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STANDING ORDERS

1. Town Mayor

- 1.1 The Town Mayor is the Chairperson of the Council.
- 1.2 The Town Mayor is the civic head of the Council, first citizen of the Town. He / She will be a symbol of the authority and an expression of social cohesion.
- 1.3 The Town Mayor will chair meetings of Full Council and, in doing so, will exercise political neutrality.
- 1.4 The Town Mayor will be elected by the Full Council at its Annual Meeting. It is however a convention of the Council that the Deputy Mayor in any year shall, if available, be put forward as Town Mayor for the following year.
- 1.5 In the event of a vacancy in the office of Town Mayor or Deputy Mayor, the Full Council may elect a successor to complete his/her term of office.

2. Deputy Town Mayor

- 2.1 The Full Council will appoint a Deputy Town Mayor at the time the Town Mayor is elected, who shall assume the role of the Town Mayor when the Town Mayor is not present, or unable to fulfil that function.
- 2.2 If for any reason the Town Mayor is unavailable to fulfil the role, the Deputy Town Mayor shall do so.

3. Leader / Deputy Leader

- 3.1 The Leader and Deputy Leader of the Council shall be elected
 - (a) In an Election year at the first Full Council meeting following the ordinary day of Elections to the Council;
 - (b) In a year which is not an Election year at the first Full Council meeting held in May;
 - (c) Whenever a vacancy arises during their term of office.
- 3.2 The Leader will have the following roles:
 - (a) Overseeing the preparation of business for Council consideration.
 - (b) To act as the liaison between the majority group (or coalition administration) of the Council and the Chief Executive Officer in indicating the priorities and programmes of the Group for inclusion in Council business and their likely reaction to new policies or projects.

(c) To be the first port of call for the Chief Executive Officer when an issue arises that requires a political or policy response from the Council and the issue does not naturally fall within the terms of reference of any of the standing committees.

(d) To direct strategic policy and budget setting

(e) To Chair the Council's Policy and Resources Committee and the Staff Sub-Committee

(f) To initiate or approve all communications by the Council with the media.

3.3 If for any reason the Leader is unavailable to fulfil the role, the Deputy Leader shall do so.

4. The Role of Committee / Subcommittee Chairman

4.1 The chairman is elected by the members of each Committee/ Subcommittee at the first meeting of the Committee/ subcommittee after the first Annual Council Meeting. If for any reason the Chairman is no longer in place, the next Committee meeting may elect a new Chairman.

4.2 When the Chairman is not available, the Deputy Chairman shall fill the role. In the event that neither the Chairman nor the deputy Chairman is in attendance at a meeting, the members present shall elect a Chairman from among their number to chair that meeting.

4.3 The Chairman presides at the meeting and has control of its procedure for the purpose of enforcing the law and good order. He/she is responsible for the efficient running of the meeting and ensuring that effective and lawful decisions are taken at meetings of the Council, assisted by the Chief Executive Officer. He/she must prevent decisions being taken on any matter which is not on the agenda.

4.4 The Chairman is responsible for involving all Councillors in discussion and ensuring that Councillors keep to the point. The Chairman summarises the debate and facilitates the making of clear resolutions and is responsible for keeping discussions moving so that the meeting is not too long.

4.5 In the event of an equality of votes on any matter, the Chairman may exercise a second, casting vote.

4.6 When the minutes of the previous meeting are approved by the Committee/ subcommittee, they must be signed by the Chairman.

4.7 Upon giving 3 clear days' notice, the Chairman may convene a meeting of the Committee/ subcommittee.

4.8 The Chief Executive officer is responsible for the publication of agendas but shall consult with the Chairman of the Committee/ subcommittee before publication.

5. Proper Officer

5.1 Where a statute, regulation or order confers functions or duties on the Proper Officer of the Council s/he shall be the Chief Executive Officer.

6. Responsible Finance Officer / Financial Regulations

One Officer will be defined as the Responsible Financial Officer (RFO).

The separately defined Financial Regulations (which include the tender process and sign off limits) are an integral part of these Standing Orders.

7. Committees and Sub-Committees

7.1 The Full Council may appoint such Committees as it considers appropriate for the purpose of discharging any of its functions, except for the issuing of a precept.

7.2 Every Committee may appoint Sub-Committees for purposes to be specified by the Committee.

7.3 The Council:

(a) Shall not appoint any Member of a Committee so as to hold office later than the next Annual Meeting.

(b) May appoint persons other than members of the Council to any Committee which does not exercise financial powers and such persons shall have no voting rights; and

(c) May at any time dissolve or alter the membership of a Committee.

7.4 The Leader of the Council and Deputy Leader of the Council are ex-officio members of the Policy and Resources Committee, The Community Services Committee and the Civic Pride, Arts and Leisure Committee.

7.5 Chairpersons of all principal Committees shall be members of the Policy and Resources Committee.

7.6 The Chairperson and Vice-Chairperson of a Committee shall be members of every Sub-Committee appointed by it unless they signify that they do not wish to serve.

7.7 Membership of principal Committees is to be allocated so as to proportionally reflect the political composition of the council, including any independent members.

- 7.8 Where these Standing Orders refer to “the Council”, this is to be interpreted as meaning the Council, its Committees or Sub-Committees unless otherwise stated.
- 7.9 Meetings of the Council’s Committees and Sub-Committees have the full authority of the Council within their scheme of delegation, as set out in Standing Order 30.
- 7.10 At the first meeting after the Annual Meeting, each Committee shall review the membership and terms of reference of all Working Groups reporting to the Committee and make any changes considered appropriate.

8. Meetings

- 8.1 Meetings of the Council are meetings of the Full Council, its Committees or Sub Committees. The Full Council is a meeting of all members of the Council.
- 8.2 (a) Meetings of the Council shall be held at the Town Hall, Market Place, Newbury at 7.30 p.m. unless otherwise decided at a previous meeting or by the Chairperson and stated in the summons.
- (b) Smoking, including electronic cigarettes, is not permitted at any meeting of the Council or in any of its buildings or facilities.
- 8.3 **In addition to the Annual Meeting, not less than three additional meetings of the Full Council shall be held each year on such days as the Council may determine.**
- 8.4 **The Chairperson of any Committee or the Town Mayor may summon an additional meeting of the Council/that Committee at any time. An additional meeting shall also be summoned on the requisition in writing of no less than 2 members of the Council or any Committee. The summons shall set out the business to be considered at the additional meeting and no other business shall be transacted at that meeting. In the event of the Chairperson not calling an extraordinary meeting within 7 days of receiving the request, the 2 members may call an extraordinary meeting.**
- 8.5 **The agenda of each meeting is issued by the proper officer to each participating Councillor not less than 3 clear days before the date of the meeting.**
- 8.6 **A Councillor ceases to be a member of the Council if he/she fails throughout a period of six months to attend any meeting of the Council unless his/her absence was due to some reason approved by the Council. Such approval must be by resolution of the Council and before the expiry of the six-month period.**

- 8.7 **Approval may be given by the Council to a prolonged absence, in advance (for example, maternity leave)**
- 8.8 The responsibility for ensuring that a member of Council does not vacate his/her office through continuous failure to attend meetings rests entirely with that councillor and no-one else.
- 8.9 The names of Members present at the meeting shall be recorded in the minutes.
- 8.10 Non-attendance at Council meetings will be recorded either as an apology or as being absent.
- 8.11 For the purpose of the attendance register, Members will be recorded as present, apologies, absent or no presence required. Where a substitute Member attends for a Committee/ Sub-committee Member, the Committee member will be recorded as “no presence required.”

