



Epping Forest District Council

STANDARDS COMMITTEE **Thursday, 2nd February, 2012**

Place: Civic Offices, High Street, Epping

Room: Committee Room 1

Time: 7.30 pm

Committee Secretary: G Lunnun (The Office of the Chief Executive)
Tel: 01992 564244 Email: glunnun@eppingforestdc.gov.uk

Members:

R Crone (Independent Member) (Chairman), J Guth (Independent Member) (Vice-Chairman), M Wright (Independent Member), Councillor Mrs A Grigg (District Council Appointee), Councillor A Mitchell MBE (District Council Appointee), Councillor Mrs J H Whitehouse (District Council Appointee)

Parish/Town Council Representative(s):

Councillors Mrs D Borton, Chris Pond and B Surtees

1. APOLOGIES FOR ABSENCE

2. MEMBERSHIP OF THE COMMITTEE

(Monitoring Officer) To welcome new members to the Committee – Councillor Ann Mitchell, MBE (District Council Appointee) and Councillor Chris Pond (Parish/Town Council Representative nominated by the Essex Association of Local Councils – Epping Forest Branch).

3. MINUTES (Pages 5 - 10)

To approve as a correct record the minutes of the meeting held on 18 January 2011 (attached).

4. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

5. LOCALISM ACT 2011 - NEW STANDARDS REGIME (Pages 11 - 64)

To consider the attached report.

6. LOCALISM ACT 2011 - BRIEFING ON NEW STANDARDS REGIME - 11 FEBRUARY 2012

(Deputy Monitoring Officer) Attention is drawn to this course being held in the Council Chamber on 11 February 2012 from 10.00am until 12 noon. The course is suitable for District Councillors, Parish/Town Councillors and Independent Members of the Standards Committee.

It will provide an outline of the statutory provisions and highlight those matters on which the District Council and Parish/Town Councils will have to address in the coming months.

Reference will also be made to the Act's provisions regarding "predetermination" of decisions by members in decision making.

7. INVESTIGATIONS UNDERTAKEN BY THE MONITORING OFFICER AND DEPUTY MONITORING OFFICER FOR OTHER AUTHORITIES

(Monitoring Officer) To receive an oral report on two investigations undertaken for other authorities.

8. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS (Pages 65 - 68)

(Monitoring Officer) To consider the attached schedule showing the current position of active cases.

9. DATES OF FUTURE MEETINGS

(Monitoring Officer) The next scheduled meeting is on 19 April 2012.

The calendar for 2012/13 provides for meetings of the Committee on 28 June 2012, 2 October 2012, 13 December 2012 and 28 March 2013.

Additional meetings can be arranged as and when required by the Committee.

10. EXCLUSION OF PUBLIC AND PRESS

To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the paragraph(s) of Part 1 of Schedule 12A of the Act indicated:

Agenda Item No	Subject	Exempt Information Paragraph Number
11	Allegations made about the Conduct of District and Parish/Town Councillors – Issues Arising	1

To resolve that the press and public be excluded from the meeting during the consideration of the following items which are confidential under Section 100(A)(2)

Agenda Item No	Subject
Nil	Nil

Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

11. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - ISSUES ARISING

(Monitoring Officer) To discuss issues arising, if any, from Sub-Committee meetings held since the last meeting of the Standards Committee.

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EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Standards Committee

Date: 18 January 2011

Place: Committee Room 1, Civic Offices,
High Street, Epping

Time: 7.30 - 9.13 pm

Members Present: R Crone (Independent Member) (Chairman), J Guth (Independent Member) (Vice-Chairman), M Wright (Independent Member), Councillor Mrs A Grigg (EFDC Appointee), Councillor Mrs P Smith (EFDC Appointee), Councillor Mrs J H Whitehouse (EFDC Appointee), Councillor Mrs D Borton (Parish/Town Council Representative), Councillor B Surtees (Parish/Town Council Representative)

**Other
Councillors:**

Apologies:

Officers Present: C O'Boyle (Monitoring Officer), I Willett (Deputy Monitoring Officer), G Lunnun (Allegations Determination Manager), S H Hill (Local Assessments Officer)

24. COUNCILLOR JASON SALTER

It was with much sadness that the Chairman informed the Committee of the death of Parish Councillor Jason Salter.

Members were informed that Jason Salter had been a member of the Stanford Rivers Parish Council and more recently the Abbess, Beauchamp and Berners Roding Parish Council. He had also been one of the town/parish council representatives on the Standards Committee from 2001 until 2007 and from 2009. Jason Salter had also been the Vice-Chairman of the Local Councils' Liaison Committee.

The Committee stood for a minute's silence in tribute to the memory of Parish Councillor Jason Salter.

RESOLVED:

That a letter be sent to the family of Jason Salter expressing the condolences of the Committee.

25. MINUTES

RESOLVED:

That the minutes of the meeting held on 29 September 2010 be taken as read and signed by the Chairman as a correct record.

26. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Parish Councillor Mrs D Borton declared a personal interest in agenda item 6 (Allegations made about the Conduct of District and Parish/Town Councillors) and 9 (Allegations made about the Conduct of District and Parish/Town Councillors – Issues Arising) by virtue of being a member of Nazeing Parish Council and being a party to one of the outstanding allegations. The Councillor advised that she had determined that unless detailed consideration was given to the case in which she was a party her interest was not prejudicial and that she would remain in the meeting for the consideration on the matter.

27. ABOLITION OF STANDARDS FOR ENGLAND REGIME

The Committee was advised that the Localism Bill which included provision for the Abolition of the Standards for England regime had been presented to Parliament.

Attention was drawn to letters received from Bob Neill MP, Parliamentary Under Secretary of State for the Department for Communities and Local Government and Robert Chilton, Chair of Standards for England. Members noted that in addition to the abolition of Standards for England, the First-tier Tribunal (Local Government Standards in England) would lose jurisdiction over member conduct. Also, the intention was to remove the national Code of Conduct for Councillors and the requirement for an authority to have a Standards Committee. An authority would be able to choose whether or not it wished to have a local Code or a Standards Committee which would be an "ordinary committee" of the authority and therefore not need to have independent representation. Any Standards Committee would no longer have the power to suspend a member and a new criminal offence would be created relating to failure to register or declare interests.

The Monitoring Officer and the Deputy Monitoring Officer reported that the current framework would continue in place until such time as the Bill received Royal Assent and the relevant provisions were enacted. This was estimated to be late 2011. In the meantime, Standard Committees would continue to have a legal requirement to operate and, in particular, to continue to consider any allegations.

Members noted that any allegations in the system on the appointed day (anticipated to be two months after the Bill received Royal Assent) being considered by Standards for England would transfer to the local authority that had referred the matter for investigation. The Standards Committee would continue until the last complaint had been dealt with, though the previous right of appeal would not exist for those cases. A Standards Committee retained after the appointed day would only be able to censure a councillor or request that they undertook training. No new allegations under the current regime could be made after the appointed day.

The Committee was advised that it was for the District Council to decide what it should do regarding standards arrangements after the appointed day, apart from the completion of outstanding complaints during the transitional period. The Committee considered the matter with a view to making recommendations to the Council. Members noted that it was still unclear what would happen to certain other issues currently undertaken by the Committee, e.g. dispensations and arrangements in parish and town councils.

RESOLVED:

That a further report be submitted to the Committee when the provisions in the Localism Bill had been enacted to enable recommendations to be made

to the Council regarding standards arrangements after the abolition of the Standards for England regime.

28. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS

The Committee received a schedule regarding current allegations made about the conduct of District and Parish/Town Councillors.

RESOLVED:

That to enable detailed consideration to be given to these cases, discussion be deferred until later in the meeting after the exclusion of the public and press.

29. DATES OF FUTURE MEETINGS

The Committee noted that the District Council's calendar for 2010/11 provided for a meeting of the Committee on 19 April 2011.

