. Looking ahead to the next four years, we will continue to be innovative and make the most of opportunities to invest in new ways of working that achieve the best results for our communities and make financial sense.
3. People in Test Valley feel a close association to the local communities in which they live. Many groups and organisations exist at this local level, including parish councils and community associations. Their work and grass roots knowledge is extremely valuable. This highlights that a “one size fits all” approach will not always be appropriate. The opportunity to work with these organisations is key to ensuring that we meet the aspirations of our many communities.

How we do business – our operating model

Our operating model describes the way we do business and how we pursue the ambitions of this plan. It enables us to undertake a full business assessment of all our activities and opportunities that come forward, so we can make the right decisions about where to invest our energy, skills and resources. This means we can be confident that we are taking an efficient and effective approach and delivering value for money for our residents. Our operating model focuses on:

Having a clear business case

- Understanding the challenge or issue
- Taking a full assessment of what's needed and why
- Assessing the risks and resources required
- Assessing the potential benefits

Open to all options

- Not relying on one model of delivery - for example, sharing resources and facilities, utilising new technology to make it easier to do business with us, initiating enterprising activities to generate income and using our skills and resources differently through our organisational agility.
- Focusing on what works and who is best placed to deliver what is needed

Delivers the right results

- Being confident that we'll get the best outcomes for our residents
- Ensuring the right approach at the right price that delivers value for money

Continuous review

- Ensuring ongoing delivery of efficient and effective services
- Measuring the right things at the right time through our performance boards
- Looking at every pound spent in every service against the backdrop of what people need
- Learning from our successes and failures

Our priorities for 2015 to 2019 and beyond

Our last plan focused on meeting people's basic needs: a job; a decent environment; a roof over their head and a supportive community. This plan builds on these strong foundations. It is about investing in Test Valley to be a great place to:

- **Work and do business**
- **Live, where the supply of homes reflects local need**
- **Enjoy the natural and built environment**
- **Contribute and be part of a strong community**

Investing in a great place to... **work and do business**

Over the next four years and beyond we will invest in:

- opportunities that help support businesses in Test Valley
- securing delivery of the right infrastructure so people can work and do business locally
- developing the skills that are needed to develop the local economy
- our town centres
- building on our reputation of being “open for business” to welcome and retain businesses in the borough.

What's going to happen as a result?

- We will develop practical initiatives in partnership with the business community to help small businesses. Initiatives such as pop-up shops, start up accommodation at Walworth Enterprise Centre and Basepoint, and business grants are all ways we shall support local businesses.
- Our business parks will be enhanced as locations that meet commercial demand, access to superfast broadband will increase and we will pursue delivery of key infrastructure through the planning system.
- We will facilitate the coming together of businesses and education providers to develop the skills needed to enhance our local economy.
- Our town centre environments will improve, making the most of their important market town heritage. We will also work with our communities through the Romsey Future and Andover Encounters projects to identify and develop new initiatives.
- We shall work with the EM3 Local Enterprise Partnership in pursuance of their strategic aim to “unlock Andover’s latent economic potential” as a designated “Step-up-town”.
- We shall work with the Solent Local Enterprise Partnership in pursuance of their strategic aim to “support innovation-led growth”. This will look to the continuing role the Science Park in southern Test Valley can play in developing this industry.

- The next review of the Local Plan will also provide a long term strategic overview of what is needed to support economic development and we will make our offer clearer by developing an economic development strategy.

Investing in a great place to... **live, where the supply of homes reflects local needs**

Over the next four years and beyond we will invest in:

- our communities, so they have the tools, confidence and means to be able to work with us to deliver their local housing needs
- maintaining and developing the safety net for those who have the greatest housing need and are most vulnerable
- making best use of existing housing and improving standards
- ensuring that new housing developments provide residents with a quality environment in which to live

What's going to happen as a result?

- A new housing strategy will be produced setting out a new housing offer, which will improve the deliverability of local homes that reflect local needs.
- Communities will be supported to play their part in helping to deliver more local homes that reflect the needs of their community. Neighbourhood planning will be a force for good to help take this forward.
- The first review of the Local Plan will present an opportunity to work more closely with communities around the future allocation of housing sites.
- The Council will explore practical ways in which it could help to deliver more homes that reflect the different needs of the Borough. This will also include maximising the supply of affordable homes.
- New developments will meet the highest quality standards with the homes they provide and the environment they create. We will use the planning system to help deliver this.

Investing in a great place to... **enjoy the natural and built environment**

Over the next four years and beyond we will invest in:

- keeping our parks, nature reserves and recreational spaces in good order and well maintained
- protecting and improving access to the countryside
- delivering new outdoor spaces which people can enjoy
- improving and delivering new leisure facilities for the borough
- increasing our green credentials and showing leadership in green energy initiatives where it makes good business sense to do so
- increasing recycling and reducing the amount of household waste.

What's going to happen as a result?

- Our existing parks, nature reserves and recreational spaces will continue to meet high quality standards.
- We will deliver a new nature reserve at Fishlake Meadows and support the development of the Forest Park as a recreational space.
- We will let a new leisure management contract in 2017. During the life of the plan we will start redevelopment of Andover Leisure Centre and put forward plans for the enhancement of Romsey Rapids.
- We will deliver on our Local Plan aspiration to see Ganger Farm developed into an important outdoor sports facility for the borough.
- We will encourage greater use of green energy within our own buildings, through a range of community initiatives and commercial opportunities.
- A full review of our Waste Strategy will take place which will consider all the options and costs for how we could increase current levels of recycling.

Investing in a great place to... **contribute and be part of a strong community**

Over the next four years and beyond we will invest in:

- our communities to help them plan for their own needs
- helping our communities to be more resilient and do more for themselves
- local democracy to ensure all views within communities are heard.

What's going to happen as a result?

- We will strengthen the knowledge and skills of local councillors to enable them to work with their communities to get things done that matter most to residents.
- Communities will be able to access the financial support they need to get their projects off the ground through the Community Asset Fund and Councillor Community Grant schemes.
- Councillors will work with their local communities to draw together local action plans. This will help communities to plan ahead, pinpoint where they need help and support and influence future allocation of resources.
- Local communities and organisations will work together more closely to address issues as a result of community planning initiatives such as Romsey Future, the Encounters project in Andover and local action plans.
- Communities will be encouraged to develop their own action plans and initiatives in order to be more self sufficient. Examples could include preparing plans to deal with flooding in their communities, improving the green credentials of their area, looking out for those who are more vulnerable, tackling nuisance problems such as dog fouling and keeping areas clean.

Looking forward – delivering our priorities and understanding the impact we make

The Corporate Plan sets out our priorities, which provide the direction and focus for our activities and guide how we will allocate resources over the next four years. It also outlines the impact we hope to have as a result of our actions so that we can demonstrate to residents how we are continuing to work towards our vision to improve quality of life in Test Valley and be an organisation of excellence.

The Corporate Plan is underpinned by a **Corporate Action Plan** which will run for the lifetime of the plan and be updated annually. This will show, in detail, how we intend to make progress by focusing on the specific actions we will take forward against each of the priorities.

Each of our services will also produce an annual service plan. This describes the things they do and how they will contribute to the Corporate Plan priorities.

We will monitor our progress by understanding the impact of our work, which will show the difference we've made as a result. This will be done by having a range of performance and satisfaction based indicators against which our progress can be judged.

Back page – detail of values designed in

Accountability – We are accountable to all of the people of Test Valley for our actions and how we use resources, ensuring that we provide value for money

Ambition – We are a dynamic organisation committed to achieving, improving and innovating

Empowerment – We are an organisation committed to continuous learning, enabling and motivating all of our people to do their best work

Inclusiveness – We value diversity, promote equality of opportunity for all, and ensure that our services are accessible to everyone in Test Valley

Integrity – We ensure that as an organisation, our communities can trust us to act fairly and honestly, and so can our staff

ITEM 10 Review and Revision of the Code of Conduct

Report of the Head of Legal and Democratic Services

Recommended:

That OSCOM consider THE revised Code of Conduct and Arrangements for Dealing with Complaints and particularly the text highlighted in yellow at Annex 1 and approve the same or otherwise make further recommendations to Cabinet.

SUMMARY:

This report constitutes the review of the Code of Conduct and Arrangements for Dealing with Complaints.

The report benefits from both advice of a senior barrister which was received in the context of Member's interests and the Revised Local Plan and also a wider consultative exercise undertaken by HIOWLA and led by Kevin Gardner in his capacity as Clerk to Hampshire Fire and Rescue Authority.

The report recommends revisions to both the Code of Conduct and the Arrangements for Dealing with Complaints, and significantly the substitution of "Personal Interests" for "Code of Conduct Interests".

1 Introduction

1.1 The Localism Act 2011 ("the Act") changed the ethical framework of local government to dispense with both the Model Code and the Standards Board for England. The Act intended that Members would be given greater liberty to advocate and challenge under a new and apparently less onerous code of conduct.

