

LOCAL GOVERNMENT ACT 1972 – SCHEDULE 12 (42)



Whitby
Town Council

POLICIES & PROCEDURES

Whitby Town Council
Adopted May 2023

Policies & Procedures

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1. Review

- 1.1. These policies and procedures will be reviewed every year (or earlier if required by changes to legislation or additional documentation) and amended as necessary based on good practice or evidence taken forward.
- 1.2. The council's policies and procedures are formally readopted at its Annual Meeting in May each year.

A. Co-option Policy

1. Introduction

- 1.1. There are two circumstances under which the Electoral Officer of North Yorkshire Council will notify Whitby Town Council that it should proceed to fill a casual vacancy by co-option:
 - a) when a ward seat has been left vacant because no eligible candidate stood for election at the full elections for a new council (currently at four-yearly intervals). In this instance the Town Clerk would be notified of vacancies by North Yorkshire Council and that efforts must be made to fill the vacancies by co-option. The Council will be notified, and they will proceed to Stage 2.
 - b) during the life of a council when a ward seat has fallen vacant (because of a resignation, death or ineligibility). The Town Clerk will immediately notify the Electoral Officer and the vacancy will be advertised. If the required 10 electors of the ward have not called for a poll (by-election) within the legally specified time period (currently 14 days) following publication of the Notice of Vacancy, the Town Clerk would be notified by North Yorkshire Council and that the vacancies can be filled by co-option. The Council will be notified, and they will decide to proceed to Stage 2 within 28 days. North Yorkshire Council may appoint to any vacancy which exists for a period of 6 months.
- 1.2. The Town Council is not obliged to co-opt an individual to fill any vacancy. Even if the Council invites applications for co-option, it is not obliged to select immediately from the candidates who apply. However, the unitary council may step in to appoint to any seat vacant for more than six months.
- 1.3. It is not desirable that electors in a particular ward are left partially or fully unrepresented for a significant length of time. Neither does it contribute to effective and efficient working of the Council if there are insufficient councillors to share the workload equitably; to provide a broad cross-section of skills and interests; or to achieve meeting quorums without difficulty, given that some absence is unavoidable at times.
- 1.4. The electoral area of Whitby Town Council is divided into wards. At a full election, a candidate may only stand for election in one ward. This may result in some wards having more candidates standing for election than there are seats available, while other wards may have insufficient candidates standing for election to fill the available number of seats. Under these circumstances, the Town Council will be notified by the Electoral Authority after the election that it may proceed to fill any remaining vacancies by co-option.
- 1.5. Councillors elected by co-option are full members of the Council.

- 1.6. To ensure that a fair and transparent process is undertaken this policy sets out the process to be followed by Whitby Town Council when co-option is under consideration.

2. Application Process to be Followed

- 2.1. On receipt, of written notification, from the Electoral Officer at North Yorkshire Council, that a casual vacancy may be filled by means of co-option: and on instruction from the Council
 - a) The Town Clerk will announce the vacancy or vacancies to be filled by co-option within 21 days of receipt of the written notification by means of displaying a Notice on the Council Noticeboard and website. A copy of the Notice will also be sent to the local press.
 - c) The co-option Notice will include the closing date for acceptance of requests for consideration (between 14 and 30 days after the date of the display) and the number of vacancies.
 - d) The co-option Notice will also be displayed in other locations if instructed by the Council.
 - e) The Town Clerk will advise the council when the Co-option Policy has been instigated, by sending a memorandum to all councillors.
- 2.2. Members may point out the vacancies and the process to any qualifying candidate(s).
- 2.3. Candidates found to be offering inducements of any kind will be disqualified.
- 2.4. The Statutory requirements to be co-opted as a Councillor are the same as standing for election to the town council
 - a) The applicant needs to be proposed and seconded by two residents on the electoral register for the appropriate town council ward
 - b) The applicant must meet at least one of the following qualifications
 - Is on the electoral register anywhere in the parish
 - Has lived in or within 3 miles of the parish for the previous 12 months
 - Owns, rents, occupies or otherwise has right of occupation of land in the parish
 - Works in the parish
- 2.5. Although there is no Statutory Requirement to do so, Applicants for co-option will be asked to:
 - a) submit information about themselves, by completing a short application form (a copy of the application form is attached as Appendix 1) together with a CV and written summary covering: their reasons for wishing to be a councillor; previous community/council work; any other skills they can bring to the Council, their interests and recent career history, similar to that

which they would produce if standing for election.

and

- b) confirm their eligibility for the position of Councillor within the statutory rules (a copy of the confirmation of eligibility form is attached as Appendix 2) and will be verified by the Town Clerk.
- 2.6. Copies of the applicant's application form and written summary will be circulated to all councillors by the Town Clerk prior to the meeting of the full Council when the co-option will be considered. All documents will be treated by the Clerk and all councillors in accordance with Data protection requirements where they contain personal information.
 - 2.7. Candidates will be sent a full agenda of the meeting at which they are to be considered for appointment, together with a copy with the Code of Conduct, Standing Orders and Financial Regulations of the Council. Candidates will also be informed that they may, if they so wish, speak for up to 3 minutes about their application during the Public Session of that Council meeting.
 - 2.8. Applicants can withdraw not later than 24 hours prior to the meeting where the co-options are to be considered

3. Voting Procedure

- 3.1. At the appropriate business item Councillors will proceed direct to voting.
- 3.2. Voting will be according to the statutory requirements, in that a successful candidate must receive a majority vote of those present and voting.
 - If there are more than two candidates for one vacancy and no one of them at the first count receives a majority over the aggregate votes given to the rest, the candidate with the least number of votes will be removed from consideration and the remainder will then be put to the vote again
 - This process will, if necessary, be repeated until a majority is obtained.
 - This process will be followed separately for each individual vacancy for which co-option is under consideration
 - If no candidate secures an absolute majority of votes cast for an individual vacancy, then that vacancy remains unfilled (e.g. 18 councillors are present and 10 abstain from voting then there is no absolute majority)
- 3.3. Councillors shall vote by show of hands, or, if at least two members so request, by paper ballot. However, if any member so requires, the Clerk shall record the names of members who voted on any question so as to show whether they voted for, against, or abstained.
- 3.4. In the case of an equality of votes, the Chair of the meeting has a second or casting vote.

- 3.5. After the vote has been concluded, the Chair will declare the successful candidate duly elected and after signing their declaration of acceptance of Office may take their seat immediately.

4. Acceptance of Office

- 4.1. The successful candidate(s) must sign their declaration of acceptance of office before they can act as a councillor. The Register of Interest must be completed within 28 days and the Town Clerk will forward a copy to the Monitoring Officer.

Policy first adopted by Whitby Town Council on 5 April 2011 Minute 886/11



Co-option Application Form

Contact Details (Block Capitals please)

Office
ER No

Name:

Address:

.....

Postcode:

Email address:

Home Tel. No:

Mobile Tel. No:

Are you 18 or over? YES/NO

If not resident in Whitby the address for qualification in Appendix 2 Section 1 Eligibility

.....

NB Please attach a written summary covering your reasons for wishing to be a councillor; previous voluntary/community/council work; any other skills you can bring to the Council; your interests and recent career history. APPLICATIONS WILL NOT BE CONSIDERED WITHOUT AN ACCOMPANYING STATEMENT

Is there any other information you would like to disclose regarding your application? (e.g. if you are related to an employee of the Council/would require assistance during Council meetings with your mobility, hearing or vision)

Signature: **Date:**

Please return your completed form, together with your written summary and the Co-option Eligibility Form to: **town.clerk@whitbytowncouncil.gov.uk**

Michael King
Town Clerk
Whitby Town Council
Pannett Park
Whitby
YO21 1RE



Co-option Eligibility Form

In order to be eligible for co-option as a Whitby Town Councillor you must be a British subject, or a citizen of the Commonwealth or the European Union; and be 18 years of age or over on the 'relevant date' (i.e. the day on which you are nominated or if there is a poll the day of the election). You must additionally be able to meet one of the following qualifications:

- I am registered as a local government elector for the parish of Whitby, **or**
- I have, during the whole of the twelve months preceding the date of my co-option, occupied as owner or tenant, land or other premises in the parish of Whitby, **or**
- My principal or only place of work during those twelve months has been in the parish of Whitby, **or**
- I have during the whole of twelve months resided within 3 miles of the parish of Whitby.

Please circle which of the above applies to you.

Please note that under Section 80 of the Local Government Act 1972 a person is disqualified from being elected as a Local Councillor or being a member of a Local Council if they:

- a) holds any paid office or employment of the local council (other than the office of Chair) or of a joint committee on which the Council is represented, **or**
- b) is a person who has been adjudged bankrupt or has made a composition or arrangement with their creditors* (but see below), **or**
- c) has within five years before the day of election, or since their election, been convicted in the UK, Channel Islands or Isle of Man of any offence and has been sentenced to imprisonment (whether suspended or not) for not less than three months without the option of a fine, **or**
- d) is otherwise disqualified under Part III of the representation of the People Act 1983 for corrupt or illegal practices.

*This disqualification for bankruptcy ceases in the following circumstances:

- if the bankruptcy is annulled on the grounds that either the person ought not to have been adjudged bankrupt or that their debts have been fully discharged.
- if the person is discharged with a certificate that the bankruptcy was caused by misfortune without misconduct on their part.
- if the person is discharged without such a certificate.

In (i) and (ii) above, the disqualification ceases on the date of the annulment and discharge, respectively. In (iii), it ceases on the expiry of five years from the date of discharge.

I (*insert name*) hereby confirm, that I am eligible to apply for the vacancy of Whitby Town Councillor, and the information given on this form is a true and accurate record.

Signature: **Date:**

WARD

***Proposer**

Name:

Address:

Office
ER No
ER No

***Seconder**

Name:

Address:

****(Please note proposers and seconders need to be electors in the ward in which you intend to apply for co-option)***

In accordance with the law, Whitby Town Council only collects a limited amount of information about you necessary for correspondence, information and service provision. Whitby Town Council does not use profiling, it does not sell or pass your data to third parties. It does not use your data for purposes other than those specified, makes sure your data are stored securely and deletes all information deemed to be no longer necessary. You may view the council's Privacy Notice on our website: (<https://www.whitbytowncouncil.gov.uk/privacy-notice.html>).

B. Communications Protocol

1. Town Council Correspondence

- 1.1. The point of contact for the Town Council is the Town Clerk, and it is to the Town Clerk that all correspondence for the Town Council should be addressed. (Whether on paper or electronic)

Individual councillors in receipt of correspondence intended for the Council or a Committee should forward it to the Town Clerk without delay.

- 1.2. The Town Clerk/or delegated officer should deal with all correspondence following a meeting.
- 1.3. No individual Councillor or Officer should be the sole custodian of any correspondence or information in the name of the Town Council, a committee, sub-committee or working party. In particular, Councillors and Officers do not have a right to obtain confidential information/documentation unless they can demonstrate a 'need to know.'
- 1.4. All official correspondence should be sent by the Town Clerk/or delegated officer in the name of the Council using Council letter headed paper.
- 1.5. Where correspondence from the Town Clerk to a Councillor is copied to another person, the addressee should be made aware that a copy is being forwarded to that other person (e.g. copy to XX).

2. Agenda Items for Council, Committees, Sub-Committees and Working Parties

- 2.1. Agendas should be clear and concise. They should contain sufficient information to enable Councillors to make an informed decision, and for the public to understand what matters are being considered and what decisions are to be taken at a meeting.
- 2.2. Items "for information only" should be kept to a minimum on an agenda.
- 2.3. Where the Town Clerk or a Councillor wishes fellow Councillors to receive matters for "information only," this information will be circulated via the Town Clerk.

3. Communications with the Press and Public

- 3.1. The Council has a specific Media Policy defining the roles and responsibilities within the Council for working with the media and dealing with day-to-day relationships between the Council and the media. Officers and members must observe this Policy.
- 3.2. Unless a Councillor is absolutely certain that they are reporting the view of the Council, as evidenced by a motion passed by Council or a Committee acting

under delegated powers, they must make it clear in any communication with members of the public that they are expressing a personal view.

- 3.3. If Councillors receive a complaint from a member of the public, this should be dealt with under the Council's adopted complaints procedure, or via a Council agenda item.

4. Councillor Correspondence with External Parties

- 4.1. As the Town Clerk should be sending most of the Council's correspondence from a Councillor to other bodies, any correspondence sent by a Councillor in person needs to state explicitly that it is written in their official capacity and has been authorised by the Town Council.
- 4.2. A copy of all outgoing correspondence relating to the Council or a Councillor's role within it, should be sent to the Town Clerk, and it should be noted on the correspondence, e.g. "copy to the Town Clerk" so that the recipient is aware that the Town Clerk has been advised.

5. Councillor Communications with Council Staff

- 5.1. Councillors must not give instructions to any member of staff, unless authorised to do so (for example, three or more Councillors sitting as a quorate committee or sub-committee with appropriate delegated powers from the Council).
- 5.2. No individual Councillor, regardless of whether or not they are the Mayor or Deputy Mayor, the Chair of a committee, sub-committee or other meeting, may give instructions to the Town Clerk or to another employee which are inconsistent or conflict with Council decisions or arrangements for delegated power.
- 5.3. Telephone calls should be appropriate to the work of the Town Council.
- 5.4. Emails:
 - a) Instant replies should not be expected from the Town Clerk; reasons for urgency should be stated;
 - b) Information to Councillors should be copied to the Town Clerk;
 - c) Emails from Councillors to external parties should be copied to the Town Clerk;
 - d) Councillors should acknowledge their e-mails when requested to do so.
- 5.5. Meetings with the Town Clerk or other officers:
 - a) Wherever possible an appointment should be made;
 - b) Meetings should be relevant to the work of that particular officer;
 - c) Councillors should be clear that the matter is legitimate council business and not matters driven by personal or political agendas.

