

Sytchampton Endowed Primary School

Staff Code of Conduct

Signed by:

Headteacher

Date:

Chair of Governors

Date:

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1.9.24	Cath Brogan	Whole Policy	Replaced with latest Worcestershire County Council Policy

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1. Introduction

This Code describes the standards of conduct and behaviour expected from our staff and any staff seconded or engaged from other organisations to undertake work within Worcestershire schools. It also highlights some types of behaviour or conduct which might be considered incompatible with being a school employee. It is intended to help you by describing the standards expected of you and has been approved by Worcestershire County Council following consultation with the appropriate Trade Unions. Please take time to read it and ensure your conduct meets these requirements. If you are at all uncertain about what is expected, please seek further clarification from your Headteacher or Line Manager so that you do not unwittingly contravene this Code or otherwise act against the school or County Council's interests.

Contravening or failing to act within the spirit of the Code or behaving in a manner which could bring the good name of the school or County Council into disrepute, whether or not within the workplace or working time, might be seen as a breach of discipline and could lead to action being taken against you under the appropriate procedure.

While workers who are not employees of the school or County Council are expected to comply with the spirit of the Code, any action that may be taken in response to a breach will depend on the precise nature of their working relationship with the County Council.

This code relates to all staff working for Worcestershire County Council. Teachers must be aware that there are also published *Teachers' Standards* (DfE 2012) and are advised to familiarise themselves with the requirements of these.

2. Guiding principles

As a school employee, you should put the well-being, development and progress of children and young people first. You should recognise that you are in a position to influence children and young people through your slightest actions, comments or behaviour.

To the public you are a representative of the school. You are expected to maintain the highest standards of professional competence, knowledge, integrity, confidentiality, financial propriety and personal conduct. Contact with all members of the school community, including parents and outside visitors, should be courteous, efficient and impartial to all groups and individuals. You must also familiarise yourself with and adhere to any rules or codes of conduct or policies relating to your particular school and role and you should comply with all reasonable requirements or instructions from the Headteacher.

It is not appropriate for you when working within your role as an employee to oppose the stated aims and policies of the school or County Council or to undermine the performance of its duties and responsibilities. It is important for all employees to present a unified image to the public.

You should ensure that your relationships with your fellow employees and with pupils are always conducted in a professional and courteous manner; you should not censure other colleagues or criticise their work in the hearing of a pupil or parent/carer. It is not acceptable to use sarcasm or make jokes at the expense of pupils, embarrass or humiliate pupils, or discriminate against or favour pupils. It is also not acceptable to discuss personal or sexual issues with pupils outside of agreed curriculum parameters.

It is not acceptable for you to publicly criticise or blame school management, colleagues or the County Council through any medium including internet 'blogs', websites or social networking tools such as Facebook or Twitter and you must be aware that the laws governing defamation, breach of copyright, etc. apply equally to on-line as to other forms of communications. Offensive, defamatory, discriminatory or otherwise inappropriate comments will not be tolerated and may constitute a disciplinary and/or criminal offence, as could the disclosure/publication of any confidential or personal information about the school, its staff, pupils or other members of the school community.

It is incumbent on you to ensure that you are aware of and comply with any relevant rules and instructions which pertain to your particular job, including the Teachers' Standards, Keeping Children Safe in Education, financial instructions etc. The Code cannot cover every situation but will be subject to reasonable interpretation. Any disagreement involving the interpretation or application of the Code as it applies to you should be discussed with your Headteacher or Line Manager in the first instance. However, if you feel the Code is being applied unreasonably you may be able to seek redress through the school's Grievance Procedure.

3. Staff/Student Relationships

You are expected to treat pupils with dignity and fairness, building relationships rooted in mutual respect and at all times observing proper boundaries appropriate to a person in a position of trust. You should comply with safe working practices, outlined in the guidance document "Safe Working Practice for Staff Working in Education Settings (September 2015)".

You must not communicate personally with students via email, mobile phone or internet other than on school-related matters in line with school policy

You must not arrange to meet students outside of the school day or off the school site at any time without the express permission of the Headteacher.

Any physical contact with pupils should be in accordance with any agreed school procedures, such as the intimate care policy or positive physical intervention. Any inappropriate physical contact, such as tickling, rough play, cuddling or sitting a child on your lap may be viewed as misconduct and lead to disciplinary procedures, dependant on circumstances.