Members also noted that the draft calendar of meetings for 2011/12 which would be considered by the Council in February currently provided for meetings of the Committee as follows:

28 July 2011, 20 October 2011, 26 January 2012 and 19 April 2012.

30. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That in accordance with Section 100(A) (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No.</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
9	Allegations made about the Conduct of District and Parish/ Town Councillors – Issues Arising	1

31. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - ISSUES ARISING

The Committee considered a schedule regarding current allegations made about the conduct of District and Parish/Town Councillors.

Members noted that in relation to case EFDC 9/2009 the Assessment Sub-Committee had decided to take no further action on the matter, although the member concerned had not listed one of his properties on his register of interest form until the matter had been drawn to his attention as part of the investigation.

The Committee noted in relation to case EFDC 3/2010 that whilst the subject member had agreed to participate in mediation the complainant had not responded.

In relation to case EFDC 6/2010, the Review Sub-Committee had decided to take no action on the allegation but had drawn attention to certain Council procedures.

The Committee was advised in relation to case 4/2010 that the Assessment Sub-Committee had accepted the Investigating Officer's finding of no failure to observe the Code of Conduct but had agreed that the subject member had shown an error of judgement in continuing to debate a matter at a public meeting.

The Monitoring Officer and the Deputy Monitoring Officer reminded members of the background to the Direction from Standards for England in relation to Nazeing Parish Council which affected cases EFDC 6/2009 and EFDC 8/2009. The Committee noted that two of the five required training sessions for members of Nazeing Parish Council in relation to proper conduct at meetings, standing orders, the role of the Chairman and the role of the Clerk had been held. However the trainer who was very enthusiastic and experienced in training on these issues had expressed doubts about the benefits of continuing with further training sessions in view of the attitude of several members of the Parish Council. The Deputy Monitoring Officer advised that a formal report was expected from the trainer on progress to date and the response of the Parish Council members to the training.

The Committee was advised that following a debate at a full District Council meeting the Nazeing Parish Council had been invited to make a contribution towards the costs of the training of its members as required by the Direction. In response the Clerk of the Parish Council had stated that the Parish Council required details of the costs and had suggested that further training sessions should be postponed whilst the Parish Council decided whether to include appropriate provision within its precept for 2011/12.

RESOLVED:

Case EFDC 9/2009

- (1) That members of the District Council be reminded of the need to provide details of all of the properties in which they have a beneficial interest on their Register of Interest forms;
- (2) That the Clerks of Parish and Town Councils be asked to draw the attention of their members to this requirement;
- (3) That this case be removed from the schedule of outstanding cases;

Case EFDC 3/2010

- (4) That this case be removed from the schedule of outstanding cases;

Case EFDC 6/2010

- (5) That the Chairmen of Committees, Sub-Committees and Panels be encouraged to attend training on the chairing of meetings;
- (6) That the Chairmen of the District Development Control Committee and the Area Plans Sub-Committees be asked to consider adopting a consistent

approach to the circulation of written documents and photographs by public speakers at meetings;

Case EFDC 4/2010

(7) That future training in relation to the Code of Conduct include the need for councillors to deal with the concerns raised by members of the public carefully and to be aware of the need to comply with the requirements of the Code in all forums when attending in an official capacity;

Case Nos EFDC 6/2009 and EFDC 8/2009

(8) That having regard to the attitude towards training of several members of the Nazeing Parish Council, the third training session due to take place on 20 January 2011 be postponed and that no further work be undertaken in relation to the fourth and fifth sessions;

(9) That the Monitoring Officer send the report, when received, of the trainer appointed to undertake the training to Standards for England together with a request to review its Direction as despite the best endeavours of the Monitoring Officer in seeking to comply with the requirements of the Direction it is not considered that further sessions will be beneficial or that public funds should continue to be applied, particularly in the current economic climate, to the training of members who are clearly not prepared to participate in a reasonable manner;

(10) That further consideration be given to this matter at the next meeting of the Committee in the light of the response from Standards for England; and

(11) That the Monitoring Officer liaise with the trainer appointed to undertake the training as to the contractual position for delivering the training.

(Recorded in accordance with Council Procedure Rules 16.5 and 25 that Parish Councillor Mrs D Borton abstained from voting on resolutions (8) to (11) above).

CHAIRMAN

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Report to the Standards Committee

Date of meeting: 2 February 2012

Report of: Deputy Monitoring Officer

Subject: Localism Act 2011 – New Standards Regime

Officer Contact for further information: Ian Willett (01992 564143)

Democratic Services Officer: Graham Lunnun (01992 564244)

Recommendations:

Standards Committee

- (1) That the Monitoring Officer be appointed as Proper Officer for the purposes of Sections 26-37 of the Localism Act 2011 with the Deputy Monitoring Officer authorised to act in the Monitoring Officer's absence.**
- (2) To consider whether the Council should appoint a Standards Committee and to determine the following matters:-**
 - (a) the number of members to form the Committee;**
 - (b) the number of executive Councillors to be appointed by the Leader of the Council;**
 - (c) the preferred arrangements for Parish Councils to be involved in the work of the Committee; and**
 - (d) the number of Parish Councillors to be appointed;**
- (3) To consider whether, as an alternative to (1), a Joint Standards Committee for the District Council and Parish and Town Councils should be established.**
- (4) To consider consulting Parish Councils on their future involvement in the Standards Committee and related matters;**

Code of Conduct

- (5) To consider whether, once Government regulations concerning the definition of Disclosable Personal Interests (DPIs) and other interests are in force, the Monitoring Officer should bring forward a draft Code of Conduct for consideration by the Council comprising:**
 - (a) those elements of the existing Code which remain relevant;**
 - (b) definition of all interests to be included; and**
 - (c) provisions relating to registration and disclosure of interests; and.**

- (6) To consider the latest drafts produced by the Public Law Partnership of key documentation.

Complaints

- (7) That the Monitoring Officer be given delegated authority:
- (a) to determine whether a complaint merits formal investigation after consultation with the Independent Person;
 - (b) to arrange any such investigation;
 - (c) to seek resolution of complaints without formal investigation wherever practicable;
 - (d) to submit regular reports to the Standards Committee on the exercise of this delegated authority under (a) – (c) above;
 - (e) to refer decisions on whether to investigate any complaint to the Standards Committee if it is the view of the Monitoring Officer that this is the appropriate course of action;
 - (f) to close any complaint where an investigation finds no breach of the Code of Conduct, subject to the report and findings from the investigation being provided to the subject Councillor, the Independent Person and to the Standards Committee;
 - (g) to seek local resolution of any complaint where an investigation finds evidence of a failure to comply, subject to the following:
 - (i) consultation with the Independent Person and the complainant;
 - (ii) a summary report being made to the Standards Committee;
 - (h) to refer any investigation report where local resolution is not possible to a Hearings Sub Committee of the Standards Committee for consideration;
- (7) That the Council delegates authority to Hearings Sub Committees to take action on complaints where Councillors have been found not to have complied with the Code of Conduct including any or all of those possible actions listed in paragraph 5.7 of this report.
- (8) To consider consulting Leaders of the Political Groups of the District Council and representatives of Parish Councils on these arrangements.

The Independent Person

- (9) To consider the following matters:
- (a) how many “Independent Persons” should be appointed;
 - (b) any allowances to be payable and how these are to be determined;

- (c) advertising arrangements;
- (d) appointment arrangements.

Register of Members Interests

- (10) That the Monitoring Officer be given delegated authority to prepare, maintain and publish registers for the District Council and all Parish Councils, to make arrangements for them to be available for public inspection and to provide information to Parish Councils for their register to be published on their website where they exist.

- (11) That a new Rule (to be numbered 3) be added to the Council Procedure Rules as follows:

“Any member of the Council who has registered a disclosable pecuniary interest or has a pending notification of such interest in any items of business to be considered by the Authority must withdraw from the Council Chamber (or other meeting room), including the public gallery during the whole consideration of that item except if he or she is permitted to remain as a result of a dispensation.