9. Annual Meeting

- 9.1 In an election year Councillors shall execute Declarations of Acceptance of Office in each other's presence, or in the presence of the Chief Executive Officer, previously authorised by the Council to take such declaration, before the Annual Meeting commences.
- 9.2 The statutory Annual Meeting (a) in an Election year shall be held on the Sunday following the fourth day after the ordinary day of Elections to the Council and (b) in a year which is not an Election year shall be held on such a day in May as the Council may determine.
- 9.3 (a) Subject to (b) and (c) below the Town Mayor may give an original vote on any matter put to the vote and, in the case of an equality of votes, may give a casting vote even though he/she gave no original vote.
- (b) If the person presiding at the Annual Meeting would have ceased to be a Member of the Council, but for the statutory provisions which preserve the membership of the Town Mayor and Deputy Town Mayor until the end of their term of office, s/he may not give an original vote in an election for Town Mayor.
- (c) The person presiding must give a casting vote whenever there is an equality of votes in an election for Town Mayor.
- 9.4 At each Annual Meeting the first business shall be:
- (a) To elect a Town Mayor;
- (b) To receive the Town Mayor's declaration of acceptance of office or, if not received, to decide when it shall be received;

- (c) In the ordinary year of election of the Council to fill any vacancies left unfilled at the election by reason of insufficient nominations;
- (d) To elect a Deputy Town Mayor and receive his/her declaration of acceptance of office.
- (e) At any meeting where there is no chair or deputy chair present, the meeting may elect a member to preside at that meeting.

And shall thereafter follow the order set out in Standing Order 12.3.

10. Quorum

10.1 At meetings of the Full Council eight members shall constitute a quorum.

- (a) Except where ordered by the Council in the case of a Committee, or by the Council or the parent Committee in the case of a Sub Committee, the quorum of a Committee or Sub Committee shall be one-half of the permitted maximum number of its members.

(b) The permitted composition of Committees and Sub-Committees is shown below:

	Members		Named Substitutes	
	Maximum	Minimum	Maximum	Minimum
Committee	12	8	6	4
Sub-Committee	6	4	4	2

10.2 If a quorum is not present when the Council meets or, if during a meeting the numbers of Councillors present and not debarred by reason of a declared interest falls below quorum, the business not transacted at that meeting shall be transacted at the next meeting or on such other day as the Chairperson may fix, subject to statutory notice provisions.

11. Named Substitutes

- 11.1 (a) All members of Committees and Sub-Committees may nominate another Councillor from the named substitute list to act as substitute for him/her. The substitute Member will have full rights to discuss the business put before the Committee or Sub-Committee and vote thereon.
- (b) Named substitutes who attend Committee meetings but have not been nominated as above will at the discretion of the Chairperson have full rights to discuss the business put before the Committee or Sub-Committee but will not be able to vote.

- (c) Members are to inform the Chief Executive Officer's Office of their intended absence and any substitute they wish to nominate before the commencement of the Committee or Sub-Committee meeting.

12. Presence of Non-Member of Committees at Committee Meetings

- 12.1 Any Council Member shall be entitled to be present at any meeting of any Committee or Sub Committee of which s/he is not a Member, except meetings of the Staff Sub Committee. Any Member so attending will at the discretion of the Chairperson have full rights to discuss the business put before the Committee or Sub-Committee but will not be able to vote.

13. Order of Business

- 13.1 (a) With the exception of the Policy & Resources Committee and the Staff Sub Committee, every Committee and Sub-Committee shall at its first meeting after the Annual Meeting, before proceeding to any other business, elect a Chairperson and Vice-Chairperson who shall hold office until the next Annual Meeting of the Council.
- (b) If at any Committee or Sub-Committee meeting neither the Chairperson nor the Vice-Chairperson can be present, the Committee should, as its first item of business, elect a Chairperson.
- (c) The Leader of the Council, or the Deputy Leader in their absence, shall preside over the meeting until a Chairperson is elected.
- 13.2 Every year, not later than the meeting at which the budget is set, the Council shall review the Pay and Conditions of Service of existing employees (see Standing Order 13).
- 13.3 After the first business has been completed, the order of business, unless the Council otherwise decides on the ground of urgency, shall be as follows:
- (a) To receive apologies for absence;
 - (b) To receive any declarations of interest;
 - (c) To note any relevant dispensations
 - (d) To read and consider the minutes; provided a copy has been circulated to each Member no later than the day of issue of the summons to attend the meeting, the minutes may be taken as read;
 - (f) After consideration, to approve the signing of the minutes as a correct record by the person presiding;

- (g) To answer questions and /or receive petitions from members of the public;
- (g) To answer questions and /or receive petitions from Members;
- (h) To deal with business expressly required by statute to be done;
- (i) To receive such communications as the person presiding may wish to lay before the Council, e.g. a petition;
- (j) To receive and consider reports, and minutes of Committees;
- (k) To receive and consider reports from Officers of the Council;
- (l) Any other business specified in the summons (except as provided in Standing Order 17).

13.4 A motion to vary the order of business on the ground of urgency may be proposed by the Chairperson or by any Member and if seconded shall be put to the vote.

14. Admission of the Public and Press to meetings

14.1 The public and press shall be admitted to all meetings of the Council, which may, however, exclude the public and press by means of a resolution based on the following:

“That in view of the (special) (confidential) nature of the business about to be transacted, it is advisable in the public interest that the public and press be excluded and they are instructed to withdraw.”

(Note: The special reasons should be stated and recorded in the minutes. If a person’s advice or assistance is needed they may be invited (by name) to remain after the exclusion resolution is passed).

14.2 The Chief Executive Officer shall afford to the press reasonable facilities for taking their report of any proceedings at which they are entitled to be present.

14.3 If a member of the public interrupts the proceedings at any meeting, the Chairperson may, after warning, order that s/he be removed from the Council Chamber.

14.4 At the Chairperson’s discretion, members of the public shall be allowed to attend the meeting to (a) make representations, (b) answer questions or (c) give evidence relating to the business to be transacted.

14.5 No members of the Council may be excluded from any meeting of the Council, except in accordance with Standing Order 23 (Disorderly Behaviour)

15. Confidential Business

No member of the Council shall disclose to any person not a Member of the Council any business declared to be confidential by the Council. Any Member in breach of this Standing Order may be removed from any Committee or Sub-Committee of the Council by the Council. The Council may also refer the matter to the Council's Monitoring Officer for consideration.

16. Discussions and Resolutions affecting employees of the Council

If at a meeting there arises any question relating to the appointment, conduct, promotion, dismissal, salary or Conditions of Service, of any person employed by the Council, it shall not be considered until the Council has decided whether or not the public shall be excluded (see Standing Order 13)

17. Questions to meetings of the Council or Committees**17.1 Members' Questions**

A Member may ask the Chairperson or the Chief Executive Officer any question concerning the business of the Council or the Committee, provided notice of the question has been given to the person to whom it is addressed before the meeting begins in accordance with the following provisions:

- (a) The time allotted for Members' questions shall not exceed 20 minutes;
- (b) Questions not answered within that period will receive a written reply.

17.2 Questions from the Public

Members of the public *who live or work in Newbury* shall have the right to ask questions on any matter concerning the business of the Council or the Committee for 20 minutes of any meeting at the discretion of the Chairperson of that meeting. Questions not answered within that period will receive a written reply. In such cases, the Chairperson of the meeting will invite the member of the public, if present at the meeting, to ask the question, as submitted.