6. Responsibilities of Officers

- 6.1. Officers should bear in mind that, whilst they are employed to serve the Council as a whole, their work involves dealing with individual councillors. To assist in that relationship:
- a) Telephone calls and meetings should be relevant to the Council's work;
 - b) Enquiries from Councillors should be dealt with in a timely fashion and if an immediate response is not possible the enquiry should be acknowledged with an indication of when a full response will be made;
 - c) Members should be kept informed as appropriate and definitely if there is any substantial change that affects the implementation of a decision they have made, or if an issue is likely to have a detrimental effect, or if the issue is likely to be of interest to the press and media;
 - d) Committee reports should normally be included with the relevant agenda when it is dispatched. Reports marked "to follow" should be the exception and to help Councillors understand why a report is not included, a reference to the reasons should be made in the agenda. (e.g. confidential papers to be distributed at the meeting)

Protocol first adopted by Whitby Town Council on 4 May 2010

C. Access to Council Services

1. Introduction

- 1.1. The Council recognises that in the absence of good reasons to the contrary, members of the public have a right of access to the Council to seek advice, help, information or services that the Council offers.
- 1.2. Constructive criticism of and complaints against the Council are a legitimate and integral part of the relationship between the Council and its local community. They are a valuable means of reflecting on the operations of the Council and improving both those operations and the quality of the Council's relationship with its local community.
- 1.3. No person, no matter how much time and effort are required to respond to their complaints or concerns shall be unconditionally deprived of the right to have those complaints or concerns addressed.
- 1.4. However the Council also has an obligation to use its resources efficiently and effectively in support of the whole electorate it serves and also has obligations to its staff as an employer.
- 1.5. Accordingly the Council has decided that there are circumstances under which it will limit the nature and scope of its responses to obstructive members of the public.

2. Obstructive or Vexatious Customers

- 2.1. There are various types of obstructive members of the public and this policy shall apply to them all, other than to those who are aggressive. (See para 3. re aggressive behaviour.)
- 2.2. Categories of obstructive and vexatious customers:
 - a) Those who cannot let go - people who
 - make excessive phone calls, or
 - seek to exercise excessive personal contact, or
 - engage in lengthy correspondence
 - b) Those who cannot be satisfied - people who
 - cannot or will not accept that the Council is unable to assist them, or
 - cannot or will not accept that the Council is unable to provide any further level of service other than that provided already, or
 - disagree with the action the Council has taken in relation to their complaint or concerns
 - c) Those who make unreasonable demands - people who make unreasonable demands on the Council whether by

- The amount of information, or
 - The value and scale of services they seek, or
 - The number of approaches they make
- d) Those who are rude and abusive - people who
- engage in personal abuse, or
 - make inflammatory statements or comments, or
 - make statements or comments clearly intended to intimidate.

3. Aggressive Behaviour

- 3.1. The Council has a zero-tolerance statement with regard to violence and aggressive behaviour towards its staff. The Council has a duty to ensure that as far as is practically possible, it reduces the risk of violence, aggressive, or threatening behaviour towards its employees during the course of their work.
- 3.2. The Council affords the same protection to its members.
- 3.3. Other sections in this policy cover the limiting of access and the way in which staff are instructed to deal with individuals who use inappropriate language and display abusive, aggressive, or threatening behaviour.

4. Guiding Principles on Limiting Access

- 4.1. The Council will limit the nature and scope of access in the following circumstances:
- Where full access would be likely to compromise the Council's obligations as an employer;
 - Where full access would be likely to compromise any statutory obligations to which the Council is subject;
 - Where full access would be likely to compromise the Council's duty of care in respect of assets held in trust;
 - Where full access would be likely to be wasteful of the Council's resources whether through excessive contact or use of services;
 - Where full access would be likely to encourage or allow rude and abusive behaviour

5. Means of Limiting Access

- 5.1. ***Not replying to written communications (letter or email)***
Where the Council receives a written communication that contains substantial and clearly inappropriate content, such as abusive or threatening language or adverse personal reflections on individuals, a written notification shall be sent to the author of the written communication asking that they reframe the communication to exclude the inappropriate content. The notification shall also advise that, in the event of a further substantial and clearly inappropriate communication being received by the Council, the Council will not give a

substantive reply other than to the extent that such communication provides evidence of or alerts the Council to any criminal act, maladministration, a failure to comply with a legal duty, or other malpractice by or on behalf of the Council.

- 5.2. **Terminating telephone calls** where a caller uses inappropriate language such as abusive or threatening language, or casting adverse personal reflections on individuals, then the caller will be warned that unless the caller is prepared to speak in a different way, the call will be terminated. If the caller then continues to use inappropriate language the call may be terminated provided that it is made clear that the caller may call back, if the caller is then prepared to speak in an appropriate way.

In cases of persistent callers using inappropriate language a written notification shall be sent to the caller advising that in the event that any further telephone call is made and the caller uses inappropriate language, not only will the call be terminated but also that for a specified period all future business will only be transacted in writing or through a nominated and agreed intermediary

Any written notification shall be given in accordance with the procedure set out in 5.1 above

- 5.3. **Limiting face to face contact** where, during a personal attendance a member of the public uses inappropriate language or behaves inappropriately, the member of the public will be notified that, unless the member of the public is prepared to speak or behave in a different way, the personal attendance will be terminated. If the member of the public then continues to use inappropriate language or behaves inappropriately, the personal attendance may be terminated -provided that it is made clear that another personal attendance may be arranged by appointment provided the member of the public is then prepared to speak or behave appropriately. Any further personal attendances shall be in the company of a member of the Council. Such arrangement shall be for such specified period as the Council thinks necessary, provided that the arrangement shall be subject to review. In any case where such arrangement is in place for a period in excess of 6 months, the arrangement shall be reviewed not less frequently than once every 6 months. The member of the public shall be notified in writing accordingly.

In cases of persistent personal attendances, where the member of the public uses inappropriate language or behaves inappropriately, a written notification shall be sent to the member of the public. The notification will advise that, in the event that any further personal attendance takes place, and the member of the public uses inappropriate language or behaves inappropriately, not only will the personal attendance be terminated but that also for a specified period all future business will only be transacted in writing or through a nominated and agreed intermediary.

5.4. **Controlling excessive access** where a member of the public:

- makes excessive phone calls, or
- make excessive visits to Council Offices, or
- engages in excessive written or email communications, or
- raises the same issues with different staff

5.5. The Council may nominate a member of the Council to deal with all contact with the member of the public for a specified period and shall inform the member of the public in writing accordingly.

5.6. Such arrangement shall be for such specified period as the Council thinks necessary, provided that the arrangement shall be subject to review. In any case where such arrangement is in place for a period in excess of 6 months, the arrangement shall be reviewed not less frequently than once every 6 months. The member of the public shall be notified in writing accordingly.

5.7. Where a person or a group contacts the Council on a wide range of issues all at once, or in a selective way, or in a constant stream, the Council may notify the person or group in writing either:

- that only significant and serious issues will be addressed by the Council, or
- that only a certain number of issues will be addressed by the Council in any given period, or
- that only those issues as may be dealt with within a specified period of time during any given period will be addressed by the Council, provided always that such arrangements shall not prevent the exercise of any statutory right of a member of the public to access the Council's services.

5.8. Such arrangements shall be for such specified period as the Council thinks necessary, provided that the arrangement shall be subject to review. In any case where such arrangement is in place for a period in excess of 6 months, the arrangement shall be reviewed not less frequently than once every 6 months. The person or group shall be notified in writing accordingly.

5.9. Preventing abuse of the right to information

- Individuals or groups may place excessive demands on the resources of the Council in making continual and extensive demands for information such as sending large numbers of letters or emails, each containing detailed requests for information or being unwilling to accept documented evidence to support an adequate response.
- If the Council is satisfied that the resource demands in responding to such contacts are excessive, it may place limits on the manner and/or degree to which the Council will respond to such demands (but not so as to prevent the exercise of any statutory rights of the public to information).

- Such arrangement shall be for such specified period as the Council thinks necessary, provided that the arrangement shall be reviewed. In any case where such arrangement is in place for a period in excess of 6 months, the arrangement shall be reviewed not less frequently than once every 6 months. The person or group shall be notified in writing accordingly.

5.10. Declining to further investigate complaints

- If a complainant has exhausted the Council's Complaints Procedure but remains dissatisfied with the outcome, the Council will inform the complainant, in writing, that the Council will decline to respond to any further attempted contact or communications concerning the complaint unless significant new information or new issues are raised which, in the opinion of the Council, warrant action.
- If the Council believes that a complainant is deliberately providing fresh information in a selective way, the Town Clerk will advise the complainant, in writing, to immediately disclose all relevant material to the Council. The Town Clerk will also advise the complainant that, if yet further information is introduced at a later stage, the Council will require a satisfactory explanation as to why that relevant information was not provided in the first place, before agreeing to consider the complaint further.

5.11. **Miscellaneous** - Other circumstances in which it may be appropriate to limit access include:

- Where a member of the public is unwilling to accept that the matter raised by them is not within the remit of the Council
- Where a member of the public displays unreasonable demands or expectations and fails to recognise that these are unreasonable e.g. by insisting that responses be made more urgently than the Council's stated response time.

6. **Persons with Impaired Mental Capacity**

- 6.1. Where it is reasonably believed that a member of the public may have an impaired mental capacity, no action or decision will be taken without first consulting with the Human Resources Committee. The Committee will decide whether there is any other way of dealing with the proposed limitations on access that is less restrictive of the member of the public's freedom of action (such as securing continued access through a relative, friend, carer or other professional). However, it should always be remembered that the member of the public has a right to confidentiality and may not want certain people to be involved.

7. **Persons Under the Age of 18**

- 7.1. Where it is reasonably believed that a member of the public may be under the age of 18, one form of contact - generally by means of written communication - must always be maintained. It may be possible to arrange to deal with such a member of the public through their parent or guardian, provided that written

consent of both the member of the public and their parent or guardian is first obtained.

8. No Restrictions on Recourse to Law by the Council or its Employees or its Members

- 8.1. Nothing in this policy shall operate to reduce the rights of the Council, or an employee, or a member, to pursue a matter under civil and/or criminal law where such recourse is available in any particular case.

D. Conduct of Public Sessions

1. Eligibility and Order of Speaking

- 1.1. The Town Council has a public session at every Council and Committee meeting for members of the public to ask questions or make representations in respect of items on the agenda.
- 1.2. The Public session lasts for 15 minutes, with each individual allowed a maximum period of three minutes to speak, even if speaking to more than one item on the agenda.
- 1.3. Those wishing to speak may pre-register their intent with the Town Clerk before the meeting. Those speakers who have pre-registered will take precedence over those who have not pre-registered.
- 1.4. Pre-registered speakers will be taken in the order their pre-registration was received by the Town Clerk.
- 1.5. If more than four people apply to pre-register, the Town Clerk will note their names and order of registration but will advise them that there are four speakers already registered and that this may mean there will be insufficient time for all speakers to be heard.
- 1.6. If the Chair decrees that time allows, after all pre-registered speakers have spoken, they may allow other member(s) of the public to make representations in respect of items on the agenda.
- 1.7. In Accordance with Para 12(2) of the model Code of Conduct as adopted by Whitby Town Council, councillors who have declared prejudicial interests on items on the agenda, may exercise their right to speak “as a member of the public”, during the public session, subject to the pre-registration priorities and time availability detailed above. Councillors should move away from the council area and stand in the public area when exercising the right to speak as a member of the public.

2. Conduct of the Public Session

- 2.1. Speakers should stand to speak (unless excused from standing by the Chair) and address the Chair only.
- 2.2. The Chair's ruling is final on:
 - a) the order of speaking
 - b) whether the speech relates to the agenda
 - c) when 3 minutes has elapsed
 - d) when no further questions will be taken

- 2.3. If more members of the public wish to speak than can be accommodated within the 15 minutes allowed, they should be advised that other opportunities exist for them to make formal representations to the Town Council. Issues received in writing, providing they are received before the deadline for closure of the agenda, will be included as a stated item on the next relevant Committee or Council agenda.
- 2.4. More informally, members of the public may also contact their Town Ward Councillor or the Town Clerk, who may be able to answer their question or make further enquiries on their behalf.
- 2.5. Town Councillors should not respond directly to members of the public during the meeting.

3. Maintenance of Orderly Conduct

- 3.1. The Chair presiding over a meeting of the Council or Committee is required, by common law, to regulate the conduct of a meeting and preserve its order. Orderly conduct and keeping good order are key to ensuring that business is completed.
- 3.2. Councillors and members of the public will be keen to have their point heard and sometimes the robust comment or dialogue can become out of hand. In order to control and complete the meeting's business, the Chair will restrain speakers from making comments which are irrelevant or repetitious; are open ended protracted monologues/speeches; are debate in respect of irrelevant considerations; or are not addressed to the Chair. The Chair will also restrain speakers from using rude or disrespectful language and personal insults.
- 3.3. If a member of the public or a Councillor disregards the Chair's request to modify their conduct, the Council or Committee can resolve to have the person causing the disturbance to be excluded from the meeting.
- 3.4. If a member of the public, or a Councillor, refuses to leave the meeting after a motion to exclude them has been carried, the Chair shall adjourn the meeting until the excluded person complies or is removed from the premises by the Police for the maintenance of Public Order.
- 3.5. If a member of the public or a Councillor disturbs the orderly conduct of Council and / or Committee meetings on a number of occasions, the Council can resolve to have the person causing such disturbances excluded for a period not exceeding the remaining period of office of the Council.

E. Guidance for the Effective Management of Recording of Meetings

1. Policy Statement

- 1.1. The right to record, film and to broadcast meetings of the Whitby Town Council is established under the Openness of Local Government Regulations 2014. This is in addition to the rights of the press and public to attend such meetings.
- 1.2. Whitby Town Council] is committed to being open and transparent in the way it conducts its decision making. For the purpose of this policy the term “record” means any form of audio, visual or electronic recording.
- 1.3. Those who attend a public meeting should expect to be filmed. This includes councillors, council officers and members of the public.
- 1.4. The guidance that the Whitby Town Council will apply is:
 - a) The Whitby Town Council will display requirements as to filming, recording and broadcasting at its meeting venues and on its website or on notice boards in the parish and those undertaking these activities will be deemed to have accepted them whether they have read them or not.
 - b) A copy of this guidance will be provided to members of the public in attendance at a meeting of the Whitby Town Council. The Chair may also verbally remind the meeting and all present of the freedom to record but that this guidance is in place to enable any type of recording to take place with minimal disruption to the council meeting.
 - c) Any person wishing to record a meeting in any format whatsoever is encouraged (but not compelled), to contact the Clerk prior to the start of the meeting. The Clerk’s details are set out in the public notice and agenda of the meeting; (or in their absence, the contact will be the Deputy Clerk). Discussing requirements with the clerk beforehand will help to ensure that the Council provides reasonable facilities to meet the needs of the person that is recording.
 - d) The person making the recording may move around, however in doing so they must ensure that there is minimal or no disruption to the meeting.
 - e) A person or persons recording Whitby Town Council are reminded that the “Public Participation” period may not be part of the formal meeting and that they should take legal advice for themselves as to their rights to make any recording during that period.
 - f) Where the press and public are excluded from a meeting or part of a meeting owing to the confidential nature of the business to be transacted, all recording of that meeting or that part of the meeting will not be permitted.