4. Personal Interests (see also notes 1 and 2 below)

The interests of the school or the way you do your job must not be influenced by personal interests or those of relatives, friends or membership of external organisations or societies. There should be no grounds for suspicion that you are using your position with or knowledge of the school for personal gain or that you could be influenced by improper motives. If you belong to outside organisations, including voluntary organisations, there must be no conflict with your job or other school or County Council interests. You should advise your Headteacher or Line Manager in writing about anything which could give this impression.

For Headteachers and other staff who have responsibility for placing orders and school expenditure, please see more detailed guidance in Section 20.

5. Private work

School or Council premises, equipment, working time or other resources must not be used to undertake private work.

The school needs to be aware if its employees undertake private work or voluntary activities in their own time to ensure that there is no conflict of interests with the school and to meet its obligations under Health and Safety legislation. Therefore, to protect yourself, the school and the Council from potential criticism you should not put yourself in a position where there is an actual or perceived conflict of interests. You should be aware that outside work or activity, whether or not you receive payment, could reduce your ability to safely and effectively carry out your employment with the school or County Council, e.g. through tiredness, and would be considered unacceptable.

You must advise your Line Manager before engaging in any other work especially if it could reasonably be seen to conflict with your employment with the school or lead to misunderstanding or criticism (for example, private tutoring of students from your school).

You must not undertake private work for any individual, organisation, department or establishment which otherwise would be undertaken as part of your normal duties. Any charge raised as a result of undertaking work within another school or other establishment whilst in your normal working hours should be paid to your employing school.

You must not undertake private work when on sick leave without the express knowledge and prior written approval of your Headteacher and subject to appropriate medical advice.

You must not undertake private work for any Worcestershire County Council school or establishment during a period of paid leave or suspension.

6. Expressing concern about irregularities and tackling malpractice

If you feel there is something seriously wrong at work please tell an appropriate person as a 'voice of concern'. It might be, for example, the conduct of another employee, the way a contractor is behaving, a work practice, something that is endangering the safety of pupils or staff. You might be the first to notice it and your intervention could stop things getting worse.

No matter how reticent you may feel, you should raise any serious concern - e.g. a suspicion of fraud or corruption or reasonable belief that a child or adult's health, safety or well-being are in danger - with your Headteacher so that potentially serious problems or malpractice can be addressed without undue delay. If this is not appropriate, then you should contact either the Chair of Governors or HR Consultancy for Schools. If the matter relates to fraudulent activity, you may inform the Audit Division. If you do raise a genuine concern in good faith all reasonable steps will be taken to respect your confidence and protect you from possible reprisals (see Confidential Reporting (Whistleblowing) Policy).

The school and County Council take this issue very seriously and will investigate and address any problems genuinely raised. However, any frivolous, malicious or mischievous use of the Confidential Reporting Policy will be treated as a serious disciplinary matter.

7. Copyright

You should be aware that 'intellectual property' such as software, ideas, documents, etc. created during your employment belongs to the school. All files, materials, the media upon which they are located and all software programmes or packages which are utilised or developed solely for or in connection with your job remain the property of the school.

8. Confidentiality

The County Council is committed to open government and, in law, certain information must be made available to councillors, government departments, service users and the public. However, you must make sure you know whether information is 'public' or confidential and treat it accordingly.

You may sometimes acquire information at work which has not been made public or is confidential. Examples include information about a pupil or family, a colleague, information on tenders or costs, the proceedings of confidential meetings.

You must ensure that sensitive and/or confidential information is properly secured and safeguarded at all times especially if being transported in paper or electronic formats. Particular care must be taken with information stored on portable electronic media such as

laptops and memory devices which are often targeted for theft due to their high intrinsic value.

Confidential information which comes into your possession must not be used for personal benefit or divulged to other parties except in the proper course of duty, for example to other professionals working with the same child. If you have any doubt whether or not disclosure is appropriate, you must check with your Headteacher, DSL or Line Manager before releasing confidential information.

Some information can be extremely valuable in business and commerce and its publication loss or misuse could seriously disadvantage the school or County Council and its employees. Therefore, it is important that you do not, deliberately or inadvertently, pass on information, including software, during or after your employment with the school, to anyone who has no right to receive it. You must not discuss, disclose, publicise or use such information for your own or anyone else's personal interest or advantage.

