

A meeting of the **STANDARDS COMMITTEE** will be held in **ROOM CVSO1A, CIVIC SUITE, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **THURSDAY, 21 JUNE 2012** at **4:00 PM** and you are requested to attend for the transaction of the following business:-

## **APOLOGIES**

### **1. ELECTION OF CHAIRMAN**

To elect a Chairman of the Committee.

### **2. MINUTES (Pages 1 - 4)**

To approve as a correct record the Minutes of the meeting held on 1st December 2011.

### **3. MEMBERS' INTERESTS**

To receive from Members declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any Agenda Item. Please see Notes 1 and 2 below.

### **4. APPOINTMENT OF VICE-CHAIRMAN**

To appoint a Vice-Chairman of the Committee.

### **5. REPORTS OF THE SUB-COMMITTEES**

To receive reports from the Chairmen of the Referrals (Assessment), Review and Consideration & Hearing Sub Committees.

### **6. NEW STANDARDS REGIME (Pages 5 - 44)**

To consider a report by the Head of Legal & Democratic Services and Monitoring Officer regarding the arrangements which are required to comply with the introduction of a new standards regime with effect from 1st July 2012.

### **7. APPLICATIONS FOR DISPENSATION (Pages 45 - 48)**

To consider a report by the Head of Legal & Democratic Services and Monitoring Officer in respect of two applications received for dispensation from St Ives Town and Great and Little Gidding Parish Councils.

**8. LOG OF CODE OF CONDUCT ENQUIRIES (Pages 49 - 54)**

To note the Code of Conduct enquiries recorded by the Head of Legal & Democratic Services and Monitoring Officer since the meeting held in December 2011.

**9. TRAINING UPDATE**

To report that the Monitoring Officer presented training to St Ives Town Council on 30th May 2012 and to newly elected District Councillors as part of their 'New Member Induction'.

**10. CASE DETAILS (Pages 55 - 56)**

To note the outcome of a recent case.

**11. DATE OF NEXT MEETING**

To remind Members that the next meeting of the Committee is due to take place at 4pm on Thursday 5th July 2012.

Dated this 153 day of June 2012

A handwritten signature in black ink, appearing to read 'M. Sharp', written in a cursive style.

Head of Paid Service

## Notes

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*
  - (a) *the well-being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;*
  - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
  - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or*
  - (d) *the Councillor's registerable financial and other interests.*
  
2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

**Please contact Ms C Deller, Democratic Services Manager, Tel No 01480 388007/e-mail: [Christine.Deller@huntingdonshire.gov.uk](mailto:Christine.Deller@huntingdonshire.gov.uk) if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee**

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**Specific enquires with regard to items on the Agenda should be directed towards the Contact Officer.**

**Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.**

Agenda and enclosures can be viewed on the District Council's website – [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk) (under Councils and Democracy).

**If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Democratic Services Manager and we will try to accommodate your needs.**

***Emergency Procedure***

*In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.*

## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in Room CVSO1A, Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Thursday, 1 December 2011.

PRESENT: Mr D L Hall - Chairman

Councillors Mrs B E Boddington, P J Downes, R S Farrer, A Hansard, G J Harlock, P G Mitchell and T D Sanderson.

Messrs J Alexander, P Boothman and G Watkins.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Mr M Lynch and Mrs S Stafford.

### **19. MINUTES**

The Minutes of the meeting of the Committee held on 8th September 2011 were approved as a correct record and signed by the Chairman.

### **20. MEMBERS' INTERESTS**

No interests were declared by the Members present.

### **21. REPORTS OF SUB-COMMITTEES**

The Committee noted the decisions of the Referrals (Assessment) Sub-Committee at meetings held on 21st October and 3rd and 29th November 2011 in respect of complaints received regarding existing and former Members from Farcet, Upwood and The Raveleys and Yaxley Parish Councils and Huntingdonshire District Council. The Monitoring Officer also reported that the Review Sub-Committee had met on 14th November 2011 and decided to uphold an original decision by the Referrals (Assessment) Sub-Committee not to take any action on a complaint made about the conduct of a Member of St. Ives Town Council.

The Standards (Consideration and Hearing) Sub-Committee had not met recently.

### **22. LOCALISM ACT AND NEW STANDARDS REGIME**

Consideration was given to a report by the Head of Legal and Democratic Services and Monitoring Officer (a copy of which is appended in the Minute Book) regarding those provisions of the Localism Act 2011 that related to Standards and the Code of Conduct. Also made available to Members was a copy of a press release dated 27th October 2011 and a preliminary draft Code of Conduct both published by the Association of Council Secretaries and

Solicitors. (Copies of which also are appended in the Minute Book). It was reported that currently the expectation was that the Act would come into force on 1st April 2012.