- g) The specific filming of children or young people under the age of 18 who are present cannot take place unless their parents/guardians have given their written consent. This provision also applies to vulnerable adults whereby the consent of a responsible adult is required, i.e. a medical professional, carer or legal guardian. Where the permission is given, filming of these people can take place.
- h) The council requests that all recording is overt (i.e. clearly visible to anyone at the meeting) but cannot compel those who are recording to do so.
- i) The use of digital and social media recording tools, for example Twitter, blogging or audio recording are allowed as long as this type of recording is carried out in a non-disruptive way and only to the extent that it does not interfere with the ability of any person present to follow the debate.
- j) A person or persons making a recording has no right to interrupt a meeting by asking questions or making comments for the purpose of the recording. The person recording has no right to ask councillors, officers or any members of the public who have been given permission to contribute orally to the meeting to repeat a statement for the purposes of the recording.
- k) The Chair of the meeting has absolute discretion to stop or suspend recording if, in their reasonable opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of this guidance.
- l) Persons who are recording are requested not to leave their equipment unattended where possible, and are responsible for their equipment at all times
- m) The recording and reporting on meetings of the Whitby Town Council, is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act, the Data Protection Act and the laws of libel and defamation. The council expects that the recording will not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or infringement of the Whitby Town Council's values or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view. The Council will have no liability for material published by any other person unless it is itself undertaking the publication through its offices.
- n) For the benefit for those who wish to record - where the recording device being used involves equipment which is larger than a smart phone, tablet or compact camera or if the person recording has other special requirements, they are requested to please contact the clerk prior to the meeting so that reasonable arrangements can be made. The use of lighting for filming/flash photography will usually be allowed provided that it does not adversely impact on the ability of others present to view the

meeting, or for reasons of health, whereby the council may require that such lighting is not used or is reduced to a level which does not adversely affect other people. The lighting should not cause any other form of disruption.

- o) The Council may itself photograph, film, record or broadcast meetings and can retain, use or dispose of such material in accordance with its retention and disposal policies. Where a council proposes to record all of its own meetings it will be bound by this policy.
- p) Whitby Town Council proposes to record its own Full Council meetings, it will resolve how long such recordings will be kept and how members of the public may obtain copies. The Council will include the availability of such recordings within its Publication Scheme.
- q) The Council is not liable for the actions of any person making a recording at a council meeting which identifies a member of the public or for any publication of that recording.
- r) The minutes of a council meeting remain the statutory and legally binding formal record of council decisions.

Date of policy adoption ...19.10.2015 Minute F370/15b

F. Media Policy

1. Introduction

- 1.1. The purpose of this policy is to define the roles and responsibilities within the Council for working with the media and deals with the day-to-day relationship between the Council and the press/media as defined under para 1.3.
- 1.2. It is not the intention of this policy to curb freedom of speech or to enforce strict rules and regulations. Rather, the intention is to establish a framework for achieving an effective working relationship with the media. The Council welcomes the opportunity to talk to the media and, through them, to debate issues in the public arena.
- 1.3. The media is defined in the widest terms and will include traditional print media, filming crews, social media platforms, hyper-local/investigative journalists and bloggers.

2. Key Aims

- 2.1. The Council is accountable to the local community for its actions, and this can only be achieved through effective two-way communications. The media, whether press, radio, TV, or internet, are crucially important in conveying information to the community. The Council must maintain positive, constructive media relations and work with the media, both to increase public awareness of the services and facilities provided by the Council, and to explain the reasons for particular policies and priorities.
- 2.2. Media representatives themselves have a vital role to play on behalf of the local community, in holding the Council to account for its policies and actions. It is important that they have access to Officers and Members and to background information to assist them in this role. Equally, the Council, its officers and members are entitled to defend themselves against any unfounded criticism, dissemination of misleading and inaccurate information and to ensure that the public are properly informed of all the relevant facts, using other channels of communication if necessary.

3. The Legal Framework

- 3.1. The law governing communications in local authorities can be found in the Local Government Acts 1986 and 1988. The Council must also have regard to the Government Code of Recommended Practice on Local Authority Publicity. Some aspects of the Code are relevant to this policy.
- 3.2. In addition The Openness of Local Government Bodies Regulations 2014 allows for the use of modern communication methods and the rights of the public to film and/or audio record proceedings of public meetings.

- “Any publicity describing the Council's policies and aims [and the provision of services] should be as objective as possible, concentrating on facts or explanation or both.” Subject to Clause 4.3
- “Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the Council... should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not oversimplify facts, issues or arguments.” Subject to Clause 4.3
- “Publicity should not attack, nor appear to undermine, generally accepted moral standards.”
- “... local authorities... should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.”

3.3. In particular, officers and members should always have due regard for the long-term reputation of the Council in all their dealings with the media.

3.4. Confidential documents, exempt minutes, reports, papers and private correspondence should not be leaked to the media. Members/Officers should not knowingly give misleading or factually inaccurate information to the media which may bring the Council or Officers into disrepute or jeopardy. If such leaks do occur, an investigation will take place to establish who was responsible and appropriate action taken.

3.5. When the media wish to discuss an issue that is, or is likely to be, subject to legal proceedings then advice should be taken from the Council's legal advisor before any response is made.

3.6. There are a number of personal privacy issues for officers and members that must be handled carefully and sensitively. These include the release of personal information, such as home address and telephone number (although member contact details are in the public domain) or of personal information in relation to grievance, complaint or disciplinary procedures or of long-term absences that are affecting service provision. In all these and similar situations, advice must be taken from the Town Clerk before any response is made to the media.

4. Contact with the Media (as defined in para 1.3)

4.1. When responding to approaches from the media, the Mayor and the Chair of the relevant Committee or the Council's designated Media contact person should be the authorised contacts with the media in consultation with the Town Clerk. The Town Clerk is, however, given permission to speak to the media in their absence.

4.2. Statements made by the Town Mayor, or the Chair of a Committee should reflect the Council's opinion, irrespective of their personal views.

- 4.3. Other Councillors may speak to the media but must ensure that it is absolutely clear that the opinions given are their personal views only. Any question about the Council's position/policy should be referred to the Town Clerk for verification of the accuracy of information prior to publication.
- 4.4. Subject to Para 3.3 caution should be exercised when submitting letters to the editor for publication in newspapers; comments on websites; discussion groups or personal blogs. There are occasions when it is appropriate for the Council to submit a letter or comment via the internet, for example to explain important policies or to correct factual errors in communications submitted by other correspondents. However, such communications should be kept brief and balanced in tone and correspondence should not be drawn out over several weeks.
- 4.5. Communications representing the views of the Council should only be submitted by the Mayor or the Chair of the relevant Committee or the Town Clerk or the Council's designated Media contact person. If other Members choose to use the letters column to express their own opinions on Council policies, they are strongly advised to check their facts first with the Town Clerk. It should always be made absolutely clear whether the views put forward are those of the Council or of an individual member.
- 4.6. At all times consideration should be given as to how the correspondence may affect the reputation of the Council.

5. Attendance of Media at Council Meetings

- 5.1. The Local Government Act 1972 requires that agendas are sent to the media on request.
- 5.2. The media are encouraged to attend Council meetings and seating and workspace will be made available, within the defined public area.
- 5.3. Filming, recording, transmission or broadcasting of Council proceedings by the media will be allowed subject to those undertaking these activities not acting in a manner which disrupts the conduct of meetings as defined in the published guidance of Whitby Town Council.

6. Elections

- 6.1. The Code of Recommended Practice on Local Authority Publicity contains guidance for providing publicity for members and for publicity around elections. The code makes it clear that Council resources should not be used to publicising individual members unless it is relevant to the particular position they hold in the Council. These extracts from the Code illustrate the main points:
 - “Publicity about individual councillors may include their contact details, the positions they hold in the council (for example, Mayor or Chair of a committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and

recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and ...personalisation of issues or personal image-making should be avoided."

- "Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to their position and responsibilities within the council, and to put forward their justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular party or directly attacking policies and opinions of other parties, groups or individuals."
- "The period between the notice of an election and the election itself should preclude pro-active publicity in all its forms of candidates and other politicians involved directly in the election."

6.2. In line with practice elsewhere in the country, Whitby Town Council will not quote any Councillor in a news release or involve them in pro-active publicity events during the election period, regardless of whether or not they are standing for election. The only exception to this (as laid down in the Code of Recommended Practice on Local Authority Publicity) is that during an emergency, or where there is a genuine need for a member level response to an important event outside the control of the Council. In this situation, members holding key civic positions should be able to comment.

7. Press Releases

- 7.1. The purpose of a press release is to make the media aware of a potential story, to provide important public information or to explain the Council's position on a particular issue. It is the responsibility of all officers and members to look for opportunities where the issuing of a press release may be beneficial.
- 7.2. Any officer or member may draft a press release, however they must all be issued by the Town Clerk or the Council's designated Media contact person in order to ensure that the principles outlined in section three (Legal Framework) are adhered to; that there is consistency of style across the Council; and that the use of the press release can be monitored.

Policy first adopted by Whitby Town Council on 4 May 2010

G. Social Media & Electronic Communication Policy

1. Introduction

- 1.1. The use of digital and social media and electronic communication enables the Town Council to interact in a way that improves the communications both within the Council and between the Council and the people, businesses and agencies it works with and serves.

2. Social Media Resources

- 2.1. The Council has a website, Facebook page, Twitter account and uses email to communicate. The Council will always try to use the most effective channel for its communications. Over time the Council may add to the channels of communication that it uses as it seeks to improve and expand the services it delivers. When these changes occur, this Policy will be updated to reflect the new arrangements.
- 2.2. The Council Facebook pages and Twitter account intend to provide information and updates regarding activities and opportunities within our town and promote our community positively.
- 2.3. Communications from the Council will meet the following criteria:
- Be civil, tasteful and relevant;
 - Not contain content that is knowingly unlawful, libellous, harassing, defamatory, abusive, threatening, harmful, obscene, profane, sexually oriented or racially offensive;
 - Not contain content knowingly copied from elsewhere, for which we do not own the copyright;
 - Not contain any personal information.
 - If it is official Council business, it will be moderated by either the Clerk to the Council;
 - Social media will not be used for the dissemination of any political advertising.
- 2.4. In order to ensure that all discussions on the Council page are productive, respectful and consistent with the Council's aims and objectives, we ask you to follow these guidelines:
- Be considerate and respectful of others. Vulgarity, threats or abuse of language will not be tolerated.

- Differing opinions and discussion of diverse ideas are encouraged, but personal attacks on anyone, including the Council members or staff, will not be permitted.
- Share freely and be generous with official Council posts but be aware of copyright laws; be accurate and give credit where credit is due.
- Stay on topic.
- Refrain from using the Council's Facebook page or Twitter site for commercial purposes or to advertise market or sell products.

- 2.5. The site is not monitored 24/7 and we will not always be able to reply individually to all messages or comments received. However, we will endeavour to ensure that any emerging themes or helpful suggestions are passed to the relevant people or authorities. Please do not include personal/private information in your social media posts to us.
- 2.6. Sending a message/post via Facebook or Twitter will not be considered as contacting the Council for official purposes and we will not be obliged to monitor or respond to requests for information through these channels. Instead, please make direct contact with the council's Clerk and/or members of the council by emailing.
- 2.7. We retain the right to remove comments or content that includes:
- Obscene or racist content
 - Personal attacks, insults, or threatening language
 - Potentially libellous statements.
 - Plagiarised material; any material in violation of any laws, including copyright
 - Private, personal information published without consent
 - Information or links unrelated to the content of the forum
 - Commercial promotions or spam
 - Alleges a breach of a Council's policy or the law
- 2.8. The Council's response to any communication received not meeting the above criteria will be to either ignore, inform the sender of our policy or send a brief response as appropriate. This will be at the Council's discretion based on the message received, given our limited resources available. Any information posted on the Facebook page not in line with the above criteria will be removed as quickly as practically possible. Repeat offenders will be blocked from the Facebook page. The Council may post a statement that 'A post breaching the Council's Social Media Policy has been removed'. If the post alleges a breach of a Council's policy or the law the person who posted it will

be asked to submit a formal complaint to the Council or report the matter to the Police as soon as possible to allow due process.

3. Parish/Town Council Website.

- 3.1. Where necessary, we may direct those contacting us to our website to see the required information, or we may forward their question to one of our Councillors for consideration and response. We may not respond to every comment we receive particularly if we are experiencing a heavy workload.
- 3.2. The Council may, at its discretion, allow and enable approved local groups to have and maintain a presence on its website for the purpose of presenting information about the group's activities. The local group would be responsible for maintaining the content and ensuring that it meets the Council's 'rules and expectation' for the web site. The Council reserves the right to remove any or all of a local group's information from the web site if it feels that the content does not meet the Council's 'rules and expectation' for its website. Where content on the website is maintained by a local group it should be clearly marked that such content is not the direct responsibility of the Council.

4. Town Council Email

- 4.1. The Clerk and Officers of the council have their own council email addresses.
- 4.2. The email accounts are monitored mainly during office hours, Monday to Friday, and we aim to reply to all questions sent as soon as we can. An 'out of office' message should be used when appropriate.
- 4.3. The Clerk is responsible for dealing with email received and passing on any relevant mail to members or external agencies for information and/or action. All communications on behalf of the Council will usually come from the Clerk or Deputy and/or otherwise will always be copied to the Clerk. All new Emails requiring data to be passed on, will be followed up with a Data consent form for completion before action is taken with that correspondence.
- 4.4. Individual Councillors are at liberty to communicate directly with parishioners through their council email address in relation to council matters, if appropriate, copy these to the Clerk. NB any emails copied to the Clerk become official and will be subject to The Freedom of Information Act.
- 4.5. These procedures will ensure that a complete and proper record of all correspondence is kept.
- 4.6. Do not forward personal information on to other people or groups outside of the Council, this includes names, addresses, email, IP addresses and cookie identifiers.

5. SMS (Texting)

- 5.1. Members and the Clerk may use SMS as a convenient way to communicate at times. All are reminded that this policy also applies to such messages.

6. Video Conferencing

- 6.1. If this medium is used to communicate, please note that this policy also applies to the use of video conferencing.