You must decline any approaches or offers made asking for information which could be detrimental to, or help others to gain a contract, grant or any other advantage from the school or County Council and/or its employees, e.g. a potential contractor could offer a financial reward for information leading to the award of a major contract. Approaches or offers of this kind must be declared to your Headteacher without delay.

You must not criticise the school, its policies or staff in open media such as internet 'blogs', websites, social networking sites, etc. where it may be seen by parents, children or others in the school community.

9. Contact with the media

Unless you are properly authorised to speak with, write or give interviews to the media you should refer any enquiries from the media on work related matters to your Headteacher. Advice is available to school through the County Council's Communications Unit.

10. Information Technology, Social Media and Data Protection

Everyone using computing equipment has a duty of care to use it according to prescribed arrangements, e.g. to avoid introducing computer viruses, to comply with the Data Protection Act, General Data Protection Regulations and to safeguard and ensure the security of information.

You must familiarise yourself with the schools' ICT policies, including use of the internet. In particular, all use of the internet and email facilities must be authorised, legal, appropriate and in accordance with the provisions of the school policies. Personal use of any facilities – including laptops – must be authorised and only undertaken at times deemed appropriate by your Headteacher.

Users shall not use the internet or email for the following:

- to knowingly break the law
- to fail to comply with existing school or County Council policy
- to compromise the integrity of any network or system
- to access, display or transmit any kind of sexually explicit material or any offensive or discriminatory material of any kind
- to make unauthorised contact with outside bodies
- to download software or play games
- to bet or gamble
- to disclose private or confidential information.

Failure to comply with the policies in force or any unauthorised use of such facilities will be dealt with in accordance with relevant disciplinary procedure.

Employees should also take account of policies on cyber bullying.

Employees should also be aware when they are using personal IT equipment for undertaking school related business that the same rules apply. Please refer to your Headteacher for a copy of your school's full policy on appropriate use of IT.

You must not photograph pupils using your own photographic equipment or mobile phone.

You should not use social media in any way that might bring your professional status or your school into disrepute or undermine the policies or ethos of the school. You must not share confidential information or mention specific students or members of staff on a social media site. You should not accept pupils as 'friends' or 'followers' and should not 'follow' or have any personal connections with pupils on any social media or other internet sites. If you are a 'friend' of a parent of a pupil at your school, you should be particularly careful not to share information about pupils, staff or working practices. You should ensure that full privacy settings are applied to all your social media accounts.

11. Gifts, inducements, hospitality and sponsorship (see also notes 1 and 2 below)

You must not accept any commission, discount, allowance, direct or indirect profit, inducement, payment, perk or benefit in connection with any professional work undertaken, other than any fee recoverable on behalf of the school or County Council.

Minor gifts and hospitality are sometimes part of the normal courtesies of life: the parent of a pupil may offer a modest gift, especially at Christmas or as a token of appreciation, and in an office situation simple items such as diaries and calendars are often distributed as advertising matter. As a guideline, any gift or hospitality with a value of £25.00 or more is

highly unlikely to be viewed as a 'token'. With the exception of these 'tokens' and any special schemes (e.g. travel or discount schemes) arranged by the County Council, all gifts, vouchers, fees, special discounts, rewards or preferential treatment must be refused. Collection of reward card points such as Nectar and Clubcard on a personal account in respect of school or council purchases is a benefit in kind which should be reported to HMRC and subjected to deduction of Income Tax. In situations where refusal of a gift is difficult or might offend you must inform your Headteacher or Line Manager who will decide on the appropriate action.

Where an outside organisation wishes to sponsor any activity or make a donation to the school, the basic principles relating to personal interests and the acceptance of gifts or hospitality apply.

You must not give gifts to particular pupils other than as part of an agreed reward strategy or given to all pupils equally, with the knowledge and permission of your Headteacher or Line Manager.

12. Use of School / Council resources and equipment

Facilities, equipment, vehicles, materials and other resources provided by the school or County Council for use in your work must not be used for any other purpose without permission or appropriate payment, e.g. photocopying, private telephone calls. Mobile telephones are provided exclusively for business use and must not be used to make private calls. In this context a call 'home' to advise that you have been unavoidably delayed because of work would not be considered a private call.