Such requirements shall also apply to any Cabinet members with a disclosable pecuniary interest (including a pending notification) who are debarred from determining any matter which they would otherwise have dealt with as a portfolio holder under delegated authority.

Where a Member of the Council has not registered such an interest or does not have a pending notification, they shall declare the existence and nature of that interest and withdraw from the meeting during discussion of any relevant item of business.”

- (12) That Council Procedure Rule 25.1 (Application to the Executive, Committees and Sub Committees) be amended to apply the new Council Procedure Rule (3) to all meetings.
- (13) To consider whether responsibility for granting dispensations be delegated to the Monitoring Officer or to the Standards Committee by reference to the statutory categories set out in paragraph 11.3 of this report, namely:

Quorum

Political Balance

Interests of People Living in the Area

Cabinet Quorum

Otherwise appropriate;

Wider Liaison

- (14) To authorise the Monitoring Officer to participate with the Eastern Region Public Legal Partnership to develop initiatives across partner authorities where these will be helpful in providing a consistent approach to the new standards

regime between Councils.

Report:

1. THE LOCALISM ACT 2011

- 1.1 The Localism Act 2011 makes changes to the regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes will be 1 July 2012.
- 1.2 From 31 January 2012, Standards for England will cease to operate its regulatory functions and will be abolished no later than 31 March 2017. Current Standards Committees and other aspects of the current regime will be abolished from 1 July 2012.
- 1.3 This report describes the changes and recommends the actions required for the Council to implement the new regime.

2. DUTY TO PROMOTE AND MAINTAIN HIGH STANDARDS OF CONDUCT

- 2.1 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

3. STANDARDS COMMITTEE

- 3.1 The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So there will be no requirement for a Standards Committee. However, the Council must decide whether there will still be a need to deal with standards issues and case-work through a discretionary Local Standards Committee. In future, such a Standards Committee will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –
 - (a) the composition of the Committee will be governed by proportionality, unless a Council votes otherwise with no member voting against;
 - (b) the present restriction to one member of the Executive on the Standards Committee will cease to apply;
 - (c) the current co-opted independent members will cease to hold office and cannot serve again as Independent Persons for 5 years;
 - (d) a new category of Independent Person (see below) is created who must be consulted at various stages;
 - (e) the new Independent Person may be invited to attend meetings of the Standards Committee but cannot be co-opted onto the Committee.
- 3.3 The District Council will continue to have responsibility for dealing with standards complaints against elected and co-opted members of Parish Councils, but the current Parish Council representatives also cease to hold office. The District Council can choose whether to involve Parish Council representatives and, if so, how many Parish Council representatives there should be. The choice is between:
 - (a) establishing a Standards Committee as a Committee of the District Council,

with co-opted but non-voting Parish Council representatives (who could then make recommendations in respect of Parish Council members); or

(b) establishing a Standards Committee as a Joint Committee with some or all Parish Councils which would have a set number of Parish Council representatives as voting members on the Committee (thus being able to take decisions in respect of Parish Council members but subject to Parish Councils having delegated such powers to the Joint Committee).

3.4 Terms of reference proposed by the Public Law Partnership (latest draft) is attached as Appendix 1.

4. THE CODE OF CONDUCT

4.1 The current ten General Principles of Ethical Behaviour in Public Office and Model Code of Conduct are repealed and members will no longer have to give an undertaking to comply with the Code of Conduct.

4.2 The Council must adopt a new Code of Conduct governing elected and co-opted members when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

4.3 The Council has discretion as to what is included in its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require registration and disclosure of "Disclosable Pecuniary Interests" (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

4.4 The result is that it is not yet possible to draft Code provisions which reflect the definition of DPIs. It is possible to give an indicative view of what the Council might include in a Code in respect of all interests, namely DPIs plus other pecuniary and non-pecuniary interests. It is suggested that the Monitoring Officer prepare a draft Code which requires registration and disclosure for those interests which are currently called personal and/or prejudicial interests, but only to require withdrawal as required by the Act for DPIs.

4.5 The Act prohibits members with a DPI from participating in local authority business, and the Council can adopt a separate Standing Order requiring members to withdraw from the meeting room. Members of the Cabinet who might otherwise be able to make a decision as a single Portfolio Holder under delegated authority will be similarly prevented from doing so by any DPI.

4.6 A Council's new Code of Conduct would cover the following matters –

(a) general conduct rules, to give effect to the seven principles – probably re-adoption Paragraphs 3 to 7 of the existing Code would suffice; and

(b) rules regarding registration and disclosure of interests other than DPs which would replace the current personal interests provisions which the Act requires to be included.

- 4.7 The detailed wording of Code provisions must await the publication of Government regulations. Work is being undertaken within the Public Law Partnership in the Eastern Region to draft a Code which can be adopted so as to provide consistency among all Councils. The latest draft is set out in Appendix 2.

5. DEALING WITH COMPLAINTS ABOUT COUNCILLORS' MISCONDUCT

- 5.1 The Act requires that the Council adopt "arrangements" for dealing with complaints of breaches of Code of Conduct both by District Council and Parish Council members. Such complaints can only be dealt with in accordance with the "arrangements" which are put in place. These must set out the process for dealing with complaints and the actions which may be taken against a member who is found not to have complied with the relevant Code of Conduct.
- 5.2 The Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Council to establish its own processes, including delegation of decision making. The statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints. It is now necessary for Council to delegate appropriate powers to the Standards Committee or to the Monitoring officer to deal with complaints. The various processes are discussed in succeeding paragraphs.

Decision whether to investigate a complaint

- 5.3 In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and "tit-for-tat" complaints. It is possible to delegate to the Monitoring Officer the initial decision as to whether a complaint requires investigation. This could be on the basis of the present guidance subject to:
- (a) consultation with the Independent Person; and
 - (b) reference of any complaint to the Standards Committee where it is felt that it would be inappropriate to take a decision (for example where the Monitoring Officer has previously advised the member on the matter or the complaint is particularly sensitive).
- 5.4 Such arrangements would allow the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. If this function is delegated to the Monitoring Officer, it would be appropriate for a quarterly report to Standards Committee to be made, which would draw to the Committee's attention:
- (a) areas where training or other action might avoid further complaints; and
 - (b) progress on investigations and costs incurred.

"No Breach of Code" Finding on Investigation

- 5.5 Where a formal investigation finds no evidence of failure to comply with the Code of

Conduct, this is currently reported to Referrals Sub-Committee which can decide to take no further action. This decision could be delegated to the Monitoring Officer, but might be accompanied by an ability to refer a matter to Standards Committee if appropriate. Copies of all investigation reports could be provided to the Independent Person so as to allow the latter to gain an overview of current issues. The Monitoring Officer could also provide a summary of each investigation to the Standards Committee for information purposes.

“Breach of Code” Finding on Investigation

- 5.6 Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there might be an opportunity for local resolution, avoiding the necessity of a local hearing. Sometimes the investigation report can identify appropriate remedial action with which the complainant may be satisfied. It is suggested that in these circumstances it would be appropriate for the Monitoring Officer to agree a local resolution but only after consultation with the Independent Person and where the complainant is satisfied with the outcome. The outcome could be included in the summary report to the Standards Committee mentioned above.
- 5.7 In all other cases in this category, it would be necessary for the Standards Committee (in practice a Hearings Sub-Committee) to meet so as to consider the case and allow the subject member to respond to the investigation report. The Hearing Sub Committee could then determine whether there was a failure to comply with the Code of Conduct and action, if any, which is appropriate as a result.

