

CHAPTER 2 - MEMBERS

A CODE OF CONDUCT

INTRODUCTION

- 1 This Code applies to you as a member of this Authority when you act in your role as a member and it is your responsibility to comply with the provisions of this Code.
- 2 You are a representative of this Authority and the public will view you as such and therefore your actions impact on how the Authority as a whole is viewed and your actions can have both positive and negative impacts on the Authority.
- 3 This Code is based upon the “Nolan Principles - the seven principles of public life” which are set out at Appendix 1 of this Code.

INTERPRETATION

- 4 In this Code:-
- 5 “Meeting” means any meeting of:
 - (a) the Authority;
 - (b) the executive of the Authority;
 - (c) any of the Authority’s or its executive’s committees, sub-committees, joint committees or area committees;whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members.
- 6 “Member” includes a co-opted member and an appointed member.

GENERAL OBLIGATIONS

- 7 When acting in your role as a member of the Authority:
 - a) **DO** treat others with respect;
 - b) **DO NOT** conduct yourself in a manner which is contrary to the Authority’s duty to promote and maintain high standards of conduct of members;

- c) **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:-
- (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
- d) 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
- e) the disclosure is:-
- (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the Authority; and
 - (iii) you have consulted the Monitoring Officer prior to its release;
 - (iv) **DO NOT** prevent another person from gaining access to information to which that person is entitled by law.
- 8 When using or authorising the use by others of the resources of the Authority:
- a) **DO** act in accordance with the Authority's reasonable requirements, including the requirements of the Authority's ICT policy and the policies (attached to or included in the Authority's Constitution), copies of which have been provided to you and which you are deemed to have read;
 - b) **DO** make sure that such resources are not used improperly for political purposes (including party political purposes); and
 - c) **DO** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

INTERESTS

- 9 As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests. However, when performing your public role as a member, **DO** act solely in terms of the public interest and **DO NOT** act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests. The definition of pecuniary interests is now set out in Appendix C of the Code of Conduct.

- 10 You are required to register “pecuniary and other interests”. Failure to declare or register a pecuniary interest will be a criminal offence if this is done without a reasonable excuse. If you knowingly or recklessly provide false or misleading information about a pecuniary interest, this will also be a criminal offence.
- 11 There will be no requirement for you to declare or register any gifts and hospitality, but **DO NOT** accept any gifts in excess of £50 (fifty pounds).

DISCLOSURE AND PARTICIPATION

- 12 At a meeting where such issues arise, **DO** declare any interests relating to your public duties and **DO** take steps to resolve any conflicts arising in a way that protects the public interest.
- 13 Certain types of decisions, including those relating to a permission, licence, consent or registration for yourself, your friends, your family members, your employer or your business interests, may be so closely tied to your personal and/or professional life that your ability to contribute to a decision in an impartial manner in your role as a member may be called into question and in turn raise issues about the validity of the decision of the Authority. **DO NOT** become involved in these decisions any more than a member of the public in the same personal and/or professional position as yourself is able to and **DO NOT** vote in relation to such matters. (See also Appendix 2.) In addition,
 - a) members must update their register of interests within 28 days of the date that a change occurs;
 - b) where a member discloses a Discloseable Pecuniary Interest, he/she must withdraw from the meeting room, including from the public gallery, during the whole consideration of any item of business in which he/she has an interest, except where he/she is permitted to remain as a result of a grant of a dispensation
- 14 **DO NOT** improperly use knowledge gained solely as a result of your role as a member for the advancement of yourself, your friends, your family members, your employer or your business interests.

PRE-DETERMINATION OR BIAS

- 15 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a member. However, **DO NOT** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

- 16 When making a decision, **DO** consider the matter with an open mind and on the facts made available to you in order for the decision to be taken.

INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES

- 17 In relation to any business before an overview and scrutiny committee of the Authority (or of a sub-committee of such a committee) where:
- a) that business relates to a decision made (whether implemented or not), or action taken by your Authority's executive or another of your Authority's committees, sub-committees, joint committees or joint sub-committees; and
 - b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 11.1 and you were present when that decision was made or action was taken; or
 - c) that business relates to a decision made (whether implemented or not), or action taken by you (whether by virtue of the Authority's Constitution or under delegated authority from the Leader):
 - d) **you may** attend a meeting of the overview and scrutiny committee of your Authority or of a sub-committee of such a committee, but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purposes, whether under a statutory right or otherwise.