1.2 The Act requires that each Council adopts a code of conduct ("the Code") which both promotes and maintains high standards of conduct by Members of the Council. The Code should reflect specific principles set out in the Act, namely:

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership.

- 1.2.1 The Code must include appropriate requirements and procedures in respect of the registration, and disclosure, of pecuniary interests, and interests other than pecuniary interests. Breach of the Code is a matter for the Council. However, criminal offences are created in respect of the failure to disclose pecuniary interests.
- 1.2.2 The Council duly adopted a Code of Conduct on 4 July 2012, and subsequently delegated functions regarding the effective administration of complaints and the requirement for dispensations as provided for in the legislation.
- 1.2.3 More recently the Head of Legal and Democratic Services sought advice of a senior barrister regarding Members' disclosable pecuniary interests pursuant to the provisions of the Localism Act and regarding the interpretation and application of the Members' Code of Conduct, in the context of the Revised Local Plan and the decisions which fall to be made by Council. As a consequence of that advice, which gave consideration to the Code of Conduct Interest in addition to the impact of disclosable pecuniary interests, it was necessary for Members to be granted a dispensation in order to participate in the debate and progress of the Revised Local plan.
- 1.3 In addition it has become increasingly apparent that the Code fails to address Members' concerns regarding the transparency of their respective interests whether as Council appointees or privately in various charities and other community organisations.

2 Proposed Revision of the Code

Code of Conduct Interest ("CoCi")

- 2.1 The Act does not limit what might be included in the Code, only what **must** be included. Accordingly, the scope and content of the Code was agreed in consultation with Members having regard to the requirements of the Act, the dismantling of a national standards board, and Members' own concern that consideration should be given to interests which might arise in addition to those matters described in legislation as "disclosable pecuniary interests" ("dpi"). Those additional interests appear in the Code at Part 3: Interests. Paragraph 2: Code of Conduct Interests ("CoCi").
- 2.2 A dpi is as defined in the legislation.
- 2.3 A CoCi is defined only in the Code and is unique to this Council. A CoCi is a pecuniary interest, which whilst not a dpi will..."affect you...or relate to or affect a relevant person as defined in the Regulations, a member of your family or a close friend."

- 2.4 The Code requires the declaration of both dpi and CoCi where such interests are interests “in any matter to be considered”. A Member with a CoCi must leave the room and cannot vote (just as for a dpi), but may first make a statement as if a member of the public.
- 2.5 The draconian nature of the CoCi became clear when Council was required to consider the Revised Local Plan.
- 2.6 During 2014, the Head of Legal and Democratic Services instructed a senior barrister to advise as to the nature and consequence of the Code for Members when considering the Revised Local Plan.
- 2.7 The barrister advised insofar as Code of Conduct Interests that all Members with close friends and family, who owned property or operated businesses in the Borough which would be “affected” by the Revised Local Plan had a CoCi. That meant that essentially all Members would be precluded from debating or voting upon, the Revised Local Plan but for the grant of a dispensation.
- 2.8 The impact of the CoCi upon Members and the business of Council was as draconian as if such interests constituted statutory interests (dpi): the Council would be unable to transact business (it being likely that all Members have close friends and family living within the Borough, with homes and/or businesses and who would be “affected”).
- 2.9 It is now clear that the CoCi whilst intending to address the initial concerns of Members regarding interests which would not otherwise be caught by provisions in respect of dpi, far exceeds the requirement of the law, and unlike both the dpi which has clear statutory definition and its predecessor the “personal and prejudicial interest”, the CoCi has no limitations or moderating criteria.
- 2.10 Finally, the barrister was particularly concerned that all Members should have regard to the law of bias. The barrister advised that, whilst the law as it related to the Code and the law of bias were not the same (only the latter being the legal basis upon which a decision might be found to be unlawful), the failure on the part of Members to consider the Code carefully and to make relevant declarations, could only add weight to an allegation of bias and so render the decision of Council vulnerable to challenge in the courts.
- 2.11 In short, by application of the Code Members might ensure that they are seen to act without bias and consequently protect the decisions taken by Council or other committees against challenge through the Courts for reason of common law bias. Therefore, it is necessary that the Code should provide Members with sufficient guidance and clarity around such matters that they are able to give due consideration to their position before participating in the decision-making process.

- 2.12 The second element which suggests the necessary revision and replacement of the CoCi relates to those Members who are members of charities and other organisations, whether as appointees or privately. Previously, these “interests” were explicitly addressed in the Model Code of Conduct and for the most part were not interests which served to prevent full participation. Currently, there is no guidance or provision which would ensure clarity and transparency and so secure the integrity of the Member’s position. It appears that having regard to the current Code, such external roles do not constitute an interest of any sort.
- 2.13 Currently, Members make declarations of interest which have no origin in the Code, and which do not constitute “interests” but about which Members clearly wish to be clear and transparent.

“Personal Interests”

- 2.14 The draft revised Code which details the proposed changes to the Code is attached at Annex 1.
- 2.15 It is recommended that the Code of Conduct Interest is replaced with “Personal Interests” (“PI”), largely as framed during the HLOWLA consultation which ambitiously sought to establish a pan-Hampshire Code of Conduct. Nonetheless, there was by and large agreement across a number of authorities as to how interests other than dpi might be addressed.
- 2.16 The definition of a PI includes membership of other bodies such as charities, other public authorities and bodies seeking to influence opinion. The PI allows Members to declare an interest and so secure the transparency they seek at present.
- 2.17 Personal Interests also cover those interests which lie outside the definition of dpi, as required by the Act. However, unlike the CoCi which covers any and all pecuniary interests, even those that merely “relate” to particular person, the PI restores a sense of proportionality to the assessment of that interest. Whilst the PI addresses both “well-being” and “financial position”, such matters are only relevant where the degree by which a Member’s family or others of close association are affected more than any other inhabitant of the Borough.
- 2.18 Significantly, unlike a CoCi a Member is not compelled to withdraw from the meeting having made a statement, but rather can participate fully. That continued participation aligns more closely with the Act but is subject to the necessary consideration of bias, and the overarching principles of conduct in public service which are recited in the Code.
- 2.19 The draft Code of Conduct expressly allows Members with a PI to decline to participate in a meeting where that Member concludes that it would be inappropriate, for whatever reason, having sought advice where appropriate.

- 2.20 Whilst the proposed revision does not relieve Members of the requirement to consider such interests carefully, and that these issues will continue to be on occasion complex, it is submitted that the draft provides greater clarity around such interests and supports Members in their essential role as participants in decision-making.
- 2.21 In order to assist both individual Members and the committee process Members will be able to complete a Declaration of Interest form prior to the meeting (the form to be available on the Members Portal), the terms of which will be read out at the start of the meeting by the committee administrator.
- 2.22 The draft Code at Annex 1 includes text highlighted in yellow. The current Code does not expressly include close friends of your family members, only “close friends” of the Member. A “close associate” could include an employer or business partner, or a landlord for example, as well as a friend.
- 2.23 The term “close associate” is proposed in order that Members might guard against bias. Whilst a reasonable observer might conclude that Members might readily favour their close friends, such an observer could equally conclude that Members would disfavour those for whom there is some enmity on the part of the Member. Both the favour and the disfavour in such circumstances could constitute bias and render a decision unlawful at the instance of the Court.

Disclosable Pecuniary Interests (“dpi”)

- 2.24 These interests are defined by legislation and are a mandatory element of the Code.
- 2.25 The failure to comply with the Code in respect of dpi carries criminal sanctions which in part explains the demise of the Standards Board for England. An alleged failure to declare a dpi is a matter for the police rather than the Monitoring officer. Members will be aware that elsewhere criminal investigations and prosecutions have been undertaken.
- 2.26 Whilst the explanation of dpi in the current Code is not incorrect, the style of presentation by which it has been attempted to weave together both dpis and “Code of Conduct Interests” and all that follows, makes for difficult reading and accurate interpretation by Members and officers alike.
- 2.27 The draft revised Code necessarily incorporates all the information which is found in the current Code. The format however is different, intending to provide Members with a more coherent description of such interests, the requirements for registration and declaration, and the consequences which follow the declaration of such an interest at a meeting of the Council or one of its committees.