13. Transporting Pupils

Any school policy on transporting pupils should be adhered to at all times. Circumstances where it is appropriate to transport pupils, e.g. for sports' matches, should always take place with the full knowledge and consent of the Headteacher and the pupils' parents/carers.

Any legal requirements must be adhered to, such as ensuring the vehicle is roadworthy, business insurance is in place, seat belts are worn, car seats are used for younger children and the maximum capacity is not exceeded.

Wherever possible, there should always be at least one adult additional to the driver as an escort and children should be seated in the back of the vehicle.

It is inappropriate for adults to offer lifts to pupils outside their normal working duties, unless this has been previously arranged with the parent/carer and the Headteacher is aware of the arrangement.

14.Overseas travel on official business

Any proposal to travel overseas on official business must be approved by the Governing Body before the travel takes place.

15.Equality issues

All members of the community, including pupils, families and other employees have a right to be treated fairly and with dignity. You must make yourself aware of and comply with the school's Equality and Diversity Policies and procedures.

16.Political neutrality / extremism

All staff have a responsibility to ensure that they act appropriately in terms of their behaviour, the views they express (in particular political views) and the use of school resources at all times.

You must follow the school guidance and must not allow your own personal / political opinions to influence your work. In particular, you must not behave or act in any way that undermines fundamental British Values as defined within the Counter-Terrorism and Security Act 2015 as *democracy; the rule of law; individual liberty; mutual respect; tolerance of different faiths and beliefs.*

You must not express radical or extremist views; promote or permit the voicing of views or incitement of any action in support of extremism, terrorism, radicalisation or any prohibited organisations.

17.Standards of appearance

The County Council does not impose particular dress standards, but staff are expected to present a reasonable and professional appearance and to dress appropriately to the circumstances within their working environment, bearing in mind that you are working with children and young people. If your school has a 'dress' code/policy, you should adhere to it. Dress should not be offensive, revealing or sexually provocative and should not display political or other contentious slogans.

Where uniform or protective clothing is issued it must be worn as required when at work or representing the school. When wearing uniform or other items which identify you as an employee of the school you must maintain appropriate standards of conduct whether or not on duty, e.g. when travelling to and from work.

18.Relatives and close personal relationships within the workplace

In order to avoid any possible accusation of bias you should endeavour not be directly involved in the appointment, promotion, discipline or other employment decision relating to another employee to whom you are related or with whom you have a close personal relationship. If a situation arises in which you feel you may be in such a position, please seek the advice of Human Resources.

If you work in close proximity with other employees or pupils to whom you are related or have a close personal connection you must maintain a strictly professional relationship at work. You should also be aware that if any relationship leads to disruption in the workplace, unacceptable conduct or performance or situations involving undue favouritism or detriment, action will be taken under the appropriate procedure which could lead to you being redeployed or your contract terminated.

19.Smoke free environment

All County Council buildings, workplaces and vehicles are smoke free areas. Since July 2007, it has been against the law to smoke in workplaces; failure to comply is a criminal offence.

20.Drugs and alcohol

Employees must not take drugs, alcohol or any other substance before work, during a break or at lunch time that is capable of causing their behaviour, judgement or performance at work to be affected. This is particularly important for employees who drive, operate machinery, have responsibility for vulnerable adults or children, and who come into contact with members of the public and/or visitors. (N.B. It is equally inappropriate for those working in close proximity to children and vulnerable adults to have alcohol on their breath even though this may not amount to drunkenness.)

21.Health and Safety

Unsafe working can endanger you, your colleagues, pupils and members of the public. You must familiarise yourself with the school's Health and Safety Policy and guidelines for your particular work. Please speak to your Headteacher for further information. You must follow the rules, codes and safe practices they describe including reporting any accidents, incidents or near misses you have at work.

22.Essential training

You are expected to make every effort to comply with reasonable requests to attend training which is a statutory requirement or essential for your role.

23.Criminal charges, cautions and convictions

You must advise your Headteacher immediately if you are charged with or cautioned or convicted of any criminal offence whilst you are an employee of the school or County Council. While such proceedings will not necessarily affect your employment, the school and Council needs to be sure there are no implications for the school, its reputation, the safety of children or in relation to the role you undertake.