APPENDIX 1 TO THE CODE OF CONDUCT

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

- 18 Holders of the 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 for themselves, their family or their friends.

INTEGRITY

- 19 Holders of the 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

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

ACCOUNTABILITY

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

OPENNESS

- 22 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

- 23 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

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

APPENDIX 2 TO THE CODE OF CONDUCT

- 25 Where the decision referred to in Clause 7 of the Code relates to one of the functions of the Authority set out below, and the condition which follows that function does not apply to you when making that decision, you may participate in the decision:

- a) housing, where you are a tenant of your Authority *unless* the decision relates particularly to your tenancy or lease;
- b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or a parent governor of a school *unless* the decision relates particularly to the school concerned;
- c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay;

- d) an allowance, payment or indemnity given to members;
- e) any ceremonial honour given to members; and
- f) setting Council Tax or a precept under the Local Government Finance Act 1992.

APPENDIX 3 TO THE CODE OF CONDUCT

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>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 a Member of a relevant authority in carrying out duties as a Member, or towards the election expenses of a/the Member of the relevant authority.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992</p>
Contracts	<p>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—</p> <p>under which goods or services are to be provided or works are to be executed; and</p> <p>which has not been fully discharged.</p>

**this 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*

Land

Any beneficial interest in land which is within the area of the relevant authority*.

**land excludes an easement, servitude, interest or right in or over 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.*

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 the relevant Member's knowledge)—
the landlord is the relevant authority; and
the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities* of a body where—
that body (to the relevant Member's knowledge)

has a place of business or land in the area of the relevant authority; and

either—

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

B PROTOCOL ON THE USE OF ICT BY MEMBERS

INTRODUCTION

- 26 The Council provides Councillors with computers/mobile devices to use at home to facilitate the performance of their duties as Councillors. The Council is committed to the development of e-Working to increase the range of information which is available to Councillors electronically and to enable Councillors to conduct more of their business remotely and reduce spending on the printing of paperwork. The use of these computers/mobile devices can make Councillors much more effective, but there are risks associated with such use. This protocol sets out the conditions on which such computers, mobile devices and associated equipment are provided, in order to minimise those risks both to the Council and to individual Councillors.
- 27 Each Councillor is required to sign a copy of this protocol as a condition of being provided with the computer/mobile device and must comply with the terms of this protocol. For this purpose, “Computer” means the computer, Personal Digital Assistant (PDA) handheld device, mobile phone, or any other device provided to the Councillor by

the Council, together with any equipment, software or materials provided for use with the computer.

- 28 It is intended that this protocol will be subject to a regular review by the Cabinet Member (Performance and Corporate Services) due to the speed and growth in potential new technologies.

SECURITY OF THE COMPUTER

- 29 The Councillor accepts responsibility for the safekeeping of the computer made available for their use. The computer should be kept in a secure environment. It should not be exposed to extremes of heat or humidity, nor should it be exposed to water, dust or dirt. Drinks and food should be kept well away from the computer.
- 30 If the computer is left unattended it should be kept in a securely locked building or room.
- 31 When the computer is being transported a carrying case should preferably be used to reduce the risk of accidental damage. The computer must not be left unattended in a vehicle unless all doors, windows and other means of access have been secured and locked and all keys of the vehicle removed to a place of safety, and the equipment placed in the boot of the vehicle. The insurers accept that the rear compartment of a hatchback vehicle is considered to be the boot as long as the equipment is stored under the factory fitted cover. Failure to adhere to this will mean that insurance cover will not be available and that the Council may look to the Councillor for indemnity.
- 32 The Councillor will indemnify the Council for loss or damage caused to the equipment down to the Councillors own carelessness or negligence save where such loss or damage is covered by the Council's insurance policy.
- 33 The users of the computer in a public place should be vigilant as theft is common. Sensitive information (e.g. personal data or confidential information) should not be displayed in a public place where it could be overlooked.
- 34 The Councillor should not use the computer if there is any doubt as to its safety. The Councillor should contact the IS Help Desk on extn. 4999 for advice. Equipment should only be repaired by IS staff or organisations approved by the IS Department.
- 35 Access to the Council's information systems via the computer is subject to password security. The Councillor shall not reveal their logon – id and password to any other person.