To assist the Committee in their understanding of the new provisions, the Monitoring Officer gave a power point presentation on those sections of the Act relevant to standards. Principally, the Committee noted that the Act still required each Authority "to promote and maintain high standards of conduct" by elected and co-opted Members and to adopt a Code of Conduct which should provide for the registration of disclosable pecuniary interests. As the current Model Code would be abolished, Members noted that Monitoring Officers from across Cambridgeshire were seeking to draft a standard Code for adoption by all Authorities to avoid inconsistencies and the difficulty, which might arise if each Council were to work to different Codes. Ultimately, Parish Councils would have the opportunity to adopt this agreed Code or one of their own.

In answer to a question, the Committee understood that the Council also still would be required to have in place arrangements to deal with complaints of breaches of the Code and whilst these were not required to be as prescriptive as the current procedures, they still would need to be able to respond to allegations in respect of Parish as well as District and Co-opted Members. Members also were made aware that the Act still required the Monitoring Officer to maintain and publish, in various forms, a Members' Register of Interests and Councillors still would be required to declare disclosable pecuniary interests although these had yet to be defined. The Monitoring Officer also described other matters in the Act which included recommendations in respect of the appointment of independent persons and the sanctions available in the event of a breach of the Code.

In noting the report, the Committee acknowledged the difficulty in interpreting the detail of the Act and in putting in place a new standards regime but Members were hopeful that the Statutory Instrument which should follow would assist the Monitoring Officer in this task.

Lastly, Members acknowledged that elements of the new arrangements would require to be reported to the Council for adoption and it was anticipated that recommendations to this effect would be submitted to the meeting of the Council in April 2012.

## **23. TRAINING UPDATE**

The Monitoring Officer reported that he had presented training on the Code of Conduct to twelve Members of Yaxley and Farcet Parish Councils and one Councillor from Bretton Parish Council (Peterborough) at a session held on 15th November 2011.

## **24. RECENT CASES OF INTEREST**

By reference to a recent determination by the Upper Tribunal (a copy of which is appended in the Minute Book) the Committee was informed of the recent outcome of a case considered in the Upper

Tribunal (MC v Standards Committee of L B Richmond) which could have implications for Member activity on blogs, twitter and other internet sites.

Depending on the circumstances, such communications might be regarded as conducting the business of the office of Member or “acting as a representative of your authority” as provided in paragraph 2 (1) (b) of the Code of Conduct. This is because it is reasonable to regard such communicating with constituents about issues of local political interest as part of the business of the office of a Councillor.

As Standards for England had revised their quick guide to blogging to take account of this judgement, the Committee requested that it be made available on the Members’ Home Page and distributed to Town and Parish Councils (a copy of the quick guide to blogging also is appended in the Minute Book).

**25. SURVEY OF PUBLIC ATTITUDES TOWARDS CONDUCT IN PUBLIC LIFE 2010**

Having regard to the content of an Executive Summary (a copy of which is appended in the Minute Book) the Committee noted the recently published findings from the National Survey of Public Attitudes Towards Conduct in Public Life.

Whilst not surprised at the decline in confidence which the survey had revealed, the Committee was pleased that the level of confidence in Authorities to uncover and punish wrong-doing was slightly higher than in the 2008 survey.

**26. DATE OF NEXT MEETING**

It was noted that the next meeting of the Committee would be held at 4pm on Thursday 1st March 2012.

Chairman

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**NEW STANDARDS REGIME  
Report by the Head of Legal & Democratic Services  
and Monitoring Officer)**

**1. INTRODUCTION**

- 1.1 At its meeting held on 1st December 2011, the Standards Committee was advised, in general terms, of the provisions of the Localism Act 2011 as it related to Standards and the Code of Conduct. The Committee expected that the Regulations due to follow would interpret the detail of the Act and assist the Monitoring Officer in putting in place new 'standards' arrangements for the District Council.
- 1.2 Draft Regulations have only just been published and despite representations to Government requesting a postponement of the commencement date (on the basis that the timescale for adoption of a new Code and its implications was too short) it is unlikely that the implementation date of 1st July 2012 will change. A special meeting of the Committee has therefore been called to ensure that the District Council is ready to comply with the Act by 1st July 2012. The recommendations in this report are based on the assumption that the necessary Regulations have come into effect by this date.