- 2.28 Dual-hatted Members who are County Councillors will be familiar with the format. However, there are points of difference which reflect more closely the Council's interpretation of the Act and which follow the Members' requirements expressed through Member workshop and consultation during 2012. A particular point of difference retained in the proposed revised Code is the requirement to withdraw from the room having declared a dpi.
- 2.29 Similarly, the revised Code retains the requirement that such declarations are made whenever the Member is "present" at a meeting of the council, and is not contingent upon being present as a member of the committee or otherwise a participant. That is what the Act requires and which as a principle, is consistent with decisions of the appellate courts albeit regarding the previous Model Code.
- 2.30 Finally and consistently with the current Code, the Act is followed to the letter so that there can be no participation by Members who declare a dpi at those meetings.
- 2.31 The draft revised Code at Part 4: Registration and Disclosure of Disclosable Pecuniary Interests includes optional text for Members to consider highlighted in yellow.
- 2.32 The current Code of Conduct requires that both the "existence and nature" of the interest is disclosed at the meeting. That provision exceeds what is required by law, particularly where the interest is recorded in the Member's Register of Interests. However, Members may even so prefer that those attending the meeting, and who perhaps have not had sight of the Register of Interests should understand both the nature of the interest, not merely its existence in law, and to that extent retain the wording of the current Code.
- 2.33 In view of the overarching requirement that there shall be transparency in all Members do, guidance from Members is sought as to whether any further detail need be given to the meeting where the nature of that dpi is already recorded in the Register. Members have a choice: by law they are not required to disclose the nature of their interest, only the existence.

Sensitive Interests

- 2.34 Sensitive interests are those interests which could cause the Member or a person connected with the Member to suffer intimidation or violence.
- 2.35 The current Code explains what a sensitive interests is and how it might be recorded on the Register. However the Code does not advise that such interests need not be registered at all, or how a sensitive interests which is also a dpi might be declared at a meeting.
- 2.36 The revised Code addresses both of these issues.

Other recommended revisions to the Code

2.37 Part 1: General Provisions.

- (a) The current Code makes no reference to the statutory requirement to publish the Members Register of Interests or to permit inspection of the Register during reasonable hours.
- (b) The revised Code includes those statutory requirements at paragraph 4,

2.38 Part 2: General Obligations for Members

- (a) Whilst current Members understand that they are bound to act in accordance with the legal obligations, policies and procedures of the Council, it is nonetheless a fundamental obligation which is appropriate to include in Part 2 in order to ensure that new Members and members of the public are similarly aware. The obligation is noted at paragraph 1.3.
- (b) The issue of bias is nowhere addressed in the current Code. It is recommended that Members should have clear guidance as to the necessity for independent judgement. The revised obligation appears at paragraph 2.1.

3 Arrangements for Dealing with Complaints Corporate Objectives and Priorities (“the Arrangements”) (Annex 2)

3.1 The Act whilst requiring that arrangements were in place to deal with complaints, reduced the effective sanctions available to the Council and particularly so regarding complaints relating to Parish Councillors.

3.2 The sanctions available are:

3.2.1 Where the matter relates to a Borough Councillor, that the Member be censured;

3.2.2 Where the matter relates to a Parish or Town Councillor, that it be recommended to the Council concerned that the member be censured (in which case it is a matter for that Parish or Town Council to decide whether to accept such a recommendation);

3.2.3 That there shall be whatever publicity regarding the sanction considered appropriate;

3.2.4 That it be recommended to the Council that the Member be removed from a specific committee(s).

3.3 The current arrangements provide for a process of initial assessment of a complaint by the Employment Appeals and Ethics Sub-Committee. That assessment does not make any finding of fact or determine the merit of the complaint but considers the complaint against certain criteria found at Annex 1 to the Arrangements for Dealing with complaints.

- 3.4 The recommended revision to the Arrangements allows for the initial assessment to be undertaken by means of consultation between the Monitoring Officer and the chairman of the Employment Appeals and Ethics Committee, and where the subject Member has requested, the Independent Person.
- 3.5 The revised procedure is intended to ensure that whilst there can be a full consideration of the complaint with Member participation, that consideration is not delayed by committee process which delay serves only to exacerbate the sense of grievance and anxiety of both complainant and Member alike.

4 Consultations/Communications

- 4.1 The report has been considered by the Corporate Portfolio Holder. The report will proceed to the General Purposes Committee and to Cabinet before then being considered by Council. All Members have been consulted and their comments considered in the drafting of this report and the attached Annexes.

5 Option Appraisal

- 5.1 The Council can decide not to adopt the revised Code of Conduct and/or Arrangements for Dealing with Complaints. In that event Members would continue to conduct themselves having regard to the current Code of Conduct and complaints would be managed under the existing Arrangements
- 5.2 The Council can decide to adopt the revised Code of Conduct and/or the Arrangements for Dealing with Complaints. In that event each Member would conduct him/herself having regard to the revised Code of Conduct and complaints would be managed under the revised Arrangements.
- 5.3 The second option is recommended by Officers. The revised Code of Conduct proposes greater clarity regarding both interests which are disclosable pecuniary interests and those which are not disclosable pecuniary interest. The revised Code enables Members to participate fully in the business of Council and its committees, as intended by the Act, having declared such interests and so secured the requisite transparency and openness which underpins the integrity of the decision-making process.
- 5.4 The revision to the Arrangements enables both complainants and Members reasonably to expect the swift assessment of complaints and so is consistent with that fundamental principle of natural justice.

6 Resource Implications

- 6.1 There are none save the resource engaged in publishing the revised documents and further training of Members.

7 Legal Implications

- 7.1 The legal implications are as set out above.

8 Other Issues

8.1 Wards/Communities Affected

8.1.1 All wards and communities in the Borough are affected

9 Conclusion

9.1 Members are required to have regard to the Members Code of Conduct when attending meetings and to declare interests as appropriate. The current Code of Conduct has not always proved easy to navigate for Members much less, members of the public. The proposed revisions to the Code of Conduct intend greater clarity and certainty regarding the integrity of the Members position and to enable a more effective complaints process.

Background Papers (Local Government Act 1972 Section 100D)

Report of Corporate Portfolio Holder- Council- 4 July 2012

Report of Corporate Portfolio Holder- General Purposes Committee- 2013

Report of Corporate Portfolio Holder- Council- 2014

Code of Conduct - 2012

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	2		
Author:	Bill Lynds	Ext:	8401
File Ref:			
Report to:	OSCOM	Date:	17 March 2015

**DRAFT REVISED CODE
MARCH 2015**

New Text highlighted green

**Optional text for Members guidance
highlighted yellow**

Test Valley Borough Council

MEMBERS' CODE OF CONDUCT

Part 1: General Provisions

1. This Code is adopted pursuant to the Council's statutory duty to promote and maintain high standards of Conduct by members of the Council. It complies with the requirements of Section 28 of the Localism Act 2011 and is consistent with the principles set out in that section and which are listed in paragraph 5 below.
2. This Code applies to **you** being a holder of public office as a member of Test Valley Borough Council ("the Council") when acting in your role as a member.
3. This Code is not intended to be an exhaustive list of all the legal and constitutional obligations placed on Members of this Council. It is your responsibility to comply with the following provisions of this Code as well as other legal obligations beyond the scope of this Code.
4. In the interests of transparency and openness and in accordance with the requirements of the Localism Act 2011, a copy of the Register of Members' Interests is published on the Council's website, and is available for public inspection at the Council's offices at all reasonable hours¹.
5. This Code is based on and consistent with the following 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.

¹ This is the requirement of the legislation. "All reasonable hours" is the wording of the legislation and appears to provide an effective degree of discretion. At present there is no reference to these statutory requirements in our published material. It is appropriate to include such matters which are directly relevant to the Code within the Code itself.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that 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.

Part 2: General obligations for members

2.1 When acting in your role as a member of the Council:

2.1.1 **Do** treat others with respect.

2.1.2 **Do** ensure that you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Member and on the Council as a whole.

2.1.3 **Do ensure that you behave in accordance with all the Council's legal obligations, policies, protocols and procedures as they relate to your conduct.**²

2.1.4 **Do not** do anything which may cause your Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006(a)).

2.1.5 **Do not** bully any person (bullying is offensive, intimidating, malicious, insulting or humiliating behaviour that is directed at someone over whom you have some actual or potential influence).

2.1.6 **Do not** intimidate or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.

2.1.7 **Do not** do anything which compromises, or is likely to compromise the impartiality of those who work for, or on behalf of, your Council.

² There are protocols and codes that relate to the members role in planning, the relationship with officers, as well as policies regarding electronic communications and occasional guidance on conduct during the pre-election period. All these and those others which will be required from time to time are captured here.

- 2.1.8 **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
- 2.1.8.1 you have the consent of a person authorised to give it;
 - 2.1.8.2 you are required by law to do so;
 - 2.1.8.3 the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - 2.1.8.4 the disclosure is—
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Council
- 2.1.9 **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- 2.1.10 **Do not** use or try to use your position improperly to obtain an advantage or disadvantage for yourself or any other person or body.

2.2 When making decisions on behalf of or as part of the Council:

- 2.2.1 **Do exercise independent judgement and do not compromise your position by placing yourself under any obligations to outside individuals or organisations who might seek to influence your decision.**³
- 2.2.2 **Do** have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.
- 2.2.3 **Do** give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

2.3 When using or authorising the use by others of the resources of the Council—

- 2.3.1 **Do** act in accordance with the Council's reasonable requirements including the requirements of the Council's Electronic Communications Policy for Members which you are deemed to have read;
- 2.3.2 **Do** make sure that such resources are not used improperly or improperly⁴ for political purposes (including party political purposes); and

³ This captures one of the fundamental principles at the heart of any decision-making process. Adherence to this principle goes some considerable way to excluding bias in decision-making.