- 36 Deliberate unauthorised access to copy, alter or interfere with any computer system, program or data is prohibited.
- 37 Most proprietary software used by the Authority is licensed for use on a single computer system only. Copies of software should not be made (except for backup purposes) without the written permission of the Head of Finance and ICT Strategy.

USE FOR COUNCIL BUSINESS

- 38 The computer is provided to the Councillor specifically to facilitate the discharge of the Councillor's functions as a Councillor. The Councillor must therefore not use the computer in any manner which will prevent or interfere with its use for that purpose.
- 39 Accordingly, the Councillor must not:
- a) Misuse the computer in such a manner as to cause it to cease to function.
 - b) Install or use any equipment or software which may cause the computer to malfunction. Councillors should check with the IS Helpdesk before installing any new software on a Council provided PC, or connecting any new hardware to it.
- 40 The Councillor must:
- 41 Ensure that the computer is maintained in a working condition.
- 42 Report any faults promptly to the IS Help Desk.
- 43 Provide regular access to Council officers to service, maintain and repair the computer.
- 44 Accept responsibility for the content of all text, audio or images that they place or send over the Authority's e-mail and Internet. All messages communicated using the Authority's e-mail and Internet system should show the Councillor's identity. Information sent to another individual outside the Authority via e-mail are statements that reflect on the Authority.
- 45 Ensure that all communications sent comply with this and other Council policies and may not disclose any confidential or propriety Council information.
- 46 The Council provides the computer, together with ancillary equipment, materials and broadband/mobile phone package, required for the Councillor's functions as a Councillor. Accordingly, the Council may decline to provide further equipment or material beyond a certain allowance where the use of such equipment or material appears to the Council to be required for private (non-Council) use.

- 47 Each Councillor will have their computer training needs assessed and will be provided with the appropriate training. Additional training can be arranged by contacting the ICT Helpdesk on ext 4999.

USE FOR PRIVATE PURPOSES

- 48 Where the computer is not required for Council business the Councillor may use it for private and personal purposes and may permit members of his/her immediate family to use the computer for private or personal purposes, but is then responsible for their use of the computer. In order to remain within guidance from the Revenue's and Customs Service any such use should be kept to a minimal level. They may not, however, use the Councillor's Sefton e-mail address to send or receive e-mails, as the e-mail would be associated with the Council. A free online e-mail service could be used as an alternative.
- 49 The Council is prohibited from publishing any material of a party-political nature. If the Councillor uses the computer for the preparation of any material of such nature, he/she must make it clear that such material is published in a private capacity and not by or on behalf of the Council, and that no costs have been incurred by the Council as a consequence of its publication.
- 50 The Council has obtained the necessary software licenses for the use of the computer by the Councillor. The computer should not be used for any commercial business use.
- 51 The Council accepts no responsibility for such private use of the computer or any loss, costs or liability which the Councillor or any other person may suffer as a result of the use of the computer.
- 52 A Councillor is responsible for ensuring that their personal use, as defined above, remains within the broad definition of 'minimal'.

BRINGING THE COUNCIL INTO DISREPUTE

- 53 The Councillor shall not use the computer or permit its use, in any manner which may bring the Council or Councillor into disrepute.
- 54 All Councillors have a responsibility to maintain and enhance the Council's public image and to use the Council's e-mail and access to the Internet in accordance with the Council's e-mail and internet policies.

INSPECTION AND AUDIT

- 55 The Council reserves the right to inspect the computer at any time. The Councillor is required to give Council officers access at any reasonable time for such inspection and

audit, which may be undertaken remotely and without notice to the Councillor. Councillors are advised that the computer includes a history file which records its use, and particularly any websites which it has accessed.

- 56 E-mail or text is not confidential and should not be treated as such. The Council will routinely monitor usage patterns for e-mail and Internet communication. The reasons for monitoring are many, including cost analysis/allocation and the management of the Authority's gateway to the Internet. All messages created, sent or retrieved over the Authority's e-mail and Internet are the property of the Council and should be considered public information. The Council reserves the right to access and monitor all messages and files on the Authority's e-mail and Internet. Councillors should not assume electronic communications are totally private and should communicate confidential data in other ways.