17.3.1 Notification in writing, by post, fax or electronic mail, of all questions must be received by the Chief Executive Officer by 2.00 pm on the day of the meeting.

17.3.2 The Chief Executive Officer shall distribute copies of any questions to all members attending the meeting.

- 17.4 (a) Every question shall be put and answered without discussion.
- (b) A person to whom a question has been put may decline to answer.

- (c) One supplementary question may be put if it is relevant to the answer to the original question.
- (d) A written reply will be given where a reply cannot conveniently be given orally.

17.5.1 If any person(s) submit(s) more than one question at any meeting it will be subject to the discretion of the Chairperson as to the order in which the questions are asked, so as to be fair to other questioners, given the time limits defined in 16.1 and 16.2.

17.5.2 Where more than one question is received about the same matter, the Chairperson may decide to group the questions.

17.6 The person who submitted the question will receive a written reply and the question and a copy of the answer will be circulated to all Councillors.

18. Rules of Debate

18.1 No discussion shall take place upon the minutes except upon their accuracy. Corrections to the minutes shall be made by resolution and must be initialled by the Chairperson.

- (a) A Member, when seconding a resolution or amendment may, if s/he then declares his/her intention to do so, reserve his/her speech until a later period of the debate.
- (b) A Member shall direct his/her speech to the question under discussion or to a personal explanation or to a question of order.
- (c) No speech by a mover of a resolution shall exceed five minutes, and no other speech shall exceed three minutes, except at the discretion of the Chairperson.
- (d) An amendment shall be to alter the wording only of the extant proposal.
- (e) An amendment shall not have the effect of negating the resolution before the Council.
- (f) If an amendment be carried the resolution, as amended, shall take the place of the original resolution and shall become the resolution upon which any further amendment may be moved.
- (h) A further amendment shall not be moved until the Council has disposed of every amendment previously moved.

- (h) The mover of a resolution or of an amendment shall have a right to reply not exceeding five minutes. The mover of a resolution shall have the right of reply immediately before the resolution is put to vote. If an amendment is proposed the mover of the amendment shall be entitled to reply immediately before the amendment is put to the vote. A Member exercising a right of reply shall not introduce new matter. After the right of reply has been exercised or waived, a vote shall be taken without further discussion.
 - (i) A Member may, with the consent of his/her seconder, move amendments to his/her own resolution.
 - (j) A Member, other than the mover of a resolution, shall not, without leave of the Council, speak more than once on any resolution, except to move an amendment or further amendment, or on an amendment, or on a point of order, or in a personal explanation, or to move a closure.
 - (k) A Member may rise to make a point of order or a personal explanation. A Member rising for these purposes shall be heard forthwith. A personal explanation shall be confined to some material part of a former speech by him/her which may have been misunderstood.
 - (l) A motion or amendment may be withdrawn by the proposer, which shall be signified without discussion, and no Member may speak upon it after permission has been asked for its withdrawal.
 - (m) When a resolution is under debate no other resolution shall be moved except the following:
 - (i) To amend the resolution;
 - (ii) To proceed to the next business;
 - (iii) To adjourn the debate;
 - (iv) That the question be put now;
 - (v) That a Member named be not further heard;
 - (vi) That a Member named do leave the meeting;
 - (vii) That the resolution be referred to a Committee;
 - (viii) To exclude the public and the press;
 - (ix) To adjourn the meeting.
- 18.3 At meetings of the Full Council only, Members shall stand when speaking unless permitted by the Town Mayor to sit on account of infirmity.
- 18.4
- (a) The ruling of the Chairperson on a point of order or on the admissibility of a personal explanation shall not be discussed.
 - (b) Members shall address the Chairperson.
 - (c) Whenever the Chairperson speaks during a debate all other members shall be seated and silent.

(d) Members shall be addressed in a formal manner and officers by their job title.

18.5 Where an interest has been declared by a Member which excludes them from debate and vote, or a member of the public makes representations, answers questions or gives evidence relating to the business to be transacted, the chairperson will ensure that the information gathering process concludes before debate commences.

19. Resolution moved on notice

19.1 Except as provided by these Standing Orders, no resolution may be moved unless the Chief Executive Officer has put the business to which it relates on the agenda.

19.2 The Chief Executive Officer shall insert in the summons for every meeting those motions or recommendations properly given by Members.

19.3 No motion may be moved at a meeting unless it is on the agenda and the mover has given written notice of its wording to the Chief Executive Officer at least a week before the meeting.

19.4 A motion shall relate to the responsibilities of the meeting for which it is tabled and in any event shall relate to the performance of the Council's statutory functions, powers and obligations or an issue which specifically affects the Council's area or its residents.

19.5 The Chief Executive Officer may, before including a motion on the agenda received in accordance with standing order 18.2 above, correct obvious grammatical or typographical errors in the wording of the motion.

19.6 If the Chief Executive Officer considers the wording of a motion received in accordance with standing order 18.2 above is not clear in meaning, the motion shall be rejected until the mover of the motion resubmits it in writing to the Chief Executive Officer so that it can be understood at least a week before the meeting.

19.7 If the wording or subject of a proposed motion is considered improper, the Chief Executive Officer shall consult with the chairman of the forthcoming meeting or, as the case may be, the Councillors who have convened the meeting, to consider whether the motion shall be included in the agenda or rejected.

19.8 Subject to standing order 18.6 above, the decision of the Chief Executive Officer as to whether or not to include the motion on the agenda shall be final.

- 19.9 If the resolution or recommendation specified in the summons is not moved either by the Member who gave notice of it or by any other Member, it shall, unless postponed by the Council, be treated as withdrawn and shall not be moved without fresh notice.

20. Resolutions moved without notice

20.1 Resolutions dealing with the following matters may be moved without notice:

- (a) To appoint a Chairperson of the meeting;
- (b) To correct the minutes;
- (c) To approve the minutes;
- (d) To alter the order of business;
- (e) To proceed to the next business;
- (f) To close or adjourn the debate;
- (g) To refer a matter to a Committee;
- (h) To appoint a Committee or Members thereof;
- (i) To adopt a report;
- (j) To authorise the sealing of documents;
- (k) To amend a motion;
- (l) To give leave to withdraw a resolution or an amendment;
- (m) To extend the time limit for speeches;
- (n) To exclude the public and press (see Standing Order 13);
- (o) To silence or eject from the meeting a Member named for misconduct (see Standing Order 23);
- (p) To give the consent of the Council where such consent is required by these Standing Orders;
- (q) To suspend any Standing Order (see Standing Order 34);
- (r) To adjourn the meeting.

21. Voting

21.1 Members shall vote by show of hands. The names of Members that propose and second motions are to be formally recorded in the minutes of Council meetings, with the exception of scheduled planning items.

- 21.2 If one Member so requires, the senior officer present shall record the names of the Members who voted on any question so as to show whether they voted for or against it. Any individual Member can ask for how they have voted to be recorded.
- 21.3 Chairpersons shall in the case of an equality of votes have a second or casting vote which must be recorded in the Minutes of the meeting.
- 21.4 Where one or more persons have been nominated for any position to be filled by the Council, the Proposer and Seconder of each candidate shall be recorded in the minutes of the meeting. The Chairperson will ensure that there is an opportunity for all candidates to be nominated before any vote is taken.
- (a) Where only one person has been nominated for any position to be filled by the Council a normal resolution, with votes for and against will be made.
- (b) Where two people have been nominated for any position to be filled by the Council, Councillors present will be invited to publicly vote for their preferred candidate from those put forward (in alphabetical order of surname). The candidate who receives an absolute majority vote of those present and voting (if necessary on the casting vote of the Chairperson) will be selected.
- (c) Where more than two people have been nominated for any position to be filled by the Council, Councillors present will be invited to publicly vote for their preferred candidate from all those put forward (in alphabetical order of surname). The candidate who ultimately receives an absolute majority vote of those present and voting (if necessary on the casting vote of the Chairperson when just two candidates remain) will be selected. If no absolute majority is achieved a process of striking off the individual with least votes will be executed and a fresh vote taken, until there is an absolute majority. Where there is an equality of least number of votes, (e.g. 10/5/5 split) a separate vote will be taken on which of those with least votes to strike off, again with Chairperson's casting vote if necessary.

