

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Your attendance is requested at a meeting to be held at The Holding Room, The Guildhall, St. Giles Square, Northampton, NN1 1DE on Monday, 30 September 2019 at 5:00 pm.

George Candler
Chief Executive

AGENDA

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. DECLARATIONS OF INTEREST
5. CO OPTEE (INDEPENDENT MEMBER) - VACANCY
The Standards Committee to confirm the appointment process – One Co Optee (Independent Member).
6. MEMBER/OFFICER PROTOCOL - UPDATE
The Committee to receive an update on the Member/Officer Protocol.
7. LOCAL GOVERNMENT ETHICAL STANDARDS - COMMITTEE ON STANDARDS IN PUBLIC LIFE
8. STATISTICS - CODE OF CONDUCT COMPLAINTS
The Standards Committee to consider a report regarding complaints received under the Arrangements for dealing with allegations of breaches of the Council's Code of Conduct and of Codes of Conduct adopted by Parish Councils.
9. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
10. EXCLUSION OF PUBLIC AND PRESS
THE CHAIR TO MOVE:
"THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT."

Public Participation

Members of the public may address the Committee on any non-procedural matter listed on this agenda. Addresses shall not last longer than three minutes. Committee members may then ask questions of the speaker. No prior notice is required prior to the commencement of the meeting of a request to address the Committee.

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STANDARDS COMMITTEE

Monday, 24 June 2019

PRESENT: Councillor Patel (Chair); Councillor Oldham (Deputy Chair);
Councillors Bottwood, Kilbride, Marriott and Russell, Councillor Lewis
(Co-optee – Parish Councillor) and Ika Castka (Co-optee –
Independent)

1. APOLOGIES

An apology for absence was received from Roger Rumsey (Co-optee - Independent).

2. MINUTES

The minutes of the meeting held on 25 March 2019 were signed by the Chair as a true and accurate record.

At this point the Chair advised that in there is a need for a substitute member (co-optee – Independent) to be appointed to the Hearings Panel.

RESOLVED: That Ika Castka is appointed substitute member (co-optee – Independent) Standards Hearings Panel.

3. DEPUTATIONS / PUBLIC ADDRESSES

There were none.

4. DECLARATIONS OF INTEREST

There were none.

5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

6. DRAFT WORK PLAN FOR THE STANDARDS COMMITTEE 2019/2020

The Chair presented the draft Work Plan for the Standards Committee 2019/2020 for the Committee's consideration.

RESOLVED: That the Work Plan for 2019/2020 for the Standards Committee is approved.

7. STATISTICS - CODE OF CONDUCT COMPLAINTS

The Standards Committee received a report detailing statistics in relation to Code of Conduct Arrangements complaints.

The Solicitor apprised the Committee of each of the complaints listed.

One of the complaints referred to a Standard Hearing and the date was provided to the

Members. In response to a query, the Solicitor confirmed that costings in relation to this specific complaint could be provided when the complaint is concluded.

RESOLVED: That:

- (1) The statistical data in relation to the number of complaints received and dealt with is noted.
- (2) Statistical data in relation to the number of complaints received and dealt with is presented to the Committee at each meeting.

The meeting concluded at 5:12 pm

Appendices:
A. Audit Report
B. Draft Protocol



STANDARDS COMMITTEE REPORT

Report Title	MEMBER / OFFICER PROTOCOL
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	30 September 2019
Policy Document:	YES
Directorate:	Borough Secretary and Monitoring Officer

1. Purpose

- 1.1 The purpose of this Report is to provide the Committee with an update on implementation of the recommendations in the report commissioned in relation to the Council's Protocol on Member / Officer Relations.
- 1.2 At its meeting of 25 March 2019 Standards Committee considered the report prepared by BDO Consultants in relation to the Council's Protocol on Member / Officer Relations and which made a number of recommendations for improving that document. Committee agreed to receive a further report once an Action Plan in relation to implementing the recommendations in that report had been produced and agreed.

2. Recommendations

- 2.1 That Committee consider the attached draft revised Protocol and comment on the content accordingly.
- 2.2. Members agree to appoint a Working Group comprising Officers and Members to review the recommendations in the Audit report along with the draft revised Protocol with a view to making further revisions to the draft Protocol for consideration by Committee.
- 2.3 That Committee agree to receive a further report at its December meeting with a view to adoption of a revised Protocol incorporating such amendments as the Committee may consider appropriate having regard to the report of the Working Group.

3. Issues and Choices

3.1 Report Background and Issues

- 3.1.1 In late 2018 the Borough Secretary commissioned an external audit of the Council's Protocol on Member Officer Relations. The audit included interviews with a number of Officers and Members to obtain their views on Member / Officer working relations; a survey of Officers and Members to establish whether the roles and expectations set out in the Constitution were met; a revision of parts of the Council's Constitution and comparison of these with those of other authorities; and, attended a meeting of the Executive Programme Board to assess its working practices. A copy of the Audit Report is attached as Appendix A.
- 3.1.2 The Audit Report made a number of recommendations which for the purpose of this Committee's role can be summarised as, revise the Protocol; convene a Member / Officer Working Group to contribute to the revision; launch a training programme to raise awareness of the revised Protocol; and ensure that the revised Protocol contains a full description of Members' role on the Council.
- 3.1.3 Following the report to Committee in March a draft revised Protocol has been produced for consideration by Committee. The approach taken was first to address some ambiguities in the former version and ensure use of consistent terminology and, secondly to add further detail of the types of acceptable and unacceptable behaviour as set out in the Audit Report.
- 3.1.4 Whilst some amendments have been made in relation to the descriptions of the roles of Officers and Members it is difficult to make these exhaustive and signposting to the parts of the Constitution which amplify these roles is as effective as attempting to reproduce them in the Protocol. A copy of the draft amended Protocol is attached as Appendix B.
- 3.1.5 It should be noted that, notwithstanding the suggestion in the Audit Report that other authorities have mechanisms for enforcing breaches of the Protocol, any allegation that an elected or co-opted Member has breached the Protocol may only be dealt with under the mechanism for dealing with allegations that a Member has breached the Code of Conduct and, should such an allegation be made, may only progress if the alleged breach would also amount to a breach of the Code.
- 3.1.6 Committee is invited to consider the draft Protocol and make such comments as it sees fit.
- 3.1.7 Committee is also requested to appoint a Working Group consisting of Officers and Members to work on development of the draft Protocol. It is believed that in order to ensure that contributions are comprehensive, members should include cabinet Members, non-cabinet Members, co-opted Members, senior Officers and junior Officers.

3.2 Choices

3.2.1 Members may decide to adopt the recommendations above in order to progress the actions suggested in the Audit Report.

3.2.2 Members may decide not to adopt the recommendations above if they do not wish to progress the actions suggested in the Audit Report.

4. Implications (including financial implications)

4.1 Policy

4.1.1 This report does not have any direct policy implications.

4.2 Resources and Risk

4.2.1 This report does not have any direct resource implications.

4.3 Legal

4.3.1 As set out above, action may only be taken against a Member where they are alleged to have breached the Code of Conduct adopted by the Council under the provisions of Part 1 of the Localism Act 2011. When such a complaint is made it must be dealt with in accordance with the *Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils* which are contained in the Constitution for the purpose of implementing those provisions of the Localism Act 2011.

4.3.2 Case law in 2018 has made clear that it is not permissible to have a 'dual system' of considering allegations against Members by using an authority's grievance procedure and, should such a course of action be taken, it will not bind the Member concerned.

4.3.3 Accordingly, Committee should note that action may only be taken against a Member in relation to any alleged breach of a revised Protocol if the allegation concerned would also be a breach of the Council's Code of Conduct.

4.4 Equality

4.4.1 There are no direct equality and diversity implications arising from this report.

4.5 Consultees (Internal and External)

4.5.1 Not applicable.

4.6 Other Implications

4.6.1 None.

5. Background Papers

- 5.1 Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils.

APPENDICES

A. Audit Report - BDO Consultants

B. Draft revisions to Protocol

**Francis Fernandes
Borough Secretary and Monitoring Officer**

Northampton Borough Council

INTERNAL AUDIT REPORT

Member-Officer Relationships Review

December 2018

LEVEL OF ASSURANCE	
Design	Operational Effectiveness
Moderate	Limited



CONTENTS

Executive Summary	3
Detailed Findings and Recommendations	8
Appendices:	
I Staff Interviewed	34
II Definitions	35
III Terms of Reference	36
IV Survey Results	38

REPORT STATUS

Auditors:	Adam Leeder
Dates work performed:	November 2018 - January 2019
Draft report issued:	23 rd January 2019
Final report issued:	19 th February 2019

DISTRIBUTION LIST

Francis Fernandes	Borough Secretary and Monitoring Officer
George Candler	Chief Executive
Stuart McGregor	Chief Financial Officer
Joanne Bonham	Governance and Risk Manager

Restrictions of use

The matters raised in this report are only those which came to our attention during the course of our audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. The report has been prepared solely for the management of the organisation and should not be quoted in whole or in part without our prior written consent. BDO LLP neither owes nor accepts any duty to any third party whether in contract or in tort and shall not be liable, in respect of any loss, damage or expense which is caused by their reliance on this report.

EXECUTIVE SUMMARY

CLIENT STRATEGIC OBJECTIVES

Corporate Risk Register - Risk 2 - There is insufficient clarity around Member-Officer roles

SUMMARY OF RECOMMENDATIONS (SEE APPENDIX II FOR DEFINITIONS)

High	
Medium	12
Low	4

Total number of recommendations: 16

6

OVERVIEW

Background and scope

Members and Officers of all councils have different, but complimentary roles. “Members provide a democratic mandate to the Council, whereas Officers contribute the professional expertise needed to deliver the policy framework agreed by Members” (LGA Member-Officer Relationships Workbook). The Council enshrines these roles, and the expectations of behaviour between both roles, in its Constitution, chiefly the Member-Officer Protocol contained within the Constitution. This review assesses the Member-Officer working relationship at Northampton Borough Council and identifies opportunities to improve it. We have followed three principles throughout this review:

- Member-Officer working relationships, particularly those between Cabinet Members and senior Officers, will always involve an element of working in the grey area between ‘policy’ and ‘politics’. Councils are inherently political organisations and this tension is natural. Therefore this review is not about trying to remove this tension. Rather it is about making sure this tension, between professional advice and democratic mandate, operates in a healthy way;
- We have focussed predominantly on systemic issues - i.e. how Officers as a whole, and Members as a whole, work together most of the time. There are personality clashes in any organisation. No protocol can eliminate these. Where we do highlight specific issues - i.e. rare instances restricted to particular issues or Members/Officers we have done so given their severity and made clear that they are not a symptom of a wider problem;
- We have emphasised the importance of culture and behaviour as much as the processes the Council has in place. The Council could have the most comprehensive Member-Officer Protocol in England, but if desirable cultures and behaviours related to that Protocol are not embedded then the Protocol will not work.