COSTS

- 57 The Council will meet the cost of providing a range of equipment, materials, and facilities, up to a nominal capital value, which will be annually reviewed (See Annexe A). If a Councillor exceeds the agreed revenue nominal allocation of costs (see Annexe A), they will be liable for all costs over and above the allocation agreed. A Councillor wishing to use the equipment for a minimal amount of personal use, must agree to a deduction being made from his/her allowance of £50 per annum. A further deduction will be made for any amount where the Councillor exceeds his/her annual allocation (monthly pro rata) of the nominal revenue allocation, regardless of whether this is exceeded because of personal or Council use. The personal use contribution will be deducted annually, any sums over and above the nominal revenue allocation will be deducted on a monthly basis, a month in arrears.
- 58 Each Councillor is responsible for his/her own electricity bill in using the equipment.

RETURN AND RECOVERY OF THE COMPUTER

- 59 The computer/mobile device and supporting equipment remains the property of the Council.
- 60 The Council reserves the right to require the Councillor to return the computer/mobile device and supporting equipment at any time and the right to recover the same from the Councillor.
- 61 The Councillor is required to return the computer to the Council upon ceasing to be a Councillor.

CONFIDENTIALITY

- 62 The Councillor will be able to access confidential Council information using the computer/mobile device. The Councillor is responsible for ensuring the continued security of any such confidential information received, including the security of any storage of such information on the computer. The Councillor is reminded of his/her obligations under the Council's Code of Conduct for Councillors not to disclose such confidential information to any third party.
- 63 Some of this information may be personal information relating to individuals. The unauthorised processing or disclosure of such information is prohibited under the Data Protection Act and the Councillor is responsible for ensuring that there is no such unauthorised disclosure from or processing via the computer. Councillors should be aware that failure to observe these requirements may result in actions including criminal sanctions. Councillors can obtain advice on the Act from the Council's Data Protection Officer.
- 64 Councillors holding information in relation to their duties as a Councillor should be aware that that information is potentially disclosable under the terms of the Freedom of Information Act 2000 (as amended) and the Environmental Information Regulations 2004. Councillors should assist the Council in dealing with any requests under the aforementioned legislation within the statutory timescales.

RESTRICTION OF USE

- 65 The Council reserves the right to restrict the use of the computer if it has reason to believe that the use of the computer is likely to offend any provision of the Protocol. In particular, the Council reserves the right to:
- a) remove or disable any software or equipment.
 - b) remove any information stored on the computer.

Signed by

Councillor

Date:

ANNEXE A

SCHEDULE OF COSTS

- 66 Provision of a laptop, netbook or desktop computer, and a printer.

- 67 Revenue: A fixed sum of £250 per annum.
- 68 Personal Use: A deduction of £50 per annum. Any deductions on top of these will be in accordance with paragraphs 65 and 66 above.

C ACCEPTABLE USE POLICY FOR MEMBERS SELF-MAINTAINED WEBSITES

PURPOSE OF THE POLICY

- 69 As a Councillor, you are provided with a facility to create a self-maintained website to help you to promote your work as a Councillor and to communicate with your Constituents on matters affecting them. Websites can be a very effective tool but you can encounter problems.
- 70 This policy aims to set out some simple rules which will help you to use your website effectively and avoid you incurring any personal liability.

SELF-MAINTAINED WEBSITES – SOME KEY DO'S AND DON'TS

Do's

- 71 ✓ You must comply with the Members' Code of Conduct
- 72 ✓ You should avoid putting material on your web pages which could lead to an allegation of predetermination or bias being made
- 73 ✓ You must comply with your responsibilities under the Data Protection Act 1998 (as amended)
- 74 ✓ You should be aware that most of your web pages will be frozen at election times
- 75 ✓ You can use your web pages to tell Constituents how they can contact you and to tell them about your work on behalf of the Council
- 76 ✓ If you want to refer to decisions that have been made by the Council you must provide an accurate and even handed account of discussions or processes that lead to the decisions being taken
- 77 ✓ You may include links to political websites on your self-maintained website but

Don'ts

- 78 x You must not use your web pages for party political publicity or for campaigning

- 79 x You must not provide links to sites that may incite racial hatred or are unlawfully discriminatory
- 80 x You must not publish material that could be considered offensive or is unlawfully discriminatory
- 81 x You should not use your web pages to attack any individuals or to comment on any politically controversial issues
- 82 x You must not place confidential or exempt information on your web pages
- 83 x You must not use your web pages for any commercial activity or advertisements for other businesses
- 84 x You must not use material from other websites or publications unless you have the permission of the copyright holder
- 85 x You must not promote any illegal activity on your web page