22. Rescission of previous resolution

A decision (whether affirmative or negative) of the Council shall not be reversed within six months except either by

- (a) Special resolution, the written notice whereof bears the names of at least eight members of the Council, or by a resolution moved in pursuance of the report or recommendation of a Committee;

- (b) When a special resolution or any other resolution moved under the provisions of paragraph (a) of this Order has been disposed of, no similar resolution may be moved within a further six months.

23. Adjournment

- 23.1 Any meeting may be adjourned immediately by the Chairperson of that meeting, for any reasonable length of time or because the length of the meeting has become such that effective discussion is limited.
- 23.2 Meetings should not normally continue past 10.00 pm. If, however the Chairman believes that business could be concluded by 10.30 pm, a Motion under Standing Order 19.1 (s) (Motions which may be moved without Notice) must be moved and supported by a majority of those Members present. All meetings will conclude by 10.30 pm at the latest.
- 23.3 Where a meeting is adjourned, the subsequent proceedings on resumption are a part of the original meeting and the meeting can only consider the remainder of the agenda being considered before the adjournment. No new notices or agendas can be issued except in the event of proceedings being held over to another day when all Members must be notified of the date and time for resumption.

24. Disorderly conduct

- 24.1 No Member shall at a meeting behave in such a manner that is contrary to the Council's Code of Conduct or the Councils Standing Orders.
- 24.2 If, in the opinion of the Chairperson, a Member has contravened the Council's Code of Conduct or the Councils Standing Orders, the Chairperson shall express the opinion to the Council and thereafter any Member may move that the Member named be no longer heard or that the Member named should leave the meeting, and the motion, if seconded, shall be put forthwith and without discussion.
- 23.3 The Chairperson may suspend the meeting to take such steps as may be reasonably necessary to bring order to the meeting.

25. Sealing of Documents

- 25.1 A document shall not be sealed on behalf of the Council unless its sealing has been authorised by a resolution of the Council or the appropriate Committee.
- 25.2 The Council's Common Seal shall alone be used for sealing documents. It shall be applied by the Proper Officer in the presence of two Members who shall sign the document as witnesses.

26. Interests

- 26.1 If any Member has an interest in any matter for debate, s/he shall, while it is under consideration by the Council, act in accordance with the Code of Conduct adopted by the Council.

For interests under Appendix A of the Code of Conduct (Disclosable Pecuniary Interests), the Member must leave the room for the entire discussion, unless a dispensation has been granted under the Council's dispensation process.

For interests under Appendix B of the Code of Conduct or Financial Interests, or any other interests that the Member considers "prejudicial", the Member can remain for the information gathering section of the discussion, but must then physically move to the public gallery for the debate and vote – taking no part in that part of the discussion, unless a dispensation has been granted under the Council's dispensation process.

- 26.2 The senior officer present shall record in the minutes, particulars of any notice given by a Member or any Officer of the Council of an interest in a contract, and these shall be available during reasonable hours of the day for the inspection by any Member or any member of the public.

- 26.3 If a candidate for any appointment under the Council is to his/her knowledge related to any Member or the holder of any office under the Council, s/he and the person to whom s/he is related shall disclose the relationship in writing to the Chief Executive Officer. A candidate who fails so to do shall be disqualified for such appointment and, if appointed, may be dismissed without notice. The Chief Executive Officer shall report to the Council or to the appropriate Committee any such disclosure.

The Chief Executive Officer shall make known the purport of this Standing Order to every candidate.

27. Canvassing of and recommendations by members

- 27.1 (a) Canvassing of Members of the Council, directly or indirectly, for any appointment under the Council shall disqualify the candidate for such appointment. The Chief Executive Officer shall make known the purport of this sub-paragraph of this Standing Order to every candidate.
- (b) A Member of the Council or of any Committee shall not solicit for any person appointment under the Council or recommend any person for such appointment or for promotion; but, nevertheless, any such Member may give written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.

27.2 Standing Orders 25.3 and 26.1 shall apply to tenders as if the person making the tender were a candidate for an appointment.

28. Inspection of Documents

28.1 A Member may, for the purpose of his/her duty as such (but not otherwise), inspect any document in possession of the Council, and if copies are available shall, on request, be supplied for the like purpose with a copy.

28.2 All minutes kept by the Council shall be open for the inspection of any Member of the Council.

28.3 No Member of the Council shall in the name of or on behalf of the Council:

(a) Inspect any lands or premises which the Council has a right or duty to inspect; or

(b) Issue orders, instructions or directions;

unless authorised to do so by the Council.

29. Functions reserved to Full Council

The Full Council reserves to itself the following functions:

(a) It sets the precept.

(b) It approves the borrowing of monies.

(c) It delegates powers to Committees to carry out certain functions on behalf of the Full Council and sets and amends the Terms of References for those Committees, including the number of members and the appointment of Members to each committee as well as the quorum required for each committee meeting.

(d) It approves the timetable of meetings for Committees and the Council.

(e) It deals with all matters relating to elections.

(f) It adopts and where required, approves any amendments to the Council's Standing Orders (subject to the requirements of Standing Order 35.2), except the Council's Financial Regulations, which are delegated to the Policy and Resources Committee.

(g) It reviews and adopts the Council's Strategy.

(h) It approves the end of year Accounts and Annual Return.

(i) It elects the Leader of the Council and the Deputy Leader.

(j) It fills Member vacancies occurring on any Committee or Council, where required.

- (k) It appoints or nominates persons to outside bodies.
- (l) At the Annual Meeting of the Council:
 - It elects the Town Mayor and the Deputy Mayor.
 - It sets the delegated powers of its Committees and appoints the Members to each Committee, in accordance with Standing Orders 29 and 30.

30. Appointments to Committees

The Full Council may, at its annual meeting, appoint standing Committees and may at any other time appoint such other Committees as may be necessary, and:

- 30.1. Shall determine their terms of reference;
- 30.2. May permit Committees to determine the dates of their meetings;
- 30.3 Shall appoint and determine the term of office of councillor or non-councillor members of such a Committee (unless the appointment of non-councillors is prohibited by law) so as to hold office no later than the next annual meeting;
- 30.4 May appoint substitute councillors to a Committee whose role is to replace ordinary councillors at a meeting of a Committee if ordinary councillors of the committee have confirmed that they are unable to attend;
- 30.5 May in accordance with standing orders, dissolve a committee at any time.

At meetings of Committees:

- 30.6 An ordinary member of a Committee who has been replaced at a meeting by a substitute member (in accordance with standing order 29.4 above) shall not be permitted to participate in debate or vote on business at that meeting and may only speak during any public participation session during the meeting;
- 30.7 Unless there is a Full Council resolution to the contrary, a Committee may appoint a Sub-Committee whose terms of reference and members shall be determined by resolution of the Committee.
- 30.8 Details of quorums are determined under Standing Order No. 10 and named substitutes under Standing Order No. 11.