Action in Response to a Finding of a Failure to Comply with Code

- 5.8 The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension, training or an apology. Where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited and must be directed to the authority continuing to carry out its functions rather than “punishing” the member concerned.
- 5.9 In practice, this might include the following –
- (a) reporting its findings to Council (or to the Parish Council) for information;
 - (b) recommending to the member’s Group Leader (or in the case of non-affiliated members, to Council) that the member should be removed from any or all Committees or Sub-Committees of the Council;
 - (c) recommending to the Leader of the Council that the member be removed from the Cabinet or from particular Portfolio responsibilities;
 - (d) asking the Monitoring Officer (or recommending to a Parish Council) to arrange training for the member;
 - (e) removing (or recommending to a Parish Council) that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
 - (f) withdrawing (or recommending to the Parish Council that it withdraws) facilities provided to the member by the Council, such as computers, and/or email and internet access; or

- (g) excluding (or recommending that the Parish Council to exclude) the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 5.10 Lengthy legal advice has been obtained through the Public Law Partnership as to the exact nature of any sanctions which can be applied to any breaches of the code. In summary, the sanctions which could be available are those which do not interfere with the electoral process or members' civil rights viz:
- (a) formal letter – yes;
 - (b) formal censure through a motion (at Council) – yes;
 - (c) removal of member from Committees – in principle this could be decision which could be made by a Council but in practice may be one for a political group where pro rata membership arrangements operate;
 - (d) press release/publicity – yes;
 - (e) withdrawal of allowances – unlikely to be lawful but this is a clearly balanced legal view;
 - (f) withholding of confidential information – dubious as a sanction as elected members have existing statutory access to information rights.
- 5.11 Use of these possible remedies will depend on the nature of breach of the Code concerned.
- 5.12 There is a particular difficulty in respect of Parish Councils, as the Localism Act 2011 does not give the Standards Committee power to do anything other than make a recommendation to the Parish Council. Parish Councils will be under no obligation to accept any such recommendation. However, if the Standards Committee and Hearings Sub-Committees were constituted as Joint Committees/Sub-Committees with delegated powers from Parish Councils, they would be able to take decisions on behalf of the Parish Council concerned.
- 5.13 Appendices 3 and 4 set out the latest PDP draft complaints procedure and flowchart. Appendices 5 and 6 set out a draft complaints form and hearing procedure.

Appeals

- 5.14 There is no requirement to put in place any appeals mechanism against decisions on complaints. A decision would be open to judicial review by the High Court if it was unreasonable, improperly taken, or involved a penalty which could not be imposed.

6. INDEPENDENT PERSON(S)

- 6.1 The "arrangements" for dealing with complaints must include provision for the appointment by Council of at least one Independent Person.
- 6.2 The Independent Person must be appointed via public advertisement, a defined application procedure and by a positive vote of a majority of all members of the District Council (not just of those present and voting).
- 6.3 Under the Act, a person is considered not to be "independent" if he or she:

- (a) is, or has been within the last 5 years, an elected or co-opted member or an officer of the District Council or of any of the Parish Councils within its area; or
 - (b) is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the District Council or of any of the Parish Councils within its area (which would preclude any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or
 - (c) is a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish Council within its area, or of any elected or co-opted member of any Committee or Sub-Committee of such Council.
- 6.4 In relation to paragraph 6.3 (b), Leading Counsel's opinion has been taken on whether existing any independent members could serve as the "independent person". The opinion confirms the view set out in that paragraph.
- 6.5 For this purpose, "relative" comprises –
- (a) the candidate's spouse or civil partner;
 - (b) any person with whom the candidate is living as if they are spouses or civil partners;
 - (c) the candidate's grandparent;
 - (d) any person who is a lineal descendant of the candidate's grandparent;
 - (e) a parent, brother, sister or child of anyone in Paragraphs (a) to (b);
 - (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e) or
 - (g) any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

Functions of the Independent Person

- 6.6 The Independent Person:
- (a) must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member;
 - (b) may be consulted by the authority in respect of a standards complaint at any other stage; and
 - (c) may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.
- 6.7 Item 6.5(c) may cause a conflict of interest if the Independent Person has been consulted by the subject member and is then to be involved in the determination of that complaint.

How many Independent Persons?

- 6.8 The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. A second independent person would allow the situation outlined in paragraph 6.7 above to be dealt with but if both are to be consulted, there would appear to be little advantage in appointing more than one

Independent Person. A practical answer might be to appoint reserve candidates who can be brought in at short notice, without the need for re-advertisement if the Independent Person is no longer able to act.

Remuneration

- 6.9 As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme or members' allowances. Any remuneration could therefore be determined by the Council without reference to the Independent Remuneration Panel.
- 6.10 In comparison with the current Chairman of Standards Committee, the role of Independent Person may be less onerous. He or she is likely to be invited to attend all meetings of the Standards Committee and Hearings Sub-Committee, but not to be a formal member of either. He or she could be co-opted as a non-voting member but could not chair meetings in view of the possible need for a second or casting vote). He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance could be offered.
- 6.11 Where the Independent Person has been consulted, he/she could not be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of dispensations.
- 6.12 However, it would be appropriate to undertake a proper review of the function before setting the remuneration. Although remuneration is outside the official remit of the Remuneration Panel, the Council could decide to obtain their views on the question by resolution.

7. THE REGISTER OF MEMBERS' INTERESTS

- 7.1 The Localism Act abolishes personal and prejudicial interests. Instead, regulations will define DPIs. The Monitoring Officer is required to maintain a register of those interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for all Parish Councils, which also have to be open for inspection at the District Council offices and website. There are currently 24 Parish Councils comprising upwards of 200 Parish Councillors. The responsibility for registration of interest and public deposit of that information has therefore effectively transferred to the District Council. There is no provision for the District Council to recover any costs from Parish Councils.
- 7.2 DPIs are likely to be broadly equivalent to the current prejudicial interests. The intention is to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.
- 7.3 The Act also requires a Council's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.
- 7.4 The Monitoring Officer is required by the Act to establish and maintain registers of interest for each Parish Council. Where the Parish Council has a website, the Monitoring Officer must provide the Parish Council with the information required to enable the Parish Councils to publish on their own website.

- 7.5 Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting. A Court could apply criminal sanctions such as fines or disqualify for a period not exceeding 5 years. If the Code of Conduct requires registration of other interests, failure to do so would be a breach of that Code.
- 7.6 The preparation and operation of the register, not just for this authority but also for each Parish Council, is likely to be a considerable administrative task, especially where different Parish Councils adopt different Code requirements for registration and disclosure of interests other than DPIs.

8. DISCLOSURE OF INTERESTS AND WITHDRAWAL FROM MEETINGS

- 8.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member intends to be absent from the part of the meeting where the matter in question is under consideration.
- 8.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a "pending notification"). Thus, members of the public attending the meeting will in future need to read the register of members' interests, as these will no longer be disclosed at meetings.
- 8.3 Where the member does make a disclosure of an unregistered DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.
- 8.4 If a member has a DPI in any matter, he/she must not participate in any discussion of the matter at the meeting. The Act does not define "discussion", but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct. They must also not participate in any vote on the matter unless he/she has obtained a dispensation allowing him/her to speak and/or vote. Failure to comply with these requirements becomes a criminal offence.
- 8.5 The Council's Code of Conduct must make "appropriate" provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of Code of Conduct but not a criminal offence.
- 8.6 The requirement to withdraw from the meeting room can be covered by Standing Orders, and can apply to Council, Committees and Sub-Committees, can apply also to Cabinet and Cabinet Committee meetings, so that failure to comply would be neither a criminal offence nor a breach of Code of Conduct, although the meeting could vote to exclude the member.

9. DISCLOSURE AND WITHDRAWAL BY MATTERS TO BE DETERMINED BY A SINGLE MEMBER

- 9.1 Matters can be decided by a single member acting alone where the member is a Cabinet Member acting under Portfolio powers, or where the member is a Ward Councillor and the Council chose to delegate powers to Ward Councillors. (The latter

situation does not apply to the District Council but may have implications for Parish Councils).

9.2 The Act provides that when a member becomes aware that they will have to deal with a matter in which there is a DPI, as follows:

(a) unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", they have 28 days to notify the Monitoring Officer and

(b) they must take no action in respect of that matter other than to refer it another person or body to take the decision.