**2. BACKGROUND AND ESSENTIAL REQUIREMENTS**

- 2.1 Chapter 7 of the Localism Act 2011 relating to Standards makes it a duty for –
- ◆ each “relevant authority” to promote and maintain high standards of conduct by elected Members and Co-opted Members of the Authority;
  - ◆ a “relevant authority” must, in particular, adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the Authority when they are acting in that capacity;
  - ◆ the Monitoring Officer must establish and maintain a Register of Interests of Members and Co-opted Members of the Authority and provide a means for the disclosure of pecuniary and other interests; and
  - ◆ a relevant Authority must have in place arrangements under which complaints can be investigated and under which allegations of misconduct can be made.
- 2.2 Changes to the way in which requests for dispensation and the appointment of the Standards Committee and Independent Persons also need to be addressed. The intention of the Act is to replace the current standards regime with shorter, more cost-effective and proportionate investigations with less time consuming hearings and procedures. There is local discretion to design a process which meets the District Council's circumstances but that is sufficiently robust to assure members of the public that any complaints will be dealt with appropriately.

2.3 The following paragraphs address each requirement in turn.

### **3. A NEW CODE OF CONDUCT**

3.1 The Model Code of Conduct will be replaced and the District Council and all Parish Councils within Huntingdonshire must adopt a new Code setting out the conduct expected of their Members when acting in their capacity as an elected Member. The Code should be consistent with the following principles –

- (i) selflessness;
- (ii) integrity;
- (iii) objectivity;
- (iv) accountability;
- (v) openness;
- (vi) honesty;
- (vii) leadership

and should provide for the registration (and disclosure) of pecuniary interests and interests other than pecuniary interests.

3.2 To seek to achieve consistency of approach locally, Monitoring Officers across all Cambridgeshire Authorities have produced a draft Code of Conduct which is reproduced as Appendix A hereto.

3.3 The Government also has published illustrative text (Appendix B) setting out what a Council's Code of Conduct might look like under the incoming standards regime.

3.4 For completeness and for comparative purposes, copies of draft Codes produced by the National Association of Local Councils (NALC) and the Local Government Association (LGA) are also enclosed at Appendices C and D.

3.5 Although in the existing Code, no provision is made in the draft Code produced by Cambridgeshire Monitoring Officers for the declaration of gifts and hospitality. The Committee might wish to consider whether the following text relating to gifts and hospitality should be included in the new Code for Huntingdonshire –

- i. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50? which you have accepted as a Member from any person or body other than the authority;
- ii. The Monitoring Officer will place your notification on a public register of gifts and hospitality; and
- iii. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

### **RECOMMENDATION**

that the Head of Legal & Democratic Services and Monitoring Officer be authorised to finalise the preferred option and that the Council be recommended to adopt this option as the new Code of Conduct for Huntingdonshire.

#### **4. REGISTRATION AND DISCLOSURE OF MEMBERS' INTERESTS**

- 4.1 The Monitoring Officer is required to establish and maintain a Register of Interests of Members and Co-opted Members of the Authority and to define what interests must be registered. The Register of Interests must be made available for inspection and published on the District Council's website. The Monitoring Officer also is responsible for maintaining the Register for Parish Councils which also is required to be open for inspection at the District Council's offices and on the District Council's website and where a Parish Council has a website, the District Council is required to provide the Parish Council with the information required to enable the Parish Council to publish its current Register on its own website.
- 4.2 The Code of Conduct to be adopted by the District Council should contain appropriate requirements for the registration and disclosure, of pecuniary interests and interests other than pecuniary interests.
- 4.3 As previously, an elected Member or Co-opted Member must register their disclosable interests within 28 days of their election to office or co-option. Whilst there is no continuing requirement for a Member to keep the Register up to date except on re-election/re-appointment, it would seem to be good practice for Members to review their registered interests regularly and update their declaration as necessary.
- 4.4 The Secretary of State for Communities and Local Government has now specified the disclosable pecuniary interests for the purposes of Section 30 (3) of the Act. These are broadly equivalent to the current prejudicial interests and are described in Appendix E hereto. The Act extends the requirement for registration to cover not just the Members' own interests but also those of the Members' spouse, or civil partner, or someone living with the Member in a similar capacity provided the Member is aware that the other person has the interest. The duty to disclose interests at and withdraw from meetings and advice on sensitive interests is covered in the proposed Code of Conduct referred to in paragraph 3.2. Failure to disclose without a reasonable excuse is a criminal offence potentially carrying a scale 5 fine (£5,000) and/or disqualification of up to five years.

