

approved.	with current best practice		Regulatory – Negligible Score: 1	practice.
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(b) Human Rights Act and Other Legal Implications

There are no Human Rights Act implications arising from this Report. Local Authorities have a statutory duty to prepare, keep up to date and publish a constitution, whose contents are partly prescribed by statute and ministerial direction, and partly matters of local content, within a statutory framework.

(c) Financial Implications

There are no direct financial consequences which arise as a result of the contents of this Report.

(d) Equalities Impact Assessment

No need arises for the carrying out of an equalities impact assessment as a consequence of the contents of this Report.

5 Supporting Information

5.1 The Council last approved a set of revisions to the Council’s constitution at their Annual Meeting on 16 May 2019. Since that time there has been impetus to make further revisions. This impetus arises from the “best practice” recommendations made by the Committee on Standards in Public Life (“CSPL”) in their report “Local Government Ethical Standards – A Review by the Committee on Standards in Public Life”, which was published in January 2019. These best practice recommendations are capable of being implemented by Councils without any need for Primary legislation. The impetus for further revisions has also arisen from Members’ views and wishes, expressed at meetings of the Member Panel on the Constitution and at the Audit and Corporate Governance Committee, and by changes to the designation of the Joint Parenting Panel.

5.2 Further revisions to the constitution were considered by the Member Panel on the Constitution at their meetings on 11 September 2019 and 25 February 2020 and by the Audit and Corporate Governance Committee at their meeting on 5 March 2020. The revisions that were considered were in relation to the following areas:

5.2.1. Declarations of Members’ interests;

5.2.2. “Best Practice” recommendations of the CSPL;

5.2.3 the Terms of Reference of the Joint Parenting Panel; and

5.2.4 Paragraph 4.1 of the Councillors Code of Conduct.

5.3 Declarations of Members' interests

- 5.3.1 The Council's internal auditors have found, from an examination of the minutes of meetings, that there are several instances of declarations of interests by Members where there is no evidence of any review of the impact of such declarations and the action taken.
- 5.3.2 These instances arise where Members have declared a personal interest, such as the fact that a close relative works for the Council, but do not consider that the interest declared prejudices their judgement of the public interest and they participate in the debate and vote on the items under consideration.
- 5.3.3 The Member Panel on the Constitution asked for consideration to be given to formulating a simpler form of words that Members might use in such circumstances to enable them to participate and vote, whilst at the same time ensuring that the minutes record the propriety of such actions by Members.
- 5.3.4 It was, therefore, suggested to the Member Panel on the Constitution that paragraph 4.4 of the Councillors' Code of Conduct in Part 5.1 of the Constitution be revised to add the following the following words at the end of that paragraph:
- “provided you declare that you are impartial on the matter after the words “If the test is not met, you may remain, speak and vote on the matter”.**
- 5.3.5 These suggested words were agreed by the Member Panel on the Constitution at their meeting on 11 September 2019 and by the Audit and Corporate Governance Committee at their meeting on 5 March 2020. Council are therefore asked to agree this revision
- 5.3.6 The Panel also asked for consideration to be given to whether the form for declaration of Members' interests could be amended to allow Members to place such interests in the Register of Members' Interests and thus avoid the necessity for Members to need to declare such interests at every meeting.
- 5.3.7 Section 29(1) of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members. Section 29(2) provides that it is up to the relevant authority to determine what is to be entered in the authority's register. Section 30(1) requires Members to notify the Monitoring Officer of any disclosable pecuniary interest which the Member has at the time when the notification is given. Section 30(4) provides that where a member gives notification under Section 30(1) the Monitoring Officer must cause the interests notified to be registered in the authority's register whether they are disclosable interests or not. Section 31(2) requires a member to disclose any disclosable pecuniary interest at any meeting if the interest is not entered in the authority's register. Taking these provisions together, therefore, it is considered that if members' personal interests of the nature referred to in paragraph 5.3.2 above are notified to the Monitoring Officer he must cause them to be entered in the register of interests and provided they are so registered the Member would not need to declare them at every meeting.