7. Internal Communication and Access to Information within the Council

- 7.1. The Council is continually looking at ways to improve its working and the use of social media and electronic communications is a major factor in delivering improvement.
- 7.2. Councillors are expected to abide by the Code of Conduct and the General Data Protection Regulations in all their work on behalf of the Council
- 7.3. As more and more information becomes available at the press of a button, it is vital that all information is treated sensitively and securely. Councillors are expected to maintain an awareness of the confidentiality of information that they have access to and not to share confidential information with anyone. Failure to properly observe confidentiality may be seen as a breach of the Council's Code of Conduct and will be dealt with through its prescribed procedures (at the extreme it may also involve a criminal investigation).
- 7.4. Members should also be careful only to cc essential recipients on emails i.e. to avoid use of the 'Reply to All' option, if at all possible, but of course copying in all who need to know and ensuring that email trails have been removed.

Policy Adopted 5 June 2018 Minute 018/18a

H. Equality Policy

1. Policy Statement

- 1.1. This Council is committed to pursuing an equal opportunities approach in the employment of its staff, its relationship with its councillors, and in the way in which services are provided for the public.
- 1.2. This Council recognises its statutory duties under legislation in terms of service provision and employment and is committed to meet them by complying with this policy.
- 1.3. This Council is committed to promoting equal access to services, facilities and equality for all employees or job applicants irrespective of:
 - Age;
 - Disability;
 - Gender reassignment;
 - Race;
 - Religion/belief;
 - Sex;
 - Sexual orientation;
 - Marriage/civil partnership; and
 - Pregnancy/maternity
- 1.4. These are protected characteristics under the Equality Act 2010 and that this is managed in such a way this Council complies with Equal Opportunities legislation and Codes of Practice.

2. Links with Other Council Policies and Strategies

- 2.1. The Council's Equal Opportunities Policy is one of the most important policies and underpins all other corporate policies, procedures and strategies, therefore providing a strong foundation for Equality of Opportunity in the Council and the services it provides.

3. Equality of Opportunity in Service Delivery

- 3.1. This Council is committed to equality of opportunity in the provision of services and access to its facilities.
- 3.2. The Council will achieve this by:
 - Recognising and accepting that particular individuals or groups are denied equality through direct or indirect discrimination either intentional or unintentional;

- Providing regular training for all Councillors and employees, so that they have a good understanding of the diverse needs of different people;
- Delivering services which are relevant, of the highest possible quality and accessible;
- Providing clear information about services and facilities and where necessary making them available in a variety of formats;
- Ensuring that complaints and feedback procedures are accessible and effective;
- Assessing the impact of and monitoring its services to ensure that they do not discriminate and identify where improvements can be made;
- Ensuring that all employees understand what their roles and responsibilities are in relation to equality in service provision.

4. Equality of Opportunity in Employment, Training and Organisational Development

- 4.1. This Council is committed to providing equality of opportunity. All employees will have a part to play in achieving this and the Council will ensure that individuals are aware of their personal responsibility to follow and support the Equal Opportunities Policy.
- 4.2. This policy applies to all employees, whether full-time, part-time, fixed term contract, agency workers or temporary staff, volunteers for the Council and all job applicants. This policy has particular relevance to those concerned with recruitment, training and promotion.
- 4.3. No employee or prospective employee should receive unfair or unlawful treatment due to age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership, and pregnancy/maternity. This Council will seek to identify and act upon unlawful discrimination, which denies individual opportunity on anyone falling within the criteria mentioned above. Employees and applicants have the right to complain about unfair discrimination through the appropriate procedures.
- 4.4. The Council will achieve this by:
 - Ensuring that its recruitment and selection policies and procedures are equitable and fair so that the best people are appointed to deliver its services;
 - Only considering applicants for jobs on the basis of their relevant experience, skills and abilities unless a genuine occupational qualification exists for specific posts;

- Ensuring that all employees receive fair and equal treatment in relation to their employment, regardless of whether they are part-time, full-time, or employed on a temporary basis;
- Ensuring that employment policies and opportunities are of the highest possible quality, therefore equality, equity and consistency are embedded in practices, pay and conditions;
- Making sure that equal consideration is given to people's needs and develop flexible and responsive employment opportunities to tackle those needs;
- Encouraging and supporting employees to reach their full potential within the resources the Council has available to it;
- Taking appropriate action against incidents of harassment, bullying or discrimination and offering support and advice to victims or witnesses to incidents; and
- Taking disciplinary action against employees who discriminate against people who work for the Council or who seek employment with the Council.

5. Contractors and Suppliers

- 5.1. This Council will ensure, so far as is reasonably practicable, that all contractors and suppliers carrying out work on behalf of the Council have the appropriate policies and working practices in place to ensure Equality of Opportunity and to comply with the requisite equality legislation and guidance.
- 5.2. The Council will ensure, so far as is reasonably practicable, that:
- Contractors and providers have employment policies, procedures and practices that do not discriminate; and
 - Monitor whether contracts and commissioning arrangements meet these equality commitments.

6. Management and Supervision of this Policy

- 6.1. Council and Committees - Strong leadership is essential to ensure that this policy is embedded at strategic and service delivery levels of the Council. Whilst the Council will be ultimately responsible for implementation of this policy, the Human Resources Committee will have responsibility in respect of recruitment, employment and staff performance and management issues.
- 6.2. Councillors - have overall responsibility for the direction and scrutiny of this policy and will ensure that the principles of fairness and equality guide the decision-making process.
- 6.3. Clerk - It is the responsibility of the Clerk to:

- Ensure that within devolved areas of responsibilities, the standards established within this policy are followed;
- Advise the Council on changing legislative standards as regards this policy.

6.4. Employees - All employees must:

- Co-operate with any measures introduced to ensure equal opportunities;
- Report any suspected discriminatory acts or practices;
- Not persuade or attempt to persuade others to practice unlawful discrimination;
- Not victimise anyone as a result of them having reported or provided evidence on discrimination;
- Not harass, abuse or intimidate others on account of their race, gender etc;
- Not pressurise job applicants in an attempt to discourage them from applying for or taking up a post.

6.5. Breaches of Policy - Any breach of the Equal Opportunities Policy will be dealt with through the disciplinary procedure. Serious offences such as harassment and victimisation may be treated as gross misconduct.

7. Complaints

- 7.1. Any employee who has a concern regarding the application of this policy should make use of the Council's grievance procedure.
- 7.2. A member of the public or a member of the Council who has a concern regarding the application of this policy should make use of the Council's complaints policy.
- 7.3. Existing Employees - Employees wishing to raise a grievance alleging unlawful discrimination during an internal selection procedure should discuss this with the Clerk in the first instance (where possible). An investigation will then be conducted by the Clerk, or an independent person appointed by the Council for the purpose, who will make a recommendation to the Human Resources Committee. The employee will receive written notification as to the outcome. An appeal, where appropriate, should be made to the Town Mayor for an Appeals Panel to be convened for that purpose.
- 7.4. Prospective Employees - Any prospective employee wishing to raise a complaint should do so, in writing, to the Clerk within 15 working days, at the latest, of the alleged incident. An investigation will then be conducted by the Clerk, or an independent person appointed for the purpose, who will report to the Human Resources Committee.

8. Information and Training

8.1. Employees will be provided with appropriate training regardless of age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership, and pregnancy/maternity.

8.2. The Council will:

- Seek to ensure that all employees are developed by the provision of appropriate and accessible learning opportunities in line with organisational needs;
- Provide training that complies with the Council Equalities Policy;
- Include a copy of the Council's Equalities Policy as part of the induction programme documentation;
- Provide equalities awareness training as part of both its Member and Professional Development Programmes.

9. Monitoring Arrangements

9.1. The Council will establish appropriate information and monitoring systems to assist the effective implementation of this Policy.

9.2. Committee responsibility for monitoring is detailed in para 6.1 above.

10. Alternative Formats

10.1. A copy of this Policy can be made available on larger typeface.

10.2. This document will be posted on the Council's website (www.whitbytowncouncil.gov.uk) and copies of this document will be available for inspection and held on deposit in the Town Council Offices.

Policy adopted 12 January 2016

I. Complaints Procedure

1. Introduction

1.1. Whitby Town Council is committed to providing a quality service for the benefit of the people who live or work in its area or are visitors to the locality. If you are dissatisfied with the standard of service you have received from this council or are unhappy about an action or lack of action by Whitby Town Council, this Complaints Procedure sets out how you may complain to the council and how we shall try to resolve your complaint.

2. Scope

2.1. This Complaints Procedure applies to complaints about Whitby Town Council administration and procedures and may include complaints about how council employees have dealt with your concerns. Complaints about services provided by North Yorkshire Council will be forwarded to that authority.

2.2. This Complaints Procedure does not apply to:

- a) Complaints by one council employee against another council employee, or between a council employee and the council as employer. These matters are dealt with under the council's disciplinary and grievance procedures.
- b) Complaints against individual councillors. Complaints against councillors are covered by the Code of Conduct for Members adopted by the Council on 06-03-2018 and, if a complaint against a councillor is received by the council, it will be referred to the Standards Committee of North Yorkshire Council. Further information on the process of dealing with complaints against councillors may be obtained from the Monitoring Officer of North Yorkshire Council.

2.3. The appropriate time for influencing Council decision-making is by raising your concerns before the Council debates and votes on a matter. You may do this by writing to the Council in advance of the meeting at which the item is to be discussed. There may also be the opportunity to raise your concerns in the public participation section of Council meetings. If you are unhappy with a Council decision, you may raise your concerns with the Council, but Standing Orders prevent the Council from re-opening issues for six months from the date of the decision, unless there are exceptional grounds to consider this necessary and the special process set out in the Standing Orders is followed.

2.4. You may make your complaint about the council's procedures or administration to the Town Clerk. You may do this by writing to or emailing the Town Clerk. The addresses are set out below.

- 2.5. Wherever possible, the Town Clerk will try to resolve your complaint immediately. If this is not possible, the Clerk will normally try to acknowledge your complaint within five working days.
- 2.6. If you do not wish to report your complaint to the Town Clerk, you may make your complaint directly to the Chair of the Council (Town Mayor) who will report your complaint to the appropriate Committee of the Council or to the Full Council whichever is appropriate.
- 2.7. The Town Clerk or Committee of the Council or the Full Council whichever is appropriate will investigate each complaint, obtaining further information as necessary from you and/or from staff or members of the Council.
- 2.8. The Town Clerk or the Chair of the Council (Town Mayor) will notify you within 20 working days of the outcome of your complaint and of what action (if any) the Council proposes to take as a result of your complaint. (In exceptional cases the twenty working days timescale may have to be extended. If it is, you will be kept informed.)
- 2.9. If you are dissatisfied with the response to your complaint, you may ask for your complaint to be referred to the appropriate Committee of the Council or to the full Council (as appropriate) for review and (usually within eight weeks) you will be notified in writing of the outcome of the review of your original complaint.

Contact information

Town Clerk
Whitby Town Council
Pannett Park
Whitby
North Yorkshire
YO21 1RE

01947820227

town.clerk@whitbytowncouncil.gov.uk

Procedure Adopted by Whitby Town Council 2 February 2016 Min 621/16a

J. Internal Procedure for Handling Complaints

1. Definition

- 1.1. A complaint is an expression of dissatisfaction... about the Council's actions 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. It may also be triggered by an allegation such as not following procedures or standing orders, inadequate service, no service, delay or making a mistake.

2. Background

- 2.1. 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
- 2.2. 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.
- 2.3. Complaint procedures are an integral part of the machinery of nearly every organisation. This is because it is through dealing with, and responding to, accusations or instances of poor performance or service delivery that the organisation sees its faults and has the opportunity to address them and improve.
- 2.4. This procedure is to be adopted for all complaints except
- complaints about the conduct of Member(s) of the Town Council. Such complaints should be raised with the local Standards Committee through the Monitoring Officer at North Yorkshire Council.
 - internal complaints made by employees of the Council about fellow employees or about the Council as their employer. Such internal complaints are termed 'Grievances' and will be dealt with under the Council's Grievance and Disciplinary Procedure.
- 2.5. 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.
- 2.6. 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.

3. Before Processing a Complaint

- 3.1. All formal complaints against a local council must be communicated in writing (preferably using the complaints form)

4. Handling A Complaint

- 4.1. The following procedure will be adopted for dealing with complaints from members of the public about the Council's administration or its procedures. Complaints about a policy decision made by the Council will be referred back to the Council, or to the relevant Committee as appropriate, for consideration.
- 4.2. If a complaint about procedures, administration or the actions of any of the Council's employees is notified orally to a Councillor, or to the Town Clerk, the complainant will be asked to put the complaint in writing by letter or email to the Town Clerk, The postal address is Whitby Town Council, Pannett Park, Whitby. YO21 1RE
- 4.3. Contact details for emails can be found on the Town Council website at www.whitbytowncouncil.gov.uk
- 4.4. The complaint will be acknowledged in writing within 5 working days and will be dealt with within 20 working days of receipt.
- 4.5. If the complainant prefers not to put the complaint to the Clerk to the Council (because the matter relates to the Clerk, for example,) they should be advised to write to the Town Mayor/Chair of Human Resources.

5. On Receipt of a Complaint

- 5.1. On receipt of a written complaint the Town Clerk, shall record the complaint to the Council. The complainant will be asked if they wish the complaint to be dealt with confidentially and the next steps in the complaints procedure.
- 5.2. The Town Clerk will seek to settle the complaint directly with the complainant. This will not be done without first notifying any person complained about and giving them an opportunity to comment. Efforts should be made to resolve the complaint at this stage.
- 5.3. Where the Town Clerk or a Councillor receives a written complaint about the Town Clerk's or employee's actions, they shall refer the complaint to the Chair of Human Resources. The Town Clerk or employee will be formally advised of the matter and given an opportunity to comment.
- 5.4. The Town Clerk will report any complaint disposed of by direct action with the complainant to the next meeting of the Council
- 5.5. The Town Clerk will report any complaint that has not been resolved to the next meeting of the Human Resources Committee. The Town Clerk will notify the complainant of the date on which the complaint will be considered, and the complainant will be offered an opportunity to explain the complaint to the Human Resources Committee in person (and bring a friend when doing so).

- 5.6. The Town Clerk may consider whether the circumstances of any complaint warrant the matter being discussed in the absence of the press and public, but any decision on the complaint will be announced at the Council or Committee meeting in public.

6. Investigating the Complaint

- 6.1. The Town Clerk will need to investigate the facts of the complaint and collate relevant evidence.