31. Delegations to Standing Committees and Sub-Committees of the Council

The following are the Delegations and Terms of Reference of the Council's standing Committees and Sub-Committees:

31.1 Policy and Resources

Membership: 10 Councillors

Quorum: 5 Councillors

Five named substitutes

The Leader of the Council is also the Chairperson of the Policy and Resources Committee.

The Deputy Leader of the Council is also the Vice Chairperson of the Policy and Resources Committee

Chairpersons of all principal Committees shall be members of the Policy and Resources Committee. (see 6.5)

Members of the Committee are appointed at the Annual Meeting of the Council.

Committee vacancies occurring during the year may be filled by appointment by the Council

- (a) It is responsible for the financial, human and property resources of the Council.
- (b) It takes action on behalf of the Council on any matter not delegated to another Committee.
- (c) It administers any allocated budget.
- (d) It sets the membership and delegated powers of its Sub-Committees and the terms of reference of its working groups.
- (e) It approves and amends where appropriate, the Council's Financial Regulations, having first consulted the Audit Working Group.

31.2 Planning and Highways

Membership: 12 Councillors

Quorum: 5 Councillors

Five named substitutes

- (a) It carries out all of the Council's functions as a statutory consultee under The Local Government Planning Acts
- (b) It formulates the Council's land use planning policy.
- (c) It comments on highway issues that affect access to the Newbury town area.

- (d) It comments on licensing issues that affect Newbury town.
- (e) It administers any allocated budget.
- (f) It sets the membership and delegated powers of its Sub-Committees and the terms of reference of its working groups.

31.3 **Community Services**

Membership: 10 Councillors

Quorum: 5 Councillors

Five named substitutes

The Leader of the Council and Deputy Leader of the Council are ex-officio members of the Community Services Committee. (See 6.5)

- (a) It is responsible for the maintenance of property assets and the provision of direct services to the public and for all related policy and fiscal matters.
- (b) It administers any allocated budget.
- (c) It sets the membership and delegated powers of its Sub-Committees and the terms of reference of its working groups.

31.4 **Civic Pride, Arts, and Culture**

Membership: 10 Councillors

Quorum: 5 Councillors

Five named substitutes

The Leader of the Council and Deputy Leader of the Council are ex-officio members of the Civic Pride, Arts, and Culture Committee. (See 6.5)

- (a) It exists to help promote and co-ordinate civic pride, arts & culture facilities and activities for the community, which will also attract visitors to the town.
- (b) Promotes, supports and celebrates that civic function of the Mayor as well as other activities and functions relating to the heritage and traditions of the town.
- (c) Works with the Community Services Team in the use and promotion of the Town Hall as a major civic asset
- (d) It administers any allocated budget.
- (e) It sets the membership and delegated powers of its Sub-Committees and the terms of reference of its working groups.

31.5 Grants Sub-Committee

Membership: 6 Councillors

Quorum: 3 Councillors

Four named substitutes

A Sub-Committee of the Policy and Resources Committee, the Grants Sub-Committee is responsible for the award of financial support to organisations subject to legislation, such as Sections 133, 137 and 145 of the Local Government Act 1972 or Section 19 of the Local Government (Miscellaneous Provisions) Act 1976.

This is referred to hereafter as '**grant aid**' and is to be awarded in accordance with the criteria approved by the Council.

The Council is also a funding body on the Find me A Grant Scheme run by The Good Exchange and administers its Grants Scheme via the "findmeagrant" web portal.

Applications may be made at any time but will next be considered at a time publicised by the Town Council. The Committee will consider all valid applications created on the "Good Exchange" web portal between the last closing date for applications and the new closing date. The dates will appear on the Council's web portal. No application will be considered twice. Applications must meet the Newbury Town Council Grant Aid Criteria published on "The Good Exchange" web portal.

- (a) The Sub-Committee normally meets twice a year, in summer and winter each year. After grants have been awarded a press release will be issued and letters sent to successful applicants. The summer meeting will have the full grant aid budget available and thus the scheduled winter meeting will only take place if the complete budget is not allocated.
- (b) Grant Aid is to be allocated on merit regardless of whether it is for a capital project or not. The allocated money is not to be split between capital and small grants.
- (c) Grant aid will be advertised in the local press and to arts and leisure organisations via the Council's web site www.newbury.gov.uk and on <https://thegoodexchange.com/>
- (d) In all cases the selection process will be based on a two-part approach, i.e. the first part will convene in public and receive presentations if required from qualified applicants to support their applications. The purpose of this is to 'receive and consider' applications which meet the Council's criteria.

- (e) Where necessary, the Committee may resolve to convene in 'Part 2 / confidential mode' (See Standing Order 13) in order to consider confidential information relating to the applicants. Sub-Committee members will have the option of studying applications and supporting material, such as accounts and other financial information, between the first and second parts. If agreed, the two parts can be combined into one meeting, or treated as two separate meetings

31.6 Donations, Grants and Contributions to Third parties and Outside Bodies

31.6.1 Any proposal to donate to a third-party organisation, for each of one or several years, shall require a written presentation to the Council by that organisation followed by a resolution by the Council. The resolution shall specify the sum to be donated and its purpose and shall apply for only one year unless otherwise stated. The Council may request further information and may direct that the presentation is heard by a particular Committee or Sub-Committee. Alternatively, the Council shall be at liberty to refuse to receive such a presentation.

31.6.2 In the case that the Council has approved a donation to a third-party organisation for more than one year, that organisation shall be invited to make a presentation to the Council towards the end of each year, which shall be subject to a resolution of approval by the Council. Should that invitation not be accepted, or the presentation not be approved, no further donation shall be made to that organisation without a further resolution by the Council under Standing Order 30.6.1.

31.7 Staff Sub-Committee

Membership: 6 Councillors

Quorum: 3 Councillors

Four named substitutes

The Leader of the Council chairs the Staff Sub-Committee.

A Sub-Committee of the Policy and Resources Committee, the Staff Sub-Committee has authority to approve appointment, recruitment and terms and conditions for all employees for the Council.

- (a) The Staff Sub-Committee reviews all employment policies for Council Staff and makes appropriate recommendations to the Policy and Resources Committee

- (b) In respect of the Chief Executive Officer & Responsible Finance Officer, to:
 - i. recommend to the Policy and Resources Committee appropriate staffing arrangements for the post and relevant salary scales and conditions;
 - ii. provide the Town Council with related Job Description and Person Specification; and
 - iii. propose to the Town Council such recruitment and selection processes as are required for appointment to the post
- (c) In respect of all other staff, to:
 - i. determine terms and conditions for posts established by the Town Council;
 - ii. agree and implement appropriate recruitment and selections processes for each post; and
 - iii. formally confirm appointments
- (d) The Chief Executive Officer may consult with the Sub-Committee in connection with any staffing related matter.
- (e) To oversee the Council's appraisal process
- (f) To review salary scales, terms and conditions and to make recommendations to the Policy and Resources Committee on salary scale reviews.
- (g) To review and address staff training and development needs
- (h) Termination of employment of staff and in the case of the Chief Executive officer and the Responsible Financial Officer to make recommendations to the Policy and Resources Committee
- (i) To review and make recommendations to the Policy and Resources Committee with regard to the appointed Legal / Personnel consultancy service
- (j) To review the Council's staffing budget each year, prior to the annual budget-setting process
- (k) To establish Sub-Committees and working groups, and to appoint advisers as and when necessary to assist in its work.
- (l) To act as the Council's **Grievance and Disciplinary Panel** with the necessary delegated decision-making powers in relation to grievance and disciplinary issues for members of the Council's Management Team.