- 5.3.8 It was, therefore, suggested to the Member Panel on the Constitution that Appendix 2 to the Councillors Code of Conduct in Part 5.1 of the Constitution be amended to include another section at the end for any personal interests of the nature referred to in paragraph 5.3.2 above to be declared.
- 5.3.9 The above suggestion was agreed by the Member Panel on the Constitution at their meeting on 11 September 2019 and by the Audit and Corporate Governance Committee at their meeting on 5 March 2020. Council are therefore asked to agree this revision.

5.4 Best Practice Recommendations of the Committee on Standards in Public Life

- 5.4.1 The Cabinet Committee on Standards in Public Life (“CSPL”) published their report “Local Government Ethical Standards – A Review by the Committee on Standards in Public Life” on 30 January 2019.
- 5.4.2 The CSPL made 26 recommendations. They also made 15 “best practice” recommendations.
- 5.4.3 Many of the CSPL recommendations will require primary or secondary legislation or other action by central government, or action by parish councils, the Local Government Association, political groups or national political parties to implement, but the “best practice” recommendations could be implemented by Councils now, of the own volition.
- 5.4.4 At their meetings on 11 September 2019 and 25 February 2020 the Member Panel on the Constitution considered the 15 “best practice” recommendations made by the CSPL. The following table summarises these recommendations. The last column of this table sets out, where appropriate, revisions to the Constitution agreed by the Panel. These revisions were agreed by the Audit and Corporate Governance Committee at their meeting on 5 March 2020. Council are requested to approve these revisions.

Recommendation number	Nature of recommendation	Proposed Wording for changes or comments.
1	Inclusion in the code of conduct of prohibition on bullying and harassment including definition of that term supplemented by examples of behaviour covered by such definition.	<p>That ACAS’s definition of bullying together with ACAS’s examples of bullying behaviour be adopted for inclusion in the Code.</p> <p><u>ACAS definition</u></p> <p>“Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”</p> <p><u>ACAS examples</u></p>

		<ul style="list-style-type: none"> • spreading malicious rumours, or insulting someone by word or behaviour • copying memos that are critical about someone to others who do not need to know • ridiculing or demeaning someone – picking on them or setting them up to fail • exclusion or victimisation • unfair treatment • overbearing supervision or other misuse of power or position • unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected • making threats or comments about job security without foundation • deliberately undermining a competent worker by overloading and constant criticism • preventing individuals progressing by blocking promotion or training opportunities
2.	Inclusion in the code of provisions requiring compliance with any standards investigation and prohibiting trivial or malicious allegations by councillors	The Nolan Principles are incorporated into the Councillors' Code of Conduct. Principle 4 on "Accountability", with the supplementary wording, requires Members to submit themselves to whatever scrutiny is appropriate to their office. More particularly, paragraph 5.2 of the Code requires members to co-operate at all stages of any investigation by the Monitoring Officer. Paragraph 5.5 of the Code provides that relatively

		<p>minor complaints will be considered appropriately in applying the Assessment Criteria in Appendix 9 of the Code for investigation of complaints and the Assessment Criteria themselves allow the Monitoring Officer to filter complaints which are not sufficiently serious to warrant investigation, “tit for tat” or politically motivated. The flow chart for the investigation process in Appendix 8 of the Code allows for the Monitoring Officer to apply a preliminary test for whether a complaint is vexatious or malicious. It is considered, therefore, that the Code already contains provisions which address this “best practice” recommendation of the CSPL</p>
3	<p>Annual review of the code and, where possible, regular seeking of views of the public, community organisations and neighbouring authorities</p>	<p>The Code of Conduct at present contains no provision relating to the frequency of its review, albeit that in practice the Code is constantly being considered with a view to any necessary revisions being adopted by full council at the beginning of each municipal year. In order to address this aspect of this “best practice” recommendation of the CSPL it is proposed that a sentence be added at the end of the first paragraph of the Code titled “Purpose of the Code” in the following terms:</p> <p><i>“This Code shall be reviewed by the Council at least once every year.”</i></p>