7. Meetings with the Complainant (If Applicable)

- 7.1. Before the meeting the complainant should within (period specified) provide the Human Resources Committee with any new or relevant information, the Committee should also provide the complainant with new information or evidence relevant to the complaint

8. After the Complaint has been Decided

- 8.1. The Council may consider in the circumstances of any particular complaint whether to make any without liability payment or provide other reasonable benefit to any person who has suffered loss as a result of the Council's maladministration. Any payment may only be authorised by the Council after obtaining legal advice and advice from the Council's auditor on the propriety of such a payment.
- 8.2. As soon as possible after the decision has been made (and in any event not later than 20 days after the meeting) the complainant will be notified in writing of the decision and any action to be taken.
- 8.3. The Council or relevant Committee may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The advice will be considered, and the complaint dealt with at the next Council or relevant Committee meeting after the advice has been received.
- 8.4. The Town Clerk or the Chair of the Council (Town Mayor) will notify the complainant within 20 working days of the outcome of the complaint and of what action (if any) the Council proposes to take as a result of the complaint. (In exceptional cases the twenty working days timescale may have to be extended. If it is, the complainant will be kept informed.)
- 8.5. If you are dissatisfied with the response to your complaint, you may ask for your complaint to be referred to the appropriate Committee of the Council or to the full Council (as appropriate) for review and (usually within eight weeks) you will be notified in writing of the outcome of the review of your original complaint.
- 8.6. Records should be kept of all complaints and of their outcome. The Council should monitor and review complaints and, if necessary, amend its policies and procedures where such action is indicated by more than occasional reversals of initial decisions.

- 8.7. Where the outcome of a complaint is that the procedures within the Council have not been properly followed by the Council's staff, the Council should apologise to the complainant. The Council should also take appropriate steps to prevent similar errors occurring in future.
- 8.8. Matters relating to Grievance or Disciplinary proceedings that are taking, or are likely to take place, should be dealt with in accordance with the Council's Grievance and Disciplinary procedures.

Policy first adopted by Whitby Town Council on 6 April 2010

K. Freedom of Information Policy

1. Background

- 1.1. The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) place legislative requirements on all public authorities, including town and parish councils. The laws established the legal Right to Know; a presumption in favour of public access to information held by public authorities, subject to certain exemptions; and other measures to improve public sector transparency.
- 1.2. The Council is obliged to provide information:
 - Through a publication scheme
 - In response to requests made under the general right of access.
- 1.3. When responding to requests, there are set procedures that the Council needs to follow. These include:
 - The time limit public authorities are allowed for responding to requests.
 - The fees or amount that public authorities can charge for dealing with requests. Public authorities are not obliged to deal with requests if the costs of finding the information exceed a set amount known as the appropriate limit.
 - Public authorities need not comply with vexatious or repeated requests.
- 1.4. The Act also recognises that there are valid reasons for withholding information by setting out a number of exemptions from the right to know, some of which are subject to a public interest test.

2. Policy Statement

- 2.1. As part of a society where information rights and responsibilities are respected by all, Whitby Town Council will aim to move away from the need for individual freedom of information requests and complaints towards a culture of routine, proactive and substantially increased transparency on the part of the Council, by:
 - Being open and transparent and endeavouring to provide the public with access to the official information we hold, as a matter of course.
 - Making people aware of their rights to access the official information we hold
 - Making as much routine information as possible available through the Town Council's Publication Scheme and website.

- Providing reasonable advice and assistance to applicants for information, including pointing applicants to possible sources of the information they seek if it is not held by the Town Council.

3. Dealing with Requests for Information

- 3.1. Members of the public have a general right of access to information held by Whitby Town Council, specifically:
 - To be told whether or not the information is held by the Town Council, and
 - If it is, to have the information communicated to them.
- 3.2. Note: There are certain exemptions and limitations to this general right, but just because a document is marked "Confidential" does not automatically mean that it is exempt information, although it may be covered by certain exemptions. Each case will be dealt with on its merits.
- 3.3. Requests for information must be in writing, must give the applicant's name (which must at minimum include title and surname) and return address and must describe the information requested in such a way that we are able to locate it. A written request includes an e-mail. (For environmental information, the request does not have to be in writing.)
- 3.4. All requests for information will be logged on a separate record sheet.
- 3.5. Receipt will be acknowledged but if it is possible to respond with the information requested, this will be done instead. If further information is required in order to locate the information requested, this will be undertaken as quickly as possible.
- 3.6. All correspondence, phone calls, e-mails etc., that follow the original request will be recorded.
- 3.7. The Town Council has 20 working days in which to deal with a request for information. If it is not clear what information is required, the 20-day period does not begin until clarification is received from the applicant as to exactly what is required. (For environmental information, the response period is extended to 40 working days for information that is complex and bulky.)
- 3.8. A charge will be made for the photocopying of information requested as follows:
 - 10p per single A4 size sheet
 - Additionally, postage will be charged at cost.
 - If the cost of finding, sorting and editing the information requested is more than £450 then, under the FOI Act, the Town Council will not deal with the application without further reference to the applicant regarding the potential cost of providing the information. (Under EIR, environmental information cannot be refused on the grounds of cost)

- 3.9. Any requests for information that is not contained in the Publication Scheme will be passed to the Town Clerk to deal with under the FOI Act. A certain amount of guidance on dealing with requests is held by the Town Clerk, but it may be necessary that further specific guidance will be required from the Information Commissioner's office. If a member of staff is unsure as to whether a request for information is routine or not, they will refer to the Town Clerk as certain personal information is covered by the Data Protection Act.
- 3.10. The applicant will be kept informed at all stages of the process of supplying the information requested, particularly if it is a complex request, when guidance may have to be sought from other agencies.
- 3.11. If a request is refused, the refusal notice will give the reasons for refusing the request and advise the applicant as to their rights of appeal – both internally by way of a complaint and, following that, by way of an appeal to the Information Commissioner.

4. Appeal Process

- 4.1. If the information requested cannot be supplied, the reasons for this will be communicated to the applicant immediately. The applicant has the right of appeal against the refusal, initially to the Town Council, but ultimately to the Information Commissioner.
- 4.2. If the initial appeal is made to the Town Council, it will be dealt with by elected members, in accordance with the Town Council's Complaints Procedure. If the original decision not to supply the information is upheld by the Town Council, but is still not accepted by the applicant, then the applicant is able to appeal to the Information Commissioner.
- 4.3. Reasons for refusing information must be in accordance with the respective provisions of the legislation, including consideration of the public interest test where this applies.

5. Relationship with Other Legislation

- 5.1. ***Public Bodies (Admission to Meetings) Act 1960 and Amended by Openness of Local Government Bodies Regulations 2014*** - The FOI Act does not amend the provision in the 1960 Act or the Openness of Local Government Bodies Regulations 2014 which allows local councils to exclude the press and public by resolution if publicity would prejudice the public interest by reason of the confidential nature of the business or for some other reason stated in the resolution.
- 5.2. However, the effect of the FOI Act is that any information held by the council which relates to matters discussed, either in open or private session (e.g. in a report or minutes), may have to be disclosed unless one of the exemptions under the Act applies.
- 5.3. ***Local Government Act 1972*** - The provisions of the FOI Act effectively supersede the old exemptions in the Local Government Act 1972 in respect of the access

to information rights and for this reason the categories of “exempt information” (Schedule 12A of the Local Government Act 1972) were amended in 2006 to mirror relevant FOI exemptions.

- 5.4. **Data Protection Act 2018** - The Data Protection Act (DPA) gives an individual the right to obtain a copy of any personal information held about them (subject to access) and imposes responsibilities upon those who collect and process personal information. If someone requests information about himself, this should be handled as a subject access request under the DPA. The exemption in the FOI Act, which relates to information requested by the subject, simply means that the decision whether or not to release the information must be decided in accordance with the provisions of the DPA, and not the FOI Act.
- 5.5. If a person requests personal information about a third party, then the matter should be decided under the FOI Act, but in accordance with the data protection principles set out in the DPA. For example, the authority must consider whether the third party has given consent to release, and if not, whether it would be fair and lawful to release the information.
- 5.6. **Environmental Information Regulations 2004** - The rules concerning the disclosure of environmental information are now set out in the Environmental Information Regulations 2004 (EIR), which replace Regulations made in 1992. “Environmental Information” is very widely defined in the Regulations which give effect to European Directives. A copy of the full definition is set out below.
- 5.7. The exemptions from disclosure under the EIR are more limited than for other information requests under the FOI Act and all are subject to a public interest test. The Local Government Association has produced an excellent guide to the Environmental Information Regulations and further information may also be obtained from DEFRA's website.

6. Further Information

- 6.1. This is a complex area of legislation and nothing within this policy document is intended to excuse the Council from any of its legal obligations. Further guidance on specific points of law regarding FOI and EIR will be sought from the Information Commissioner at:
Helpline: 08456 306060 or 01625 545745
Website: www.ico.gov.uk
Email: via website enquiries
Address: Information Commissioner's Office, Wycliffe House,
Water Lane, Wilmslow, Cheshire SK9 5AF

Policy first adopted by Whitby Town Council on 14 April 2010

L. Data Protection Policy

1. Introduction

- 1.1. Whitby Town Council needs to collect and use certain types of information about people with whom it deals in order to perform its functions. This information includes details of current, past and prospective employees, suppliers, clients, customers, service users and others with whom it communicates.
- 1.2. Whitby Town Council is required by law to collect and use certain types of information to fulfil its statutory duties and also to comply with the requirements of the Government. This personal data must be dealt with properly however it is collected, recorded and used - whether on paper electronically or on other material - and there are safeguards to ensure this in compliance with the General Data Protection Regulations 2018.
- 1.3. Whitby Town Council regards the lawful and correct treatment of personal data as critical to successful operations and to maintaining confidence between those with whom we deal and ourselves. It is essential that it treats personal data lawfully and correctly.
- 1.4. To this end Whitby Town Council fully endorses and adheres to the principles of data protection as enumerated in the General Data Protection Regulations 2018 and is registered with the Information Commissioners Office (ICO) as required by these regulations.
- 1.5. The lawful bases of processing are
 - a) Consent: the data subject has consented to the processing of data about them.
 - b) Contract: the processing is necessary in accordance with a contract of employment between the data controller and data subject.
 - c) Legal Obligation: the processing is required in pursuance of a legal obligation but not including a contractual obligation.
 - d) Vital Interests: the processing is necessary to protect someone's life.
 - e) Public task: the processing is necessary for the carrying out of a task in the public interest or official functions and the exercise of functions of a public nature by a local council.
- 1.6. The Data Protection Act 2018 requires that personal data shall be:
 - a) Processed lawfully, fairly and in a transparent manner in relation to individuals;
 - b) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or

historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;

- c) Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d) Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- e) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals;
- f) Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

1.7. Data must not be transferred to any country outside the European Economic Area unless that country has an adequate level of protection of the rights and freedoms of data subjects.

2. The Handling of Personal Information

2.1. Whitby Town Council will, through appropriate management, and strict application of criteria and controls:

- a) Observe fully, conditions regarding the fair collection and use of information;
- b) Meet its legal obligations to specify the purposes for which information is used.
- c) Collect and process appropriate information only to the extent that it is needed to fulfil operational needs or comply with any legal requirements;
- d) Ensure the quality of information used;
- e) Apply strict checks to determine the length of time information is held;
- f) Ensure that the rights of people, about whom information is held, can be fully exercised under the Act. These include:
 - the right to be informed that processing is being undertaken,
 - the right of access requiring the data controller to provide a description of the data held and the purposes for which it is being processed to a data subject on receipt of a written request.

- the right to rectification where the information is inaccurate or incomplete
 - the right to erasure the data subject may require the controller to erase personal data known as the right to be forgotten.
 - the right to restrict processing in certain circumstances including inaccuracy, unlawful processing and where the controller no longer needs the data
 - the right to data portability a data subject can require a data controller to provide them with their personal data in a machine-readable portable format
 - the right to object a data subject has the right to object to the processing on the grounds that it is not necessary in the public interest or in carrying out official duties or functions
 - the right to not be subject to automatic decision-making including profiling
- g) Take appropriate technical and organisational security measures to safeguard personal information;
- h) Ensure that any third-party processors contracted by Whitby Town Council adhere to appropriate controls.

3. Responsibilities and Roles

- 3.1. Because the General Data Protection Regulations 2018 are regulations to make provision for the processing of information relating to individuals including the obtaining, holding, use or disclosure of such information. It places obligations on those who record and use personal data.

4. Data Controller

- 4.1. In legal terms Whitby Town Council is data controller and has responsibility for ensuring compliance with the General Data Protection Regulations. The Town Clerk and other members of staff are designated data processors and are responsible for the processing of personal data in paper or electronic form, as defined in the General Data Protection Regulations. There is no requirement for data controllers to register with the Information Commissioners Office however under the Data Protection (Charges and Information) Regulations 2018 (SI2018/480) a local council with fewer than 10 members of staff must pay an annual fee of £40.

5. Implementation

- 5.1. To achieve the position detailed in paragraphs 4 and 5 above Whitby Town Council will ensure that:
- a) There is someone with specific day to date responsibility for Data Protection matters in the organisation. Currently that person is the Town

Clerk. Contact details for the Town Clerk can be found on the Whitby Town Council website: www.whitbytowncouncil.gov.uk.

- b) Everyone managing and handling personal data understands that they are contractually responsible for following good data protection practice;
- c) Everyone managing and handling personal data is appropriately trained to do so;
- d) Everyone managing and handling personal data is appropriately supervised;
- e) Methods of handling personal data are clearly described;
- f) A regular review and audit will be made of the way personal information is managed.

6. Disposal of Personal Information

- 6.1. Documents and any storage media containing input to and output from systems (paper or electronic) detailing personal information will be held, transported and disposed of with due regard to its sensitivity and in accordance with the Town Council's Document Retention Policy.
- 6.2. Confidential paper output no longer required will be shredded before it is included in the recycling process. The disposal of confidential waste may be arranged with firms who provide a certificated secure disposal service.
- 6.3. Individual departments will be responsible for ensuring appropriate arrangements are made subject to approval by the Town Clerk.
- 6.4. Where arrangements are made with external companies for paper data disposal, or other media holding personal data then checks will be made to ensure that the arrangements are secure and that disposal certificates are provided and recorded.
- 6.5. Where the information is particularly sensitive it may be appropriate to ensure that the information is shredded on site.