EXECUTIVE SUMMARY

OVERVIEW

Approach

We took a four-step approach to gathering evidence for this review:

- Firstly, we undertook 14 interviews with 14 Council Officers/Members to get their views on the Member-Officer working relationship. Interviewees included Officers at Chief Executive, Head of Service and Manager level. Member interviewees included the Leader of the Council, Cabinet Members and the Leader of the Opposition;
- Secondly, we undertook a survey of both Officers and Members on whether the roles/responsibilities and expectations set out in the Council's Constitution reflected day-to-day reality of working at the Council. This survey was sent to all Members and all Officers at Manager-level and above. 24 Officers and 11 Members responded to our survey. The survey results are shown in full in Appendix IV;
- Thirdly, we reviewed the aspects of the Council's Constitution which focus on Member-Officer relations (primarily the Member-Officer Protocol) and compared these to a sample of other council Member-Officer Protocols. We used this to identify potential new areas which could be covered by the Council's refreshed Member-Officer Protocol;
- Fourthly, we attended a meeting of the Council's Executive Programme Board (EPB) to assess its working practices.

Findings

Our survey suggests that the Council has developed a reasonably positive Member-Officer working relationship. Survey respondents were asked 'On a scale of 1 - 10 (with 1 being 'very poor' and 10 being 'excellent') how would you rate the working relationship between Members and Officers at the council?' The mean average Member response was 7.73 and the mean average Officer response was 6.24. Both Members and Officers rated the working relationship toward the higher end of the quality spectrum, with Members more satisfied with the current working relationship than Officers. However there is still room for improvement. This theme is picked up throughout this report through more detailed analysis of the findings.

Perhaps of most concern is that officers produced low scores (between 5 and 6 out of 10) on the following questions: Members will not pressurise any Officers to change their professional opinion on any council business matter or do anything that compromises the impartiality of those who work for, or on behalf of, the council; Members will be clear about their roles and the roles of Officers; and Members will not get involved in day to day activities of Officers such as internal office management, discipline or employment related issues.

Overall Members and Officers interviewed for the review highlighted that the Council has been on a journey from an unhealthy top-down culture where Members were dictating policy, through a period where Members adopted more of a 'hands off' approach to policymaking, and now to a position where the balance between political direction from Members and advice and implementation from Officers is more even. However evidence from interviews and surveys conducted for this review shows that issues remain.

EXECUTIVE SUMMARY

OVERVIEW

Elements of good practice we identified include:

- The Constitution sets out the anticipated roles of Members and Officers and expectations both groups can have about one another;
- The Council's Executive Programme Board (EPB) provides space to have robust discussions between Members of the Cabinet and senior Officers. When we observed this meeting it had a pre-circulated agenda. Reports presented to the Board clearly set out options for decisions and the risks and advantages of each. The meeting was well chaired, bringing discussion back to the matter at hand where it had deviated. Overall the meeting had a positive energy with Officers thanked for their contributions and a tone which indicated a positive working relationship;
- Participants in the review felt that the Leader of the Council and Chief Executive are setting an improved cultural tone for both Members and Officers respectively which will permeate through both groups;
- In general there is a feeling amongst Members regarding Officers that "we have the best team we've ever had";
- The Chief Executive is pursuing a "dispersed leadership" model based on a flatter structure, Away Days for senior officers focusing on issues such as Leadership and Change Management, expanding attendance at EPB, accelerated appointment of a Learning and Development Officer. These are felt to have improved the capacity and capability of senior Officers to provide constructive challenge to the political direction set by Members;
- Cabinet Members and Heads of Service both remarked on the positive one-to-one relationships - "open", "constructive", "collaborative" and based on "trust".

However, the review identified the following recommendations for improvement:

- Build on current definitions of Member and Officer roles to bring these to life more clearly through example-based scenarios, focussing on where the survey carried out for this review shows the greatest discrepancy between the description in the Protocol and Officer/Member perceptions of how roles and responsibilities work in practice. This is also an opportunity to streamline references to Member's and Officer's roles in the Constitution so that they are all held in the same place. This clearer explanation of roles and responsibilities should then be embedded through a Council-wide training programme to make sure all Members and Officers are aware of the Protocol (Risk Reference 1A - Medium);
- Build on current definitions of the expectations Members and Officers can have of one another. Do this by consulting with Members and Officers based on the expectations they actually have of one another and cultural development sessions with Members and Officers working together on improving their working culture (Risk Reference 1B - Medium);
- Update the Member-Officer Protocol to include a clear process for where Officers wish to make complaints about Members conduct in relation to the Protocol and ensure this creates formal records where appropriate, has a right of appeal, and requires Group Leaders to show leadership and take remedial action where persistent issues are identified (Risk Reference 2A - Medium);
- Clearer communication by Group Leaders to their respective political groups of the existing Protocol's rules around influencing Officer decisions. However, to give Members confidence that political priorities of the administration will be progressed in the appropriate way, an agreed list of political priorities should be produced and discussed at each EPB meeting (Risk Reference 2B - Medium);

EXECUTIVE SUMMARY

OVERVIEW

- Update the Member-Officer Protocol to clarify that decisions taken at EPB are non-binding and do not compromise the Council with regard to pre-determination (Risk Reference 3A - Low);
- Consult with Members on how the Member Contact Centre works, to increase the likelihood that Members will use it rather than contact Officers directly (Risk Reference 3B - Low);
- Use the Member Reference Group to create more opportunities for policy-based discussions between Officers and Non-Cabinet Members. This will help create a greater culture of trust across Members of the organisation and improve the quality of discussions between Members and Officers (Risk Reference 3C - Low);
- Recirculate contact details for Northampton Partnership Homes (NPH) area housing officers and re-communicate to Members the process for housing related casework involving NPH (Risk Reference 3D - Low).

Furthermore, whilst the Executive Programme Board provided a well managed and valuable forum for discussion, our observation did suggest some areas for improvement in how this meeting is managed which the Council may wish to consider:

- Discussion at Executive Programme Board is stronger when it focusses on strategic issues as opposed to specific cases. Discussion should focus on these strategic issues;
- Whilst the Executive Programme Board did include an update on actions from previous meetings, it was not always clear what actions had been agreed during the meeting. Agreeing actions more clearly at the end of each agenda item would ensure that actions meet the Board's expectations and are realistic. One example of where this not being done had hindered the discussion related to a request for Officers to share a record of all commercial property owned by the Council, the expiry date of current leases and who the leaseholders were. The scope of this proved too broad for Officers to supply given the amount of additional work required to produce such a register. The Board therefore agreed on a more concise set of information to be provided. However this resulted in a delay in progressing this matter until the next meeting;
- The Executive Programme Board provides an opportunity for discussion on strategic issues which cut across the Council's service areas. Two changes would make this aspect of Executive Programme Board function better. Firstly, Officers could input outside their specific policy brief - often Officers only provided input on the papers they had produced for the meeting and not other agenda items. Secondly, the discussion would benefit from wider Member input. Often Member input was driven by the Leader and Deputy Leader and contributions from other Members was minimal.

We have not made these observations formal recommendations because they are more qualitative in nature. They are also about improving an already positive and generally well managed meeting.

EXECUTIVE SUMMARY

OVERVIEW

The Council is currently in the process of refreshing its Member-Officer Protocol. This provides an opportunity to implement the above findings and run a related programme of engagement with all Members and Officers to refresh their understanding of the protocol.

Overall, we have been able to verify that the Council has made significant improvements to its Member and Officer relationships but there is still some way to go to achieve the standards set by the best Councils. We have therefore concluded on an opinion of moderate assurance for the design of the controls in this area and limited assurance on effectiveness. If the current rate of progress is maintained and our recommendations are actioned we would expect this opinion to improve.

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols

14

Ref.	Finding	Sig.	Recommendation
1A	<p>The Council’s Constitution (including the Member-Officer Protocol) sets out the respective roles and responsibilities of Members and Officers.</p> <p>Article 2, Clause 2.3.1 of the Constitution states that a Members role is::</p> <ul style="list-style-type: none"> • Maintain a relationship with employees that is characterised by mutual trust, courtesy and respect; • Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions; • Represent their communities and bring their views into the Council’s decision-making process, i.e. become the advocates of and for their communities; • Deal with individual case work and act as advocates for constituents in resolving particular concerns or grievances; • Balance different interested identified within their ward or electoral divisional and represent their ward or electoral division as a whole; • Be involved in decision making; • Be available to represent the Council on other bodies; and • Maintain the highest standard of conduct and ethics 	Medium	<p>a) When updating the Council’s Member-Officer protocol, focus on providing clarity on those areas where the survey undertaken for this review suggests that aspirations set out in the current protocol do not match reality.</p> <p>b) Convene an Officer-Member working group to focus on areas where disparity between Member perception of current roles, and Officer perception of current roles differ most - i.e. those highlighted by the survey for this review.</p> <p>c) Run an organisation-wide training programme on the Protocol once it has been refreshed - cascading training down through political groups, Heads of Service and to CMT meetings run by Heads of Service.</p> <p>d) When updating the Council’s Member-Officer Protocol, the Council should incorporate a description of a Member’s role in the Member-Officer Protocol, building on the description currently set out in Article 2 of the Council’s Constitution.</p>

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols

15

Ref.	Finding	Sig.	Recommendation
1A	<p>The Council’s Member-Officer Protocol (part of the Constitution) states that an Officer’s role is to:</p> <ul style="list-style-type: none"> • Act in the best interest of the council and not give politically partisan advice (Clause 2.2); • Maintain a relationship with members that is characterised by mutual trust, courtesy and respect (Clause 2.1); • Respect the confidentiality of any discussions on formulation of policy with members at which they are present (Clause 2.6); • Work closely with the administration and give factual information, assistance and advice on procedural inquiries to the members of any group (Clause 3.3), but is not permitted to advise on policies that any group should pursue (Clause 3.5). They cannot be held responsible for actioning in any way whatsoever the decisions of groups, unless they have become the formal decisions of the council (Clause 3.16.3). <p>Whilst the Constitution does set out both Members’ and Officers’ roles and responsibilities, it does so in different places - Article 2 for Members, and the Member-Officer Protocol for Officers. This hinders easy understanding of what Member-Officer roles are and how this shapes Member-Officer working relationships.</p> <p>Also, the extent to which these roles and responsibilities can be considered ‘clearly’ defined depends, in part, on whether they are followed in practice. We undertook a short survey for this review, asking all Members, and Officers at Manager grade and above, to indicate the extent to which each role/responsibility set out in the Constitution reflected actual practice.</p>	Medium	