You must also advise your Headteacher immediately if you have been arrested or appeared in court and released on bail in circumstances where bail conditions have been applied which could have consequences for your work, e.g. you are constrained from having contact with children. If you are in any doubt about whether you should report bail conditions, especially where safeguarding could be an issue, you must discuss it with your Headteacher so that any concerns can be addressed from the outset. Failure to report such conditions would be considered as serious misconduct and could potentially lead to breach of bail.

24.Specific standards for staff with responsibility for expenditure

- **Personal interests:**

The interests of the school and County Council must not be undermined by personal interests. The way you do your job must not be influenced by personal interests or those of relatives, friends or membership of external organisations or societies. There should be no grounds for suspicion that you are using your position with or knowledge of the school or County Council for personal gain or that you could be influenced by improper motives. If you belong to outside organisations, including voluntary organisations, there must be no conflict with your job or other school or County Council interests.

All orders, contracts and grants must be awarded on merit following fair competition. No favour should be shown because of personal interests and no part of the community should be discriminated against.

You must advise your Line Manager in writing about anything which could give the impression that you may be acting for personal gain, financial or otherwise, or in the interests of another person or organisation; or you are involved as an employee in matters which might reasonably be regarded as affecting the well-being or financial position of yourself, your spouse, partner, relative, a close friend or any person with whom you have a close association, e.g. if any of those persons

- hold an office or employment with
- have any connection or influence with
- have any financial interest in

any company or organisation doing or seeking to do business with or requesting grants or other funding from the school or County Council.

You should avoid being involved as an employee in matters which might reasonably be regarded as affecting the well-being or financial position of yourself (or the persons, companies or organisations referred to above) so significant that it is likely to prejudice your judgment of the school/County Council or public interest. (N.B. Holding shares in a company with which you know the County Council is likely to be dealing, or acting as an agent for them, could be regarded as a financial interest.)

You must advise your Headteacher who will notify the Head of Legal & Democratic Services in writing of any direct or indirect pecuniary interest in a contract or proposed contract with the County Council as soon as practicable after becoming aware of it so that it can be recorded in the 'Register of Officers' Interests'. Failure to do so may be a criminal offence as well as a disciplinary matter.

You must advise your Line Manager of any personal dealings of a business or private nature with existing or potential suppliers, consultants or contractors who you know (or could reasonably be expected to know) to have dealings with the school or County Council.

If you engage or supervise contractors or consultants on behalf of the school or have any other official relationship with them you must advise your Line Manager, prior to any contractual relationship beginning or work being undertaken, if you have or intend to have any private or domestic relationship with them or any of their employees.

- **Gifts, inducements, hospitality and sponsorship:**

(see also notes 1 and 2 below)

See information in 11.2 regarding the acceptance of gifts. As a guideline, a gift with a value of more than £25 is unlikely to be seen as only a 'token', so needs to be referred to your Headteacher or Line Manager.

Offers of hospitality, even if of a seemingly minor nature, must be treated with particular caution as they can leave both individuals and the school or County Council open to all manner of allegations of impropriety. The timing of offers of hospitality, e.g. in relation to purchasing, the award of contracts, granting of applications or other decisions, should be considered equally to the generosity of the hospitality offered. Accepting hospitality must be justified in the public interest, e.g. when there is a genuine need to represent the school or County Council. You must inform your Headteacher or Line Manager of an invitation or offer of hospitality before it is accepted.

- **Personal purchases:**

You should be aware of possible conflicts of interest when you buy goods or use the services of firms which have dealings with the school and follow any school procedures relating to the disclosure of any such transactions. You should neither seek, because of your position, nor accept, because of an organisation's dealings with the school, preferential rates,

reductions or any other favourable treatment in the purchase of goods and services. This does not apply to generally available schemes or discount schemes arranged by the County Council for all staff.

- **Procurement of goods and services and disposal of County Council property:** (see also note 2 below)

Procurement procedures must be strictly adhered to and you must not accept any inducement or preferential treatment if you are responsible for procuring goods or services for the school or disposing of surplus property.

In addition, staff should always be in a position to demonstrate that 'Best Value' has been sought and achieved. Detailed guidance on procurement and tendering is set out in the council's Financial Regulations and Procurement Code.

25. Conduct and Performance

Unacceptable behaviour and/or failure to maintain satisfactory standards of conduct or performance will lead to action being taken against you under the appropriate procedure. This includes specifically the failure to behave at all times in accordance with the school's and County Council's stated values.