7. Subject Access Requests

- 7.1. An individual is entitled, on making a written request, to be supplied with a copy of all, with limited exceptions, information which forms the personal data held about them. A request for subject access must be responded to within one calendar month. If it is not, the individual is entitled to complain to the Information Commissioner.
- 7.2. All data subject access requests must be referred to the Town Clerk, who will co-ordinate the processing of the requests.

8. Breaches of Policy

- 8.1. Any breach of the General Data Protection Regulations, whether deliberate or through negligence, may lead to disciplinary action being taken or even a criminal prosecution.

- 8.2. All persons are advised that any wilful non-compliance with the data protection principles and this Policy Statement will be regarded as a serious disciplinary matter and may lead to dismissal.

M. The Management of Transferable Data Policy

1. Purpose

- 1.1. This policy supports the controlled storage and transfer of information by Councillors and all employees, temporary staff and agents (contractors, consultants and others working on behalf of the Council) who have access to and use of computing equipment that is owned or leased by Whitby Town Council
- 1.2. Information is used throughout the Council and is sometimes shared with external organisations and applicants. The use of removable media may result in the loss of the ability to access information, or interference with the integrity of information, which could have a significant effect on the efficient operation of the Council and may result in financial loss and an inability to provide services to the public.
- 1.3. It is therefore essential for the continued operation of the Council that the availability,
- 1.4. integrity and confidentiality of all storage devices are maintained at a level which is appropriate to the Council's needs.
- 1.5. The aims of the policy are to ensure that the use of removable storage devices is accomplished with due regard to:
 - a) Enabling the correct data to be made available where it is required
 - b) Maintaining the integrity of the data
 - c) Preventing unintended consequences to the stability of the computer network
 - d) Building confidence and trust in data that is being shared between systems
 - e) Maintaining high standards of care towards data and information about individual parishioners, staff or information that is exempt from disclosure
 - f) Compliance with legislation, policies or good practice requirements

2. Principles

- 2.1. This policy sets out the principles that will be adopted by the Council in order for material to be safely stored on removable media so that the risk of loss or corruption to work data is low.
- 2.2. Removable media includes but is not limited to: USB memory sticks, memory cards, portable memory devices, CD / DVDs, diskettes and any other device that transfers data between systems or stores electronic data separately from email or other applications.

2.3. Any person who intends to store Council data on removable media must abide by this Policy. This requirement devolves to Councillors, employees and agents of the Council, who may be held personally liable for any breach of the requirements of this policy.

2.4. Failure to comply with this policy could result in disciplinary action.

3. Advice and Assistance

3.1. The clerk will ensure that everyone that is authorised to access the Councils information systems is aware of their obligations arising from this policy.

3.2. A competent person should be consulted over any hardware or system issues. Advice and guidance on using software packages should be also sort from a competent person.

4. Responsibilities

4.1. Clerks are responsible for enforcing this policy and for having arrangements in place to identify the location of all data used in connection with Council business.

4.2. Users of removable media must have adequate Records Management / Information Security training so that relevant policies are implemented.

5. Incident Management

5.1. It is the duty of all employees and agents of the Council to not allow storage media to be compromised in any way whilst in their care or under their control. There must be immediate reporting of any misuse or irresponsible actions that affect work data or information, any loss of material, or actual, or suspected breaches in information security to the clerk.

5.2. It is the duty of all Councillors/Employees to report any actual or suspected breaches in information security to the clerk.

6. Data Administration

6.1. Removable media should not be the only place where data created or obtained for work purposes is held, as data that is only held in one place and in one format is at much higher risk of being unavailable through loss, destruction or malfunction of equipment, than data which is routinely backed up.

6.2. Where removable media is used to transfer material between systems then copies of the data should also remain on the source system or computer, until the data is successfully transferred to another computer or system.

6.3. Where there is a business requirement to distribute information to third parties, then removable media must only be used when the file cannot be sent or is too large to be sent by email or other secure electronic means.

- 6.4. Transferring material to removable media is a snapshot of the data at the time it was saved to the media. Adequate labelling must be undertaken so as to easily identify the version of the data, as well as its content.
- 6.5. Files must be deleted from removable media, or the removable media destroyed, when the operational use of the material has been completed. The Council's retention and disposition schedule must be implemented by Councillors, employees, contractors and agents for all removable media.

7. Security

- 7.1. All storage media must be kept in an appropriately secure and safe environment that avoids physical risk, loss or electrical corruption of the business asset. Due to their small size there is a high risk of the removable media being mislaid lost or damaged, therefore special care is required to physically protect the device and the data. Anyone using removable media to transfer data must consider the most appropriate way to transport the device and be able to demonstrate that they took reasonable care to avoid damage or loss.
- 7.2. Virus Infections must be prevented from damaging the Councils network and computers. Virus and malware checking software approved by the Council, must be operational on both the machine from which the data is taken and the machine on to which the data is to be loaded. The data must be scanned by the virus checking software before the media is loaded on to the receiving machine.
- 7.3. Any memory stick used in connection with Council equipment or to store Council material should usually be Council owned. However work-related data from external sources can be transferred to the Council network using memory sticks that are from trusted sources and have been checked using current anti-virus software.
- 7.4. The Council will not provide support or administrator access for any non-council memory stick.

8. Use of Removable Media

- 8.1. Care must be taken over what data or information is transferred onto removable media. Only the data that is authorised and necessary to be transferred should be saved on to the device.
- 8.2. Council material belongs to the Council and any equipment on which it is held should be under the control of the Council and not available to be used for other purposes that may compromise the data.
- 8.3. All data transferred to removable media should be in accordance with an agreed process established by the Council so that material can be traced.
- 8.4. The person arranging the transfer of data must be authorised to make use of, or process that particular data.

- 8.5. Whilst in transit or storage the data must be given appropriate security according to the type of data and its sensitivity.
- 8.6. Encryption must be applied to the data file unless there is no risk to the Council, other organisations or individuals from the data being lost whilst in transit or storage. If encryption is not available, then password control must be applied if removable media must be used for the business purpose.

9. Faulty or Unneeded Storage Devices

- 9.1. Damaged or faulty media must not be used. The clerk must be consulted over any damaged equipment, peripherals or media.
- 9.2. All unneeded or faulty storage devices must be dealt with securely to remove the data before reallocating or disposing of the device.

10. Breach Procedures

- 10.1. Users who do not adhere to this policy will be dealt with through the Council's disciplinary process.
- 10.2. Where external service providers, agents or contractors breach the policy, this should be addressed through contract arrangements.

11. Employees Guide in Brief

- a) Data and information are valuable and must be protected.
- b) Only transfer data onto removable media if you have the authority to do so.
- c) All transfer arrangements carry a risk to the data.
- d) Run the virus checking programme on the removable media each time it is connected to a computer.
- e) Only use approved products for Council data.
- f) Activate encryption on removable media wherever it is available and password protection if not available
- g) Data should be available for automatic back up and not solely saved to removable media.
- h) Delete files from removable media, or destroy the media, after the material has been used for its purpose.

Policy Adopted 5 June 2018 Minute 018/18b

N. Retention of Documents and Records Management Policy

1. Introduction

1.1. Whitby Town Council recognises that the efficient management of its records is necessary to comply with its legal and regulatory obligations and to contribute to the effective overall management of the Town Council. This document provides the policy framework through which this effective management can be achieved and audited. It covers:

- Scope
- Responsibilities
- Relationships with existing policies
- Retention Schedule

2. Scope of the policy

2.1. This policy applies to all records created, received, or maintained by the Town Council while conducting its functions. Records are defined as all those documents which facilitate the business conducted by the Town Council and which are thereafter retained (for a set period) to provide evidence of its transactions or activities. These records may be created, received, or maintained in hard copy or electronically.

2.2. A small percentage of the Town Council's records will be selected for permanent preservation as part of the Council's archives and for historical research.

3. Responsibilities

3.1. The Town Council has a corporate responsibility to maintain its records and record management systems in accordance with the regulatory environment. The person with overall responsibility for this policy is the Town Clerk.

3.2. The person responsible for records management will give guidance for good records management practice and will promote compliance with this policy so that information will be retrieved easily, appropriately, and timely.

3.3. Individual staff and employees must ensure that records for which they are responsible are accurate and are maintained and disposed of in accordance with the Town Council's records management guidelines.

4. Relationship with existing policies

4.1. This policy has been drawn up within the context of:

- Freedom of Information policy
- General Data Protection policy

- Publication Scheme

4.2. And with other legislation or regulations (including audit and Statute of Limitations) affecting the Town Council.

5. Retention Schedule

5.1. Under the Freedom of Information Act 2000, the Town Council is required to maintain a retention schedule listing the record series which it creates in the course of its business. The retention schedule lays down the length of time which the record needs to be retained and the action which should be taken when it is of no further administrative use.

5.2. Members of staff are expected to manage their current record keeping systems using the retention schedule and to take account of the distinct kinds of retention periods when they are creating new record keeping systems.

5.3. The retention schedule refers to record series regardless of the media in which they are stored.

RETENTION OF DOCUMENTS REQUIRED FOR THE AUDIT OF TOWN COUNCIL

Document	Min Retention Period	Reason
Minutes & Correspondence		
Signed Minutes of Council Meetings	Indefinite	Archive
Agendas	Indefinite	Archive
Correspondence & papers on important local issues & activities	Indefinite	Archive
Routine correspondence, papers & e- mails	Retain as long as useful	Management
Finance & Payroll		
Scale of Fees and Charges	5 Years	Management
Income & Expenditure accounts	Indefinite	Archive
Annual Return & Audit Reports	Indefinite	Archive
Receipt Books of all kinds	6 years	VAT
Bank Statements (including deposit/ savings accounts)	Last completed Audit year	Audit
Bank Paying-in Books	Last completed Audit year	Audit
Cheque Books Stubs	Last completed Audit year	Audit
Budgetary Control Papers	2 years + current	Audit
Quotations and Tenders	12 years/Indefinite	Statute of Limitations
Paid Invoices	6 years	VAT
Paid cheques	6 years	VAT
VAT records	6 years	VAT
Payroll records	12 years	Superannuation
Timesheets	Last completed Audit Year	Audit
Insurance Policies		
Cert of Employers Liability	50 years	Legal requirement
Cert of Public Liability	21 years	Legal requirement
Insurance Claim Records	7 Years after all obligations are concluded (allowing for claimant to reach age of 25)	Legal requirement
Policy renewal records & correspondence	While Valid	Management
General Management		
Investments	Indefinite	Audit/ Management
Title Deeds, leases, agreements, contracts	Indefinite	Audit/ Management
Members allowances	6 years	Tax, Statute of Limitations
Events Management		
Applications to hire stalls	6 years	VAT
Copies of invoices to hirers	6 years	VAT
Risk Assessment & proof of PLI	2 years + current	Management

Document	Min Retention Period	Reason
Allotments		
Register of Tenancies	Indefinite	Audit, Management
Allotment Plans	Indefinite	Audit, Management
Waiting lists	Until tenancy received or no longer required	Management
Health & Safety		
Accident Books (injuries to adults)	25 Years from closure	Management
Accident Books (injuries to Children)	25 Years from closure	Management
Equipment Inspection Records	25 Years	Management
Premises Inspection Records	25 Years	Management
Risk Assessments	3 Years from last assessment	Management
Members		
Register of Members Interests	18 months after individual ceases to be a member	Management
Miscellaneous		
Complaints	5 Years after closure of case	Management
Deeds/Leases	Indefinite	Archive
Press Releases	6 Years	Management
Public consultation: surveys & returns	5 Years	Management
Register of Officers Interests	Indefinite	Management
Reports, newsletters etc. from other bodies	Retain as long as useful	Management
Personnel/Human Resources		
Application forms (interviewed - unsuccessful)	6 Months	Management
Disciplinary records	Retain for period of employment	Management
Personal files (not payroll information)	6 years after ceasing employment	Management
Planning		
Applications - All consultative documents including plans	Not retained	Held by Planning Authority
Applications upon which Council has commented - including Council's own applications	12 Months	Management

There are no firm guidelines for the retention of general correspondence. However, an annual review of all documentation should be conducted with ephemeral items marked for destruction and the remainder being considered for archiving.

Approved and Adopted at Town Council meeting held on 10 April 2018

O. Community Grants Policy

1. Introduction

- 1.1. Whitby Town Council is committed, when finances permit, to support local groups with projects that demonstrate good value for money and help to develop or maintain facilities or services of widespread benefit to Whitby residents.

2. Policy Statement

- 2.1. Community Grants will be awarded to support and encourage a diverse range of community activities across all age ranges, a wide range of interests, initiatives and events that help to meet the needs of Whitby residents.
- 2.2. In determining applications, the Council will give particular consideration as to how each proposal helps to meet the Council's objectives for Whitby.

3. Grants Available

- 3.1. The grants available are:
- Small grants – usually £100/£200 to a Max. grant of £500 to include Town Events (e.g. heritage, art or music events)

4. Guidelines and Criteria

- 4.1. Grants will normally be given only to not-for-profit groups or organisations based in and serving the area within the Whitby parish boundary. National or regional organisations will not normally be eligible.
- 4.2. Grants should represent assistance to local projects and need to show a clear and widespread benefit to Whitby residents.
- 4.3. Preference will be given to wholly voluntary groups or organisations with limited financial resources.
- 4.4. Only one grant award per year may be made to each applicant organisation.
- 4.5. The Finance Policy & General Purposes Committee will consider all grant applications received and decide on the allocation within the approved annual grant budget.
- 4.6. The Council will not normally award grants to individuals, educational establishments, places of worship, religious groups, animal welfare organisations, or for political purposes.
- 4.7. The Council cannot guarantee a grant to any organisation or group. Grant applications are considered on their individual merits.
- 4.8. The Council will not supplement any shortfall in expenditure incurred by another authority with responsibility for the service involved, or fund services or activities which are properly the responsibility of some other public authority or agency.

- 4.9. The Council will normally expect to distribute grants to a variety of organisations, this may mean a smaller amount is awarded than that applied for.
- 4.10. Applications should be made on the official Town Council grant application form or by letter including sufficient supporting material.
- 4.11. The Council will require all organisations or groups to provide a formal acknowledgement of receiving grant aid and will require a report of the project or other agreed method of verifying the use which was made of the grant awarded.
- 4.12. The Council reserves the right to decline any application.
- 4.13. When a grant is awarded, the Council also reserves the right to reclaim part, or the entire grant provided it is satisfied that this action is appropriate. It will only take this action after giving the organisation or group an opportunity to make representations.
- 4.14. Applications from organisations will only be accepted every 2 years e.g. If an application for a grant is successful, applications will not be accepted from the same organisation in the next year.