9.3 The Standing Order mentioned in Section 8 can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter subsequently.

10. SENSITIVE INTERESTS

The Act effectively re-enacts the existing Code of Conduct provisions on registration and disclosure of sensitive interests.

11. DISPENSATIONS

11.1 The provisions on dispensations are significantly changed by the Localism Act.

11.2 At present, a member who has a prejudicial interest may apply to a Standards Committee for a dispensation on two grounds:

(a) that at least half of the members of a decision-making body have prejudicial interests; and

(b) that so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.

11.3 In future, a dispensation can be granted in the following circumstances:

(a) when so many members of the decision-making body have DPIs in a matter that it would "impede the transaction of the business", ie that in practice the decision-making body would be inquorate;

(b) when, without the dispensation, the representation of different political groups on the body transacting the business would be affected such that the outcome of any vote on the matter would be influenced. (This assumes that members are predetermined to vote on party lines on the matter, in which case a dispensation to enable them to participate could be inappropriate);

(c) when the dispensation is in the interests of persons living in the local authority's area;

(d) when, without a dispensation, no member of the Cabinet would be able to participate (the assumption being that, where the Cabinet would be inquorate as a result, the matter might then be dealt with by an individual Cabinet member); and

(e) that the authority considers that it is otherwise appropriate to grant a

dispensation.

- 11.4 Any grant of a dispensation must specify how long it will be in place, up to a maximum of 4 years.
- 11.5 The Local Government Act 2000 required that dispensations be granted by the Standards Committee. The new Act allows this to be delegated to the Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds (a) and (d) of paragraph 11.3 could be delegated to the Monitoring Officer, with a right of appeal to the Standards Committee as these seem to be grounds based on facts rather than judgements.. Grounds (b), (c) and (e) may be appropriate for the Standards Committee, after consultation with the Independent Person, these three grounds being less clear cut and more related to a judgement of the situation and the public interest.

12. TRANSITIONAL ARRANGEMENTS

12.1 Regulations under the Act will provide for:

- (a) transfer of Standards for England cases to local authorities following the abolition of Standards of England (31.1.2012);
- (b) a transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;
- (c) removal of the power of suspension from the start of the transitional period (1.7.2012 at the latest); and
- (d) removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

13. COLLABORATIVE WORKING – EASTERN REGIONAL PUBLIC LAW PARTNERSHIP (PLP)

- 13.1 Many of the discretionary features of the new standards arrangements are thought likely to benefit from a consistent approach across local authorities such as the Code of Conduct, complaints procedures, independent persons. Public Law Partnership members are undertaking work to prepare common arrangements with a view to relevant Councils formally adopting these models. It is recommended that the Monitoring Officer should be authorised to participate in these discussions and to bring forward joint proposals for consideration by the Council where these will benefit the arrangements.
- 13.2 It is considered very important to the credibility of the standards arrangements that they are operated on a consistent basis in different local authority areas.
- 13.3 The latest draft of documents being developed by the Public Law Partnership are attached as follows:
 - (a) Terms of Reference of Standards Committee (Appendix 1);
 - (b) Code of Conduct (Appendix 2);

- (c) Complaints Procedure (Appendix 3);
- (d) Complaints Procedure – Flow Chart (Appendix 4);
- (e) Standards Committee – Hearing Procedure (Appendix 5); and
- (f) Complaint Form (Appendix 6).

14. BUDGET

- 14.1 The Council's draft operational budget for 2012/13 is £6000 (CSB) representing a reduction from £12490 in the current year. A working fund for training and administrative tasks such as compiling the register of member interests is considered necessary for the future. Under the previous regime, funding for external complaint investigations was necessary to deal with situations where in house staff could not be involved. In future, it appears that reciprocal arrangements within Essex between Monitoring Officers will be the norm. These will probably be charged at an hourly rate of £75.
- 14.2 The budgetary requirements will need to be monitored in the future.

APPENDIX 1

Terms of Reference for Standards Committees or in the alternative Governance Committee

STANDARDS/GOVERNANCE COMMITTEE	
<p>Appointed by:</p> <p>The Council, in accordance with the provisions of S101 & S102 Local Government Act 1972 and Regulations made thereunder.</p> <p>Appointment of a Standards Committee shall be by full Council</p>	<p>Number of Members:</p> <p>8 elected Members appointed proportionally (of whom 1 member may be a member of the Executive nominated by the Leader of the Council)</p> <p>Parish Councils be invited to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members</p>
<p>Chair and Vice-Chair appointed by:</p> <ol style="list-style-type: none"> 1. The Chair will be elected by the Committee. 2. There will be one Deputy Chair, who shall be elected by the Committee 3. The Deputy-Chair shall deputise for the Chair in his or her absence. 	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>Substitutes are permitted for the Standards Committee.</p> <p>Frequency:</p> <p>At least quarterly.</p> <p>Venue:</p> <p>As set out in the approved Calendar of Meetings.</p>
<p>Independent Person:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p>	<p>The Independent Person:</p> <p>The Independent Person be invited to attend the meetings of the Standards Committee</p>

<p>Quorum:</p> <p>At least 3 voting Members of the Committee</p>	
<p>Terms of Reference</p> <p>The Standards Committee will have the following roles and functions:</p> <ol style="list-style-type: none"> 1. promoting and maintaining high standards of conduct by Members and Co-Opted Members of the authority; 2. Advising and assisting Parish Council(s) and Councillors to maintain high standards of conduct and to make recommendation to Parish Councils on improving standars or actions following a finding of a failure by a Parish Councillor to comply with the Code of Conduct 3. to conduct hearings on behalf of the Parish Council 1. advising the Council on the adoption or revision of the Members' Code of Conduct; 4. to receive referrals from the Monitoring Officer into allegatjions of misconduct in accordance with the authority assessment criteria 1. receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct; 2. advising, training or arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct; 3. assisting Councillors and co-opted Members to observe the Members' Code of Conduct; 4. hearing and determining complaints about Members and Co-Opted Members referred to it by the Monitoring Officer; 5. advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council 6. maintaining oversight of the Council's arrangements for dealing with complaints 7. informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints. 8. Appointment of Sub-Committee 9. to grant dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011 10. hear and determine appeals against refusal to grant dispensations by the Monitoring 	

Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011

SUB-COMMITTEE

Appointed by:

The Council, for the purposes of section 28(6 and (7) of the Localism Act 2011

Number of Elected Members:

5 Members appointed from Members of the Standards Committee.

Chair and Vice-Chair appointed by:

The Chair shall be elected by the Sub-Committee at each meeting.

Political Proportionality:

Rules of political proportionality apply.

Substitutes:

None.

Frequency:

As and when required.

Venue:

To be determined by the Monitoring Officer.

Quorum:

At least 3 voting Members

Parish Councillor be invited to be co-opted as non-voting members in dealing with a complaint against a Parish Councillor

Independent Person:

Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011

The Independent Person:

The Independent Person to attend the meetings of the Standards Committee dealing with hearings into allegations of misconduct

Terms of Reference

To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct.

Following a Hearing, make one of the following findings:

- (a) That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing
- (b) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing
- (c) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution should be imposed

The sub-committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.

After making a finding the sub-committee shall, as soon as reasonably practicable provide written notice of its findings and the reasons for its decision to the Member and complainant.

APPENDIX 2

COUNCILLOR CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

Introduction and interpretation

As a member you are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code as a whole is consistent with “Nolan Principles” which are set out in Appendix 1 and the provisions of S29(1) Localism Act 2011

In this Code-

“meeting” means any meeting of:

- (a) the authority
- (b) the Executive of the authority
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees or areas committees
whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members
- (d) any briefings by officers and site visits organised by the authority

“member” includes a co-opted member.

1. Who does the Code apply to?

- (1) This Code applies to all members of *[name of authority]*, including co-opted members.
- (2) It is your responsibility to comply with the provisions of this Code.