4	Code should be readily accessible to both councillors and the public in a prominent position on the Council's website and available in council premises	The Code is available on the Council's website under the tab "About the Council" on the Council's home page and the sub-tabs "Complaints and Feedback" and "Complaint about a Councillor". The Council is proposing to redesign its website as part of the transformation programme so consideration can be given at the appropriate time to making these pages more prominent. The Code is part of the Constitution which is separately available on the Council's website and hard copies of the Constitution are available from Democratic Services. It is considered, therefore, that this "best practice" recommendation of the CSPL is already addressed by the Council and so no amendments to the constitution are proposed in regard to it.
5	Update of gifts and hospitality registers at least once a quarter and be available in easily accessible format such as CSV	Paragraph 4.7 of the Councillors' Code of Conduct in Part 5.1 of the Constitution requires Members to report to the Monitoring Officer in writing within 28 days of receipt any gift, benefit or hospitality with a value in excess of £50.00 and for the Monitoring Officer to place the notification on the public register of gifts and hospitality which is maintained in an easily accessible format. This "best practice" recommendation is already addressed by the Council
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered	It is considered that Paragraph 5.5 of the Code, the flowchart in Appendix 8 of the Code referring to a preliminary assessment of the public interest and the Members Complaints Assessment Criteria in Appendix 9 of the Code taken together provide a straightforward test against which allegations are filtered and hence this "best practice" recommendation of the

		CSPL is addressed by the Council and hence no amendments are proposed.
7	Local authorities should have access to at least two Independent Persons	No proposals are made on this “best practice” recommendation of the CSPL because it is considered that it is necessary to canvass the views of the Section 151 Officer as there would be financial implications for the Council of having additional Independent Persons. The rationale of the CSPL in making this recommendation is that one Independent Person should be available to provide independent advice to the subject member and another to provide independent advice to the Council, so as to avoid the Independent Person having to be in a position of being forced to prejudge the merit of any allegation. Whether this is a significant issue may depend upon the robustness of the Independent Person and his or her ability to hold the balance between the Council and the subject member in the context of the complaints process.
8	An independent Person should be consulted as to whether to undertake a formal investigation and given option to review and comment upon allegations which the responsible officer is minded to dismiss as being without merit, vexatious or trivial	In practice the Independent Person is informed of all complaints received by the Monitoring Officer and he is consulted on the manner in which the Monitoring Officer proposes to dispose of each complaint. Paragraph 5.7 of the Code, however, permits the Monitoring Officer to determine whether any complaint merits investigation after such consultation with the Independent Person as the Monitoring Officer deems appropriate. It is proposed, therefore that the first sentence of Paragraph 5.7 of the Code be amended to read as follows in order to address this “best practice” recommendation of the CSPL:

		<p>“5.7 The Monitoring Officer will determine every complaint received and shall consult with the Independent Person as to whether a formal investigation should be undertaken and shall give him the opportunity to review and comment upon any complaint which the Monitoring Officer is minded to dismiss as being without merit, vexatious or trivial”</p>
9	<p>Where decision is made on allegation following formal investigation decision must be published as soon as possible on website with brief statement of facts, provisions of the code engaged, view of Independent Person, reasons of decision-maker and sanctions applied.</p>	<p>Paragraph 6.13(a) of the Code provides that the determination sub-committee of the Audit and Corporate Governance Committee may authorise the Monitoring Officer to publicise any findings in respect of the Subject Member’s conduct. It is proposed that rather than follow the CSPL’s recommendation for a mandatory publication, the discretionary publication power of the determination be continued but that paragraph 6.13(a) of the Code be amended to read as follows:</p> <p>“(a) publish on the Council’s website any findings in respect of the Subject Member’s conduct which shall include a brief statement of the facts, the provisions of the Councillors’ Code of Conduct which have been breached, the view of the Independent Person, the reasons for the findings made and details of the sanctions applied.”</p>
10	<p>Local authorities should have straightforward and accessible guidance on its website on how to make complaints, the handling process and estimated timescales for investigations and outcomes</p>	<p>This information is available on the Council’s website under the tab “About the Council” on the Council’s home page and the sub-tabs “Complaints and Feedback” and “Complaint about a Councillor”. The resulting page contains a link to a PDF document entitled “Councillor Complaints Guidance” which</p>