Policy first adopted by Whitby Town Council on 3 August 2010

P. Health & Safety Policy

1. Statement of Safety Policy

- 1.1. It is the policy of Whitby Town Council to provide and maintain as far as reasonably practical, a safe and healthy working environment (to include plant, equipment, the safe storage and handling of articles and substances, the provision of welfare facilities and systems of work) for all employees.
- 1.2. Through this policy, the Town Council intends to reduce the risk to employees and others who could be affected by work activities to as low a level as is reasonably practicable. This will be achieved through the Council's risk assessment process, as required by the Management of Health and Safety at Work Regulations 1999 R3.
- 1.3. Whitby Town Council recognises the need to provide suitable and sufficient information, instruction, supervision and training to ensure that workers are competent for the health and safety of themselves, other workers and any other person who could be affected by work activities. It will enlist the support of employees toward achieving these ends and will consult with employees on matters affecting their health and safety.
- 1.4. This Council will take steps to minimise the number and severity of accidents and occurrences of work-related ill-health.
- 1.5. Whitby Town Council acknowledges the duties placed on employers towards other workers and non-employees by sections 2(3) and 2(4) of the Health and Safety at Work Regulations 1999.
- 1.6. The Town Council will take steps to protect the environment in the implementation of this policy.
- 1.7. The policy will be kept up to date. To ensure this, the policy and the way in which it is operated will be reviewed, annually (or more frequently if the Town Council's activities change in nature and size), by the Finance Policy and General Purposes Committee to ensure that it complies with current Health and Safety Legislation and Codes of Practice.

2. Organisation and Responsibilities

- 2.1. **The Elected Council** - will ensure that there is an effective policy for health and safety within areas under its control and that all liabilities are covered by adequate insurance. Further the Council acknowledges its intent to ensure sufficient resources to implement the policy are budgeted for annually.
- 2.2. **The Town Clerk** - has overall and final responsibility for ensuring the provision and implementation of the Health and Safety policy and its review. the Town Clerk will:

- a) Update the Council's health and safety policy in line with changing legislation and working practices.
- b) Periodically appraise the effectiveness of the policy and ensure that any necessary changes are made to it
- c) Ensure that sufficient resources are available to provide all necessary health and safety equipment, personal protective equipment, training and, where appropriate and as required by legislation, free health assessments.
- d) Ensure that all risks are evaluated within the areas under the Council's control, relating to accidents at work, health risks, loss or damage to property, plant or equipment belonging to the Council and risks to the public through any activity of the Council.
- e) Ensure that all staff are aware of and comply with the safety policy.
- f) Ensure each new employee is given induction training, including the precautions and procedures appropriate to their specific jobs, and that adequate supervision is available.
- g) Ensure that all persons are aware of the procedures to be adopted in case of fire.
- h) Ensure that all persons know the location of the first aid facilities and who are first aiders.
- i) Ensure that only safe working practices are used in order to provide maximum safety for all personnel.
- j) Provide regular reports to the Council.

2.3. **Gallery Curator** – as facility manager for the Pannett Art Gallery, under the overall direction of the Town Clerk, holds the function of Safety Officer and is responsible for ensuring that the health and safety policy of the Council is implemented. The responsibilities cover:

- a) Assessment, control and regular monitoring of all safety aspects of the service to ensure they are kept up to date.
- b) Ensuring that appropriate safety education and training are co-ordinated and carried out using both in house and external resources.
- c) Ensuring that adequate fire protection and prevention measures are provided.
- d) The maintenance of safety records.
- e) Investigation of accidents and dangerous occurrences, with a view to prevention of future occurrences and to ensure that appropriate statutory notifications are properly completed.
- f) Providing staff with relevant information on risks to health and safety.
- g) Completion of risk assessments for all Council facilities and activities

- h) Regular monitoring of all Council facilities for defects or health and safety issues and recording, reporting and acting on them.
- i) Ensure that all accidents are investigated and that accident reports are completed promptly where required.
- j) Any health or safety problems which cannot be resolved immediately are raised quickly with the Town Clerk.
- k) Provide regular reports to the Town Clerk

2.4. **Employees, Volunteers and Elected or Co-opted Members** - have a duty as laid down in Section 7 of the Health and Safety at Work, etc Act 1974 to:

- a) Make themselves familiar with the Health and Safety Policy of the Council and health and safety literature which is posted on Notice Boards in the workplace, or which is drawn to their attention by their immediate supervisor. If for any reason there is a problem with understanding these documents, the supervisor will ensure that employees understand what they contain.
- b) Take reasonably practicable care for the health, safety and welfare of themselves and other persons who may be affected by their acts or omissions whilst at work.
- c) Co-operate with the Council to enable it to carry out its responsibilities fully and comply with relevant statutory legislation.
- d) Make full use of the appropriate safety equipment, protective clothing and safety devices provided by the Council and not intentionally or recklessly interfere with or misuse any such items.
- e) Carry out all duties in accordance with training and instructions to ensure compliance with legal requirements.
- f) Report any accident, dangerous or potentially dangerous situations in the workplace, unsafe practice, or systems of work, or damage to plant or equipment to their immediate supervisor.

2.5. All **visitors and contractors** must be informed of any hazards or dangers on Council premises, and the precautions they should take to minimise risks to their health and safety.

2.6. A safety code (e.g. smoking regulations, noise, harassment, fire procedures, waste disposal, accident reporting) will be prepared and made available to visitors and contractors.

2.7. All contractors, hirers and users of Town Council facilities will be required to complete a site-specific risk assessment to the Town Clerk's satisfaction and where appropriate, meet with the Officer before work begins in order to discuss how any risks to employees or visitors can be avoided/minimised, and/or oversee works to ensure Health and Safety compliance. A copy of the completed risk assessment with signatures from both parties will be kept in the Council Offices with a signed copy to be supplied to the other party.

- 2.8. All contractors, hirers and users of Town Council facilities will be provided with access to the Asbestos Register and shown the location of the accident book.

Q. Reserves Policy

1. Introduction

- 1.1. Whitby Town Council is required to maintain adequate financial reserves to meet the needs of the organisation. The purpose of this policy is to set out how the Council will determine and review the level of reserves.
- 1.2. Sections 32 and 43 of the Local Government Finance Act 1992 require local authorities to have regard to the level of reserves needed for meeting estimated future expenditure when calculating the budget requirement. However, there is no specified minimum level of reserves that an authority should hold, and it is the responsibility of the Responsible Financial Officer to advise the Council about the level of reserves and to ensure that there are procedures for their establishment and use.

2. Types of Reserves

- 2.1. Reserves can be categorised as general or earmarked.
- 2.2. **General Reserves** are funds which do not have any restrictions as to their use. These reserves can be used to smooth the impact of uneven cash flows, offset the budget requirement if necessary or can be held in case of unexpected events or emergencies.
- 2.3. The level of General Reserves is a matter of judgement and so this policy does not attempt to prescribe a blanket level. The primary means of building general reserves will be through an allocation from the annual budget. This will be in addition to any amounts needed to replenish reserves that have been consumed in the previous year.
- 2.4. The manual *Governance And Accountability For Smaller Authorities In England*, which is also referred to as 'Proper Practices' states:

The generally accepted recommendation with regard to the appropriate minimum level of a Smaller Authority's General Reserve is that this should be maintained at between three (3) and twelve (12) months Net Revenue Expenditure. This is effectively Precept less any Loan Repayment and/or amounts included in Precept for Capital Projects and transfers to Earmarked Reserves. The reason for the wide range (3 to 12 months) is to cater for the large variation in sizes of individual authorities. The smaller the authority the closer the figure should be to 12 months Net Revenue Expenditure, the larger the authority the nearer to 3 months.

- 2.5. The benchmark target General Reserve figure for the Town Council (as a large local council) is 4 months of net expenditure. Setting the level of General Reserves is one of several related decisions in the formulation of the medium-term financial plan and the annual budget and should be kept under annual

review. The Council must build and maintain sufficient working balances to cover the key risks it faces, as expressed in its financial risk assessment.

- 2.6. If in extreme circumstances General Reserves were exhausted due to major unforeseen spending pressures within a particular financial year, the Council would be able to draw down from its earmarked reserves to provide short term resources.
- 2.7. Even at times when extreme pressure is put on the Council's finances the Council must keep a minimum balance sufficient to pay one month's salaries to staff in General Reserves at all times.
- 2.8. **Earmarked Reserves** will be established on a "needs" basis, in line with anticipated requirements.
- 2.9. Earmarked reserves can be held for several reasons:
 - Renewals – to enable services to plan and finance an effective programme of vehicle, equipment and infrastructure replacement and planned property maintenance. These reserves are a mechanism to smooth expenditure so that a sensible replacement programme can be achieved without the need to vary budgets.
 - Carry forward of underspend - some services commit expenditure to projects but cannot spend the budget in year. Reserves are used as a mechanism to carry forward these resources.
 - Insurance reserve – to enable the Council to meet the excesses of claims not covered by insurance.
 - Other earmarked reserves may be set up from time to time to meet known or predicted liabilities.
- 2.10. Any decision to set up a reserve must be approved by the Council on the recommendation of the Finance, Policy and General Purposes Committee.
- 2.11. Expenditure from reserves can only be approved by the Council on the recommendation of the Finance, Policy and General Purposes Committee.
- 2.12. Reserves should not be held to fund on-going expenditure. This would be unsustainable as, at some point, the reserves would be exhausted. To the extent that reserves are used to meet short term funding gaps, they must be replenished in the following year. However, earmarked reserves that have been used to meet a specific liability would not need to be replenished, having served the purpose for which they were originally established.
- 2.13. All Earmarked Reserves are recorded on a central schedule held by the Responsible Financial Officer which lists the various Earmarked Reserves and the purpose for which they are held. Reviewing the Council's Financial Risk Assessment is part of the budgeting and year end accounting procedures and

identifies planned and unplanned expenditure items and thereby indicates an appropriate level of Reserves.

3. Opportunity cost of holding reserves

- 3.1. In addition to allowing the Council to manage unforeseen financial pressures and plan for known or predicted liabilities, there is a benefit to holding reserves in terms of the interest earned on funds which are not utilised. This investment income is fed into the budget strategy.
- 3.2. However, there is an “opportunity cost” of holding funds in reserves, in that these funds cannot then be spent on anything else. As an example, if these funds were used to repay debt, the opportunity cost would equate to the saving on the payment of interest and the minimum revenue provision, offset by the loss of investment income on the funds. However, using reserves to pay off debt in this way would leave the Council with no reserves to cover unforeseeable short term funding gaps which may occur; and they would have to be replenished in the following year.

4. Current level of financial reserves

- 4.1. The level of financial reserves held by the council will be agreed by the Council during the discussions held regarding the setting of the budget for the next financial year.
- 4.2. The advised level of general reserves to ultimately be held by the Council is half of the annual precepted figure.

Policy first adopted by Whitby Town Council on 3 December 2019 Minute No. 492/19

R. Code of Conduct

1. Introduction

- 1.1. The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.
- 1.2. All councils are required to have a local Councillor Code of Conduct.
- 1.3. The LGA will undertake an annual review of this Code to ensure it continues to be fit- for- purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

2. Definitions

- 2.1. For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who
 - a) is a member of any committee or sub-committee of the authority, or;
 - b) is a member of, and represents the authority on, any joint committee or joint sub- committee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee."
- 2.2. For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

3. Purpose of the Code of Conduct

- 3.1. The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code.

The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

4. General principles of councillor conduct

- 4.1. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the **Seven Principles of Public Life**, also known as the Nolan Principles.
- 4.2. Building on these principles, the following general principles have been developed specifically for the role of councillor.
- 4.3. In accordance with the public trust placed in me, on all occasions:
 - I act with integrity and honesty
 - I act lawfully
 - I treat all persons fairly and with respect; and
 - I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

5. Application of the Code of Conduct

- 5.1. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.
- 5.2. This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:
 - you misuse your position as a councillor
 - Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

5.3. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

5.4. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

6. Standards of councillor conduct

6.1. This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

6.2. Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect - As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidating or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor- officer protocol.

2. Bullying, harassment and discrimination - As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might:

- be a regular pattern of behaviour or a one-off incident;
- happen face-to-face, on social media, in emails or phone calls;
- happen in the workplace or at work social events and
- not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council - As a councillor:**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information - As a councillor:**4.1 I do not disclose information:**

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - iv. the disclosure is:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples

include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute - As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position - As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities - As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery

- equipment such as phones, and computers • transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct - As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests - As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality - As a councillor:

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case, you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

“Partner” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Nonparticipation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest,’ you do not have to disclose the nature of the interest, just that you have an interest.

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

Disclosure of Other Registerable Interests

5. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest,’ you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest,' you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2** you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest,' you do not have to disclose the nature of the interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Link] **Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012**.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

<p>Corporate tenancies</p>	<p>Any tenancy where (to the councillor's knowledge)—</p> <ul style="list-style-type: none"> a) the landlord is the council; and b) the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<p>Securities</p>	<p>Any beneficial interest in securities* of a body where—</p> <ul style="list-style-type: none"> a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and b) either— <ul style="list-style-type: none"> i the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registrable Interests

You must register as an Other Registrable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - i. exercising functions of a public nature
 - ii. directed to charitable purposes or
 - iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on **Local Government Ethical Standards**. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

S. Protocol on Councillor/Staff Relations

1. Background

- 1.1. This protocol is intended to assist Councillors and the Clerk, in approaching some of the sensitive circumstances which arise in a challenging working environment.
- 1.2. The reputation and integrity of the council is significantly influenced by the effectiveness of Councillors, the Clerks and other staff working together to support each other's roles.
- 1.3. The aim is effective and professional working relationships characterised by mutual trust, respect and courtesy. Close personal familiarity should be avoided.

2. Roles of Councillors and Council Staff

- 2.1. Councillors and Council Staff are servants of the public and they are indispensable to each other, but their responsibilities are distinct. The respective roles of Councillors and employees can be summarised as follows:
- 2.2. Councillors are responsible to the electorate and serve only so long as their term of office lasts.
- 2.3. The Town Clerk and Deputy Clerk are responsible to the Council as a body. Their job is to give advice to Councillors and to the Council, and to carry out the Council's work under the direction and control of the Council and its relevant committees.
- 2.4. **Councillors** - have four main areas of responsibility:
 - To determine Council policy and provide community leadership;
 - To monitor and review Council performance in delivering services;
 - To represent the council externally; and
 - To act as advocates for their constituents.
- 2.5. All Councillors have the same rights and obligations in their relationship with the Town Clerk and other employees, regardless of their status or political party, and should be treated equally.
- 2.6. Councillors should not involve themselves in the day to day running of the Council. This is the Town Clerk's responsibility, and the Town Clerk will be acting on instructions from the Council or its Committees, within an agreed job description.
- 2.7. **Chairs and Vice-Chairs of Committees** - have additional responsibilities. These responsibilities mean that their relationships with employees may be different

and more complex than those of other Councillors. However, they must still respect the impartiality of Officers and must not ask them to undertake work of a party-political nature, or to do anything which would prejudice their impartiality.