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols

Ref.	Finding	Sig.	Recommendation									
1A	<p>In the survey, Members and Officers were each asked, on a scale of 1-10 (with 1 being ‘no resemblance’ and 10 being ‘an exact match’ how far they thought each description of Member and Officer roles match working practices in reality. The average responses of each group, to each collection of roles and responsibilities, is set out in Table 1 below. Table 2 shows where the average score for an individual role/responsibility is below seven -i.e. the areas which are causing greatest concern.</p> <p><i>Table 1: Member and Officer views on extent to which roles and responsibilities outlined in the Council’s Constitution reflect reality</i></p> <table border="1"> <thead> <tr> <th>Respondent Type</th> <th>Match of Member Roles to Reality</th> <th>Match of Officer Roles to Reality</th> </tr> </thead> <tbody> <tr> <td>Members</td> <td>7.84</td> <td>7.75</td> </tr> <tr> <td>Officers</td> <td>6.88</td> <td>8.12</td> </tr> </tbody> </table> <p><i>Table 2: Summary of Member and Officer views on adherence to roles and responsibilities where average response score is below seven</i></p>	Respondent Type	Match of Member Roles to Reality	Match of Officer Roles to Reality	Members	7.84	7.75	Officers	6.88	8.12	Medium	
Respondent Type	Match of Member Roles to Reality	Match of Officer Roles to Reality										
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16

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols

Ref.	Finding	Sig.	Recommendation									
1A	<p><i>Table 2: Summary of Member and Officer views on adherence to roles and responsibilities where average response score is below seven</i></p> <table border="1"> <thead> <tr> <th>Respondent Type</th> <th>Member Role Reality match score below 7</th> <th>Officer Role Reality Match score below 7</th> </tr> </thead> <tbody> <tr> <td>Members</td> <td> <ul style="list-style-type: none"> • ‘Members are involved in decision making’ </td> <td> <ul style="list-style-type: none"> • No responses below 7 </td> </tr> <tr> <td>Officers</td> <td> <ul style="list-style-type: none"> • Members abide by code of conduct • Members maintain relationship with Officers characterised by trust, courtesy and respect • Members ultimate policy makers • Members balance community interests </td> <td> <ul style="list-style-type: none"> • No responses below 7 </td> </tr> </tbody> </table> <p>Three conclusions can be drawn from Tables 1 and 2:</p> <ul style="list-style-type: none"> • Members and Officers are both inclined to interpret the adherence of their respective roles to the roles and responsibilities set out in the Constitution as being stronger than the other party; • Members are content that the roles of Officers and Members, as set out in the Constitution, are reflected in the day to day working practices of the Council; • Officers believe their own practices match the roles and responsibilities set out in the Constitution but are concerned that Members day to day practices do not reflect the agreed role of Members. 	Respondent Type	Member Role Reality match score below 7	Officer Role Reality Match score below 7	Members	<ul style="list-style-type: none"> • ‘Members are involved in decision making’ 	<ul style="list-style-type: none"> • No responses below 7 	Officers	<ul style="list-style-type: none"> • Members abide by code of conduct • Members maintain relationship with Officers characterised by trust, courtesy and respect • Members ultimate policy makers • Members balance community interests 	<ul style="list-style-type: none"> • No responses below 7 	Medium	
Respondent Type	Member Role Reality match score below 7	Officer Role Reality Match score below 7										
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Officers	<ul style="list-style-type: none"> • Members abide by code of conduct • Members maintain relationship with Officers characterised by trust, courtesy and respect • Members ultimate policy makers • Members balance community interests 	<ul style="list-style-type: none"> • No responses below 7 										

17

DETAILED RECOMMENDATIONS

RISK REFERENCE: 1A

Management Response

- a) The Council plans to update the Member-Officer Protocol and will focus this work on addressing those areas where the survey for this review has highlighted potential issues.
- b) As part of re-writing the Member-Officer Protocol the Council will convene a Member-Officer Working Group to co-develop the revised Protocol.
- c) Once the Council has re-drafted the Member-Officer Protocol the Council will launch a training programme to make sure Members and Officers are aware of the content of the revised Protocol.
- d) The Council's updated Member-Officer Protocol will include a full description of a Member's role on the Council

Responsibility and Implementation Date

Responsible Officer:

Recommendation a, b, c and d - Francis Fernandes (Monitoring Officer)

Implementation Date:

1st May 2019

18

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols

19

Ref.	Finding	Sig.	Recommendation
1B	<p>The Council’s Member-Officer Protocol also sets out expectations of both Members and Officers.</p> <p>The Constitution says Officers can expect:</p> <ul style="list-style-type: none"> • Members will engender mutual trust, openness, honesty, fairness and transparency. • Members will not pressurise any Officers to change their professional opinion on any council business matter or do anything that compromises the impartiality of those who work for, or on behalf of, the council. • Members will be clear about their roles and the roles of Officers. • Members will not get involved in day to day activities of Officers such as internal office management, discipline or employment related issues. <p>The Constitution says Members can expect:</p> <ul style="list-style-type: none"> • Officers will engender mutual trust, openness, honesty, fairness and transparency. • Officers will avoid close personal familiarity with members as this can damage professional relationships. • When information is required from Officers, it will be provided if the Council has given authorisation and the information is readily available. • Officer’s duties are first owed to their line manager and the Chief Executive and not to any individual member. Officers will act under the direction of the relevant Heads of Service. • Officers will respond to questions from members in an open, constructive and helpful manner and must not mislead or be economical with the truth. 	Medium	<p>a) When updating the Council’s Member-Officer Protocol, draw on expectations of Members and Officers highlighted for this review, and undertake a wider engagement exercise of Members and Officers to determine expectations which are bespoke to the needs and views of the Council.</p> <p>b) The updated Member-Officer Protocol should make recommendations more understandable by couching them in everyday examples. For example “Councillors should not walk the floors of the Council and instruct Officers to undertake certain tasks”.</p> <p>c) Hold a joint Member-Officer session focussed on understanding respective expectations of one another. This would focus on developing an improved culture to underpin the refreshed Member-Officer Protocol.</p>

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols

Ref.	Finding	Sig.	Recommendation										
1B	<p>As with Risk Reference 1A (on roles and responsibilities), the extent to which expectations can be determined as clearly set out is dependent, in part, on whether those expectations are followed in practice. We undertook a short survey of all Members and Officers at Manager-level and above to understand whether the expectations set out in the Constitution are upheld in reality.</p> <p>Member responses to the survey show that they are content that Officer actions in reality match the expectations set out in the Constitution. All expectations scored over seven in terms of the extent to which they matched reality, with an average score of 7.77 across all expectations. However Officers who responded to our survey were less convinced that Member behaviour matched the expectations set out in the Council's Constitution. The average scores for each expectation are set out in Table 3.</p> <p><i>Table 3: Officer perception of how far Member behaviour matches expectations set out in the Council's Constitution</i></p> <table border="1"> <thead> <tr> <th>Expectation</th> <th>Average Score (out of 10)</th> </tr> </thead> <tbody> <tr> <td>Members will engender mutual trust, openness, honesty, fairness and transparency.</td> <td>6.08</td> </tr> <tr> <td>Members will not pressurise any Officers to change their professional opinion on any council business matter or do anything that compromises the impartiality of those who work for, or on behalf of, the council</td> <td>5.38</td> </tr> <tr> <td>Members will be clear about their roles and the roles of Officers</td> <td>5.67</td> </tr> <tr> <td>Members will not get involved in day to day activities of Officers such as internal office management, discipline or employment related issues</td> <td>5.67</td> </tr> </tbody> </table>	Expectation	Average Score (out of 10)	Members will engender mutual trust, openness, honesty, fairness and transparency.	6.08	Members will not pressurise any Officers to change their professional opinion on any council business matter or do anything that compromises the impartiality of those who work for, or on behalf of, the council	5.38	Members will be clear about their roles and the roles of Officers	5.67	Members will not get involved in day to day activities of Officers such as internal office management, discipline or employment related issues	5.67	Medium	
Expectation	Average Score (out of 10)												
Members will engender mutual trust, openness, honesty, fairness and transparency.	6.08												
Members will not pressurise any Officers to change their professional opinion on any council business matter or do anything that compromises the impartiality of those who work for, or on behalf of, the council	5.38												
Members will be clear about their roles and the roles of Officers	5.67												
Members will not get involved in day to day activities of Officers such as internal office management, discipline or employment related issues	5.67												

20

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols

Ref.	Finding	Sig.	Recommendation
1B	<p>Members and Officers who participated in interviews for this review were also asked to set out what their actual expectations were of both Members and Officers. Their responses are set out below:</p> <p>Interview participants expect Members to be:</p> <ul style="list-style-type: none"> • Honest • Supportive • Challenging • Show respect of professional judgement • Consistency • Clarity • Polite <p>Interview participants expect Officers to be:</p> <ul style="list-style-type: none"> • Informed, accurate and quality advice • Supportive • Responsive • Clear and succinct • Confidence-inspiring • Professionalism • Equal treatment of all Members • Proactive, entrepreneurial “can do” attitude • Adopt a “no surprises” approach 	Medium	

21

DETAILED RECOMMENDATIONS

RISK: Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols			
Ref.	Finding	Sig.	Recommendation
1B	<p>There is considerable overlap between the expectations cited in the Protocol, and those cited in interviews for this review.</p> <p>Where there are differences in expectations of Officers, these relate to clarity of advice, timely responses to enquiries and taking a proactive and solution-focussed approach to issues. Where there are differences in expectations of Members, these relate to consistency of direction.</p>	Medium	

DETAILED RECOMMENDATIONS

RISK REFERENCE: 1B	
Management Response	Responsibility and Implementation Date
<p>a) When updating the Member-Officer Protocol the Council will update the expectations Members and Officers can have of one-another to ensure they are in-line with the expectations of current Council Officers and Members.</p> <p>b) The updated expectations for Members and Officers which are included in the Member-Officer Protocol will be supported by examples of how this behaviour looks and does not look.</p> <p>c) The Council will use a Member-Officer Working Group to co-develop which behavioural expectations are included in the updated Member-Officer Protocol.</p>	<p>Responsible Officer: Recommendation a, b and c - Francis Fernandes (Monitoring Officer)</p> <p>Implementation Date: 1st May 2019</p>

DETAILED RECOMMENDATIONS

RISK: Professional relationship concerns are not identified and acted upon effectively