2. What does the Code apply to?

- (1) You must comply with this Code whenever you -
 - (a) conduct the business of your authority, or
 - (b) you are acting as a representative of your authority,

- (2) This Code has effect in relation to your conduct in your official capacity.
- (3) Where you act as a representative of your authority--
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

- (1) You must treat others with respect.
- (2) You must not--
 - (a) do anything which may cause your authority to breach any of the equality enactments
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be--
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. Confidential Information

You must not--

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where--

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is--
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5. Conferring an advantage or disadvantage

You--

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority--
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

PART 2 MEMBERS INTERESTS

6. Disclosable Pecuniary Interests

6.1 You have a disclosable pecuniary interest in any business of your authority if it is of a description set out in 6.2¹ below and is either:

- (a) An interest of yours
- (b) An interest of your spouse
- (c) An interest of your civil partner
- (d) An interest of a person you are living with as a spouse or civil partner

And in the case of paragraphs 6.1 (b) – 6.1 (c) you are aware that that other person has the interest

6.2 “Disclosable pecuniary interest” are defined by *(regulations still awaited)* and are:-

- (a) *(to be completed when regulations are issued)*

7. Other Pecuniary Interests²

7.1 You have a pecuniary interest in any business of your authority where either-

- (a) It relates to or is likely to affect:
 - i. any employment or business carried on by you;
 - ii. any person or body who employs or has appointed you;
 - iii. any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - iv. any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that

¹ Regulations still awaited. Paragraphs 6.2 and 7 should be given further consideration when regulations are available

² Regulations still awaited. Paragraphs 6.2 and 7 should be given further consideration when regulations are available

- exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- v. any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specific in paragraph (iv);
 - vi. any land in your authority's area in which you have a beneficial interest;
 - vii. any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (iv) is, the tenant;
 - viii. any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
 - ix. a decision in relation to that business might reasonably be regarded as affecting your financial position or financial position of a relevant person to a greater extent than the majority of-
 - 1. (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - 2. (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area

8. Non-Pecuniary Interests

8.1 You have a non-pecuniary interest in any business of your authority where either:-

- (a) it relates to or is likely to affect-
 - i. any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - ii. any body-
 - 1. exercising functions of a public nature;
 - 2. directed to charitable purposes; or

- 3. 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;
- iii. the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- iv. a decision in relation to that business might reasonably be regarded as affecting your wellbeing or the wellbeing of a relevant person to a greater extent than the majority of:-
 - (a) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
 - (b) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's areas

9. "Relevant Persons"

9.1 For the purposes of paragraphs 7.1(a) ix and 8.1(a) iv a relevant person is-

- (a) A member of your family or any person with whom you have a close association;
- (b) Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company or which they are directors;
- (c) Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) Any body of which such persons are a member or in a position of general control or management and to which you are appointed or nominated by your authority
- (e) any body of a type described in paragraph 8(a) i. and ii. of which such persons are members or in a position of general control or management

10. Disclosure of Interests

- 10.1 Subject to sub-paragraphs 10.2 to 10.5, where you have a disclosable pecuniary interest, any other pecuniary interest or a non-pecuniary interest in any business of your authority and you are present at a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your register of Interests or for which you have made a pending notification
- 10.2 Sub-paragraph 10.1 only applies where you are aware or ought reasonably to be aware of the existence of the pecuniary interest
- 10.3 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 10.1 but by virtue of paragraph 14 (sensitive interests) details of the interest are not registered in your authority's published register of members' interest and that the interest is a disclosable pecuniary interest (if that is the case) but you need not disclose the nature of the interest to the meeting
- 10.4 Where you have a pecuniary interest in any business of your authority and a function of your authority may be discharged by you acting alone in relation to that business, you must ensure you notify the authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business
- 10.5 Where you have an interest in any business of your authority which would be disclosable by virtue of paragraph 10.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest
- 10.6 In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

11. Disclosure of Interests generally³

- 11.1 Subject to sub-paragraph 11.2 where you have a pecuniary interest in any business of your authority you also have a disclosable pecuniary interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment in the public interest.

³ Regulations from the Secretary of State are currently awaited as to the definition of "pecuniary interests and disclosable pecuniary interests". This paragraph may become superfluous

11.2 You do not have a disclosable pecuniary interest in any business of your authority where that business-

- i. does not affect your financial position or the financial position of a person or body described in paragraph 8.1 (a) i. and ii.;
- ii. does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8.1 (a) i and ii; or
- iii. relates to the functions of your authority in respect of-
 - i. housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii. school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii. statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv. an allowance, payment or indemnity given to members;
 - v. any ceremonial honour given to members; and
 - vi. setting council tax or a precept under the Local Government Finance Act 1992

12. Effect of Disclosable Pecuniary Interests on participation

12.1 You may not-

- a. if present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority and
- b. you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and
- c. you are aware that sub-paragraph 12.1.b is met:
 - i. participate, or participate further, in any discussion of the matter at the meeting, or
 - ii. participate in any vote, or further vote, taken on the matter at the meeting

and must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the authority's proper officer

- d. exercise executive functions in relation to that business and
- e. seek improperly to influence a decision about that business

12.2 If a function of your authority may be discharged by a member acting alone and you have a disclosable pecuniary interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enable the matter to be dealt with otherwise than by yourself)

12.3 If you have a pecuniary interest other than a disclosable pecuniary interest in any business of your authority which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered your must:-

- 12.3.1 Disclose the existence and nature of the interest in accordance with paragraph 10.1 (but subject to paragraph 10.3)
- 12.3.2 Withdraw from the room or chamber where the meeting considering the business is being held unless you have obtained a dispensation from your authority's proper officer in a case where paragraph 12.3 applies immediately after making your representations or in any other case when the business is under consideration unless you have obtained a dispensation from your authority's proper officer

PART 3 REGISTER OF MEMBERS INTERESTS

13. Registration of Members' Interests

Subject to paragraph 14, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election, re-election or appointment or re-appointment to office (where that is later), or co-opted onto the authority

register in your authority's register of members' interests (maintained by the Monitoring Officer under Section 29(1) of the Localism Act 2011) details of:

- i. disclosable pecuniary interests⁴ as referred to in paragraph 6 that you, your spouse, civil partner or person with whom you live as if they were your spouse or civil partner in so far as you are aware of their interests at that time
 - ii. pecuniary interests referred to in paragraph 7 that you have
- (c) Subject to paragraph 14, you must within 28 days of becoming aware of any new disclosable pecuniary interest as referred to in paragraph 6 that you, your spouses, civil partner or person with whom you live as if they were your spouse or civil partner or change to any disclosable pecuniary interest registered under paragraphs 13. i. or ii above

by providing written notification to your authority's Monitoring Officer

14. Sensitive Information

- 14.1 Where you have a disclosable pecuniary interest referred to in paragraph 6 or pecuniary interest referred to in paragraph 7 and the nature of the interest is such that you and your authority's monitoring officer consider that disclosure of details of the interest could lead to you or a person connected with you being subject to violence or intimidation if the interest is entered in the authority's register then copies of the register available for inspection and any published version of the register should not include details of the interest but

⁴ Regulations from the Secretary of State are currently awaited as to the definition of "pecuniary interests and disclosable pecuniary interests"

may state that you have an interest details of which are withheld under s32(2) of the Localism Act 2011 and/or this paragraph.

- 14.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 14.1 is no longer sensitive information, notify your authority's monitoring officer
- 14.3 In this Code "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subject to violence or intimidation.

CODE OF CONDUCT

APPENDIX 1

THE NOLAN PRINCIPLES AND SECTION 28(1) OF THE LOCALISM ACT 2011

SELFLESSNESS

To serve only the public interest and never improperly confer an advantage or disadvantage on any person

INTEGRITY

Not to place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

OBJECTIVITY

Make decisions on merit, including when making appointments, awarding Contracts or recommending individuals for rewards or benefits.

ACCOUNTABILITY

To be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their Office.