2.3.3 **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

2.3.4 **Do not** improperly use knowledge gained solely as a result of your role as a member for the advancement of your Disclosable Pecuniary Interests.

Part 3: Disclosable Pecuniary Interests⁵

Introduction

3.1 A disclosable pecuniary interest is an interest falling within the Schedule set out at Paragraph 3 below of:

3.1.1 Yourself; or

3.1.2 Your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.

Interpretation

3.2 In the Schedule set out below, the following words or expressions mean as follows:

3.2.1 'the Act' means the Localism Act 2011;

3.2.2 'body in which the relevant person has a beneficial interest' means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

3.2.3 'director' includes a member of the committee of management of an industrial and provident society;

3.2.4 'land' excludes an easement, servitude, interest or right in or over

⁴ Such resources could be used "improperly" as noted in the Electronic Communications Policy, but also improperly for political purposes, such as TVBC email addresses being utilised by Members during election campaigns.

⁵ Whilst the explanation of Disclosable Pecuniary Interests is not incorrect, the style of presentation by which it has been attempted to weave together both DPIs and "Code of Conduct Interest" and all that follows, makes for difficult reading and accurate interpretation. It is proposed to adopt the clearer, rather more coherent style which is consistent with the presentation of the HIOWLA pan-Hampshire Code and upon which all Authorities were consulted.

land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

- 3.2.5 'M' means a member of a relevant authority;
- 3.2.6 'member' includes a co-opted member;
- 3.2.7 'relevant authority' means the Council of which M is a member;
- 3.2.8 'relevant period' means the period of 12 months ending with the day on which M gives a notification for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act;
- 3.2.9 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 (2000 c. 8) and other securities of any description, other than money deposited with a building society.

Schedule of Disclosable Pecuniary Interests

Subject	Prescribed description
Employment, office, trade profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (1992 c. 52).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies	Any tenancy where (to M's knowledge): (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: (a) that body (to M's knowledge) has a place of business or land in the the area of the relevant authority; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

Part 4: Registration and Disclosure of Disclosable Pecuniary Interests

Obligations

4.1. You must, within 28 days of taking office as a Member or Co-opted Member of the Council, notify the Council's Monitoring Officer of any disclosable pecuniary interests as defined by regulations made by the Secretary of State (as set out at Part 3 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

4.2. You must also, within 28 days of becoming aware of any new disclosable pecuniary interest, or change thereto, notify the Council's Monitoring Officer of such new or changed interest.

4.3. If you have a disclosable pecuniary interest included on the Register of Members' Interests in any matter to be considered⁶ at any meeting of the Council, its Cabinet or Committees, at which you are present (even though you are not a member of the committee and are seated with the public)⁷, you⁸ must disclose that interest. Such an interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You do not need to disclose details of the interest itself⁹. Or (as the current Code says...) You must disclose

⁶ The HIOWLA/HCC Code appears to overlook any need for there to be some relevance of the dpi to the business in hand.

⁷ The Localism Act requires such declarations whenever the Member is "present" at a "meeting" of the council. Being "present" is interpreted as being within the room in other contexts, such as when we consider disqualification of Members for failure to attend the requisite number of meetings (s.85 of the Local Government Act 1972). Further, it is long established that a Member may be influential when merely an observer and to that end Members have under the previous Model Code and now under the Act, been required to leave the meeting room where they have a pecuniary interest. Whilst those who drafted the statute might have intended "present" to refer to being an active participant, that is not what the Act says and so I have not followed the County's interpretation which requires "participation" before an interest must be declared.

⁸ In order to avoid the occasional difficulties with making such declarations and those declarations relating to "personal interests" (see below), officers propose that Members complete a simple form, seeking assistance of officers if required, which is read out by the committee administrator. The form would cover not only DPIs but also personal interests, such as membership of charities and the nature of relationships with applicants for planning permission.

⁹ The current Code of Conduct requires that both the "existence and nature" of the interest is disclosed at the meeting. That provision exceeds what is required by law

the existence and nature of that interest to the meeting.

4.4. If a disclosable pecuniary interest has not been entered onto the Council's Register of Interests, then you must also disclose the interest to any meeting of the Council, its Committees or the Cabinet at which you are present where you have such an interest in any matter being considered. Such an interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You should disclose the existence and the nature of the interest to the meeting¹⁰. Following disclosure of a disclosable pecuniary interest not on the Council's Register or the

where the interest is recorded in the Member's Register of Interests, in which case only the existence of the interest need be declared. Neither is it clear whether a declaration of a dpi which has not been registered must necessarily include an explanation of the nature of the interest. In view of the overarching requirement that there shall be transparency in all Members do, guidance from Members is sought as to whether any further detail need be given to the meeting where the nature of that dpi is already recorded in the Register. Members have a choice: by law they are not required to disclose the nature of their interest, only the existence.

¹⁰ See fng . The words "existence and nature" are taken from Para 5 a of the current Code. Remember, in these circumstances the Member's interest has not been made public by entry on to the Register (which may in itself constitute a breach of the Code), so the first the public know of any relevant dpi is in the meeting. Would it be enough to simply declare a dpi without any explanation? To what extent would that provide for transparency and openness for the public? Without being able to refer to the Register, would a bald declaration simply raise more questions?

subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.

4.5. Unless a dispensation has been granted in respect of a matter in which you have a disclosable pecuniary interest, you may not:

4.5.1. participate in any discussion related to that matter,

4.5.2. vote on that matter

4.5.3. discharge any function related to that matter

4.6. As soon as it becomes apparent that you have such an interest you must withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business.

4.7. If acting as a single Portfolio Holder you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.¹¹

Part 5: Personal Interests¹²

¹¹ The County permit Members who have declared a dpi to speak at a meeting in circumstances where the general public are permitted to speak. That is not what the legislation says. Neither does it reflect the Court's judgement albeit regarding the Model Code, but which nonetheless found the balance to weigh against the assertion of rights of a member as a private individual, in favour of the importance of maintaining high standards of conduct in public office.

¹² Counsel (advising in the context of Member interests and the Local plan) was critical of the "Code of Conduct Interests" which appeared to render all of our Members vulnerable and which arguably provided for even the slightest "affect" – being no more or less than experienced by the population of the ward or borough generally- to constitute an interest and so disentitle Members from voting. More frequently, Members are baffled by the apparent absence of any means to declare some association or "interest" arising from membership of charities or other organisations, whether as Council appointees, or in their private capacity. The discussions of the HIOWLA group led to the drafting of provisions to cover those interests which were not dpis, and which interests were termed "personal interests". Personal interests cover both pecuniary and non-pecuniary interests which are not dpis. The HIOWLA group noted: *"The Localism Act reduced the scope of interests legally required to be registered and disclosed, leaving the making of additional provision to local discretion. There is a feeling that some disclosure of personal interests remains appropriate in the handling of certain potentially sensitive types of business (e.g. planning applications, the award of grants and contracts), where reliance solely on the rules relating to DPis would not afford a sufficient level of transparency."*

5.1 You have a “personal interest” in an item of business where it relates to or is likely to affect any of the following bodies of which you are a member: a public or charitable body, any body to which the Member has been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.

5.2 You also have a “personal interest” (but which is not a disclosable pecuniary interest)¹³ in an item of business or decision affecting the well being or financial position of:

- a member of the your family, or their close associates or close friends;

- your close associates¹⁴;

where the affect upon them might reasonably be regarded as greater than that on other council tax payers, ratepayers or inhabitants of the authority’s area¹⁵.

5.3 Where you believe you have a “personal interest” under 5.1 or 5.2 you should also consider whether a reasonable person might think that your personal interest is so significant that it would impair your ability to judge the public interest. You should seek the advice of the Monitoring Officer in these circumstances before participating in the meeting or business of the Council.

5.4 Where you have¹⁶ a “personal interest” in any business of the Council you shall disclose that interest at any meeting of the authority, committee or sub-

¹³ The HIOWLA draft includes “well being or financial position” of the Member. Certainly the “financial position” of a Member would constitute a “disclosable pecuniary interest”, and “well being” is usually difficult to distinguish from the financial interest which underpins it, and so for that reason would put Members in a potentially vulnerable position were they to be challenged for failing to declare a dpi. Consequently I have excluded Members interests where they would, or might arguably, constitute dpis.

¹⁴ This is an option for Members to consider. The current Code doesn’t include close friends of your family members, only close friends of the member. “Close associate” means someone who you would be likely to favour/disfavour because of that relationship, not merely “close friends”. It is wider than close friend and goes to addressing allegations of bias. Could you reach an impartial judgement in respect of someone with whom there was some dispute or enmity?

¹⁵ The qualification included in this paragraph – “ more than...”- is one which I raised with Counsel and which Counsel opined could not be implied into our Code of Conduct Interest, and which consequently left all Members vulnerable to the unrestricted interpretation of “affect” with regard to any and all business of the Council.