24

Ref.	Finding	Sig.	Recommendation
2A	<p>Some interviewees (both Members and Officers) who participated in this review highlighted concerns that certain Members were overly forceful in the tone of their communication with Officers. Whilst all who raised the issue were keen to highlight this issue was confined to a minority of Members, that minority is significant, and it is nonetheless a cause for concern. This is also reflected in responses to the survey issued to Officers for this review. The Constitution sets out an expectation that Members will engender mutual trust, openness, honesty, fairness and transparency. However, on a scale of 1 to 10 (with 1 being ‘no resemblance’ and 10 being ‘an exact match’) Officers scored Members actual behaviour as 6.08 against this expectation. This suggests that whilst this issue is not systemic there is room for improvement.</p> <p>Specific examples cannot be included in this report to protect the anonymity of those who gave evidence to this review.</p> <p>The Council’s Member-Officer Protocol already prohibits such behaviour. Section 3.10 of the Protocol states “Members must guard against putting inappropriate pressure (on Officers), in particular on junior employees, and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, or lead to a breakdown of mutual trust, respect and courtesy in Member-employee relations”.</p> <p>The Council’s Member-Officer Protocol also covers criticism of particular Officers in either the media or public meetings. Section 3.12 of the Protocol states “Members should not raise matters relating to the conduct or capability of an employee (or of employees collectively) at meetings held in public or before the press, as employees have no means of responding publicly.”</p>	Medium	<p>When updating the Member-Officer Protocol, the Council should introduce a clear process for complaints by Officers about the conduct of individual Members. Such a process exists in protocols held by other Councils which were reviewed as part of this audit. This process should set out who Officers can raise complaints with, provide an appeal route if they are not happy with how this complaint has been treated, and a method for logging complaints received. The updated Protocol should also state that Group Leaders have a responsibility for the behaviour of their Group Members towards Officers.</p>

DETAILED RECOMMENDATIONS

RISK: Professional relationship concerns are not identified and acted upon effectively

25

Ref.	Finding	Sig.	Recommendation
2A	<p>Custom and practice at the Council is that any complaints made regarding Member behaviour are handled informally. The Monitoring Officer stated that, during his time at the Council, there has not been a formal complaint made regarding the working relationship between Members and Officers. For example, the matter has been discussed and resolved between the Chief Executive, Monitoring Officer, relevant Group Leader and the Member concerned. Feedback received through this review suggests that the lack of formal record does not mean the Council does not have an issue in this area. Some interviewees stated that some concerns about the behaviour of Members towards Officers had been ignored, had seen no action taken and were not formally recorded.</p> <p>In some circumstances, a less formal approach, focussing on mediation between both parties, will be appropriate. However, the tone with which some Members speak to Officers was a concern raised by both Members and Officers during interviews for this review. It would therefore seem prudent that the Council incorporates a process in the Member-Officer Protocol to manage such issues should they arise. This would instil confidence in potentially aggrieved parties.</p> <p>The Member-Officer Protocol does, to some extent, cover this issue. Section 2.10 of the Protocol states “any member of the public (including employees) can complain to the Council’s Monitoring Officer in respect of any alleged breach of the Code of Conduct for Councillors in accordance with the Arrangements for Dealing with Allegations of Breaches of the Northampton Borough Council Members’ Code of Conduct”.</p> <p>However, this relates to the Members Code of Conduct but is not the same as, the provisions set out in the Member-Officer Protocol. The Member’s Code of Conduct covers more general matters such as declaring interests and upholding the Nolan Principles of Standards in Public Life. The Member’s Code of Conduct does not cover any detail about how Members and Officers should work together. Furthermore, Section 2.10 of the Protocol is not specifically created to support employees. Instead, employees are only protected insofar as they have the same rights as a member of the public.</p>	Medium	

DETAILED RECOMMENDATIONS

RISK REFERENCE: 2A	
Management Response	Responsibility and Implementation Date
An updated Member-Officer Protocol will include a process for handling Officer complaints about Member conduct.	<p>Responsible Officer: Francis Fernandes (Monitoring Officer)</p> <p>Implementation Date: 1st May 2019</p>

DETAILED RECOMMENDATIONS

RISK: Professional relationship concerns are not identified and acted upon effectively			
Ref.	Finding	Sig.	Recommendation
2B	<p>Some Officers interviewed raised concerns that certain Members had a tendency to either influence or direct the content of Officer reports or delegated decisions. As with Risk Reference 2A, those who raised the issue stressed that such instances are isolated to particular Members. However, given that they have been raised it is right that such issues are addressed in this review.</p> <p>Furthermore, this issue is reflected in Officer responses to the survey issued as part of this review. The Council’s Constitution sets out an expectation that Members will both “not pressurise any Officers to change their professional opinion on any council business matter or do anything that compromises the impartiality of those who work for, or on behalf of, the council” and “not get involved in day to day activities of Officers such as internal office management, discipline or employment related issues”. However, on a scale from 1 to 10 (with 1 being ‘no resemblance’ and 10 being ‘an exact match’) Officers on average scored Member behaviour as 5.38 and 5.67 against these expectations respectively.</p>	Medium	<p>a) Use Executive Partnership Board (EPB) to agree a manageable set of political priorities to progress before local government reorganisation in Northamptonshire and hold these as a standing item on the agenda at each EPB.</p> <p>b) When holding training for Members on the Officer-Member Protocol, the importance of appropriate tone, and not influencing Officer reports, should be emphasised through a series of scenario-based exercises to reduce the likelihood that either element of the Protocol is unintentionally breached.</p>

27

DETAILED RECOMMENDATIONS

RISK: Professional relationship concerns are not identified and acted upon effectively			
Ref.	Finding	Sig.	Recommendation
2B	<p>Examples include:</p> <ul style="list-style-type: none"> • A proposed policy change to how leases/freeholds are managed by the Council for commercial shops; • Construction of a new headquarters for Northampton Partnership Homes (NPH); • Remedial work to a listed asset owned by the Council <p>The Council’s Member-Officer Protocol states that it is a Member’s role to shape the political direction of the authority, an Officer’s role to provide advice to Members. Members are free (within the confines of the law) to disregard advice received. However, it is not appropriate for Members to dictate that Officers change the content of their advice. Therefore introducing policy, or process, is not the solution to this particular issue.</p> <p>This is set out in the Council’s Member-Officer Protocol. Section 2.9 of the Protocol states “Members must also not pressurise any employee to change their professional opinion on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Council”.</p>	Medium	

28

DETAILED RECOMMENDATIONS

RISK: Professional relationship concerns are not identified and acted upon effectively

29

Ref.	Finding	Sig.	Recommendation
2B	<p>Feedback from both Members and Officers who participated in this review was that a more interventionist approach from Members may be due to: a) a desire from Members to move political priorities on, at pace, prior to local government reorganisation in Northamptonshire; and b) historic concern amongst Members over the number of interim Officers employed at senior levels.</p> <p>Officers interviewed for this review accepted that it is incumbent on Officers to uphold their professional integrity and resist attempts from Members to influence the content of reports presented for formal decision. The Council has taken the following steps to increase the capacity and capability of senior Officers to do this by:</p> <ul style="list-style-type: none"> • Expanding attendance at the Council’s Executive Programme Board (EPB) - a non-decision making forum for Cabinet Members and senior Officers to discuss key strategic issues facing the Council. This is a less public forum than a formal Committee meeting and therefore may make it easier for Officers to provide constructive challenge to Members; • Holding Away Days for senior Officers focussing on softer skills such as leadership and change management. 	Medium	

DETAILED RECOMMENDATIONS

RISK REFERENCE: 2B	
Management Response	Responsibility and Implementation Date
<p>a) Executive Programme Board will work to agree how best to track a set of political priorities which can be tracked regularly at Executive Programme Board meetings.</p> <p>b) Training on application of the Council's updated Member-Officer Protocol will include a section on how to avoid override of professional Officer decisions.</p>	<p>Responsible Officer:</p> <p>a) George Candler (Chief Executive) b) Francis Fernandes (Monitoring Officer)</p> <p>Implementation Date:</p> <p>a) 29th March 2019 b) 1st May 2019</p>

DETAILED RECOMMENDATIONS

RISK: Discussions between Corporate Management Board and Members are not well managed and/or ineffective

31

Ref.	Finding	Sig.	Recommendation
3A	<p>Council Officers interact with Members in different ways depending on the role of the Member concerned, and the context of the interaction. This Risk Reference (3A) considers the effectiveness of Officer interactions with Cabinet Members. Risk References 3B, 3C and 3D relate to aspects of Officer interaction with Members in their role as Ward representatives.</p> <p>The Council has an Executive Programme Board (EPB). EPB meets weekly. It is attended by all Heads of Service and the Chief Executive, and all Cabinet Members. This is a recently expanded membership. When it was first created, EPB was only attended by the Chief Executive, Chief Finance Officer and Monitoring Officer on the Officer-side, and the Leader, Deputy Leader and Finance Cabinet Member on the Member-side.</p> <p>The EPB is designed as a more informal space, outside of the Council’s committee cycle, to discuss cross-cutting issues of strategic importance to the Council and provide early-sight and exploration of upcoming decisions for Cabinet. Both Members and Officers interviewed for this review considered EPB overwhelmingly positive because it:</p> <ul style="list-style-type: none"> • Provides opportunity to raise issues early and get a strategic political steer on the administration’s priorities; • Allows scope for quicker turnaround of Officer advice outside of the restrictions of the Cabinet reporting cycle; • Gives attendees wider perspective on, and exposure to, key strategic issues facing the Council for all Cabinet Members and Heads of Service, beyond their portfolios. <p>However, one risk highlighted by interviewees is the potential scope for pre-determination of decisions which need to be decided at Cabinet. There is scope to clarify the role of the EPB in the Council’s Member-Officer Protocol, which is currently being refreshed. For example, the Protocol could make clear that decisions reached at EPB are not formal. The Council’s Protocol already makes a similar clarification for decisions reached at political group meetings.</p>	Low	When refreshing the Member-Officer Protocol, the Council should extend Clause 2.3 (which stipulates that decisions made at political group meetings are non-binding) to cover Executive Programme Board.