- 2.8. The role of **Officers** is to give advice and information to Councillors and to implement the policies determined by the Council.
- 2.9. In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express their own professional views and recommendations. An Officer may report the views of individual Councillors on an issue, but the recommendation should be the Officer's own. If a Councillor wishes to express a contrary view, they should not pressurise the officer to make a recommendation contrary to the officer's professional view, nor victimise an officer for discharging their responsibilities.

3. Expectations

- 3.1. All Councillors can expect:
- A commitment from Officers to the Council as a whole, and not to any individual Councillor, group of Councillor's or political group;
 - A working partnership;
 - Officers to understand and support respective roles, workloads and pressures;
 - A timely response from Officers to enquiries and complaints;
 - Officer's professional advice, not influenced by political views or personal preferences;
 - Regular, up to date, information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities or positions that they hold;
 - Officers to be aware of and sensitive to the public and political environment locally;
 - Respect, courtesy, integrity and appropriate confidentiality from Officers;
 - Training and development opportunities to help them carry out their role effectively;
 - Not to have personal issues raised with them by Officers outside the council's agreed procedures;
 - That Officers will not use their contact with Councillors to advance their personal interests or to influence decisions improperly;
 - That Officers will at all times comply with the relevant code of conduct.

3.2. Officers can expect from Councillors:

- a working partnership;
- an understanding of, and support for, respective roles, workloads and pressures;
- leadership and direction;
- respect, courtesy, integrity and appropriate confidentiality;
- not to be bullied or to be put under undue pressure;
- that Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- that Councillors will at all times comply with the council's adopted Code of Conduct.

4. Some General Principles

- 4.1. Close personal relationships between Councillors and Officers can confuse their separate roles and get in the way of the proper conduct of Council business, not least by creating a perception in others that a particular Councillor or Officer is getting preferential treatment.
- 4.2. Special relationships with particular individuals or party-political groups should be avoided as it can create suspicion that an employee favours that Councillor or political group above others.

Protocol first adopted by Whitby Town Council on 4 May 2010

T. Protocol on Bullying & Harassment

1. Introduction

- 1.1. Analysis of complaints lodged to the Standards Board for England indicates that there is a significant problem of bullying and harassment occurring at parish level between Councillors and Officers
- 1.2. "Lack of respect for others" is a breach of the Code of Conduct. The Standards Board for England regards complaints of bullying and harassment extremely seriously.
- 1.3. Adhering to this Policy should help to ensure that Councillors and Officers and Officers and Councillors operate in an environment of mutual trust and respect.

2. Background

- 2.1. The relationship between Councillors and Officers is an essential ingredient that should contribute to the successful working of Whitby Town Council. This relationship should be characterised by mutual respect and trust. Councillors and Officers must feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. Objective criticism is usually acceptable but can be unacceptable if the criticism becomes personal. The Protocol gives guidance on what to do on the occasions when things go wrong.
- 2.2. Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace.

3. What Is Bullying and Harassment?

- 3.1. Examples and definitions of what may be considered bullying and harassment are provided below for guidance. For practical purposes those making a complaint usually define what they mean by bullying or harassment – something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain they are being bullied or harassed, then they have a grievance that must be dealt with regardless of whether or not their complaint accords with a standard definition.

4. Recognising Bullying and Harassment

- 4.1. There are many definitions of bullying and harassment. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means to undermine, humiliate, denigrate or injure the recipient.
- 4.2. Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual,

and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

4.3. Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment, but it is sometimes the “grey” areas that cause most problems. Examples of what is unacceptable behaviour include:

- Inappropriate behaviour
- Intimidation/humiliation
- Excessive criticism
- Autocratic/dictatorial behaviour
- Shouting
- Browbeating
- Haranguing
- Swearing
- Ridiculing
- Expressions of intolerance
- General discourtesy.

4.4. Bullying and harassment are not necessarily face-to-face; they may be by written communications, e-mail, telephone or comments made to a third party.

5. Why Does the Council Need to Act on Bullying and Harassment?

- 5.1. There is an implied term of mutual trust and confidence in every contract of employment. Where the Council is aware of a situation of bullying or harassment of an employee by one of its Councillors or a fellow employee, but fails to act to stop it, it will be in breach of that implied term of employment contract and may be held liable for the constructive dismissal of that employee.
- 5.2. It is in every employer’s interest to promote a safe, healthy and fair environment in which people can work.
- 5.3. The Council's duty of care to its employees relates to all forms of personal injury, which will include mental as well as physical health. If a risk to health was foreseeable but no action was taken, then the Council could be at fault and compensation could be sought.

6. The Councillors' Code of Conduct

- 6.1. Councillors are obliged by paragraph 2 of their Code of Conduct to:
- “Promote equality by not discriminating unlawfully against any person;”
 - “Treat others with respect;” and
 - “Not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.”
- 6.2. All of these obligations are also relevant to the Town Clerk and their staff.
- 6.3. The Standards Board for England has indicated that it regards such allegations of bullying or harassment very seriously. A proven allegation of bullying or harassment will always be a breach of the Code of Conduct.
- 6.4. If there are instances of bullying or harassment by Councillors towards Officers or other Councillors, then it is the duty of those Councillors who are aware of the incident to report it to the local Standards Committee. It is also open to Officers either who are the subjects of bullying or harassment by Councillors or who witness such an incident to report it to the local Standards Committee.
- 6.5. If Councillors or Officers do witness incidents of bullying or harassment by Councillors, they should report the matter to the local Standards Committee, or if unsure what to do or how to report the matter, they should seek the advice of the Monitoring Officer at North Yorkshire Council.

7. Employees

- 7.1. If an employee is being bullied or harassed by a fellow employee, they should report it to the Town Clerk. In the Town Clerk's case, a report should be made to an appropriate Councillor – usually either the Mayor or the Chair of the Human Resources Committee.

8. Grievances

- 8.1. An employee should consider making full use of the Council's grievance procedure if matters are not resolved.

Protocol first adopted by Whitby Town Council on 4 May 2010

U. Protocol on Gifts and Hospitality

1. Introduction

- 1.1. This protocol provides rules and guidance for Councillors of Whitby Town Council.

2. General Caution

- 2.1. Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally which may possibly be perceived to be in connection with your position as a Councillor.
- 2.2. Your personal reputation and that of Whitby Town Council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.
- 2.3. The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived.
- 2.4. No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This Protocol offers general principles to enable you to make your own decision.

3. Criminal Law

- 3.1. It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving Whitby Town Council.
- 3.2. The onus would be on you to disprove corruption in relation to a gift from a person holding or seeking to obtain a contract from Whitby Town Council.

4. Limits of Guidance

- 4.1. This Protocol does not apply to:
- Gifts and hospitality you may receive from family and friends (as birthday or other festival presents) that are not related to your position as a Councillor. You should however question any such gift or hospitality offered from an unusual source
 - The acceptance of facilities or hospitality provided to you by Whitby Town Council
 - Gifts given to Whitby Town Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally

5. Meaning of Gifts and Hospitality

5.1. The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible.

5.2. Gifts and hospitality include:

- The free gift of any goods or services
- The opportunity to acquire any goods or services at a discount or at terms not available to the general public
- The opportunity to obtain goods or services not available to the general public
- The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event
- The use of a free car

5.3. Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books, flowers and bouquets. You should however be cautious when purchasing anything, when additional services, privileges or advantages are offered, which might be related to your position as a Councillor of Whitby Town Council.

6. Appropriate Gifts and Hospitality

6.1. There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a Councillor.

- Civic hospitality provided by another public authority
- Normal and modest refreshment in connection with any meeting in the course of your work as a Councillor (e.g. tea, coffee and other normal beverages and biscuits)
- Tickets for sporting, cultural and entertainment events that are sponsored or promoted by Whitby Town Council or bodies to which you have been appointed by Whitby Town Council, and the tickets are offered in relation to that sponsorship or promotion
- Small low value gifts (below £25.00 such as pens, calendars, diaries, flowers and other mementos and tokens)
- Drinks or other modest refreshment in the normal course of socialising arising consequentially from Town Council business (e.g. inclusion in a round of drinks after a meeting)
- Modest meals provided as a matter of courtesy in the office or meeting place of a person with whom Whitby Town Council has a business connection

- Souvenirs and gifts from other public bodies intended as personal gifts (e.g. arising from twin-town and other civic events)

7. Principles To Apply in Relation to Gifts and Hospitality

7.1. In deciding whether it is appropriate to accept any gift or hospitality you must apply the following principles:

- a) Do not accept a gift or hospitality as an inducement or reward for anything you do as a Councillor. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you must decline it
- b) "Reward" includes remuneration, reimbursement and fee
- c) Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances
- d) Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
 - From parties involved with Whitby Town Council in a competitive tendering or other procurement process
 - From applicants for planning permission and other applications for licences, consents and approvals in which Whitby Town Council has an involvement
 - From applicants for grants, including voluntary bodies and other organisations applying for public funding from Whitby Town Council
 - From parties in legal proceedings with Whitby Town Council

7.2. Do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.

7.3. Do not solicit any gift or hospitality and avoid giving any perception of so doing.

8. Gifts Received and Donated to A Mayor's Appeal

8.1. Councillors are recommended on receiving gifts of value (where to decline may cause offence) to pass them to the Town Mayor in relation to a charity appeal rather than retain them personally.

8.2. Councillors should indicate this intention to the provider and make this clear on the registration form.

9. Registration of Gifts and Hospitality

9.1. A member must, within 28 days of receiving any gift or hospitality over the value of £25.00, provide written notification to the Monitoring Officer at North Yorkshire Council of the existence and nature of that gift or hospitality.

- 9.2. Whilst the notification requirement in the code is limited to gifts or hospitality over the value of £25.00, members are encouraged to give notification of any significant gift or hospitality they receive.
- 9.3. Members must complete the gifts and hospitality registration form for all notifications.

10. Reporting of Inappropriate Gifts and Hospitality Offered

- 10.1. It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of Whitby Town Council.
- 10.2. You must immediately report to the Monitoring Officer at North Yorkshire Council any circumstances where an inappropriate gift or hospitality has been offered to you.
- 10.3. You may thereafter be required to assist the Police in providing evidence.

Protocol first adopted by Whitby Town Council on 4 May 2010

V. Councillor Integrity in Planning Matters

1. Introduction

- 1.1. Under the relevant planning legislation, Whitby Town Council is entitled to be notified of every planning application unless they have waived the requirement. North Yorkshire Council has to inform the Town Council in writing of the application, indicating the nature of the development and identifying the land to which it relates. If the Town Council wishes to make any representations it must do so within 14 days of the notification to them. However, there is often some latitude in complying with this deadline.
- 1.2. Many of the complaints considered by the local Standards Committee relate to members' involvement in planning applications and it is very important, therefore, that members are scrupulous in their adherence to the Code of Conduct, for example in declaring personal interests (paragraphs 7 and 8 of the model code); leaving the room if the interest is prejudicial (paragraph 9) and not using their position as a member to improperly confer on themselves or any other person, an advantage or disadvantage (paragraph 5).
- 1.3. In accordance with Whitby Town Council Standing Orders and Policy on Public Participation, councillors who have declared prejudicial interests on items on the agenda, may exercise their right to speak "as a member of the public," during the public session, subject to the pre-registration priorities and time availability. Councillors should move away from the council area and stand in the public area when exercising the right to speak as a member of the public and must, thereafter, leave the room while the Committee considers its recommendation.

2. The Key Purpose of Planning

- 2.1. This is to control development in the public interest. North Yorkshire Council, as the local planning authority, takes decisions on behalf of the whole community – Whitby Town Council is a consultee and has no other statutory role in the development control process.

3. Decision Making

- 3.1. North Yorkshire Council must make decisions openly, fairly, with sound judgement and for justifiable planning reasons. It can consider applications on planning grounds only. The Adopted Local Plan is an important consideration and, in addition to the Local Plan, North Yorkshire Council must consider what are known as "material planning considerations." Examples of these are the number, size and layout of a development, siting, design, external appearance, access, infrastructure, landscaping and impact on the neighbourhood.

- 3.2. Views of local residents are always considered, but local opposition or support on its own is not a reason for refusing or granting planning permission. Opposition or support must be backed up by valid planning reasons.
- 3.3. The Government regularly issues Statements of Planning Policy, and these are known as Planning Policy Statements (PPSs). These are also material planning considerations and North Yorkshire Council must take them into account when reaching planning decisions.
- 3.4. In addition to the PPSs, Government policies and advice are also provided in circulars, technical documents and ministerial statements. North Yorkshire Council must also consider these.
- 3.5. Many planning applications become the subject of court proceedings. North Yorkshire Council must take the courts' decisions into account, as they are also material planning considerations.
- 3.6. Listed below are examples of other issues that North Yorkshire Council can and cannot consider. This list does not show everything; it is meant as a guide to help the Town Council when preparing its observations on an application
- 3.7. Issues the local planning authority can normally consider
 - Overshadowing
 - Overlooking and loss of privacy
 - Adequate parking and servicing
 - Overbearing nature of proposal
 - Loss of trees
 - Loss of ecological habitats
 - Design and appearance
 - Layout and density of buildings
 - Effect on listed building(s) and conservation areas
 - Access and highways safety
 - Traffic generation
 - Planning history
 - Over-development
 - Noise and disturbance from the scheme
 - Disturbance from smells
 - Public visual amenity (not loss of private individual's view)
 - Flood risk
- 3.8. Issues the local planning authority cannot normally consider

- Loss of value to private individual property
- Loss of view
- Boundary disputes including encroachment of foundations or gutters
- Private covenants or agreements
- The applicant's personal conduct or history
- The applicant's motives
- Potential profit for the applicant or from the application
- Private rights to light
- Private rights of way
- Damage to property
- Disruption during any construction phase
- Loss of trade and competitors
- Age, health, status, background and work patterns of objector
- Time taken to do the work
- Capacity of private drains
- Building and structural techniques

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