¹⁶ I would propose that we provide Members with a form on which they note their interest, and which the committee admin officer then reads out to the meeting.

committee, where you consider that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting. The requirement to declare a personal interest only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

5.5 Disclosure of a personal interest does not affect your ability to participate in a discussion or vote on the relevant item.

5.6 Where you have a personal interest, if you consider, having taken advice, that you should not participate in the business being considered, you should leave the room where the business is being considered after exercising any right to speak which a member of the public would have (and subject to complying with any such requirements as to registration)¹⁷

Part 6: Sensitive Interests¹⁸

6.1 These are interests where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation.

6.2 A sensitive disclosable pecuniary interest or a change to such an interest must be notified to the Monitoring officer.

6.3 If the Monitoring Officer agrees, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest which shall be recorded as withheld under Section 32(2) of the Localism Act 2011.

6.4 The requirement to declare such an interest at meetings shall be discharged simply by stating that you have a disclosable pecuniary interest or a personal interest in the matter concerned. You are not required to disclose the detail of the interest.

Part 7: Offences

It is a criminal offence to

¹⁷ This paragraph really addresses the possibility of “bias”: would the personal interest lead a reasonable person to consider that there was a real risk of bias? If so, the Member should seek advice and should withdraw, save that the Member can speak as a member of the public provided s/he completes the requisite registration procedure. “Bias” is truly a legal argument for a court by way of judicial review and to which the code and the complaints process are unsuited as a means of adjudication.

¹⁸ We didn’t say in the last Code what a Member should do with a “sensitive interest”.

- a. fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election.
- b. fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register.
- c. fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting.
- d. participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- e. as an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- f. knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

CODE OF CONDUCT

LOCALISM ACT 2011 SECTION 28 - ARRANGEMENTS FOR DEALING WITH COMPLAINTS

1. Making complaints

Any complaint that a Member has failed to comply with the Code of Conduct should be addressed to:

The Monitoring Officer
Test Valley Borough Council
Beech Hurst
Weyhill Road
Andover
SP10 2AJ

A form for making complaints is available. Its use is encouraged, but is not essential providing the complaint includes all the necessary information.

2. Initial action by Monitoring Officer

On receiving the complaint the Monitoring Officer will dismiss it without further action if:

- (a) The person complained about is no longer a member of the relevant Council; or
- (b) The Monitoring Officer considers the complaint does not relate to behaviour in the Member's official capacity as a Councillor; or
- (c) The matter being complained about happened more than 12 months before the complaint was received; or
- (d) The matter being complained about came to the complainant's notice more than 6 months before the complaint was received; or
- (e) The complaint is made anonymously without any independent evidence to substantiate the complaint.

The Monitoring Officer will inform the complainant and the member accordingly. Before making his/her decision the Monitoring Officer may consult with an Independent Person appointed under section 28 of the Localism Act 2011 if he/she considers it appropriate.

If the Monitoring Officer does not dismiss the complaint on one of the above grounds, he/she will acknowledge it and inform the complainant of the procedure to be followed. The Monitoring Officer may ask the complainant for further information or clarification.

The Monitoring Officer will (except in exceptional circumstances where he/she considers that it is in the public interest not to do so) send the member complained about a copy of the complaint, and invite the member to submit initial written comments within 10 working days.

The Monitoring Officer will also:

- (a) Ask the member if they wish the views of an Independent Person to be invited when the complaint is initially examined; and
- (b) Ask the member any specific questions the Monitoring Officer considers will assist the initial assessment of the complaint.

As an alternative to the above action, the Monitoring Officer may, if he/she considers it appropriate, and, after consultation with the Independent Person, refer the complaint to the Police and take no further action under this procedure unless and until informed by the Police that they will not proceed. (Note: this is only possible where the complaint relates to Disclosable Pecuniary Interest as defined in Section 30(3) of the Localism Act 2011)

3. Alternative action by the Monitoring Officer

If the Monitoring Officer considers it appropriate and if the complainant agrees, the Monitoring Officer can discuss with the member complained about whether he/she is willing to make an apology to the complainant.

If an apology is given this will be the end of the matter.

4. Initial assessment of the complaint

If the Monitoring Officer does not dismiss the complaint or alternative action is inappropriate or the complainant is unwilling to pursue it, the initial assessment will, if practicable, take place within 15 working days of receipt of the member's written comments under section 2 above.

The decision on the initial assessment will be made by the Monitoring Officer in consultation with the Chairman of the Employment Appeals and Ethics Sub-Committee of the General Purposes Committee (the Sub-Committee), together with the Independent Person if the member has requested his/her involvement or the Monitoring Officer considers his/her involvement appropriate.

The Monitoring Officer will send to the Chairman of the Employment Appeals and Ethics Sub-Committee and (if participating) the Independent Person

- (a) A copy of the complaint
- (b) A copy of the member's comments in response to the complaint

- (c) Any other information in the Monitoring Officer's possession that he/she considers relevant.

The decision of the Monitoring Officer in consultation with the Chairman of the Employment Appeals and Ethics Sub-Committee (if participating the Independent Person) on the initial assessment, with reasons and the views of the IP (if involved) will be given in writing to the member, the complainant, and the Clerk to the Parish/Town Council (if the complaint was about a Parish/Town Councillor) within 5 working days.

There will be no right of appeal.

The decision will be available for public inspection.

5. Decision Options at Initial Assessment

The options upon initial assessment are:

- (a) To take no action (see Appendix 1); or
- (b) To attempt to resolve the matter informally between the complainant and member, either in writing, by face-to-face meeting, or by any other method they consider appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved to the satisfaction of the member and the complainant, options (a), (c) and (d) will remain open; or
- (c) To arrange a hearing before the Sub-Committee and the IP, at which the member and complainant can state their case and, if appropriate, call witnesses. Procedures are set out at Appendix 2. The hearing will reach a formal decision as to whether the member breached the Code of Conduct; or
- (d) If the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (c). If the investigator considers that there has not been a breach of the Code, the Monitoring Officer will issue a formal finding to that effect after consultation with the Independent Person.

Note

1. That if the Monitoring Officer considers that it is not appropriate for him/her to act, such as where he/she has advised the member or complainant in relation to the subject matter of the complaint or is otherwise conflicted out, then the Deputy Monitoring Officer will take his/her place.
2. In the event that the Chairman of the Employment Appeals and Ethics Sub-Committee considers that it is not appropriate for him to act, the vice-chairman will take his place.

3. At any stage in the process the Monitoring Officer or the Chairman of the Employment Appeals & Ethics Sub-Committee can consult with one of the Parish Council representatives appointed by the Test Valley Association of Parish and Town Councillors. If a representative is consulted he or she will attend the relevant meeting for the purposes of the Initial Assessment.

No action will be taken where the Monitoring Officer in consultation with the Chairman of the Employment Appeals and Ethics Sub-Committee (if participating the Independent Person) considers that :

- (a) there is no prima facie evidence that the Code has been breached;
- (b) taking into account the nature of the allegation, the use of public funds to examine the matter further would be disproportionate;
- (c) the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- (d) the conduct complained about has already been the subject of investigation or enquiry by another public body;
- (e) the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and that there is nothing further to be gained;
- (f) there is not enough information to take the matter further;
- (g) the complaint was made anonymously;
- (h) where the complainant has requested that their identity as complainant be withheld from the member, the matter cannot reasonably be taken further in all the circumstances;
- (i) the member has already apologised for the action that was the subject of the complaint, and that this is sufficient to dispose of the complaint;
- (j) the complaint is essentially against the action of the Council or a committee as a whole and cannot properly be directed against an individual member(s).

PROCEDURE FOR HEARINGS

General:

Hearings will where possible be held within 2 months of the initial assessment decision where there is no prior investigation, and within 2 months of receipt by the Monitoring Officer of the investigator's report where there has been a prior investigation.

The hearing will be before the Employment Appeals and Ethics Sub-Committee of the General Purposes Committee (the Sub-Committee).

The Independent Person appointed under section 28 of the Localism Act 2011 will also be present. His/her views will be requested and taken into account by the Sub-Committee, but by law he/she cannot vote.

The Monitoring Officer or deputy Monitoring Officer will be present as legal advisor to the Sub-Committee and a Democratic Services Officer will be present to take the minutes of the meeting.

Hearings are formal meetings of the Council under the Local Government Acts and are open to the public and press subject to the usual provisions regarding exempt business

Both the member and complainant will be invited to appear. They may present their own case or they may be represented.

If their involvement has been requested the Independent Person and/or Parish Representative will also be present.

They may bring witnesses (of a number the Sub-Committee considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least 8 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted.

The cost of any attendance/representation must be borne by the party concerned.

All written evidence will be circulated to the Sub-Committee, the Independent Person, the member and the complainant at least 5 clear days before the hearing.

Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.

The legal advisor can speak at any time to advise the Sub-Committee on technical matters or ask questions of any party.