DETAILED RECOMMENDATIONS

RISK REFERENCE: 3A	
Management Response	Responsibility and Implementation Date
The Council's updated Member-Officer Protocol will make clear that decisions reached at Executive Partnership Board are non-binding.	Responsible Officer: Francis Fernandes (Monitoring Officer) Implementation Date: 1 st May 2019

DETAILED RECOMMENDATIONS

RISK: Discussions between Corporate Management Board and Members are not well managed and/or ineffective

33

Ref.	Finding	Sig.	Recommendation
3B	<p>Councillors interviewed for this review highlighted some concerns about Member-Officer communication when dealing with casework. Councillors are instructed to direct casework through the Member Contact Centre - rather than going direct to particular Officers. The Member Contact Centre is designed to:</p> <ul style="list-style-type: none"> • Avoid emails getting lost amidst Officers’ day-to-day email correspondence; • Maintain a log of issues being raised by Members so that queries can be easily chased up; • Permits analysis of typical issues raised by Members. <p>However, whilst the majority of Members interviewed for this review supported the principle of the Member Contact Centre, they voiced the following concerns:</p> <ul style="list-style-type: none"> • The Contact Centre does not always provide a response to all issues raised. For example, where a ward resident’s email covers a range of different points, the response received is likely to address one of these, rather than provide a holistic response centred around the needs of the resident; • Where an enquiry to the Contact Centre in part relates to an issue requiring a response from another organisation (e.g. Northamptonshire County Council) then the Contact Centre will not deal with this. By contrast, direct engagement with a Head of Service could allow the Head of Service to make contact with their colleagues at the other organisation to seek information on, or resolution to, the issue; • In some instances where the Contact Centre refers Member enquiries on to Council contractors then this is done along with all other complaints - therefore such concerns may not be addressed promptly; • Use of the Contact Centre often means a lengthy wait for a response; • Use of the Contact Centre may not be appropriate for urgent and/or particularly sensitive constituent enquiries. 	Medium	<p>a) Discuss how to improve the functioning of the Member Contact Centre at Executive Programme Board.</p> <p>b) Update the Member-Officer Protocol to express that Members are entitled to receive a timely response to enquiries on behalf of ward residents, and agree with Members what this timescale might be.</p>

DETAILED RECOMMENDATIONS

RISK: Discussions between Corporate Management Board and Members are not well managed and/or ineffective			
Ref.	Finding	Sig.	Recommendation
3B	Members and Officers interviewed for this review both acknowledge that the Member Contact Centre is a long-running issue which has resulted in some Members ceasing to use it. Rather than telling Members that they must use the Contact Centre, it would be appropriate to engage with Members to identify how it can work better and re-launch it with new working arrangements.	Medium	

34

DETAILED RECOMMENDATIONS

RISK REFERENCE: 3B	
Management Response	Responsibility and Implementation Date
<p>a) The Executive Programme Board will discuss how the Member Contact Centre can be improved and re-launched to address concerns of Members.</p> <p>b) An updated Member-Officer Protocol will include commitments on handling Member enquiries on behalf of residents in a timely fashion and set expectations for these timescales which will be developed in consultation with Members.</p>	<p>Responsible Officer:</p> <p>a) Marion Goodman (Head of Customer and Cultural Services) b) Francis Fernandes (Monitoring Officer)</p> <p>Implementation Date:</p> <p>a) 18th March 2019 b) 1st May 2019</p>

DETAILED RECOMMENDATIONS

RISK: Discussions between Corporate Management Board and Members are not well managed and/or ineffective

Ref.	Finding	Sig.	Recommendation
3C	<p>Several Members interviewed for this review raised concerns that, having switched from a Committee System to a Cabinet System, opportunities for engagement between Members and Officers on policy issues has reduced. Interviewees suggested that this created uncertainty and therefore a lack of trust, which, in turn, is a contributing factor to some of the other findings outlined in this report (i.e. tone of Member communication with Officers, refusal to use the Member Contact Centre).</p> <p>Officers do seek to engage Members who do not sit on the Cabinet in policy issues. For example:</p> <ul style="list-style-type: none"> • The Council invests significant Officer resource in its Scrutiny Committee, both at the formal Committee and through ‘Task and Finish’ groups; • The Council holds briefings for Members on current policy issues - for example, one such briefing was held recently on Universal Credit; • Members receive an induction when they are first elected; • The Council operates a Members Reference Group which allows Members to identify their own development needs. <p>However Members and Officers interviewed for this review highlighted some issues with these engagement activities. For example:</p> <ul style="list-style-type: none"> • Briefings are not always well attended (although this is not necessarily the fault of Officers); • The induction provided to Members tends to be quite compliance centric, is quite short, and arguably assumes a degree of knowledge about the inner-workings of the Council that new Members do not have. <p>Interviewees identifies the following options for deepening policy-based engagement with non-Cabinet Members:</p> <ul style="list-style-type: none"> • Trialling Officer support at Member surgeries • Hosting visits to see the Council’s services in action. One such visit to the night shelter was well attended and could be a model for future visits 	Low	Schedule programme of ‘out and about’ briefings through the Member Reference Group

36

DETAILED RECOMMENDATIONS

RISK REFERENCE: 3C	
Management Response	Responsibility and Implementation Date
A programme of 'out and about' events will be scheduled in consultation with the Member Reference Group.	Responsible Officer: Francis Fernandes (Monitoring Officer) Implementation Date: 1 st May 2019

DETAILED RECOMMENDATIONS

RISK: Discussions between Corporate Management Board and Members are not well managed and/or ineffective			
Ref.	Finding	Sig.	Recommendation
3D	<p>Both Members and Officers interviewed for this review suggested that the Council’s relationship with its arms-length management organisation (ALMO) for social housing, Northampton Partnership Homes (NPH) had created confusion regarding who Members should communicate with on ward-based housing issues.</p> <p>Members and Officers highlighted the following issues:</p> <ul style="list-style-type: none"> • Some Members are routinely contacting the Council in the first instance rather than NPH. NPH does have dedicated area officers for Councillors to contact and Members should contact these in the first instance; • Some Members feel that the level of support they receive from NPH is inadequate. <p>The Council will be setting up a client-side function to manage NPH. This will be able to deal with issues where NPH have not been responsive. However NPH should be contacted in the first instance</p>	Low	<p>a) NPH Area Officers contact details to be re-shared with all Members.</p> <p>b) Details of the Council’s ‘client side function’ for managing NPH will be shared with Members.</p>

38

DETAILED RECOMMENDATIONS

RISK REFERENCE: 3D	
Management Response	Responsibility and Implementation Date
<p>a) Contact details for NPH Area Officers will be recirculated to all Members to ensure that Members have up-to-date contact details.</p> <p>b) The Council will share updated client side arrangements for NPH with Members</p>	<p>Responsible Officer:</p> <p>Recommendations a and b - Phil Harris (Head of Housing)</p> <p>Implementation Date:</p> <p>a) 29th March 2019 b) 28th June 2019</p>

APPENDIX I - MEMBERS/STAFF INTERVIEWED

BDO LLP appreciates the time provided by all the individuals involved in this review and would like to thank them for their assistance and cooperation.

Name	Role
Cllr. Jonathan Nunn	Leader of the Council
Cllr. Danielle Stone	Leader of the Opposition
Cllr. Tim Hadland	Cabinet Member for Regeneration
Cllr. Stephen Hibbert	Cabinet Member for Housing and Wellbeing
Cllr. Phil Larratt	Deputy Leader of Council

Name	Role
George Candler	Chief Executive
Stuart McGregor	Chief Financial Officer
Francis Fernandes	Borough Secretary and Monitoring Officer
Rick O'Farrell	Head of Service - Regeneration
Peter Baguley	Head of Service - Planning
Phil Harris	Head of Service - Housing and Wellbeing
Marion Goodman	Head of Service - Customer and Cultural
Joanne Bonham	Governance and Risk Manager
Emma Powley	Democratic and Member Services Manager

APPENDIX II - DEFINITIONS

LEVEL OF ASSURANCE	DESIGN of internal control framework		OPERATIONAL EFFECTIVENESS of internal controls	
	Findings from review	Design Opinion	Findings from review	Effectiveness Opinion
Substantial	Appropriate procedures and controls in place to mitigate the key risks.	There is a sound system of internal control designed to achieve system objectives.	No, or only minor, exceptions found in testing of the procedures and controls.	The controls that are in place are being consistently applied.
Moderate	In the main there are appropriate procedures and controls in place to mitigate the key risks reviewed albeit with some that are not fully effective.	Generally a sound system of internal control designed to achieve system objectives with some exceptions.	A small number of exceptions found in testing of the procedures and controls.	Evidence of non compliance with some controls, that may put some of the system objectives at risk.
Limited	A number of significant gaps identified in the procedures and controls in key areas. Where practical, efforts should be made to address in-year.	System of internal controls is weakened with system objectives at risk of not being achieved.	A number of reoccurring exceptions found in testing of the procedures and controls. Where practical, efforts should be made to address in-year.	Non-compliance with key procedures and controls places the system objectives at risk.
No	For all risk areas there are significant gaps in the procedures and controls. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Poor system of internal control.	Due to absence of effective controls and procedures, no reliance can be placed on their operation. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Non compliance and/or compliance with inadequate controls.
Recommendation Significance				
High	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.			
Medium	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.			
Low	Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.			

APPENDIX III - TERMS OF REFERENCE

BACKGROUND

A balance between formality and informality should be struck in member-officer relationship. There are dangers in over emphasising informality, whilst unnecessary formality is unduly restrictive. In terms of the current roles and situations, formal relations need to be maintained in all public decision-making arenas. More informal relations may be appropriate, however, in panels and task and finish groups for example as well as in community development initiatives and for strategy formulation or problem-solving.

- The Council recognise these challenges noting the causes of this risk as being:
- Members and Senior Officers roles (formulating and administrating policy respectively) are not always clear
- The culture does not resonantly promote a separation of the respective roles and duties of members and officers
- Officers feel inhibited in giving full, objective, professional and technical advice to Members in charged political atmospheres
- Officers in their role seek to frustrate the strategic choices, policy and direction-setting of Members
- Weak management of Members by leadership in the past.

PURPOSE OF REVIEW

This will be an assessment of protocols and documented arrangements between Members and Officers and then through interviews and observation of meetings to set out where improvements can be made.

KEY RISKS

Based upon the risk assessment undertaken during the development of the internal audit operational plan, through discussions with management, and our collective audit knowledge and understanding the key risks associated with the area under review are:

- Roles and responsibilities between Members and Senior Officers are unclear in the Constitution and Member Protocols (and associated documents)
- Discussions between Corporate Management Board and Members are not well managed and/or ineffective
- Training and support to Members and Senior Offices is inadequate to support effective relationships and discussions
- Professional relationship concerns are not identified and acted upon effectively.

SCOPE OF REVIEW

The following areas will be covered as part of this review:

- Assessment of protocols, guidance and formal documents to set out expectations and the understanding of these documents
- Review of formal and informal communication via document/minute review, observation of discussions and semi-structured interviews.

However, Internal Audit will bring to the attention of management any points relating to other areas that come to their attention during the course of the audit. We assume for the purposes of estimating the number of days of audit work that there is one control environment, and that we will be providing assurance over controls in this environment. If this is not the case, our estimate of audit days may not be accurate.

APPENDIX III - TERMS OF REFERENCE

APPROACH

Our approach will be to conduct interviews to establish the controls in operation for each of our areas of audit work. We will then seek documentary evidence that these controls are designed as described. We will evaluate these controls to identify whether they adequately address the risks. Any opportunities identified to improve arrangements will be offered for consideration alongside recommendations to resolve any weakness in controls. We will seek to gain evidence of the satisfactory operation of the controls to verify the effectiveness of the control through use of a range of tools and techniques.

ADDED VALUE

We will involve more senior staff involvement in this review and it will be led by a member of our advisory local government team especially in discussions with Heads of Service/Members and observation of meetings to ensure the right conclusions are drawn.

CRR REFERENCE

2 - There is insufficient clarity around Member-Officer roles

EXCLUSIONS

The scope of the review is limited to the areas documented under the scope and approach. All other areas are considered outside of the scope of this review.