Meetings will be called on an ad hoc basis as required, called by the Chief Executive Officer and with notice given to the relevant employee. A minute taker will be present throughout the proceedings. When carrying out this role the Sub-Committee will follow the procedure set out in the Town Council's Grievance and Disciplinary Procedures.

- (m) To act as the **Appeals Panel** in relation to any appeal against the decision of the Disciplinary Panel or the outcome of a Grievance.

Any Member who has been involved in the original Grievance or Disciplinary Panel shall not form part of the Appeals Panel. Additional Members may be appointed to the Appeals Panel by the Sub-Committee, in the event of a conflict of interests.

The Appeals Panel will consider any appeals against dismissal, grading, disciplinary proceedings and grievances by employees of the Council. The Chief Executive Officer will call the meeting and notice will be given to the employee.

A minute taker will be present throughout the proceedings.

The Panel will follow the procedure set out in the Town Council's Disciplinary Procedure.

- 31.8 Each of the above standing committees and Sub-Committees may draft their own policies and procedures to enable it to effectively and efficiently carry out its delegated functions, provided they comply with the relevant provisions in these Standing Orders and do not exceed the limit of the authority delegated to them.

32. Delegations to the Council's Proper Officer

- 32.1 The Chief Executive Officer and Responsible Financial Officer has delegated authority to properly carry out such tasks as are necessary to ensure the efficient day to day management of the Council's affairs, including staff matters not covered by the Staff Sub-Committee, so far as is consistent with the requirements of any job description, instruction of the Council or its Committees.

- 32.2 The limits of expenditure under this Standing Order shall be determined by the Council's Financial Regulations.

33. Code of conduct on complaints

The Council shall deal with complaints of maladministration allegedly committed by the Council or by any Officer or Member in the manner recommended in Legal Topic Note 9e - Code of Practice for Local Councils in Handling Complaints; published by the National Association of Local Councils. (See appendix 1)

34. Use of IT Equipment, including smart phones, in Council Meetings

- 34.1 IT equipment, including smart phones, should be regarded as an automation and extension of the traditional pen-and-paper methods which Councillors have always employed. Therefore, there should be no problem in its use to support the proceedings of Council meetings, for example to collect relevant information or take notes.

- 34.2 The use of IT equipment for other purposes, for example to send or receive unrelated messages, would be a distraction from the attention which Councillors should give to the proceedings of the meeting and should not take place. The enforcement of this principle, if necessary, is at the discretion of the Chairman at the time.
- 34.3 IT equipment should not be permitted to give out any form of electronic noise, such as rings, buzzes, or clicks, which would again distract proceedings.

35. Variation, revocation and suspense of Standing Orders

- 35.1 Any or every part of these Standing Orders **except** those which reflect mandatory statutory requirements may be suspended by resolution in relation to any specific item of business.
- 35.2 A resolution permanently to add, vary or revoke a Standing Order must receive the support of at least half of the total number of members on the Council (currently, this requires at least 12 members to support the resolution).

36. Principles of Decision-making

Full Council can delegate decisions to Committees or officers of the Council. Committees may further delegate to subcommittees.

Whichever body or individual is responsible for taking a decision, the decision should be taken, as far as possible, in accordance with the following principles:

- a. There should be a presumption in favour of decision-making being open and transparent, with members of the public being afforded effective access to relevant information and the processes by which decisions are taken;
- b. Due consultation, in accordance with the Council's Engagement and Consultation Policy, should take place with those likely to be affected by a decision. So far as practicable, decision-taking should be planned in advance and the public given due notification of forthcoming decisions;
- c. Where a decision is likely to have wide-ranging or significant impact on the community, additional time and emphasis should be given to consultation and members of the public actively encouraged to contribute their views;
- d. Decisions must be taken with regard to all relevant considerations and ignoring all irrelevant matters;
- e. Decisions should be taken on the basis of the priorities and principles set out in the Council's Strategy and have regard to any approved policies or procedures of the Council;
- f. Appropriate professional advice should be obtained from suitably qualified Officers of the Local Authority;
- g. Decisions must be taken with regard to proportionality – the action must therefore be proportionate to the desired outcome;

- h. Decisions must be taken with regard to any relevant statutory requirements and with respect for human rights;
- i. Any decisions taken must be formally recorded in accordance with the requirements of the Council's Standing Orders.

37. Standing Orders to be given to Members

A copy of these Standing Orders shall be made available to each Member by the Chief Executive Officer upon declaration of the Member's acceptance of office, by sending it by email or in printed format if requested.

DECEMBER 2018

LTN 9E | HANDLING COMPLAINTS (ENGLAND)

Introduction

1. This Legal Topic Note is intended to assist local councils deal with formal complaints they receive about their operations and services. Appendix 1 outlines the steps in a complaints handling procedure that are recommended for local councils.

The Local Government Ombudsman (LGO) is responsible for handling complaints against principal authorities and some other public sector organisations which do not include local councils. The LGO has no jurisdiction in respect of a local council except where it is (i) working jointly with a principal authority through a joint committee which includes representatives of the principal authority or (ii) exercising the functions of a principal authority. An explanation of the process of complaints to the LGO is set out in Appendix 2. The LGO has produced useful guidance on the subject of complaints procedures for principal authorities. A copy of the full guidance may be obtained from the LGO's website via the following link <https://www.lgo.org.uk/information-centre/reports/advice-and-guidance/guidance-notes>. This Note draws on the guidance for principal authorities.

2. In the context of a complaint against a principal authority, the LGO offers the following definition:

'A complaint is an expression of dissatisfactionabout the council's action or lack of action or about the standard of a service, whether the action was taken or the service provided by the council itself or a person or body acting on behalf of the council.'

3. A complaint against a local council may arise for the reasons given in paragraph 3 above. It may also be triggered by an allegation of administrative fault such as not following procedures or standing orders, inadequate service, no service, delay or making a mistake.
4. When a complaint is made against a local council, member(s) of the council or staff are likely to be mentioned or complained about. However, a complaint against a council should be treated as a complaint against the body corporate of the council, not as a complaint against individual employees or member(s) of the council. See also paragraphs 8 and 11- 13 below.

5. Occasionally it might be necessary to notify the council's insurers of a complaint immediately. This could be appropriate if a complainant seeks redress for personal injury, damage to property or other financial loss (e.g. in respect of libel) or where the council is at risk of being held liable in law to pay damages or to provide another legal remedy. It is important that the council takes instruction from its insurers as to how to respond to the complaint. The insurance policy for a council is likely to include cover for the council's legal expenses in defending a legal claim or the threat of a legal claim against a council (and any related formal complaint against the council). The failure by a council to notify its insurers as soon as a legal claim is threatened or made, may invalidate its insurance policy. Often, the legal expenses insurance cover for councils does not apply to all types of legal claims. For example, most legal expenses insurance policies do not provide legal expenses cover for the defence of a judicial review claim. Further guidance about judicial review is set out in Legal Topic Note (LTN) 15 - Legal Proceedings. If a formal complaint about a council threatens legal action, and the council does not have insurance cover to defend allegations which may subsequently give rise to a legal claim, it is recommended to seek professional legal advice as to how to respond to the complaint and any remedies offered. See also paragraph 25 below.

Who is a local council's complaints procedure for?