Proceedings:

The complainant can address the Sub-Committee and call witnesses (if any).

The member can ask the complainant and witnesses questions.

The Sub-Committee and Independent Person can ask the complainant and witnesses questions.

Where there has been an investigation the investigator will attend the hearing and present his/her report and findings.

The complainant can ask the investigator questions

The member can ask the investigator questions

The Sub-Committee can ask the investigator questions.

The member can address the Sub-Committee and call witnesses (if any)

The complainant can ask the member and witnesses questions.

The Sub-Committee and Independent Person can ask the member and witnesses questions.

The complainant can make a closing statement.

The member can make a closing statement.

All those present except the Sub-Committee, the Independent Person, the Parish Representative, the legal advisor and Democratic Services Officer will leave the room while the Sub-Committee makes its decision.

The Sub-Committee's decision will be announced orally as soon as possible.

A written report of the hearing and decision, with reasons, will be prepared, usually within 5 working days. A copy will be sent to all those present at the hearing and to the Clerk of the Parish/Town Council if the complaint was about a Parish/Town Councillor.

The written report will be available for public inspection.

Decisions open to the Sub-Committee:

These are:

- (a) That the member did not fail to comply with his/her Council's Code of Conduct;

- (b) That the member did fail to comply with his/her Council's Code of Conduct, and that
- (i) no action need be taken; or
 - (ii) where the matter relates to a Borough Councillor that the member be censured; and/or
 - (iii) where the matter relates to a Parish or Town Councillor, that it be recommended to the Council concerned that the member be censured; and/or
 - (iv) whatever publicity the Sub-Committee considers appropriate be given to their findings; and/or
 - (v) it be recommended to the Council that the member be removed from a specific Committee(s).

The Sub-Committee may also make any recommendations it considers appropriate to the Council concerned, whether Test Valley Borough Council or the relevant Parish or Town Council, on procedural amendments that might assist members generally to follow the Code of Conduct.

Code of Conduct for Elected Members

To: The Monitoring Officer

Please read the Guidance Notes before completing this form.

COMPLAINT FORM

A. Your details

Please read note 1 in the accompanying leaflet before completing this section. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

Title:	
First name:	
Surname :	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	
Signature:	
Date of complaint:	

Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Council officer or authority employee
- Other (please indicate)
-

B. Making your complaint

Please read **note 2** in the accompanying leaflet, before completing this section.

Please provide us with the name of the member(s) you believe have failed to comply with the Code of Conduct and the name of their authority:

Title	First Name	Surname	Council or authority name

Please read **note 3** in the accompanying leaflet, before completing this section.

Please provide us with the details of your complaint. Continue on a separate sheet(s) if there is not enough space on this form.

Continue on separate sheet(s) as necessary

C. Confidentiality of complainant and complaint details

Please read [note 4](#) in the accompanying leaflet, before completing this section.

Only complete this next section if you are requesting that your identity is kept confidential.

Please provide us with details of why you believe we should withhold your name and/or details of your complaint:

D. Remedy sought

Please read [note 6](#) in the accompanying leaflet

Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this form

E. Process from here

Please read [note 5](#) in the accompanying leaflet.

F. Additional Information

Please read **note 7** in the accompanying leaflet.

For further information please contact:

Monitoring Officer
Test Valley Borough Council
Beech Hurst
Weyhill Road
Andover
Hampshire, SP10 3AJ.

Telephone: 01264 : 368401
Fax Number: 01264 : 368449
e-mail address legal@testvalley.gov.uk

Please return this form to:

Monitoring Officer
Test Valley Borough Council
Beech Hurst
Weyhill Road
Andover
Hampshire, SP10 3AJ.

July 2012

(CoC 1 250712)

Code of Conduct for Elected Members

Making a complaint about a Councillor

Please read the information below alongside the Complaint Form (CoC 1 250712)

Your details

Note 1: Please provide your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

A copy of your complaint, including your name and address, will be sent to the following people

- The Member(s) you are complaining about
- Members of the Employment Appeals & Ethics Sub-Committee
- Monitoring Officer of the Borough Council
- the Parish or Town Clerk (if applicable)

If you have serious concerns about a copy of your complaint being released please complete section C of the complaints form. In this case a summary of the complaint will be provided to the Member(s) concerned to enable him/her/them to provide comments.

Making your complaint

Note 2: The procedure to be followed by the Employment Appeals & Ethics Sub-Committee, and the sanctions available, are governed by law.

Note 3: Please explain what the elected Member has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Employment Appeals & Ethics Sub-Committee when it decides whether to take any action on your complaint.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said.
- You should provide the date(s) of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.

- You should provide any relevant background information or other relevant documentary evidence to support your allegation.

Confidentiality of complainant and complaint details

Note 4: In the interests of fairness and natural justice, Members who are complained about have a right to know who has made the complaint. They have a right to be provided with a summary of the complaint. It is unlikely that the Sub-Committee will withhold your identity or the details of your complaint unless you have good reason to believe that you have justifiable grounds.

For example:

- You believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with him or her)
- You feel you may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender/contract you may have or are about to submit to the Council.
- You suffer from a serious health condition and there are medical risks associated with your identity being disclosed.
- You have reasonable grounds for believing you will be at risk of physical harm if your identity is disclosed.
- You are an officer who works closely with the Member(s) complained about and are afraid of the consequences to your employment or of losing your job if your identity is disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Employment Appeals & Ethics Sub-Committee will consider the request alongside the substance of your complaint. The Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

Important: In certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Process from here

Note 5: Once a valid complaint relating to an alleged breach of the Code of Conduct of Members has been received it will be considered by the Monitoring Officer to determine whether alternative action is appropriate or whether to refer it to the Employment Appeals & Ethics Sub-Committee for consideration. The Sub-Committee will aim to meet within 15 working days of the receipt of the Member's/Members' comments in response to the complaint.

Alternative action by the Monitoring Officer will take the form of a discussion with you and the Member(s) regarding the possibility of an apology being given and accepted.

The Sub-Committee may decide:

- i. to take no action
- ii. to attempt to resolve the matter informally between you and the Member(s)
- iii. to arrange a hearing before the Sub-Committee and an Independent Person
- iv. to arrange for the complaint to be investigated.

In the event that an informal resolution or a hearing without an investigation takes place it is open to the Employment Appeals & Ethics Sub-Committee to find there has been no failure to comply with his/her/their Council's Code of Conduct by the Member(s)

Options open to the Employment Appeals & Ethics Sub-Committee in the event an informal resolution or hearing without investigation takes place or complaint is investigated and a failure to comply with the Code of Conduct is found:

- i. no action needs to be taken
- ii. where the matter relates to a Borough Councillor, censure of the Member(s)
- iii. where the matter relates to a Parish or Town Councillor, that censure of the Member(s) be recommended to the Council concerned
- iv. whatever publicity the Sub-Committee considers appropriate be given to their findings
- v. it be recommended to the Council that the Member(s) be removed from a specific Committee.

The Sub-Committee may also make any recommendations it considers appropriate to the Council concerned on procedural amendments that might assist members generally to follow the Code of Conduct.

Note 6: If you consider it more appropriate, you can alternative action, such as an apology, through the Monitoring Officer.

Additional Information

Note 7: Complaints must be submitted in writing. This includes fax and electronic submissions (such as e-mail). However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

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

If you need any support in completing this form, please let us know as soon as possible.

Criteria for Assessment of Complaints

Allegations that an elected Member of Test Valley Borough Council and elected or co-opted Members of Parish and Town Councils within its area have failed or may have failed to comply with their respective Member Codes of Conduct will be considered against the following criteria:

- Sufficient information has to be provided with the complaint to enable the Monitoring Officer and/or Employment Appeals & Ethics Sub-Committee to be satisfied that the complaint should be dismissed, considered for alternative action or referred for investigation. If insufficient information is provided, the Employment Appeals & Ethics Sub-Committee will take no further action on the complaint.
- Where the complaint is about somebody who is no longer a Member of Test Valley Borough Council or one of the Parishes within its area but is a Member of another authority the Employment Appeals & Ethics Sub-Committee will consider whether it wishes to refer the complaint to the Monitoring Officer of that other authority.
- Where the complaint has already been the subject of alternative action or an investigation relating to the Code of Conduct the Sub-Committee will consider whether any further action will be taken.
- Where the complaint is the subject of current alternative action or investigation the Employment Appeals & Ethics Sub-Committee will not order separate alternative action or investigation of the complaint.
- Complaints should be made as promptly as possible after the events that form its subject matter. It should be noted that where the subject matter of the complaint took place more than 12 months ago or came to your attention more than 6 months ago it will not be considered.
- The Sub-Committee will consider the seriousness of the complaint and if it is trivial may decide not to take any further action.
- The Employment Appeals & Ethics Sub-Committee will also consider whether the complaint appears to be malicious or politically motivated. In these circumstances it may well decide that it is insufficiently serious to take further action.
- The Sub-Committee will also consider whether the complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual Member(s)

For further information please contact:

Monitoring Officer
Test Valley Borough Council
Beech Hurst
Weyhill Road
Andover
Hampshire, SP10 3AJ.