APPENDIX IV -SURVEY RESULTS

On a scale of 1 - 10 (with 1 being 'very poor' and 10 being 'excellent') how would you rate the working relationship between Members and Officers at the council?

Councillor survey response												
Scale	1	2	3	4	5	6	7	8	9	10		
Number Answered	0	0	0	1	0	0	3	4	2	1	Total	11
44%	0%	0%	0%	9.09%	0%	0%	27.27%	36.36%	18.18%	9.09%	Weighted Average	7.73

Officer survey response												
Scale	1	2	3	4	5	6	7	8	9	10		
Number Answered	0	0	4	3	1	3	6	6	1	1	Total	25
%	0%	0%	16%	12%	4%	12%	24%	24%	4%	4%	Weighted Average	6.24

APPENDIX IV -SURVEY RESULTS

The Council's Member-Officer constitution describes a Member's role as having the characteristics below. On a scale of 1 to 10 (with 1 being 'no resemblance' and 10 being 'an exact match') to what extent do you think the description of the Council's protocol reflects reality?

Officer Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Members abide by the Code of Conduct for Councillors - Officers Response	0	0	3	4	3	4	3	3	4	5	24	6.04
Members maintain a relationship with employees that is characterised by mutual trust, courtesy and respect - Officers Response	0	0	5	2	5	2	2	3	5	4	24	6.08
Members collectively are the ultimate policy-makers and carry out a number of strategic and corporate management functions	1	2	2	0	2	0	2	2	3	7	24	6.54

PN* 1 Officer out of the 25 who took part in the survey did not complete this question

Councillor Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Members abide by the Code of Conduct for Councillors	0	0	1	0	1	1	3	3	0	2	11	7.18
Members maintain a relationship with employees that is characterised by mutual trust, courtesy and respect	0	0	0	0	0	2	2	3	2	1	10	7.8
Members collectively are the ultimate policy-makers and carry out a number of strategic and corporate management functions	0	0	0	1	1	4	0	0	3	2	11	7.27

APPENDIX IV -SURVEY RESULTS

The Council's Member-Officer constitution describes a Member's role as having the characteristics below. On a scale of 1 to 10 (with 1 being 'no resemblance' and 10 being 'an exact match') to what extent do you think the description of the Council's protocol reflects reality?

Officer Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Members represent their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities	0	0	1	0	1	0	0	2	7	9	24*	7.63
Members deal with individual case work and act as advocates for constituents in resolving particular concerns or grievances	0	1	1	2	1	2	0	2	4	8	24*	7.21
Members balance different interests identified within their ward or electoral divisional and represent their ward or electoral division as a whole	0	0	3	3	3	3	3	3	3	7	24*	6.25

PN* 1 Officer out of the 25 who took part in the survey did not complete this question

Councillor Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Members represent their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities	0	0	1	0	1	1	3	3	0	2	11	7.18
Members deal with individual case work and act as advocates for constituents in resolving particular concerns or grievances	0	0	0	0	0	2	2	3	2	1	10*	7.8
Members balance different interests identified within their ward or electoral divisional and represent their ward or electoral division as a whole	0	0	0	1	1	4	0	0	3	2	11	7.27

PN* 1 Member out of the 11 who took part in the survey did not complete this question

APPENDIX IV -SURVEY RESULTS

The Council's Member-Officer constitution describes a Member's role as having the characteristics below. On a scale of 1 to 10 (with 1 being 'no resemblance' and 10 being 'an exact match') to what extent do you think the description of the Council's protocol reflects reality?

Officer Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Members are involved in decision making	0	1	1	0	1	0	2	2	0	6	24	7.83
Members are available to represent the Council on other bodies	1	0	1	1	1	1	3	0	2	7	24	7.46

* 4 officer out of the 25 who took part in the survey did not complete this question

Councillor Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Members are involved in decision making	0	2	0	0	1	3	0	2	0	3	11	6.64
Members are available to represent the Council on other bodies	0	0	0	1	0	1	1	3	3	2	11	8

APPENDIX IV -SURVEY RESULTS

The Council’s Member-Officer protocol describes an Officer’s role as having the characteristics described below. On a scale of 1 to 10 (with 1 being ‘no resemblance’ and 10 being ‘an exact match’) to what extent do you think the description in the Council’s protocol matches reality?

Officer Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Officers act in the best interest of the council and do not give politically partisan advice	0	1	1	1	0	0	1	6	10	4	24*	8.08
Officers maintain a relationship with members that is characterised by mutual trust, courtesy and respect	0	0	2	1	1	2	2	5	7	4	24*	7.67

* 1 officer out of the 25 who took part in the survey did not complete this question

Councillor Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Officers act in the best interest of the council and do not give politically partisan advice	0	0	0	0	0	1	4	4	1	1	11	7.73
Officers maintain a relationship with members that is characterised by mutual trust, courtesy and respect	0	0	0	0	1	2	2	3	2	1	11	7.55

APPENDIX IV -SURVEY RESULTS

The Council’s Member-Officer protocol describes an Officer’s role as having the characteristics described below. On a scale of 1 to 10 (with 1 being ‘no resemblance’ and 10 being ‘an exact match’) to what extent do you think the description in the Council’s protocol matches reality?

Officer Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Officers respect the confidentiality of any discussions on formulation of policy with members at which they are present.	0	0	1	0	0	0	5	6	3	9	24*	8.46
Officers work closely with the administration and give factual information, assistance and advice on procedural inquiries to Members of any group, but is not permitted to advise on policies that any group should pursue. They cannot be held responsible for actioning in any way whatsoever the decisions of political groups, unless they have become the formal decisions of the council.	0	0	1	0	1	0	3	8	4	7	24*	8.29

* 1 Officer out of the 25 who took part in the survey did not complete this question

Councillor Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Officers respect the confidentiality of any discussions on formulation of policy with members at which they are present.	0	0	0	0	1	0	2	4	1	3	11	8.18
Officers work closely with the administration and give factual information, assistance and advice on procedural inquiries to Members of any group, but is not permitted to advise on policies that any group should pursue. They cannot be held responsible for actioning in any way whatsoever the decisions of political groups, unless they have become the formal decisions of the council.	0	0	0	1	2	0	0	4	3	1	11	7.55

APPENDIX IV -SURVEY RESULTS

The Council’s Member-Officer protocol outlines what Officers should expect from Members. For each aspect of the working relationship, On a scale from 1-10 (with 1 being ‘no resemblance’ and 10 being ‘an exact match’) to what extent do you think the description in the Council’s protocol matches reality? (this question was asked of Officers only).

Officer Survey Response													
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average	
Members will engender mutual trust, openness, honesty, fairness and transparency	2	1	2	2	0	1	9	5	1	1	24*	6.08	
Members will not pressurise any Officers to change their professional opinion on any council business matter or do anything that compromises the impartiality of those who work for, or on behalf of, the council	2	2	3	1	3	3	5	4	0	1	24*	5.38	
Members will be clear about their roles and the roles of Officers	2	1	3	2	3	0	7	4	1	1	24*	5.67	
Members will not get involved in day to day activities of Officers such as internal office management, discipline or employment related issues	2	1	2	0	5	4	6	2	1	1	24*	5.67	

* 1 Officer out of the 25 who took part in the survey did not complete this question


APPENDIX IV -SURVEY RESULTS

The Council’s Member-Officer protocol outlines the below expectations that Members should have of Officers. For each aspect of the working relationship, On a scale from 1-10 (with 1 being ‘no resemblance’ and 10 being ‘an exact match’) to what extent do you think the description in the Council’s protocol matches reality? (this question was asked of members only)

Councillor Survey Response												
Scale	1	2	3	4	5	6	7	8	9	10	Total	Weighted Average
Officers will engender mutual trust, openness, honesty, fairness and transparency	0	0	0	1	1	0	1	2	3	1	9*	7.67
Officers will avoid close personal familiarity with members as this can damage professional relationships	0	0	0	2	1	0	1	2	0	4	10**	7.6
When information is required from Officers, it will be provided if the Council has given authorisation and the information is readily available.	0	0	1	0	1	1	1	4	0	2	10**	7.3
Officer’s duties are first owed to their line manager and the Chief Executive and not to any individual member. Officers will act under the direction of the relevant Heads of Service.	0	0	0	0	2	1	0	3	2	2	10**	7.8

* 2 Members out of the 11 who took part in the survey did not complete this question

** 1 Member of the 11 who took part in the survey did not complete these questions



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Protocol on Member / Officer Relations

1. Introduction

- 1.1** As a supplement to the Northampton Borough Council Code of Conduct for Councillors, this Protocol provides clarity in respect of Member / Officer relations.
- 1.2** Relations between Members and Officers can be complex and cover a wide variety of matters. This Protocol therefore gives guidance and explanation on the issues that most commonly arise and give cause for concern as a result of that arrangement. The principles set out in this Protocol will also apply to dealing with other similar issues which may arise from time to time and are not expressly covered.
- 1.3** This Protocol seeks to establish best practice and promote greater clarity and certainty. If any Member is unsure about any matter they should contact the relevant Chief Whip and/or the Chief Executive and/or the Monitoring Officer for appropriate advice and assistance. If any Officer is unsure about any matter, they should initially contact their Head of Service.

NB A separate Protocol on Planning can be found in Part 5 of this Constitution in respect of conduct on planning matters. There is also a Northampton Borough Council Employees' Code of Conduct, which can be found on the intranet.

2.0 Roles

2.1 Elected members

The role of members is complex, being set out in the Council's Constitution, including Article 2.3.1. Members have a number of rights and duties under the Constitution however, these can be summarised as:

- initiating, developing and directing policy;
- being involved in decision making;
- setting the Council's strategic direction;
- managing the Council at a strategic level;
- being democratically accountable to the electorate;
- dealing with case work on behalf of constituents; and,
- representing the Council on other bodies.

2.2 Officers

The role of Officers is also complex and varied including many specialist functions however, it can be summarised as follows:

- to provide professional advice needed by Members to develop policy and perform the Council's functions;
- to implement the Council's lawfully made decisions;

- to run the Council's services;
- make day to day managerial and operational decisions under the Council's Scheme of Delegations; and
- to provide information relating to the Council's Services and Policies.