OPENNESS

To be as open as possible about their actions and those of the Council and should be prepared to give reasons for those actions.

HONESTY

Not to place themselves in situations where their honesty may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.

LEADERSHIP

Should promote and support these principles by leadership and by example and should always act in a way that secures or preserves public confidence.

APPENDIX 3

Complaints Procedure

Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority (*or of a parish council within its area*) has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority (*or of a parish council within the authority’s area*), or of a Committee or Sub-Committee of the authority, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least 1 Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member (*or a member or co-opted member of a parish council*) against whom an allegation has been made.

2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the authority’s website and on request from Reception at the Council Offices.
- 2.2 (*Each Parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.*)

3. Making a complaint

- 3.1 If you wish to make a complaint, please write or email to:

The Monitoring Officer

(address of authority)

or

email address for Monitoring Officer

- 3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Reception at the Council Offices.
- 3.4 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the member against whom you make the complaint, without your prior consent.
- 3.5 The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance

4. Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before taking a decision as to whether it:

4.1.1 Merits no further investigation

4.1.2 Merits further investigation

4.1.3 Should be referred to the Standards Committee

4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at Appendix 2. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. *(Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation).*

4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

4.4 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

5. How is the investigation conducted?

5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.

5.2 If the Monitoring Officer decides that a complaint merits further investigation, he/she may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding

of events and suggest what documents needs to seen, and who needs to be interviewed.

- 5.3 The Investigating Officer or Monitoring Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.
- 5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- 5.5 Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.
- 6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- 6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned (*and to the Parish Council, where your complaint relates to a Parish Councillor*), notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigation Final Report.
- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

- 7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Standards Sub-Committee and in consultation with the Independent Person seek an informal resolution.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (*and the Parish Council*) for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Sub-Committee which will conduct a hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for hearing complaints, which is attached as Appendix 4 to these arrangements.

At the hearing, the Investigating Officer or the Monitoring Officer will present her/his report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or Monitoring Officer may ask you as the complainant to attend and given

evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action can the Standards Sub-Committee take where a member has failed to comply with the Code of Conduct?¹

8.1 The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may:-

8.1.1 Publish its findings in respect of the member's conduct;

8.1.2 Report its findings to Council (*or to the Parish Council*) for information;

8.1.3 Recommend to Council that he/she be issued with a formal censure or be reprimanded (*or to the Parish Council*)

8.1.4 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

¹ Need to consider the actions in light of the Opinion received from Clive Sheldon QC obtained by ACSeS

- 8.1.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - 8.1.6 Instruct the Monitoring Officer to *(or recommend that the Parish Council)* arrange training for the member;
 - 8.1.7 Remove *(or recommend to the Parish Council that the member be removed)* from all outside appointments to which he/she has been appointed or nominated by the authority *(or by the Parish Council)*;
 - 8.1.8 Withdraw *(or recommend to the Parish Council that it withdraws)* facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
 - 8.1.9 Exclude *(or recommend that the Parish Council exclude)* the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9. What happens at the end of the hearing?

- 9.1 At the end of the hearing, the Chair will state the decision of the Standards Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the member *(as to the Parish Council)*, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10. Who are the Standards Sub-Committee?

- 10.1 It is a Sub-Committee comprising of Councillors sitting on the authority's Standards Committee.
- 10.2 The Standards Committee has decided that it will comprise a maximum of five Councillors of the Council, including not more than one member of the authority's Executive and comprising members drawn from all political groups. Subject to those requirements, it is appointed on the nomination

of party group leaders in proportion to the strengths of each party group on the Council. If the Councillor complained about is a member of a Parish Council a Parish Councillor who is a member of the Standards Committee will also be invited to attend the Sub-Committee.

- 10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11. Who is the Independent Person?

- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

- 11.2 A person cannot be "independent" if he/she:

11.2.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2.2 *(Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area), or*

11.2.3 Is a relative or close friend, of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose, a "relative" means:

11.2.3.1 Spouse or civil partner;

11.2.3.2 Living with the other person as husband and wife or as if they were civil partners;

11.2.3.3 Grandparent of the other person;

11.2.3.4 A lineal descendent of a grandparent of the other person;

11.2.3.5 A parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2; or

11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or

- 11.2.3.7 Living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.

12. Revision of these arrangements

The Council may be resolution agree to amend these arrangements, and has delegated to the Chair of the Sub-Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

- 13.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix 1
Complaints Procedure Flowchart

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APPENDIX 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. it is about someone who is no longer a Councillor
5. There is insufficient information available for a referral; or
6. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances eg allegation of bullying, harassment etc.
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee; or
9. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
10. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

Complaints which may be referred to the Standards Committee

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be a part of a continuing pattern of behaviour that is unreasonably disrupting the business

of the Council and there is no other avenue left to deal with it other than by way of an investigation.

2. When the complaint comes from a senior officer of the Council, such as the Chief Executive or the Monitoring Officer and it would be difficult for the Monitoring Officer to investigate; or
3. The complaint is about a high profile Member such as the Leader of the Council and it would be difficult for the Monitoring Officer to investigate
4. Such other complaints as the Monitoring Officer considers it would not be appropriate for him to investigate

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the complaint is relatively minor.

APPENDIX 3

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

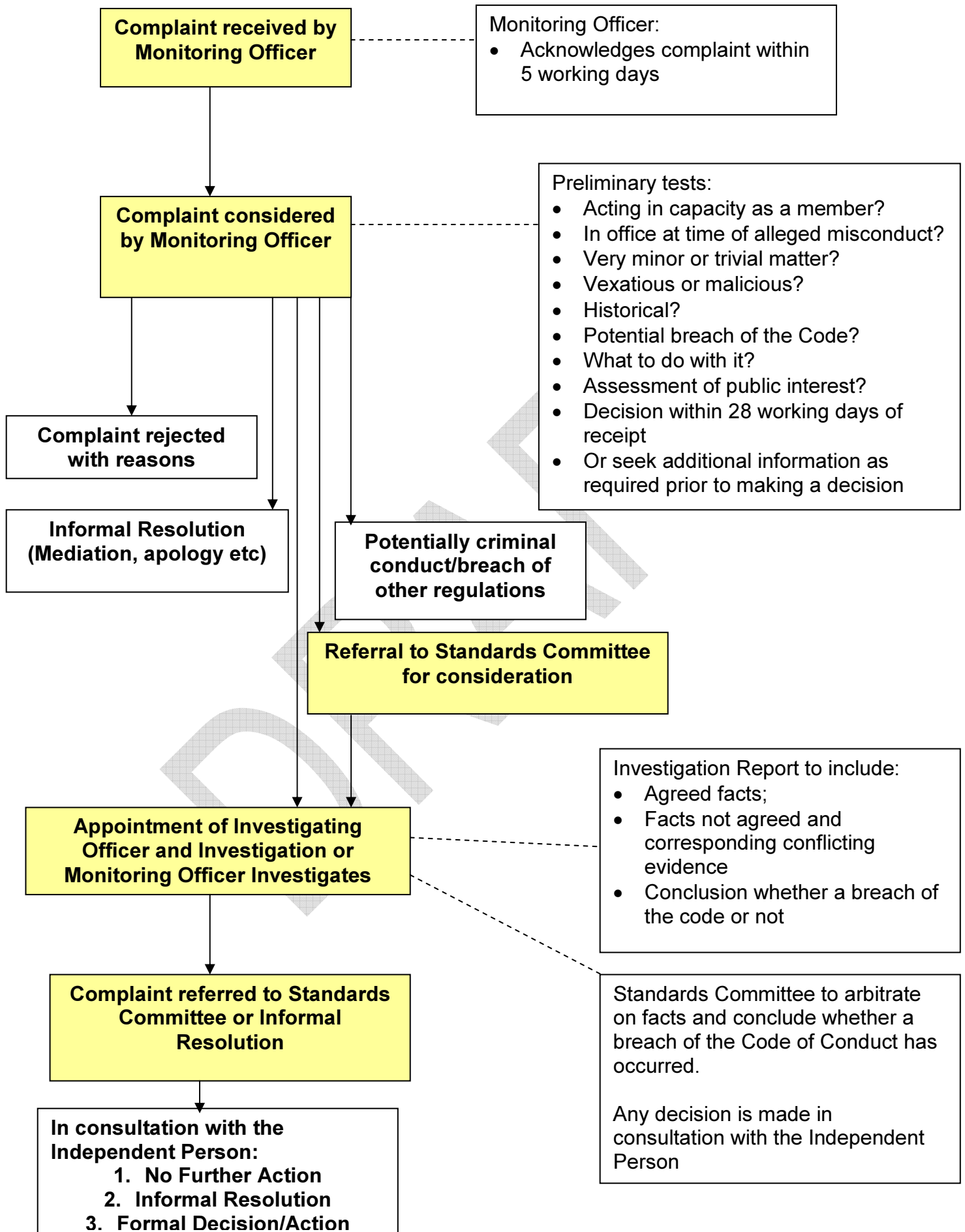
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Appendix 4
Complaints Standards Sub-Committee Procedure