Telephone: 01264 : 368401
Fax Number: 01264 : 368449
e-mail address legal@testvalley.gov.uk

July 2012
CoC 2 250712

ITEM 11

**Programme of Work for the
Overview & Scrutiny Committee**

Report of Head of Legal and Democratic Services

Recommended:

The Committee is requested to:

- 1. Review the outcomes on the work programme and recommendations update.**
- 2. Approve the future work programme.**

SUMMARY:

The purpose of this report is to enable members to keep the Committee's future work programme and recommendations update under review.

1. Background

- 1.1 The OSCOM Business Calendar is presented at Annex 1.
- 1.2 The OSCOM Work Programme is presented at Annex 2 for review and approval.
- 1.3 The OSCOM Recommendations Update is presented at Annex 3 for the Committee's review and comments.
- 1.4 The Cabinet Work Programme is attached at Annex 4 for the Committee to consider.

Background Papers (Local Government Act 1972 Section 100D)

None

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	4	File Ref:	
(Portfolio: Corporate) Councillor C Lynn			
Officer	Christine Hastings	Ext:	8007
Report to:	Overview & Scrutiny	Date:	18 March 2015

OVERVIEW & SCRUTINY BUSINESS CALENDAR

MARCH 2015	APRIL 2015	MAY 2015
Project Integra Corporate Plan Update Amending the Code of Conduct complaints Procedure	Draft OSCOM Annual Report (provisional) Affordable Housing Update Written Report Economy Review Scoping Template	Final OSCOM Annual Report Community Safety Report (provisional) Planning Policy Report (Provisional) Economy Review interim report
JUNE 2015	JULY 2015	AUGUST 2015
Andover Vision Update Risk Management Annual Report Equalities Scheme (Written report only)	Annual Review – Complaints Annual Review of Corporate Action Plan	(No Meeting) Away Day (14 August 2015)
SEPTEMBER 2015	OCTOBER 2015	NOVEMBER 2015
Members Training	Audit Annual Report	Report of the Budget Panel on Draft Fees and Charges Report of the Budget Panel on the Draft Budget
DECEMBER 2015	JANUARY 2016	FEBRUARY 2016
	Budget Strategy Update Accommodation Review (written report only)	Romsey Future Update

OVERVIEW & SCRUTINY WORK PROGRAMME 2014/2015

Date of Meeting	ITEM	*Scrutiny Indicator	Requested by	Purpose of Review (Responsible Officer/ Member)	Expected Outcome
2015					
18 Mar Romsey	Affordable Housing Update written report previously circulated	3	Committee	To receive an update on progress (Head of Housing)	To comment and make recommendations as appropriate
18 Mar	Corporate Plan	3	Committee	To received an update on the Plan (Corporate Director)	To comment and make recs as appropriate
18 Mar	Project Integra	3	Committee	To receive an presentation on the project (Head of Project Integra, Chris Noble)	To receive the presentation and ask questions
14 Apr	Draft OSCOM Annual Report (provisional)	2	Committee	Report of the Chairman and Lead Members (Cllr Lynn)	To comment on the draft report
27 May	Community Safety Panel Report(Provisional)	3	Committee	To receive the final report (Cllr Bundy)	To comment and make rec's as appropriate
27 May	Final OSCOM Annual Report	2	Committee	Report of the Chairman and Lead Members (Cllr Lynn)	To comment on the draft report
27 May	Planning Policy Review (Provisional)	3	Committee	To Review the report considered by Cabinet	
23 June Andover	Andover Vision Update	3	Committee	To receive an update on progress (Chief Executive)	To comment and make recommendations as appropriate
23 Jun Andover	Risk Management Annual Report	2	Committee	To consider the Annual Report (Financial Services Manager)	To comment on the report
22 Jul Romsey	Annual Review of Corporate Action Plan	2	Committee	To receive an update on the Key Performance Indicators (Performance Manager)	To consider and make recommendations as appropriate
22 Jul	Annual Review – Complaints	2	Officers	To review the complaints received (Complaints and Improvement Officer)	To consider and make recommendations as appropriate

* Scrutiny Indicator Key:

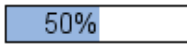
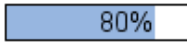

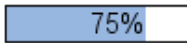
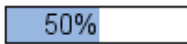
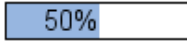

1 : Holding to Account	2 : Performance Management	3 : Policy Review	4 : Policy Development	5 : External Security
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Test Valley Borough Council – Overview and Scrutiny Committee – 18 March 2015





Date of Meeting	ITEM	*Scrutiny Indicator	Requested by	Purpose of Review (Responsible Officer/ Member)	Expected Outcome
9 Sept Romsey	Member Training	2	Committee	To consider the recommendations of the away day	Recommend further action
7 Oct Andover	Annual Audit Report	2	Committee	To receive the report	To comment and make recommendations as appropriate
4 Nov Andover	Draft Budget Fees and Charges	4	Committee	To consider the draft Budget Panel report (Cllr North)	Comment and make recommendations as appropriate
16 Jan 16 Romsey	Budget Strategy Update	4	Committee	To receive an update on progress (Cllr North)	To comment and make recommendations as appropriate
17 Feb 16 Andover	Romsey Future Update	4	Committee	To receive an update on progress (Corporate Director)	To consider progress to date
13 Apr 16 Romsey	Update on Recycling Stars Project	2	Committee	To receive an update on progress (Head of Environmental Services)	To review progress
TBC	Presentation by the Care Quality Commission	5	Committee	To receive a presentation by the Care Quality Commission (Cllr Finlay)	To comment on the presentation
TBC	Annual Review of Partnership and Shared Services	2	Committee	To receive an update on progress (Corporate Director)	Comment on the proposals and make recommendations
TBC	Council Tax Support Update	3		To receive an update on progress (Head of Revenues)	To comment and make recommendations as appropriate

* Scrutiny Indicator Key:

1 : Holding to Account	2 : Performance Management	3 : Policy Review	4 : Policy Development	5 : External Security
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Item	Meeting Date	Officer Owner	Recommendation	Estimated Progress	Progress Update
Corporate Portfolio Review Licensing	27 January 2010	Bill Lynds	Provide OSCOM with the output from any value for money review or external assessment for consideration at a future meeting.		The policy team within the Chief Executive's Office are currently reviewing all licensing processes to ensure that they are undertaken with maximum efficiency. A report will be presented to OSCOM in due course.
Report of the Planning Portfolio Panel	23 March 2011	Steve Lees	In addition to the existing criteria for the use of developer contributions, officers to prepare a list of examples of the type of uses to which funds could be put for the information of parish councils.		An update on progress was submitted to Cabinet on 30 October 2013
Safeguarding Children & Vulnerable Adults	12 June 2013	Dave Tasker	Recommended that Cabinet the Community Engagement Manager develop an information pack concerning safeguarding of Children & vulnerable adults for the use of Members.		Member safeguarding training has been included in the members induction programme scheduled for summer 201
Animal Welfare Service	6 November 2013	Carol Ruddle	Recommended to Cabinet that a pilot scheme to promote responsible dog ownership in up to 4 parishes within the Borough be undertaken.		An update report to OSCOM on 3 December
			Recommended to Cabinet that closer & more co-ordinated working arrangements with housing association RPs be developed aimed at reducing the number of dog related complaints		
			Recommended to Cabinet that consideration be given to making educational programmes on animal care in general available to the public		
Members Role in Planning	26 March 2014	Paul Jackson	That the 32 recommendations to Cabinet be considered by officers and the findings reported back to Cabinet		Cabinet accepted the majority of the recommendations of the Task & Finish Panel. Reported to OSCOM on 21 January 2015
Constitution Review	14 May 2014	Bill Lynds	Cabinet recommended to consider the appointment of the OSCOM Chairman by members by ballot or simple vote		Report to OSCOM on 21 January 2015 deferred
			Recommended that OSCOM hold a trial paperless meeting in anticipation of proposed changes in legislation		Successful trial meeting held in July 2014

Test Valley Borough Council – Overview and Scrutiny Committee – 18 March 2015

			Recommended that the Ethics Sub-Committee consider any further update to the Constitution required to reflect that Committees responsibilities formerly held by the Standards Board for England		Report to the 21 January 2015 OSCOM deferred
			Recommended to Cabinet that consideration should be given to the appointment of the Leader for one year rather than four		Cabinet did not consider this proposal viable
			Recommended to Cabinet that the Ethics Sub-Committee consider the production of a code of conduct booklet to be available before the new intake of councillors		
OSCOM Constitutional Review	18 February 2015	Bill Lynds	<p>Recommended to Cabinet that OSCOM endorse Cabinet's response and proposals in respect of those matters which Cabinet was asked to consider as follows:</p> <ol style="list-style-type: none"> 1. Having regard to the various considerations noted in the report and particularly the necessary consistency in decision-making which is promoted by the Strong Leader model, Cabinet proposes that there should be no change in the term of the Leader being for four years subject to a resolution from a motion of no confidence; and 2. The Chairman of OSCOM is appointed by Council as set out in the Constitution. The chairman of OSCOM can be removed by Council following a motion of no confidence. It is proposed that in future the appointment of the chairman of OSCOM shall stand as a separate agenda item at Annual Council. 		Reported to Cabinet 11 March 2015