2. General Member/Employment Issues

Key Issues

- 2.1 In order to ensure the business of the Council is transacted effectively, efficiently and lawfully, and with a view to ensuring that the Council is not brought into disrepute, the **key guiding principle** for Members and Officers is one of “**engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect**”.
- 2.2 **Officers must act in the best interests of the Council as a whole**, and must not give politically partisan advice. Anyone breaching this requirement could face disciplinary action. Advice given by Officers should:
- 2.2.1 be objective;
 - 2.2.2 be consistent;
 - 2.2.3 be based on professional judgment;
 - 2.2.4 be politically neutral; and,
 - 2.2.5 include all factors which are relevant to the issue concerned.
- 2.3 Political Group meetings and Executive Programme Board, while they perform an important part in the preliminaries to Council decision-making, are **not** formal decision-making bodies and, as such, are **not empowered, to make decisions** on behalf of the Council. Conclusions reached at such meetings do not, therefore, **rank as Council decisions** and **do not bind later meetings** at which decisions are to be **lawfully made**.
- 2.4 Officer support should be equally available to all political Groups but must **not** extend beyond providing information and advice in relation to **Council business**.
- 2.5 It is good practice for party political debates and decision-making at political Group meetings to take place **in the absence of Officers**, in order to avoid any suspicion of impropriety or misunderstanding.
- 2.6 Officers must respect the confidentiality of any discussions on formulation of policy with Members at which they were present and, when any information is disclosed to them at a group meeting, must not pass this on to any other group.
- 2.7 Any breach of this part of the Protocol by an Officer must be brought to the attention of the Chief Executive for consideration.

Legal and District Audit Considerations

- 2.8** Members of the Council do not, as elected Members, have any special immunity from civil or criminal wrongs involving fellow Members, Officers or members of the public. Members must abide by the Code of Conduct for Councillors and ensure they do not, for example, slander or libel another person.
- 2.9** Members must also not pressurise any employee to change their professional advice or opinion on any Council business matter given in accordance with paragraph 2.2 above or do anything that compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the Council. It is also essential that Members are clear about their roles and the roles of employees, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of a Member may be held to be the actions of the Council as an “employer”, giving rise to legal proceedings against the Council.

Standards Issues

- 2.10** Any member of the public (including employees) can complain to the Council’s Monitoring Officer in respect of any alleged breach of the Code of Conduct for Councillors in accordance with the Arrangements for Dealing with Allegations of Breaches of the Northampton Borough Council Members’ Code of Conduct and of Codes of Conduct adopted by Parish Councils, and/or bring private civil litigation proceedings against an elected Member. Breach of this Protocol could amount to a breach of the Code of Conduct and lead to such a complaint. The External Auditor can also take legal action against an elected Member and/or the Council as a whole, for certain breaches of the law.

Public Relations Issues

- 2.11** The Council’s Communications Team is, subject to the direction of the Cabinet of the Council, responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communications relating to the Council (but not party political or private matters) are dealt with by the Communications Team, so as to ensure the proactive, effective and efficient management of the Council’s public image, relations and interface with the community. The Communications Team will take appropriate legal and other advice in relation to any such contact with the press or other media.

3. Specific Points on Member/Employee Relations

- 3.1** The relationship between Members and employees generally is characterised by **mutual trust, respect and courtesy**. These are **essential** for good local government and enhance local democracy.
- 3.2** Close personal familiarity between individual Members and employees can damage professional relationships and can prove embarrassing to other Members and employees. Therefore, close personal relationships between

Members and employees and situations which could give rise to suspicion and/or the appearance of improper conduct or behaviour should be avoided.

Chief Executive

- 3.3** The Chief Executive is an employee of the Council as a whole with overriding responsibility to the Council, and not to any party political group.

The Chief Executive must nevertheless work closely with the Administration to give it information, assistance, and advice. Subject to maintaining political neutrality the Chief Executive may develop a special relationship with the Administration leadership and will not without consent disclose to the other Groups any matters discussed with that leadership.

The political neutrality of the Chief Executive should be respected by Members and employees alike. The Chief Executive should not be asked to take any action which could prejudice that neutrality, or make it difficult to serve a different majority political party at some future time in the Council.

- 3.4** All Members of the Council have a right of access to the Chief Executive. Where a Member requires information, it will be provided if it is readily available, subject to any restrictions in the Council's Constitution or relevant legislation. The Chief Executive is free to give advice on a confidential basis about procedural matters to any Member. In doubtful cases, the Chief Executive is entitled to seek the instructions of the Leader or a Chair, Cabinet Member, the Cabinet or a Committee before responding to a request from a Member.

- 3.5** The following principles govern the relationship between the Chief Executive and Groups not comprising all or part of the Administration:

It is proper for the Chief Executive to develop a working relationship with such other Groups on the Council.

The Chief Executive is free to provide information and answer procedural inquiries to Members of any Group, and will not advise as to the policies which any Group should pursue.

Subject to the confidentiality required by paragraph 3.15 the Chief Executive will ensure that the Leadership of the Administration is aware of any factual information that they have provided to representatives of other Groups, unless it either be of a routine or trivial nature or to do so would be a breach of confidence or other statutory, formal or Guideline requirement.

Because the Chief Executive is an employee of the whole Council, they accordingly, will draw the attention of the Leader to any case where consideration should be given to affording information, consultation, or representation to the Minority Groups.

In applying these principles to any given situation, the Chief Executive will have regard to any statutory, Constitutional or procedural rules governing the rights of other Groups to information, consultation or representation.

- 3.6** If the Chief Executive attends a meeting of any Group, the leadership of the other Groups on the Council need not be informed. The Chief Executive will ensure that the part played in the proceedings is consistent with the political neutrality of his/her role and will not attend Group meetings at which there are persons present who are neither elected Members nor employees of the Council.

Other Employees

- 3.7** The foregoing principles apply similarly to all Heads of Service (and employees acting under their direction), all of whom shall act under the general direction, seeking advice of the Chief Executive as statutory Head of Paid Service where necessary.

- 3.8** To advance the requirement that all dealings between Members and employees are conducted with mutual trust, respect and courtesy, neither party should seek to take an unfair advantage of their position. In particular, Members should recognise and pay due regard to the Council's role as an employer in their dealings with employees, as inappropriate behaviour and conduct of Members could give rise to employment cases against the Council. In particular, it is quite proper for a Member to make written/oral representations about their [constituent] employee to the Head of Service, but the Member should avoid taking a proactive part to represent or in any other way advocate on behalf of any such employee in any disciplinary procedures.

- 3.9** In seeking advice and support, Members should have due regard to the seniority of the employees with whom they are dealing and recognise that those employees owe an overriding duty to the Council as a whole, via their respective line managers and the Chief Executive, and not to any individual Member. For this reason, Members should not give direct instructions to employees unless they are specifically authorised to do so by the Council's Constitution. If so authorised, instructions should, under normal circumstances, still be given to the relevant Head of Service and not to a less senior employee and should be clearly recorded in writing.

- 3.10** Members must not put inappropriate pressure on employees (in particular junior employees) and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, or lead to the breakdown of mutual trust, respect and courtesy in Member/employee relations.

Equality Issues

- 3.11** The Council has statutory duties in respect of equality issues and, in accordance with the Code of Conduct for Councillors, Members must also promote equality and not discriminate against others. Members and employees

should not, therefore, by their behaviour or speech act discriminatorily with regard to a person's gender, race, age, disability, religion, ethnicity, marital status, sexual orientation or gender reassignment.

Employee Conduct or Capability Issues

3.12 Members should not raise matters relating to the conduct or capability of an employee (or of employees collectively) at meetings held in public or before the press, as employees have no means of responding publicly. If any Member feels as that they have not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an employee, they should raise the matter privately with the relevant employee and, if necessary, the employee's Head of Service. Any concerns with regard to a Head of Service should be discussed privately with the Chief Executive and/or the Leader of the relevant Political Group.

Political Groups

3.13 Members of the Cabinet, the Overview and Scrutiny Committee and Regulatory Committees shall at all times respect the political impartiality of employees, and must not expect or encourage them to give a political view on any matter.

3.14 Employees may properly be called upon to support and contribute to the deliberations of Groups but they must at all times remain politically neutral. This applies in particular to politically restricted posts, where employees are governed by the Local Government and Housing Act 1989. All employees must, in their dealings with Groups and individual Members, treat them in a fair and even-handed manner.

3.15 Any request for advice given to a Group or Member will be treated with the strictest of confidence by the employees concerned, and will not be accessible to any other Group(s). Factual information upon which any advice is based will, if requested, be available to all Groups.

3.16 When attendance is requested for Group meetings:

3.16.1 the request to attend a Group meeting must normally be made through the Chief Executive, unless previously agreed by them;

3.16.2 such a request can only be made in relation to **Council business**; and

3.16.3 employees will:

- (i) provide relevant factual and professional advice and assistance;
- (ii) normally leave during the deliberations of the Group on the issue;
- (iii) respect the confidentiality of any Group decision at which they are present; and
- (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Group(s), unless and until such decisions have become the formal

decisions of the Council, i.e. until the person or body with responsibility for making such decisions under the Constitution has done so in accordance with all legal and procedural formalities.

4. Specific Points on Overview and Scrutiny Arrangements

- 4.1** When considering calling employees to give evidence to the Overview & Scrutiny Committee, the Chair of the Overview and Scrutiny Committee may call the Chief Executive, and/or senior Officers to give evidence to the Committee as prescribed by paragraph 13.1 of the Overview and Scrutiny Procedure Rules.
- 4.2** When asking employees to give evidence before the Overview and Scrutiny Committee, questions should be confined, so far as possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Employees must respond to questions from Members in an open, constructive and helpful manner, and must not mislead or be economical with the truth.
- 4.3** Where they consider it appropriate, the Chair of the Overview and Scrutiny Committee may ask Heads of Service to explain any advice given by them to the Cabinet or its members. For the avoidance of doubt, any private or confidential matter must be dealt with in a private or confidential manner.

Unacceptable or Inappropriate Behaviour:

- 4.4** The Chair of the Overview and Scrutiny Committee shall ensure that members of the Cabinet and employees are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, the Overview and Scrutiny Committee has no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Group (in respect of Members) or the relevant Head of Service/Chief Executive (in respect of employees).

NB Note on Use of Local Authority Resources

- 4.5** The only basis on which the Council can lawfully provide support services to Members (e.g. computers, or other IT software, stationery, typing, printing, photocopying, transport etc.) is to assist them in the effective and efficient discharge of their duties and role as Members of the Council. Such support services must, therefore be only used for Council business. The same should not be used for, or in connection with, party political or campaigning activities, or for private purposes.

5. Examples of Acceptable and Unacceptable Behaviours

- 5.1** Examples of behaviours which are acceptable

Officers and Members treating one another with mutual respect

Officers and Members recognising and respecting each other's roles

Members understanding that Officers give advice based on their professional qualifications and experience

Use of courteous language in all dealings

Prompt responses by Officers to enquiries by Members

5.2 The following are examples of behaviours which are unacceptable:

Officers failing to respond to enquiries by members

Expression of political opinions by Officers, particularly in relation to Council policy or matters being considered by Members

Attempts by Members to persuade Officers to change their professional advice

Members becoming involved in day to day staff management issues

Use of inappropriate or offensive language by Members or Officers toward one another

Officers seeking to persuade Members to make a particular decision in relation to a matter

Officers failing to give accurate or comprehensive advice to Members

Members seeking to bypass legal or Constitutional requirements

Appendices: 2



NORTHAMPTON
BOROUGH COUNCIL

STANDARDS COMMITTEE REPORT

Report Title	Local Government Ethical Standards – Committee on Standards in Public Life
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	30 September 2019
Policy Document:	No
Service Area:	Borough Secretary and Monitoring Officer

1. Purpose

- 1.1 The purpose of the report is to update the Committee on the January 2019 review undertaken by the Committee on Standards in Public Life (the “CSPL”) regarding Local Government ethical standards.