MEMBERS CODE OF CONDUCT

- 86 When you add material to your website, you will clearly be doing so in your official capacity as a Councillor and so the Members' Code of Conduct will apply.
- 87 By following the do's and don'ts set out above and by using commonsense you should keep on the right side of the Code - in particular, in relation to the requirements that:
 - a) You must not do anything which may cause your authority to breach any of the equality enactments
 - b) You must not disclose confidential information except as permitted by the Code
 - c) You must act in accordance with your authority's reasonable requirements relating to use of resources
 - d) You must ensure that such resources are not used improperly for political purposes (including party political purposes);
 - e) You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
 - f) You must treat others with respect
 - g) You must not bring your office or the Authority into disrepute

88 Any complaints about the alleged misuse of a Members Self-Maintained Website may be referred to the Council's Audit and Governance Committee for consideration.

POLITICAL PUBLICITY

89 Member websites come within the definition of publicity.

90 The Council is prohibited by law from funding any publicity which appears to be designed to affect support for a political party.

91 The Council is also obliged to have regard to the Government's Code of Practice when considering any publicity. That Code can be found at:

<http://www.communities.gov.uk/publications/localgovernment/publicitycode2011>

92 There are some key principles to follow which will keep you on the right side of the law:

- a) You must not expressly advocate the policies of one political party.
- b) You must not directly attack the policies or opinions of other parties, groups or individuals.
- c) You must not use the website for campaigning or to promote or oppose a view on a question of political controversy.
- d) You should be careful that the language you use is not open to being misconstrued. Political slogans may not be used.
- e) You may use your website to publicise information about your proposals, decisions and recommendations where these are relevant to your position and responsibilities within the Council. That could include your position as a Ward Councillor. Personalisation of issues and personal image making should be avoided though.

93 Members may use the "My Politics" section of their website to link to external websites of a political nature e.g. national or local political party sites, including their own personal website, providing that the links do not otherwise contravene the Acceptable User Policy. For example, links should not be provided to sites that promote racism.

94 Because the election period is a particularly sensitive time, only basic information about a Councillor will be displayed on websites during the period after the notice of election has been published. Committee and Member Services will take responsibility for ensuring that this happens.

TAINTING OF DECISION MAKING THROUGH BIAS

95 If you are going to make a decision on behalf of the Council, it is important that you do not give an impression that you have made up your mind before you have heard all the arguments.

DEFAMATION

96 Defamation is the publication of a statement that damages the reputation of an individual in the eyes of "right thinking people." Defamatory statements on a website will amount to libel because the internet is considered to be a permanent form of communication. Spoken defamatory words on the other hand come within the definition of slander.

97 You are responsible for the contents of your web pages and anyone who believes that you have defamed them will be able to take legal action directly against you. They may also take action against the Council and the Council's Internet Service Provider.

DATA PROTECTION

98 In order to protect you from any claims that you have breached the requirements of the Data Protection Act 1998, you must not normally place any information on the site which relates to an identifiable living individual. This includes images of a person.

99 You can however do so if:

- a) You have that person's express consent.
- b) The information is sufficiently anonymised to prevent identification.
- c) The information is already legitimately in the public domain.

100 If you use your website to gather personal information from others such as e-mail contact details from people who contact you through the site, details of casework issues which relate to individuals etc. YOU MUST BE CAREFUL to keep that information safely, to use only for the purposes for which it was given and to destroy it when it is no longer required.

101 For more information about the Data Protection Act please contact Richard Roscoe the Council's Data Protection Officer on 0151-934-4416.

MONITORING

102 The responsibility for the content of a self-maintained website lies with the individual Member and the websites will not be routinely monitored by Officers. However, because the Council retains legal liabilities in respect of the websites,

Committee and Member Services retain the right to remove any content which breaches this policy.

103 For more information generally about self-maintained websites and this policy please contact Steve Pearce, Head of Committee and Member Services on 0151 934 2046.

Declaration

I, Councillor, have read and understood the Acceptable Use Policy as set out above and hereby agree to operate my Members' self-maintained website in accordance with its requirements.