		provides this information. Accordingly it is considered that this “best practice” recommendation is already addressed by the Council.
11	formal complaints about the conduct of a parish councillor towards a clerk should be made by the chair or the parish council as a whole rather than by the clerk in all but exceptional circumstances.	Each of the three parish councils within the Council’s area have their own codes of conduct and this is a matter for the parish councils to consider and implement. The Council have no power to enforce this against any of its Parish Councils
12	Monitoring Officers’ roles should include providing advice, support and management of investigations and adjudication of alleged breaches to parish councils within the remit of the principal council. They should be provided with adequate training, corporate support and resources to undertake this work	At present the Council administers complaints against parish councillors for alleged breaches of their respective codes of conduct and the Monitoring Officer carries out investigations, where appropriate, and the Council’s determination sub-committee of the Audit & Corporate Governance Committee determines such complaints where necessary. Also, the Constitution provides in the Monitoring Officer Protocol in Part 5.6 of the Constitution that the Monitoring Officer will make a report to the Council from time to time on the staff, accommodation and resources required to discharge his duties. Furthermore Section 5(1)(b) of the Local Government & Housing Act 1989 requires the local authority to provide the Monitoring Officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties to be performed. It is not considered, therefore, that any further provisions are required in the Constitution to address this recommendation of the CSPL
13	Local authorities should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the	At present the Constitution provides, by way of the “Members Complaints Assessment Criteria” in the Code of Conduct in Part 5.1, that wherever circumstances arise where it would not be appropriate

	Monitoring Officer from a different authority to undertake the investigation	for the Monitoring Officer to investigate, the matter may be referred to the Audit & Corporate Governance Committee. No proposal is made for a Monitoring Officer from a different authority to undertake such an investigation
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	The Council have set up formal housing subsidiaries, namely Herschel Homes Limited and James Elliman Homes Limited and it has set up an asset management vehicle, Slough Asset Management Limited. It is also owns the entire issued share capital of GRE5 Limited, the owner of Nova House, which it acquired in order to manage fire risks in that building. These are all "local authority controlled Companies" within the Local Authorities(Companies) Order 1995 which means that the companies are required to provide to any member of the authority such information as the member reasonably requires to enable that member to carry out his or her duties. These companies' directors are appointed by the Council and comprise officer of the Council who are required to enter into formal agreements to manage any conflicts of interests and the companies operate under a shareholder agreement with the Council which is enforced by the Section 151 Officer and which prescribes what the companies may or may not do. The Council is also a Member of Slough Urban Renewal. All these relationships have been reported for the first time in the Council's Annual Governance Statement for 2018/19 and this will be a feature for annual statements going forward. No constitutional provisions are proposed with regard to the transparency of the agendas and minutes and annual reports of these companies and

		the applicability of the Nolan principles as a wider canvassing of views across the Council and more detailed consideration of any mechanisms would be necessary before any detailed wording could be formulated. The officers who are appointed as directors of these companies are bound by the Nolan Principles by way their obligations in the Local Code of Conduct for Employees in Part 5.3 of the Constitution and the companies are required to file annual returns at companies house
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues	At present the Chief Executive meets regularly with political group leaders to discuss all matters of concern to the group leaders, including standards issues. There are no provisions within the Constitution which formally prescribe this. No provisions are proposed as it is a matter upon which it may be appropriate first to receive the views of group leaders and senior officers. No regular meetings take place with group whips to discuss standards matters. Again, no provision is proposed for the constitution. It is not considered that it would be appropriate for senior officers to discuss the details of any formal investigations with group whips

5.5 Terms of Reference of the Joint Parenting Panel

- 5.5.1 At its meeting on 18 December 2019, the Joint Parenting Panel considered its Terms of Reference.
- 5.5.2 The Terms of Reference are reviewed annually by the Council's Director of Children, Learning and Skills and the Lead Member for Children and Schools.
- 5.5.3 The Director of Children, Learning and Skills reported that there had been discussions with the Chief Executive and the Non-Executive Director of the Slough Children's Services Trust over a proposal to re-configure the Joint Parenting Panel to the Corporate Parenting Panel, as was previously the case.