6. Residents who live in or near a council's area and who are affected by a council's decisions are likely to be the main users of a council's complaints procedure. A council's complaints procedure should also be available to other individuals, organisations (e.g. a business, charity) or unincorporated bodies (e.g. a residents' or allotment tenants' association). Anyone aggrieved with a local council is likely to communicate this verbally or in writing. It is generally in the interests of the complainant and the council to try resolve the matter informally through the normal channels of communication, rather than deferring to the council's formal complaints procedure.
7. A complaint against a council that involves a complaint about the conduct of its employees must be handled in accordance with its complaints procedure. If, following the outcome of the complaint, the council decides that there may be a need to take disciplinary action, this should be in accordance with its internal disciplinary procedure. For more information and guidance see LTN 22 - Disciplinary and Grievance Arrangements.

When is a local council's complaints procedure not appropriate?

8. Other bodies have responsibility for certain types of complaint. These are summarised below.

Type of conduct	Refer to
Alleged financial irregularity	Local electors have a statutory right to object to a Council's audit of accounts (s. 16 Audit Commission Act 1998).
Alleged criminal activity	The police.
Members' conduct alleged to breach the code of conduct adopted by the council.	The district or the unitary council (which includes a London borough council) is responsible for handling complaints that relate to a member's failure to comply with the council's code of conduct.

9. Sometimes other internal procedures, statutory requirements or litigation (including the examples given in paragraph 6 above) may run in parallel or be used as an alternative to dealing with complaints against a local council, whether they are raised through the usual channels of communication or formally. The following examples illustrate such scenarios. If a person is unhappy with a council's response to his request for information or the Information Commissioner has communicated with the council for this reason, the council may have appointed a committee or sub-committee which is responsible for handling the council's responses to requests for information. A company that is complaining about a council's late payment of its invoice is unlikely to submit a formal complaint because the company will be relying on contractual terms for prompt payment which it may take legal action to enforce if the matter cannot be resolved in routine correspondence. An allotment tenant may lodge a formal complaint against a council because he is unhappy it has terminated its tenancy. Irrespective of the determination of any formal complaint, a decision about the lawfulness of the termination of the tenancy may be available to the former tenant if he is able to issue a legal claim against the council.
10. A council's complaints procedure is not a means of redress for its members or staff. Members and staff are expected to work together professionally even if they hold differences of opinion and views.
11. Members are free to raise matters of concern in respect of council business by

the submission of motion(s) on the agenda for relevant meeting(s) where the issue can be formally considered and resolved. Alternatively if a member has concerns about the conduct of a member of staff, he should notify the committee or sub-committee that has responsibility for staff management. The staffing committee or sub-committee is responsible for deciding whether the member's concerns raise disciplinary issues to be dealt with in accordance with the council's disciplinary procedure.

12. If an employee has a complaint about the workplace, he may raise this in accordance with the council's internal grievance procedure. For more information and guidance see LTN 22 - Disciplinary and Grievance Arrangements.

Complaints Procedures for Local Councils

13. The LGO confirms that a good complaints system is:
 - well publicised, easily accessible and easy to use;
 - helpful and receptive;
 - not adversarial;
 - fair and objective;
 - based on clear procedures and defined responsibilities;
 - thorough, rigorous and consistent;
 - decisive and capable of putting things right where necessary;
 - sensitive to the special needs and circumstances of the complainant;
 - adequately resourced;
 - fully supported by councillors and officers;
 - provides responses that are proportionate; one size does not fit all;
 - timely; and
 - regularly analysed to spot patterns of complaint and lessons for service improvement.

It is recommended that the complaints procedure for a local council is documented in writing and that, in practice, it reflects the above features.

14. A council's complaints procedure should require formal complaints to be submitted in writing. A council may design a standard form for complainants to use when submitting their complaint. As a minimum, the form should require the complainant to confirm the (i) detail of his complaint, including relevant events, dates, names of relevant members, staff, or contractors of the council etc. and (ii) his contact details. An explanation of the council's complaints procedure, including the complaint form to be used (if there is one), should be well publicised and accessible via its publication scheme. For further information

about publication schemes see LTN - 37 - Freedom of Information and NALC's legal briefings issued in 2008.

15. Once submitted, a complaint may be processed by a council exclusively through written communications. However if a council wants to offer the complainant an opportunity to make verbal representations, this should be confirmed in its written complaints procedure. Verbal representations by the complainant will lengthen the period for dealing with the complaint.
16. A complaint against a local council must be properly investigated. The complainant may or may not provide evidence to support his complaint even if the complaint is submitted using a complaints form that has been drafted by the council and which asks for this information. A council will need to set aside a reasonable period of time to investigate the complaint and to gather evidence. The period set aside for investigation of the complaint must be specified in the council's written complaints procedure.
17. The LGO recommends that any complaints procedure should consist of at least 2 stages which permits the complainant to appeal the outcome of complaint. This may be impractical for small councils with few members and staff. The fairness and timeliness of a local council's response to a complaint is however more important than the number of stages in its complaints procedure. If a council adopts a 2-stage complaints process, this must be confirmed in its written complaints procedure. Staff or members previously involved in the original decision should not participate in the determination of an appeal.
18. A council may delegate responsibility for handling and determining complaints to staff. Many councils may prefer complaints to be handled by members. If so, they are advised to appoint a committee or sub-committee responsible for considering and determining complaints. Guidance about a council's powers to delegate the discharge of its functions to a committee, sub-committee or staff is given in LTN 1 - Councils' powers to discharge their functions.
19. If the complaints procedure provides an opportunity for the complainant to attend a meeting to make representations about his complaint, he is likely to feel more comfortable speaking to an officer of the council or at a meeting of a sub-committee or a small committee, rather than a meeting of the full council.

20. It is good practice to set deadlines for complaint handling and local councils should not leave this open-ended. The LGO recommends that this takes no longer than 12 weeks from receipt to resolution. Clearly, some flexibility may be required to deal with lengthier and more complex complaints and this should be explained in a council's written complaints procedure.

Data protection and confidentiality

21. To ensure compliance with its obligations in the Data Protection Act 1998 ('the 1998 Act'), a council cannot disclose the identity, contact details or other personal data about an individual complainant unless he consents or disclosure is otherwise fair and lawful under the 1998 Act e.g. for the purpose of discharging the council's functions, or for the performance of contractual obligations. Councils should ensure that agendas and minutes do not disclose personal data or financial, sensitive or confidential information that relates to an individual complainant or a third party in the agendas or minutes of its meeting. For guidance about the preparation of agendas and minutes, see also LTN 5 – Parish and Town Council Meetings. Further guidance about the 1998 Act is available in LTN 38 - Data Protection. The LGO advises that the identity of a complainant should only be made known to those in the council who need to consider the complaint. In other words, a council is expected to treat a complaint in confidence.
22. A complaint against a local council is personal to the complainant and should be treated as confidential unless the complainant confirms that he waives his right to confidentiality. The meeting of a relevant committee or sub-committee considering the complaint or inviting the complainant to make representations will need to exclude the public. This would not preclude the committee or sub-committee from inviting the complainant to speak at a meeting or requesting the attendance of clerk (or other nominated officer) to represent the position of the council.
23. Annex 1 further explains paragraphs 14 – 23 and outlines the steps to be incorporated into a local council's written complaints handling procedure.

Determination of complaints and remedies

24. With reference to paragraph 6 above, if a complainant has threatened to take legal action against a council or legal proceedings have already begun, the council is recommended to seek professional legal advice about how to respond to the complaint. It may need professional legal advice about any remedial steps that it may wish to offer the complainant if the complaint is upheld.