Cabinet Work Programme

Further information

1. This is a formal notice under Regulation 9 of The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 This edition supersedes all previous editions.
2. Documents submitted to the Cabinet or Cabinet Member(s) for decision will be in the form of a formal report, which if public and non-urgent, will be available for public inspection on this website at least 5 clear working days before the date that the decision is due to be made.
3. Background papers for such reports are listed in this Programme where their identity is known in advance of the report being written
4. Documents shown will be available from the Democratic Services Manager at Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover, Hants, SP10 3AJ. They can also be contacted at admin@testvalley.gov.uk.
5. Please note that additional documents relevant to those matters mentioned in the Work Programme may be submitted to the decision maker.
6. To view details of the members of the Council's Cabinet who will be making these decisions, please click the link below:
[Cabinet Members](#)

Whilst the majority of the Cabinet's business at the meetings listed in this Forward Plan will be open to the public and media organisations to attend, there will inevitably be some business to be considered that contains, for example, confidential, commercially sensitive or personal information.

This is formal notice under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that part of the Cabinet meetings listed in this Forward Plan may be held in private because the agenda and reports for the meeting will contain exempt information under Part 1 of Schedule 12A to the Local Government (Access to Information) Act 1985 (as amended) and that the public interest in withholding the information outweighs the public interest in disclosing it.

If you have any questions, would like further information or wish to make representations in relation to part of a meeting being held in private, please email the Democratic Services Manager at admin@testvalley.gov.uk or visit them at Beech Hurst, Weyhill Road, Andover SP10 3AJ

KEY DECISIONS

A key decision is one which is likely

1. to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;

or

2. to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

The Council's thresholds are

a.	Decisions on spending which are within the annual budgets approved by the Council	NO THRESHOLD	NOT KEY DECISION
b.	Decisions on spending above £50,000 included, with reservations, in the annual budget.		ALL KEY DECISIONS
c.	Decisions on cash flow, investments and borrowings.	NO THRESHOLD	NOT KEY DECISION
d.	Decisions for spending beyond any approved budget.	SPENDING EXCESS OF £50,000 PER ITEM IS A KEY DECISION	

CABINET WORK PROGRAMME

Date of Decision Date Location	ITEM	Key Decision	Decision-maker and title if any	May include information which is not to be made public*	Documents to be Submitted for Consideration	Head of Service
11 Mar 15 (R)	Councillor Community Grants	No	Cabinet	No	Report of the Community and Leisure Portfolio Holder	Head of Community and Leisure
11 Mar 15 (R)	Appointment of Consultant(s) for Leisure Management Contract Procurement	No	Cabinet	No	Report of the Community and Leisure Portfolio Holder	Head of Community and Leisure
11 Mar 15 (R)	Corporate Plan	No	Cabinet	No	Report of the Leader	Chief Executive
11 Mar 15 (R)	Review of Local Information Requirements for the Validation of Planning and Related Applications	Yes	Cabinet	No	Report of the Planning and Transport Portfolio Holder	Head of Planning and Building
11 Mar 15 (R)	Adoption of the Appleshaw and Reddenham Village Design Statement SPD	No	Council	No	Report of the Planning and Transport Portfolio Holder	Head of Planning Policy and Transport
11 Mar 15 (R)	Adoption of the Sherfield English Village Design Statement SPD	No	Council	No	Report of the Planning and Transport Portfolio Holder	Head of Planning Policy and Transport
11 Mar 15 (R)	Write off of non-collectable debts	No	Cabinet	No	Report of the Economic Portfolio Holder	Head of Revenues (Local Taxation)

Test Valley Borough Council – Overview and Scrutiny – 18 March 2015

Date of Decision Date Location	ITEM	Key Decision	Decision-maker and title if any	May include information which is not to be made public*	Documents to be Submitted for Consideration	Head of Service
11 Mar 15 (R)	Property Issues	No	Cabinet	Yes	Report of the Economic Portfolio Holder	Head of Estates and Economic Development
8 Apr 15 (R)	Hampshire Community Bank	No	Cabinet	No	Report of the Economic Portfolio Holder	Head of Finance
8 Apr 15 (R)	Carry Forward of Unspent Revenue Budget – to approve the carry forward of unspent revenue estimates into the new financial year	No	Cabinet	No	Report of the Economic Portfolio Holder	Head of Finance
20 May 15 (A)	Project Integra – Annual Action Plan 2015-18	No	Cabinet	No	Report of the Environment Portfolio Holder	Head of Environmental Services
20 May 15 (A)	Adoption of the Romsey Town Access Plan SPD	No	Council	No	Report of the Planning and Transport Portfolio Holder	Head of Planning Policy and Transport
17 Jun 15 (A)	Capital Outturn – to present and analyse the final capital position for the last financial year	No	Cabinet	No	Report of the Economic Portfolio Holder	Head of Finance
17 Jun 15 (A)	Revenue Outturn – to present and analyse the final revenue position for the last financial year	No	Cabinet	No	Report of the Economic Portfolio Holder	Head of Finance
17 Jun 15 (A)	Treasury Management Outturn – to review the activities of the Treasury Management function during the last financial year	No	Council	No	Report of the Economic Portfolio Holder	Head of Finance

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Date of Decision Date Location	ITEM	Key Decision	Decision-maker and title if any	May include information which is not to be made public*	Documents to be Submitted for Consideration	Head of Service
17 Jun 15 (A)	Asset Management Outturn – to review the works completed as part of the Asset Management Plan during the last financial year	No	Council	No	Report of the Economic Portfolio Holder	Head of Finance
15 Jul 15 (R)	Review of Local Information Requirements for the Validation of Planning and Related Applications	Yes	Cabinet	No	Report of the Planning and Transport Portfolio Holder	Head of Planning and Building
2 Sept 15 (R)	Corporate Financial Monitoring – compares the actual revenue income and expenditure against profiled budget for the first four months of the financial year with explanations of significant variances	No	Council	No	Report of the Economic Portfolio Holder	Head of Finance
28 Oct 15 (A)	Budget Strategy – includes an update of the Medium Term Financial Strategy and considers initial budget proposals for the next financial year and the process and timetable for the preparation of the Estimates	No	Cabinet	No	Report of the Economic Portfolio Holder	Head of Finance
28 Oct 15 (A)	Fees and Charges – to consider the annual changes to fees and charges for the next financial year	No	Cabinet	No	Report of the Economic Portfolio Holder	Head of Finance
28 Oct 15 (A)	Second Quarter Corporate Financial Monitoring – compares actual revenue income and expenditure against profiled budget for the year to date with explanations of significant variances	No	Council	No	Report of the Economic Portfolio Holder	Head of Finance

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Date of Decision Date Location	ITEM	Key Decision	Decision-maker and title if any	May include information which is not to be made public*	Documents to be Submitted for Consideration	Head of Service
25 Nov 15 (R)	Asset Management Plan Update – to review progress of the current year’s projects and recommend the works to be included in the Asset Management Plan for the following financial year	No	Council	No	Report of the Economic Portfolio Holder	Head of Finance
25 Nov 15 (R)	Capital Programme update – to consider the current position of existing capital projects and new bids	No	Council	No	Report of the Economic Portfolio Holder	Head of Finance
TBA	City Deal – to consider participation in the ‘Southampton and Portsmouth’ City Deal	Yes	Cabinet	No	Report of the Planning & Transport Portfolio Holder	Head of Planning Policy & Transport

* Members of the public will be excluded from the discussion during the consideration of these reports in the event that they contain information which is not to be made public in accordance with the relevant legal provisions.

MOVED/DELETED ITEMS

Original Date Of Decision	Item	Moved/Deleted	Reason For Move/Deletion	Informed By	Date Informed
11 Mar 15	Hampshire Community Bank	Moved to 8 April 15	Awaiting more information	Head of Finance	19 Feb 15
11 Mar 15	Property Issues	Moved to 8 April 15	Awaiting more information	Corporate Director	19 Feb 15

ARRANGEMENTS FOR MAKING REPRESENTATIONS TO THE CABINET REGARDING DECISIONS CONTAINED WITHIN THE FORWARD PLAN

PUBLIC: A member of the public may address the Cabinet in accordance with the Public Participation Scheme. Notice must be given to the Democratic Services Manager by noon on the day before the meeting.

Members of the public are welcome to write to the appropriate Head of Service as listed in the last column of the Work Programme on any matter where a decision is to be made.