You must ensure you understand the requirements of this Code of Conduct, the Safe Working Practice for Staff guidance and any terms and conditions, rules, standards and requirements that apply to you and your job (see also note 2 below). Any of the examples of unacceptable behaviour listed below may be considered as misconduct or gross misconduct depending on the relevance to your role, your seniority, the seriousness of the act and particular circumstances. Those underlined normally will be considered as gross misconduct. The list is not exhaustive and other unacceptable behaviour not specifically listed nevertheless may be considered as misconduct or gross misconduct:

- (a) any form of unjustifiable discrimination, harassment, threatening or bullying behaviour, e.g. on the grounds of race, sex/gender, sexual orientation, marital status, disability, age, religion or belief; whether or not the subject of current legislation;
- (b) any physical, emotional or sexual abuse of a child or other vulnerable person
- (c) possession, displaying, viewing or downloading of offensive or extremist materials, playing or downloading games, accessing 'unacceptable' websites, e.g. websites of a sexual nature, gambling, betting or gaming, in the workplace or via any portable device, e.g. laptop, mass storage, which is the property of the school or County Council and has been provided in connection with the postholder's work;

- (d) undertaking private activities during working hours;
- (e) unpunctuality, misuse of time and time recording, unauthorised absence from work;
- (f) refusing to comply with reasonable orders and instructions;
- (g) deliberately causing damage to school or council property;
- (h) harming or endangering other persons or property, e.g. by contravening safety rules, including any measures in place as part of a pandemic;
- (i) neglect of duty/lack of due care or diligence, disruptive behaviour, poor attitude;
- (j) fighting, threatening or actual violence towards, physical assault or abuse of another person whilst at work (NOTE: this does not include reasonable physical restraint necessarily carried out in the course of duty);
- (k) theft, unauthorised removal, misappropriation, improper or unauthorised use of school or council property, systems (including telephones, IT, email and internet), vehicles, equipment, name or other resources. This may include loss by failing to properly secure or safeguard;
- (l) failure to report criminal convictions, particularly those which may be relevant to the type of work undertaken, e.g. driving convictions where the work necessitates driving on school business, indecent assault where working with children or vulnerable adults;
- (m) fraudulent or misleading practices and/or omissions in connection with official duties, e.g. deliberately falsifying school or council documents, reports, etc.;
- (n) fraudulent or false claims for payment of salary, expenses and/or allowances, etc. or seeking financial gain by deception;
- (o) acts involving bribery or corruption;
- (p) any action for which it would be appropriate for the school or council as an employer to take legal proceedings (irrespective of whether such proceedings are taken);
- (q) sexual misconduct at work;
- (r) wilfully breaching any school or County Council policy or procedure;
- (s) drunkenness, being unable to carry out duties through the influence of any substances including drugs, whether or not prescribed, and alcohol, or for any other

avoidable reason. (N.B. It is equally inappropriate for those hosting visitors or working in close proximity to service users such as children and vulnerable adults to have alcohol on their breath even though this may not amount to drunkenness.);

- (t) possession, buying or selling of weapons, illegal substances or materials at work;
- (u) any breach of trust or security in respect of information or procedures;
- (v) obtaining or attempting to obtain access to any information (including information held or stored by electronic means) to which the employee is not entitled;
- (w) any action which may bring the good name of the school or County Council into disrepute;
- (x) as an employee, public opposition to the stated aims and policies of the school or County Council, criticism or blame of colleagues, council departments or County Councillors through any medium including on-line, such as internet 'blogs', websites, social networking sites, etc.;
- (y) any action unconnected with work which brings in to question your suitability as an employee of the school or County Council;
- (z) failing to report serious misconduct, aiding or inciting another employee to undertake any of the above actions or other act of wrongdoing.

26.Note 1:

Personal interests as set out in paragraph 4 (e.g. in contracts/procurement), other potential conflicts of interest and any offer of gifts and/or hospitality as set out in paragraph 11 or paragraph 24, other than of a minor 'token' nature, are to be notified in writing to your Headteacher who will notify the Head of Legal & Democratic Services who will include them in the Register of Officers' Interests.

27.Note 2:

Under the **Bribery Act 2010** it is a **criminal offence** if a person fails to prevent bribery, bribes another person with the intention of obtaining or retaining a business or a business advantage, or receives a bribe, whether or not unwittingly.