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Appendix 1 Complaints Procedure Flowchart

APPENDIX 4



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APPENDIX 5

Appendix 4 **STANDARDS SUB-COMMITTEE HEARING PROCEDURE**

<u>Item No.</u>	<u>Procedure</u>
1	<p style="text-align: center;"><u>Quorum</u></p> <p>1.1. Three Members must be present throughout the hearing to form a quorum.</p> <p>1.2.</p> <p>1.3. Where the complaint refers to a Parish Councillor a non voting Parish member of the Standards committee may be present</p> <p>1.4. The Sub-Committee shall nominate a Chairman for the meeting</p>
2	<p style="text-align: center;"><u>Opening</u></p> <p>2.1 The Chairman explains the procedure for the hearing and reminds all parties to turn off mobile phones, audible alarms and pagers etc.</p> <p>2.2 The Chairman asks all present to introduce themselves</p> <p>2.3 The Councillor will be asked whether they wish to briefly outline their position</p>
3	<p style="text-align: center;"><u>The Complaint</u></p> <p>3.1 The Investigating Officer shall be invited to present their report including any documentary evidence or other material (and to call witnesses as required by the Investigating Officer). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 The Councillor against whom the complaint has been made (or their representative) may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer. (This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement)</p>

	<p>3.3 Members of the Sub-Committee may question the Investigating Officer upon the content of their report and/or any witnesses called by the Investigating Officer</p>
4	<p style="text-align: center;"><u>The Councillor's case</u></p> <p>4.1 The Councillor against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required by the Councillor or their representative)</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses</p> <p>4.3 Members of the Sub-Committee may question the Member and/or any witnesses</p>
5	<p style="text-align: center;"><u>Summing Up</u></p> <p>5.1 The Investigating Officer may sum up the Complaint</p> <p>5.2 The Member (or their representative) may sum up their case.</p>
6	<p style="text-align: center;"><u>Decision</u></p> <p>6.1 Members of the Sub-Committee will deliberate in private to consider the complaint in consultation with the Independent Person prior to reaching a decision</p> <p>6.2 Upon the Sub-Committee's return the Chairman will announce the Sub-Committee's decision in the following terms:-</p> <p>6.2.1 The Sub-Committee decides that the Member has failed to follow the Code of Conduct or</p> <p>6.2.2 The Sub-Committee decides that the Member has not failed to follow the Code of Conduct</p> <p>6.2.3 The Sub-Committee will give reasons for their decision</p> <p>6.3 If the Sub-Committee decides that the Member has failed to follow the Code of Conduct the Panel will consider any representations from the Investigator and/or the Member as to:</p> <p>6.3.1 Whether any action should be taken and</p> <p>6.3.2 What form any action should take</p>

	<p>6.4 The Sub-Committee will then deliberate in private to consider what action if any should be taken in consultation with the Independent Person</p> <p>6.5 On the Sub-Committee's return the Chairman will announce the Sub-Committee's decision (in relation to a Parish Councillor a recommendation to the Parish Council)</p> <p>6.6 The Sub-Committee will consider whether it should make any recommendations to the Council or in relation to a Parish Councillor to the Parish Council with a view to promoting high standards of conduct among Members</p> <p>6.7 The Chairman will confirm that a full written decision shall be issued within 7 working days following the hearing and that the Sub-Committee's findings to be published.</p>
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COMPLAINT FORM

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

[delete as appropriate]

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted member of an authority
- ☐ Member of Parliament
- ☐ Local authority monitoring officer
- ☐ Other council officer or authority employee
- ☐ Other ()

3. Equality monitoring questions

[Keep consistent with data collection elsewhere in your authority]

Making your complaint

[You may wish to include a preamble telling complainants the process that will be followed in considering their complaint. This may include factors such as:

- the timeframe and process for considering their complaint
- a synopsis of (or direction to) your authority's referral criteria
- explanation of the decisions the sub-committee can reach
- when and how they and others will be notified of the decision
- details of where to direct any queries]

4. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer or the Sub-Committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Only complete this next section if you are requesting that your identity is kept confidential

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

[Insert your authority's criteria for considering requests for withholding a complainant's details]

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

If your complaint is dealt with by the Standards Committee at a hearing after an investigation you may be asked to attend as a witness.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

7. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

[You should insert relevant contact details here and expand on the support that your authority can offer to complainants with a disability that prevents them from making a written complaint, or where English is not their first language. You should set out clearly the support that is available and how to access it.]

Epping Forest Assessments Subcommittee – Active Cases

As at: 23 January 2012

Year	No.	Case reference no.	Case status	Received - (dd/mm/yyyy)	Investigator
2011	2	EFDC 2/2011	<p>Received 13 July 2011. Complaint from member of the public regarding Town Councillor. Relates to an incident during a site visit (Respect and Disrepute) and failure to declare a prejudicial interest in the matter at the Town Council meeting.</p> <p>Assessment Sub meeting 8 September 2011 Decision of NFA. Review undertaken 20 October 2011 and upheld Assessment Decision.</p> <p>Complainant has now made complaint to LG Ombudsman claiming maladministration by the Standards Panels – Case under consideration.</p>	13/7/11	None at this stage.

Year	No.	Case reference no.	Case status	Received - (dd/mm/yyyy)	Investigator
2011	3	EFDC 3/2011	<p>Received 22 August 2011. Complaint by two members of a parish council about two other members. Relates to an incident at a parish meeting regarding disclosure of expenses and an inference of impropriety.</p> <p>Following discussion with S Hill the complaint was withdrawn on 30 August 2011. Papers to be kept on file.</p> <p>Corporate Governance Group decided that a discussions between the MO and S Hill with Parish Council members should be deferred until after elections in May 2012.</p>	22/8/11	n/a
2011	4	EFDC 4/2011	<p>Received via planning officer on 13 October 2011. Complaint stems from a meeting of a Area Planning Subcommittee regarding potential conflict of interest. Matter has been deferred for site visit.</p> <p>Discussion with S Hill and complainant has resulted in complainant agreeing that formal complaint should not be made at this time and wait until the planning process has been completed.</p> <p>New contact from complainant 10 Jan 2012 – complaint now expected shortly</p>	13/10/2011	n/a

Year	No.	Case reference no.	Case status	Received - (dd/mm/yyyy)	Investigator
2011	5	EFDC 5/2011	<p>Complaint from member of public against a Town Councillor. Complainant has previously made a complaint against a member of the local council concerned (2/2011)</p> <p>The complainant alleges that the member has failed to treat them with respect after they had written to that member regarding a comment made in the draft minutes of a committee to which the member was chair.</p> <p>The substance of this complaint relates to a stamped addressed envelope</p> <p>Letter to complainant dated 22 December 2011 rejecting complaint seeking substantive evidence of breach by end Jan 2012</p>	29/11/12	

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