2. Recommendations

The Committee is recommended to:

- 2.1 note the content of this report regarding the recommendations of the CSPL; and
- 2.2 establish a Working Group to consider the best practice recommendations of the CSPL and to recommend to the Committee any improvements to the Council’s ethical standards arrangements that it considers are required.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The CSPL is an independent advisory non-departmental public body that advises the Prime Minister on ethical standards across the whole of public life in the UK. *Local Government Ethical Standards – A Review by the Committee on Standards in Public Life* (the “Review”) was published in January 2019. The CSPL undertook the review to assure itself that the current framework, particularly since the Localism Act 2011 is conducive to promoting and maintaining the standards expected by the public.

3.1.2 A copy of the CSPL report is available at:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

3.1.3 Following their review, the CSPL made a number of recommendations which it states, “would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process”.

3.1.4 A number of the CSPL’s recommendations would involve legislative change which it believes the government should implement. However, it has also identified ‘best practice’ for local authorities which the CSPL states represents a benchmark for ethical practice which they expect authorities to implement.

3.2 Issues

3.2.1 The CSPL’s full list of recommendations from the review are set out at Appendix 1.

3.2.2 Key recommendations from the review include the following:

- a) **A new power for local authorities to suspend councillors without allowances for up to six months and a right of appeal for suspended councillors (including parish councillors) to the Local Government Ombudsman.**

The CSPL state in their report that the current sanctions available to local authorities are insufficient, which damages public confidence in the standards system and leaves authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

- b) **Revised rules on declaring interests, gifts and hospitality.**

The CSPL state that the current criminal offences relating to disclosable pecuniary interests (“DPIs”) are disproportionate in principle and ineffective in practice and should be abolished.

The CSPL also recommend that the current statutory rules on declaring and managing interests (specifically DPIs) should be repealed and replaced with an objective test so that all Codes of Conduct include a requirement that Councillors must not participate in discussion or vote in a matter if they have an interest, if a member of the public with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice the Councillor’s consideration or decision-making in relation to that matter.

The CSPL recommend that local authorities should be required to establish a register of gifts and hospitality with Councillors required to record any gifts or hospitality received over a value of £50, or totalling £100 over a year from a single source. (Northampton Borough

Council's Code of Conduct currently requires Councillors to declare gifts and hospitality received over the value of £50 and a register is kept).

c) Local authorities retain ownership of their own Codes of Conduct.

The CSPL also recommended that an updated model Code of Conduct should be made available to local authorities that they could voluntarily adopt in order to enhance the consistency and quality of local authority Codes. The CSPL suggested that local authorities could choose to adopt the model code and adapt it as required.

The CSPL suggest that the scope of Codes is widened so that there is a rebuttable presumption that a Councillor's public behaviour, including comments made on publicly accessible social media is in their official capacity.

The current position in section 27 of the Localism Act 2011 is that a local authority must adopt a code "dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity". It is suggested this should be widened to state that an authority's Code of Conduct applies to a member when they claim to act or give the impression they are acting in their capacity as a member or representative of the authority.

d) A strengthened role for the statutory Independent Person.

The statutory Independent Persons appointed pursuant to the Localism Act 2011 help to provide a safeguard in the process for dealing with allegations that a Councillor has breached the Code of Conduct to ensure that decisions are made fairly and impartially. The CSPL recommend that if the sanction of suspension were introduced, that the role of Independent Person should be strengthened so that the local authority could only suspend a Councillor where the Independent Person agreed both that there had been a breach and that suspension was a proportionate sanction. The CSPL also recommended that Independent Persons should have fixed terms and legal protections.

e) Greater transparency about the number and nature of Code of Conduct complaints.

The CSPL recommended that the Local Government Transparency Code should be updated to require councils to publish annually the number of Code of Conduct complaints they receive, what the complaints relate to broadly, the outcome of those complaints, including if they are rejected eg. as vexatious or trivial and any sanctions applied.

3.2.3 Many of the CSPL's recommendations ask for action from the Local Government Association ('LGA') or the Government, which may or may not act to implement the CSPL's recommendations. The LGA's response to the CSPL's recommendations, through its Chair, Lord Porter, was in summary:

- That standards across local government are very high.
- That a locally-led approach to standards underpinned by a national framework remains the right approach and that the LGA was happy to play a leading role in updating a code of conduct to help guide LGA members.
- That a number of adequate sanctions already exist to deal with the most serious issues and that care needs to be taken to avoid adding to the current regime and causing unintended consequences. It was stated that introducing a power of suspension could result in councillors losing their seat posing a risk to the democratic process leaving residents without a locally elected representative.

3.2.4 The CSPL has created a List of Best Practice recommendations. In its report, the CSPL states, *“Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020”*. The list of best practice recommendations is at Appendix 2.

3.2.5 It is therefore recommended that the Committee establish a Working Group to consider the best practice recommendations of the CSPL and to recommend to the Committee any improvements to the Council’s ethical standards arrangements that it considers are required.

3.3 Choices (Options)

3.3.1 The Committee can choose to accept the recommendations in this report or substitute its own resolutions.

4. Implications (including financial implications)

4.1 Policy

4.1.1 There are no policy implications arising directly from this report.

4.2 Resources and Risk

4.2.1 The only resource implication arising directly from this report is the officer resource required to support the Working Group.

4.2.2 In terms of risk, assessing the Council’s ethical standards arrangements against the CSPL’s best practice recommendations could assist the Council in minimising any potential risks arising from inadequate ethical governance arrangements.

4.3 Legal

4.3.1 There are no legal implications arising directly from this report. As mentioned above, some of the recommendations of the CSPL would require legislative change.

4.4 Equality

4.4.1 There are no equality implications arising directly from this report.

4.5 Consultees (Internal and External)

4.5.1 None.

4.6 Other Implications

4.6.1 None.

5. Background Papers

5.1 None.

Francis Fernandes
Borough Secretary and Monitoring Officer

List of the CSPL's recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government

7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government

14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government

22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association

List of the CSPL's best practice recommendations

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

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Appendices: 0



STANDARDS COMMITTEE REPORT

Report Title	STATISTICS – CODE OF CONDUCT ARRANGEMENTS COMPLAINTS
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	30 September 2019
Policy Document:	No
Directorate:	Borough Secretary and Monitoring Officer

1. Purpose

- 1.1 The purpose of the Report is to provide the Committee with information by reporting on the statistics regarding the number of complaints received and dealt with under the “*Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members’ Code of Conduct and of Codes of Conduct adopted by Parish Councils*”.
- 1.2 At its meeting of 18 December 2017, the Standards Committee requested that statistical information be presented to each meeting of the Committee; with updates on the live complaints, new complaints and complaints that have been actioned and closed since the last meeting.

2. Recommendations

- 2.1 To note the statistics in relation to the number of complaints received, and dealt with, under the Code of Conduct Arrangements.
- 2.2 That statistical data in relation to the number of complaints received and dealt with, in respect of the Code of Conduct Arrangements is presented to each meeting of the Committee.

3. Issues and Choices

3.1 Report Background and Issues

- 3.1.1 It was resolved at the meeting of the Standards Committee held on 17 July 2017 that information regarding the number of complaints received and dealt with under the Code of Conduct Arrangements would be presented to the

Committee at its next meeting in October. This information was presented to the Committee in October 2017.

- 3.1.2 The Committee requested that the data presented to it was elaborated upon to include further statistics regarding the complaints, such as the time taken to resolve the complaints and the outcomes of each complaint.
- 3.1.3 Further information was provided to the Standards Committee at its meetings in December 2017, March 2018, June 2018, September 2018, December 2018, March 2019 and June 2019.
- 3.1.4 The data in paragraph 3.1.5 below relates to all Code of Conduct complaints that are still live, have been closed since the last Committee in June 2019 or have been received since the June 2019 Committee papers were published.
- 3.1.5

a) Complaints against a Parish Councillor

1) Complaint received on 29 May 2018

This file is open.

An initial assessment made by the Solicitor, on behalf of the Monitoring Officer, in consultation with the Independent Person, was held on 24 July 2018. The determination of the initial assessment of the complaint was that the complaint would be referred to an investigation. An Investigator has been appointed and the investigation has been concluded. The Investigator's conclusion was:

It is the view of the Investigating Officer that the Subject Member acting in his capacity as a Councillor and that there is a case to answer by the Subject Member for failure to comply with the Council's Code of Conduct.

The Solicitor on behalf of the Monitoring Officer, has in consultation with the Independent Person reviewed the Investigator's report, and decided to refer the matter to the Standards Committee.

Therefore, a Hearings Panel of the Standards Committee will be established to conduct a Local Hearing in accordance with the Council's Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils. The Hearings Panel will conduct a Local Hearing to decide whether the Parish Councillor failed to comply with the Parish Council's Code of Conduct and, if so whether any action should be taken in respect of the Councillor.

Membership of the Hearings Panel was agreed at the March 2019 meeting of the Standards Committee:

Councillors Patel, Oldham, Marriott, Mr Rumsey (Co-Optee (Independent) and Parish Councillor Lewis (Co Optee). Councillor B Markham (substitute).

A Hearings Panel was held on 23 July 2019 and it was resolved that:

In order to provide the subject Member with a further opportunity to attend a future Panel Hearing into the complaints against him and to consider the relevant and disclosable correspondence in relation the Investigating Officer's report the Hearing Panel resolved to adjourn the Hearing and reconvene at a later date. The subject Member to be provided with a copy of this Decision Notice.

b) Complaint against a Borough Councillor

1) Complaint received on 25 March 2017

As reported to the December, March, June, September, December 2018 March and June 2019 meetings of the Standards Committee, this file is still open.

The determination of the initial assessment of the complaint was that the complaint would be held in abeyance pending the outcome of a separate investigation.

3.2 Choices

3.2.1 Members are asked to note the information provided.

4. Implications (including financial implications)

4.1 Policy

4.1.1 This report does not have any direct policy implications.

4.2 Resources and Risk

4.2.1 This report does not have any direct resource implications.

4.3 Legal

4.3.1 Complaints received are dealt with in accordance with the *Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils* which were adopted pursuant to the Localism Act 2011.

4.4 Equality

4.4.1 There are no direct equality and diversity implications arising from this report.

4.5 Consultees (Internal and External)

4.5.1 Not applicable.

4.6 Other Implications

4.6.1 None.

5. Background Papers

5.1 Complaints received in respect of the Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils.

**Francis Fernandes
Borough Secretary and Monitoring Officer**