Signed

Date

D COUNCILLOR CALL FOR ACTION - GUIDANCE FOR COUNCILLORS

COUNCILLOR CALL FOR ACTION – PROTOCOL

104 The Councillor Call for Action (CCfA) process provides ward members with a means of escalating matters of ward concern (any local government matter or any crime and disorder matter) to an Overview and Scrutiny Committee (OSC), for possible onwards recommendations to the Council's executive and / or other agencies. The power to refer a matter to Overview & Scrutiny is available only where the matter is of direct concern to the ward which the councillor represents. A councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.

105 However it is very important to note that a CCfA is intended to be a measure of "last resort" and may not be used until all other avenues have been exhausted. The CCfA may not be used in relation to individual planning and licensing decisions or where other avenues of appeal exist.

106 A ward member requesting a call for action will be asked to demonstrate that they have sought to address the issue through all existing means and the call will not be considered unless the Overview & Scrutiny Management Board is satisfied that:

- a) the councillor has made all reasonable efforts to resolve the matter via dialogue with council officers and / or relevant partner agencies;

- b) the issue of concern is a matter in respect of which the Council has a statutory power or duty to deal with which is not precluded by legislation; and
- c) the issue of concern has a demonstrable impact on a part of, or the whole of, a councillor's ward.

107 Before a CCfA can be progressed to scrutiny, the member must provide documentation to show that they have taken the following steps:

- a) If a local crime and disorder matter, raise the issue through the Crime and Disorder Reduction Partnership to find a way to resolve the issue (Crime & Disorder issues are referred to the Overview & Scrutiny Committee (Performance & Corporate Services) which acts as the Crime & Disorder Scrutiny Committee).
- b) Made the relevant service request / members' enquiry/ letter to the relevant partner agencies and given enough time for them to resolve it.
- c) Ensure that all relevant internal routes have been exhausted – for example discussions with Cabinet Members, Officers, questions at committees, motions on the agenda at full Council as appropriate.
- d) Raised the issue of concern at area level.
- e) Ensure that this is not an issue that is currently being, or should be, pursued via the Council's complaints procedure.

HOW TO MAKE A COUNCILLOR CALL FOR ACTION REFERRAL

108 As a "last resort" a ward councillor may submit a signed referral form to the Head of Overview and Scrutiny. This form is available on the Council's website or from the Democratic Services Team. The form for a CCfA includes:

- a) The name of the councillor and ward they represent;
- b) Title of the CCfA and date of submission;
- c) Whether the CCfA relates to a local government matter or a crime and disorder matter;
- d) Background – including details of attempts to resolve matter via other means;
- e) Evidence in support of the CCfA;
- f) Desired outcomes; and

- g) Any deadlines associated with the CCfA of which the Overview & Scrutiny Management Board / Committees needs to be aware.

- 109 The Head of Overview & Scrutiny will receive the referral form, log it to track its progress and will submit the request to the next available Overview & Scrutiny Management Board for consideration.
- 110 The Head of Overview and Scrutiny will, within five working days of the Overview & Scrutiny Management Board notify the sponsoring councillor that the CCfA is considered, and will refer the item to the appropriate Overview & Scrutiny Committee agenda. A valid CCfA will be considered at the next available meeting, in public session unless the consideration of the issue involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules, of the Constitution.
- 111 Alternatively if the CCfA is rejected the Overview & Scrutiny Management Board may give advice and / or signposts on other appropriate ways forward to help resolve the issue. The lead councillors and relevant Cabinet Members will be advised accordingly.
- 112 The Overview & Scrutiny Management Board may reject any Call for Action if it entails:
- a) Individual complaints concerning personal grievances or commercial issues.
 - b) Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
 - c) Planning and licensing applications and appeals;
 - d) Council Tax/Housing Benefits complaints and queries; or
 - e) Issues currently under dispute in a court of law.
 - a) Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the relevant Overview and Scrutiny committee.
 - b) Substantially the same as a Councillor Call for Action which has been put to any meeting of the Council in the past 6 months.
- 113 The ward councillor's role in the consideration of the CCfA, as with any formal council business, is subject to compliance with the Members' Code of Conduct.

REFERRAL TO THE OVERVIEW & SCRUTINY COMMITTEE

- 114 If the Overview & Scrutiny Management Board decides that the matter should be taken to the relevant Overview & Scrutiny Committee then the appropriate Overview & Scrutiny Officer will liaise with the Chair of the Committee to decide how the matter should be taken forward and included within the work programme. This could include:
- a) asking the service area (s) / partner organisation (s) to respond to the CCfA;
 - b) setting up a working group to undertake a more in-depth review;
 - c) asking for further evidence and / or witnesses to be brought to a future meeting then making recommendations to the Cabinet / partner organisations.