- 5.5.4 The Corporate Parenting Panel was the primary vehicle for Councillors to demonstrate their commitment to deliver better outcomes for children and young people in care and care leavers and this would be clearly demonstrated by the change. The Trust would be critical in delivering that responsibility and ensuring needs of children looked after were met. Members were informed that it was anticipated that the proposal would come into effect from May 2020.
- 5.5.5 There would be no change to the compulsory attendance of Members or the current membership and the proposed change would assist in improving services for young people.
- 5.5.6 The JPP had approved the proposed reconfiguration of the Panel into the Corporate Parenting Panel and agreed that the Terms of Reference (TOR) be reviewed and reported to the Member Panel on the Constitution before being approved by the Council. In the Appendix to this Report were considered and approved by the Member Panel on the Constitution at their meeting on 25 February 2020 and by the Audit & Corporate Governance Committee at their meeting on 5 March 2020.
- 5.5.7 The Council are requested to approve the draft Terms of Reference for the Corporate Parenting Panel set out in the Appendix to this Report to enable them to be incorporated into Part 3.8 of the Constitution.

5.6 Paragraph 4.1 of the Councillors' Code of Conduct

- 5.6.1 The Chair of the Audit and Corporate Governance Committee at their meeting on 9 December 2019 recommended that paragraph 4.1 of the Councillors Code of Conduct be reviewed by the Member Panel on the Constitution. Consequently this paragraph was considered by the Member Panel at their meeting on 25 February 2020 and by the Audit and Corporate Governance Committee at their meeting on 5 March 2020 with a view to revising this paragraph to state the legal position with regard to what would constitute a criminal offence in the context of a failure to disclose any disclosable pecuniary interest.
- 5.6.2 At their meeting on 5 March 2020 the Audit and Corporate Governance Committee agreed that paragraph 4.1 of the Councillors' Code of Conduct be revised to read as follows:

"4.1 Registration of Interests

You must register in the Council's Register of Members' Interests your Disclosable Pecuniary Interests and your Personal Interests as set out in Appendix 2. You must do so by writing to the Monitoring Officer within 28 days of :

- Your appointment as a Member of the Council; and
- Any change taking place in your interests

Under Section 34 of the Localism Act 2011 It is a criminal offence if a Member:

- (1) fails without reasonable excuse to inform the monitoring officer of any disclosable pecuniary interests which that member has before the end of the period of 28 days beginning with the day on which he or she became a member or provides information that is false or misleading knowing that the information is false or misleading or is reckless as to whether the information is false and not misleading; or
- (2) fails without reasonable excuse to inform the Monitoring officer of any disclosable pecuniary interests which that member has which are not already registered in the register of members' interests, before the end of the period of 28 days beginning with the day on which he or she is re-elected as a Member or provides information that is false or misleading knowing that the information is false or misleading or is reckless as to whether the information is false and not misleading; or
- (3) fails without reasonable excuse, at any meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee at which he or she is present, to declare any disclosable pecuniary interest which that member is aware that he or she has in any matter which is to be, or is being, considered at such meeting or provides information that is false or misleading knowing that the information is false or misleading or is reckless as to whether the information is false and not misleading; or
- (4) fails without reasonable excuse to inform the monitoring officer with 28 days of disclosing any disclosable pecuniary interests at a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee if that interest is not registered in the register of members' interests or is not subject to a pending notification or provides information that is false or misleading knowing that the information is false or misleading or is reckless as to whether the information is false and not misleading.

Where the Monitoring Officer is made aware of circumstances which may constitute a criminal offence under Section 34, they will report the matter to the Police for their investigation before undertaking their own enquiries.

Failure without reasonable cause to register a Disclosable Pecuniary or Personal Interest is a breach of this Code”.

- 5.6.3 Council are requested to resolve to approve the revision to paragraph 4.1 of the Councillors' Code of Conduct as set out in the preceding paragraph 6.2.

6 Comments of Other Committees

As set out previously in this report, the revisions to the Constitution set out in it have been considered by both the Member Panel on the Constitution and the Audit and Corporate Governance Committee. They have been approved by the Monitoring Officer.

7 **Conclusion**

The revisions to the Council's Constitution recommended by this report, if approved by the Council, will enhance good governance by providing an updated, clearer and more robust guide for Members and Officers in the conduct of the Council's affairs.

8 **Appendices Attached**

Appendix – Draft Terms of Reference for the Corporate Parenting Panel

9 **Background Papers**

Local Government Act 2000

Report of the Cabinet Committee on Standards in Public Life – “Local Government Ethical Standards – A review by the Committee on Standards in Public Life – January 2019.