25. If a council upholds a complaint, it should, where possible, avoid an admission of wrongdoing. If the complainant decided to take legal action against the council (e.g. to obtain a court order which requires the council to pay damages or perform another legal remedy), an admission of wrongdoing may expose the council to legal liability.
26. If a council upholds a complaint, it is appropriate for the council to give the complainant an explanation of the matters complained of. It may decide to apologise to the complainant. In addition, the council may explain what steps it intends to take to reduce the risk of the matters complained of being repeated.
27. If a complaint against a local council is upheld, the council may offer a remedy which, as far as possible, puts the complainant back in the position he would have been in but for the matters complained of. If the matters complained about have caused the complainant to suffer financial loss, the council may want to offer financial compensation. Any offer or acceptance of financial compensation should confirm the council's payment is full and final settlement of the dispute and any claims which the complainant has against the council and without admission of legal liability.
29. If it is not appropriate for the council to offer compensation for some or all of the financial loss suffered by the complainant, it may, as an alternative, make an offer of goodwill or some other gesture. For example, in the case of a frequent user of the council's community hall or sports facility, the council may offer use of the facility for free or at a reduced rate.
30. The general power of competence (ss.1-8 Localism Act 2011) provides statutory authority for a council which is eligible to exercise the power of competence (Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012/965) to offer a range of remedies. If the remedy offered by the council facilitates, or is conducive or incidental to the exercise of the council's statutory functions or powers, any local council may rely on s.111(1) of the Local Government Act 1972.

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
1	Councils' powers to discharge their functions	Explains delegations of council functions to committees, and staff.

15	Legal Proceedings	Explains when the remedy of Judicial Review may be sought by a complainant (in the absence of any other appeal mechanism).
22	Disciplinary and Grievance Arrangements	Provides guidance on procedures for disciplining an employee or dealing with a grievance from and employee.
37	Freedom of Information	Explains publication schemes and other obligations of a council under the Freedom of Information Act 2000.
38	Data Protection	Explains rights and obligations of a council under the Data Protection Act 1998 and defines personal data.
80	Members' conduct and the registration and disclosure of their interests (England)	Explains councillors' obligations under the Localism Act 2011.

APPENDIX 1 – OUTLINE COMPLAINTS PROCEDURE FOR USE IN COMPLAINTS AGAINST THE COUNCIL

Before processing a complaint

1. All formal complaints against a local council must be communicated in writing. A council may design a standard form for complainants to use when submitting their complaint.
2. The complainant must be asked at the outset to confirm if he wants the complaint to be treated confidentially. If the complainant is required to use a complaint form that has been designed by the council, the form should include this question. It is unlikely that the complainant will waive confidentiality. Even if he does so, the council must comply with its obligations under the Data Protection Act 1998 to safeguard against the unlawful disclosure of personal data.
3. The council's written complaints procedure should be accessible to the complainant. In any event, it should be well publicised and accessible via the council's publication scheme. A council's complaints procedure should confirm the following information.
 - the requirement to submit a complaint in writing (which may require the complaint to use a complaint form designed by the council).
 - the postal address or email that the complaint must be sent to. In most cases, it will be appropriate for the complaint to be addressed to the clerk or other nominated officer. If the complaint concerns the clerk or other nominated officer, it should be sent to the Chairman of the relevant committee or sub-committee established for the purposes of determining complaints.
 - that receipt of the complaint will be acknowledged in writing within a specified timeframe.
 - who will be dealing with the complaint (e.g. title of member of staff, a particular committee or sub-committee).
 - the timeframe for investigating the complaint.
 - whether there is an opportunity for the complainant to make verbal representations (and bring a friend when doing so) and when this will occur.
 - the timeframe for determining the complaint.
 - whether there is an opportunity to appeal the outcome of the complaint and an explanation of the appeal process.

Receipt of the complaint

4. The clerk or other nominated officer (or if the complaint concerns them, the Chairman of the council's complaints committee or sub-committee) shall:
 - acknowledge receipt of the complaint in writing within the timeframe specified in the council's complaint's procedure;
 - confirm to the complainant if the complaint will be treated as confidential (which is the most likely to be the case) and
 - confirm the next steps in the complaints procedure.

Investigating the complaint

5. The council will need to investigate the facts of the complaint and collate relevant evidence.
6. If the council's complaints procedure permits the complainant to make verbal representations, the complainant should be invited to a meeting with the clerk or nominated officer, or as the case may be, a meeting of the complaints committee or sub-committee. Before the meeting and within the period specified in the council's complaint procedure (i) the complainant shall provide the clerk or nominated officer, or as the case may be, the complaints committee or sub-committee with any new information or other evidence relevant to the complaint and (ii) the clerk or nominated officer, or as the case may be, complaints committee or sub-committee shall provide the complainant with new information or evidence relevant to the complaint.

Meetings with the complainant (if applicable)

7. If a council's complaints procedure permits the complainant to make verbal representations at a meeting with the clerk or nominated officer, or as the case may be, to a meeting of the complaints committee or sub-committee, the clerk or nominated officer or, as the case may be, chairman of the meeting should explain how the meeting will proceed.
8. The complainant should outline the grounds for complaint and, thereafter, questions may be asked by the clerk or other nominated officer or by members if this is a meeting of the complaints committee or sub-committee.
9. The clerk or other nominated officer (or if the complaint concerns them, another member of staff or a member) will have an opportunity to explain the council's position and questions may be asked by the complainant.
10. The clerk or other nominated officer, or as the case may be, the complaints

committee or sub-committee and then the complainant should be offered the opportunity to summarise their respective positions.

11. The complainant should be advised when a decision about the complaint is likely to be made and when it is likely to be communicated to them.

After the complaint has been decided

12. Within the timeframe specified in the council's complaint's procedure, the council should write to the complainant to confirm whether or not it has upheld the complaint. The council should give reasons for its decision together with details of any action to be taken by the council if this appropriate. If the council's complaints procedure includes an appeal stage, the council should notify the complainant in writing of the right to appeal its decision.

APPENDIX 2 - COMPLAINING TO THE LOCAL GOVERNMENT OMBUDSMAN (LGO)

1. The relevant legislation is the Local Government Act 1974 ('the 1974 Act'). The LGO has no jurisdiction in respect of a local council unless it is working jointly with a principal authority through a joint committee which includes representatives of the principal authority (section 25(4)(b)) of the 1974 Act) or it is exercising the functions of a principal authority (section 25(7) of the 1974 Act). It might be useful for parish councils to know something about the jurisdiction of the LGO so that they can assist members of the public (including, perhaps councillors) to complain to the LGO where appropriate. The key points to remember are:
 - parish councils are unable to lodge complaints as a public body (section 27(1) of the 1974 Act) about another local authority or public body defined at section 25 of the 1974 Act but this does not prevent individual councillors from making complaints about another local authority or public body in their personal capacity. In their official capacity, if so requested by member(s) of the public, a parish councillor could represent them in making complaints. Please note:-
 - complaints must be made in writing;
 - complaints must be made within 12 months of notice of the matters which are subject to the complaint;
 - complainants must first give the authority in question notice of the complaint and give them an adequate opportunity to investigate and reply to the complaint. This usually entails exhausting that authority's complaints procedure;
 - the Ombudsman may not investigate matters which are or have been subject to a right of appeal; and
 - the Ombudsman may not investigate matters where the complainant has or has had a remedy by way of court proceedings.
2. The most common application of the Ombudsman's lack of jurisdiction where the subject matter of the complaint is subject to a right of appeal or court proceedings is in respect of judicial review. Many councils claim that the Ombudsman does not have jurisdiction in certain cases due to the availability of judicial review. In these circumstances the Ombudsman can rely on section 26(6) of the 1974 Act which states that:-

'A Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person affected to resort or have resorted to it.'