POTENTIAL OUTCOMES

- 115 Following referral to the Overview & Scrutiny Committee there are a number of potential outcomes:
- a) The Committee could determine not to make a report or recommendations with the ward councillor notified in writing;
 - b) The Committee could determine that it is a complex issue that requires further investigation and undertake a mini-investigative review or in-depth review of the issue;
 - c) The Committee could write a report and make recommendations on the CCfA to the Cabinet and/or relevant partners.
- 116 Once the Committee has completed its work on the CCfA referral the member who made the CCfA referral will receive a copy of the report or recommendations made. The report / recommendations will also be made available on the Council's website, unless the matter is an exempt item, in which case the report cannot be made public.
- 117 Once a CCfA has been assessed as not being a matter which is excluded from referral to Overview and Scrutiny Committee, the item will be included on the next OSC agenda. If the Committee agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.
- 118 Should a CCfA hearing result in recommendations to the Cabinet being made, the Cabinet will usually respond to the recommendations, setting out any action it intends to take, within 28 days of the date of the Cabinet agenda within which the recommendations are included.

- 119 Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations. Although they are under no legal obligation to do so, they are obliged to “take it into consideration”.

EXPLANATORY NOTES

- 120 Definition of a local government matter and a local crime and disorder matter:

Local Government Matter

- 121 For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- a) relates to the discharge of any function of the authority;
- b) affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- c) is not an excluded matter.

- 122 However, the guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to CCfA the interpretation of “local government matter” needs to be broader. This includes issues relating to the Council’s partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority’s duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).

Local crime and disorder matter

- 123 A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area. Definitions of “vexatious”, “persistent”, “discriminatory” and “not reasonable”.

124 Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee is to be excluded”.

Vexatious/Persistent

125 Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause. Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved.

126 CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought. Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the councillor’s requirements.

Discriminatory

127 The word “discrimination” is provided at Sections 13-19, 21 and 108 of the Equality Act 2010

Not reasonable

128 It is suggested that, in the interests of transparency, authorities do not interpret “not reasonable” as being the same as the legal word “unreasonable”. It is best to consider it as a qualifier to the word “vexatious”, as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

COUNCILLOR CALL FOR ACTION REQUEST FORM

129 This form should be used by any Councillor who would like the Overview and Scrutiny Committee to consider a Councillor Call for Action in their ward

Councillor:
The ward you represent:
'Is this referral related to a local government matter or crime and disorder matter?
Title of your Councillor Call for Action:
Date of Submission:
Have you approached the Overview and Scrutiny Commission on the same issue in the past six months? If yes, please give details:
Why you think the issue should be referred to the Overview and Scrutiny Committee:
What evidence do you have in support of your CCfA (please enclose any supporting information)

How have you tried to resolve the issue:
Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process? If yes, please give details:
Are there any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware:
Would you like your response by Email or Letter:

Please complete and return the form to:

Democratic Services Manager
Sefton MBC
Town Hall
Trinity Road
Bootle

SCRUTINY OF CRIME AND DISORDER MATTERS- PROCEDURE RULES

INTRODUCTION

130 These procedure rules have been produced in accordance with Part 3 of the Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

- 131 The legislation requires every local authority to have a “Crime and Disorder Committee”, with the power:-
- a) to review or scrutinise decisions made, or action taken, in connection with the discharge by the “Responsible Authorities” of their crime and disorder functions;
 - b) to make reports and recommendations to the Council with regard to the discharge of the Responsible Authorities’ function.

132 Councillor Calls for Action (CCfA) regarding crime and disorder issues and community safety issues are addressed within these rules.

133 A separate CCfA has been produced, outlining how CCfA’s that do not relate to crime and disorder issues will be dealt with.

SCRUTINY OF CRIME AND DISORDER

134 The Overview and Scrutiny Committee (Performance and Corporate Services) is designated as the Council’s “Crime and Disorder Committee” (referred to as “the Committee” below).

ROLE OF THE “CRIME AND DISORDER COMMITTEE”

135 The role of the Committee should be focused on the work of the Partnership as a whole and its joint responses to issues of community safety. If issues arise which relate specifically to a particular partner organisation, it may be appropriate to refer such issues to the governing body of that organisations for action e.g. the Police Authority

OPTION TO CO-OPT ADDITIONAL MEMBERS

136 The Crime and Disorder Committee may co-opt additional members, in accordance with the Regulations, to serve on the Committee where it is considered appropriate for the exercise of its functions

137 A co-opted person’s membership may be limited in relation to the Committee’s discharge of its functions in relation to a particular matter or type of matter.

138 The Committee shall not co-opt any person to consider a matter where that person was wholly or partly responsible for a decision or action, or otherwise directly involved.

139 A person co-opted to serve on the Committee has the same entitlement to vote as any other member.

140 The number of any additional co-opted members shall not be greater than the number of permanent Committee members.

141 The Committee shall not co-opt any person who is:-

- a) a member of the Executive (i.e. the Cabinet);
- b) not an employee or officer of the responsible authority / body

142 The Committee will consult the relevant authority / body as to the most appropriate person before co-opting an additional member.

FREQUENCY OF MEETINGS

143 The Committee will meet to review / scrutinise decisions / actions taken in connection with crime and disorder functions, not less than twice in a 12 month period.

RESPONSIBLE AUTHORITIES

144 "Responsible Authorities" are those defined in Section 5 of the Crime and Disorder Act 1998, namely:-

- a) the Council;
- b) the Chief Constable;
- c) the Fire and Rescue Authority; and
- d) the Primary Care Trust.

CO-OPERATING BODIES

145 Responsible Authorities have a duty to work in co-operation with the "Co-operating Bodies" who are Probation, parish councils, NHS Trusts, NHS Foundation Trusts, proprietors of independent schools and governing bodies of an institution within the further education sector.

REQUEST FOR INFORMATION

- a) Where the Committee requires information in relation to the discharge of its functions, the Partnership and/or the responsible authority, or co-operating bodies must provide that information no later than the date requested or as soon as reasonably possible.

- b) Information requested shall not identify an individual unless identification is deemed necessary / appropriate.
- c) Information requested shall not prejudice legal proceedings or current or future operations carried out by the responsible authorities or co-operating bodies.
- d) All requests for information should be notified to the Director of Corporate Commissioning who will seek to coordinate an appropriate response by the date requested.

ATTENDANCE AT COMMITTEE MEETINGS

- 146 The Committee may require attendance of a representative of the Partnership and /or a responsible authority in order to answer questions or provide information, giving reasonable notice to that representative. Notice shall be at least two weeks unless the representative agrees shorter period of notice.
- 147 All requests for attendance at Committee should be notified to the Director of Corporate Commissioning who will seek to ensure appropriate attendance on the date requested.

REPORTS & RECOMMENDATIONS

- 148 When the Crime & Disorder Scrutiny Committee makes a report or recommendations which have an impact on community safety issues the committee will send a copy of the report and recommendations to the responsible authorities or co-operating bodies as are affected by the report or recommendations, the Director of Corporate Commissioning, or as otherwise appropriate in accordance with section 19(8) of the Police and Justice Act 2006
- 149 the responses to such report or recommendations shall be in writing and within one month from the date of the report or recommendations, or if this is not reasonably possible, as soon as possible thereafter
- 150 The Crime & Disorder Committee shall review such responses and agree with the relevant partner(s) how the actions will be monitored, in accordance with its powers under section 19(1) of the 2006 Act.

COUNCILLOR CALL FOR ACTION

- 151 Issues relating to Crime & Disorder shall follow the Council's process for Councillor Call for Action, with the exception that the request would be directed to the Chair of the

Crime and Disorder Committee, rather than the Overview & Scrutiny Management Board, who would then make the decision about the validity of the request.

E MEMBERS' ALLOWANCES SCHEME

BASIC ALLOWANCE

152 All Members to receive a Basic allowance of :- £8,520

SPECIAL RESPONSIBILITY ALLOWANCE (SRA)

153 The following Members to receive a Special Responsibility Allowance of:-:

Leader of the Council	£25,560
Cabinet Members	£17,040
Party Leaders	£4,260
<u>Committee Chairs</u>	
Planning	£8,520
Licensing and Regulatory	£8,520
Overview and Scrutiny	£4,260
Audit and Governance	£4,260
<u>Mayoral Allowances</u>	
Mayor	£12,780