#### **RECOMMENDATIONS**

- (a) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to establish and maintain a new Register of Members' Interests in compliance with the requirements of the Localism Act 2011 and the Council's Code of Conduct and ensure it is available for public inspection in accordance with the Act;
- (b) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to establish and maintain new registers of interest for each Parish Council in Huntingdonshire in compliance with the Localism Act 2011 and the Code of Conduct adopted by the respective Parish Council and ensure that they are available for public inspection in accordance with the Act; and

- (c) that, after consultation with the Chairman of the Committee, the Head of Legal & Democratic Services and Monitoring Officer be requested to arrange sessions to train District, Town and Parish Councillors on the new registration and disclosure requirements.

## 5. STANDARDS COMMITTEES (APPOINTMENT OF INDEPENDENT PERSONS AND PARISH COUNCIL REPRESENTATIVES)

5.1 The Localism Act repeals Section 55 of the Local Government Act 2000 which imposes a statutory duty to appoint a Standards Committee. Whilst there is no longer a requirement for a Standards Committee, there still will be a need to respond to standards issues and consider how best to deal with any complaints and investigations. Should Members consider that it remains convenient to retain a Standards Committee or Sub-Committee, that body would be an ordinary Committee or Sub-Committee established under Section 102 of the Local Government Act 1972 and thus –

- ◆ its composition would be governed by proportionality and the present restriction to only one member of the Executive on the Committee will cease to apply (*on the recommendation of the former 'Standards For England', the District Council has since 2000 appointed the Committee with appropriate political representation with the support of all parties and included one Cabinet Member in its membership.*)
- ◆ it will be subject to the same requirements on confidential and exempt information as any other Committee;
- ◆ it would not include Independent Members (other than as non-voting co-optees);
- ◆ it would not include Parish Council representatives unless the Council decides to retain them as non-voting co-optees.

### Independent Persons

5.2 The four current independent Members will cease to hold office with effect from 30th June 2012. The Act establishes a new category of independent persons and arrangements adopted by Council must include provision for the appointment of at least one independent person. Independent persons must be appointed through a process of public advertisement and application and there are strict rules preventing a person from being appointed if they are a friend or relative to any Member or Officer of the Authority, or of any Parish Council within the Authority's area.

5.3 The functions of the Independent Person(s) are:

- They **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 (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);

- They **may** be consulted by the authority in respect of a standards complaint at any other stage;
- They **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; and
- They may be involved in the grant of dispensations.

5.4 In response to representations, transitional provisions appear now to enable Councils to re-appoint existing independent Members as independent persons to retain expertise and skills but following a robust recruitment process. Such arrangements only apply to appointments made before 1st July 2013. Whilst the Act gives discretion to appoint one or more independent persons, Members might consider that there appears to be little advantage in that provided that a reserve independent person was retained without need for re-advertisement in the event that the independent person is not available to discharge the function. The remuneration of the independent person would no longer fall under the Scheme of Members' Allowances and can therefore be determined without reference to the Independent Remuneration Panel. As the role of the independent person is likely to be less onerous, it might be appropriate to undertake a review of the function before setting the remuneration.

5.5 At one stage during discussions between the Monitoring Officers of Cambridgeshire Authorities, there was a suggestion that it would be appropriate to co ordinate the advertisement of all vacancies for independent persons with neighbouring authorities so that experienced independent members could be retained as an independent person at a neighbouring authority. The Committee may consider that joint recruitment of independent persons might be appropriate.

### **Parish Council Representatives**

5.6 The District Council will continue to have responsibility for dealing with standards complaints against Members of Parish Councils but the current Parish Council representatives will cease to hold office. The District Council can choose whether it wishes to continue to involve Parish Council representatives (currently two appointed by CPALC with one vacancy) and if so, how many. A Standards Committee or Sub-Committee could be established with co-opted but non-voting Parish Council representatives.

### **RECOMMENDATIONS**

- (a) that the Council be recommended to appoint a Standards Committee comprising seven elected Members of the District Council based on appropriate political proportionality and to include one Member who is a Member of the Executive (*as currently constituted*);
- (b) that the Council be recommended to invite Parish Councils to nominate 2(?) Parish Councillors to be co-opted as non-voting members of the committee;

- (c) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to commence the process for the appointment of at least 2 independent person(s)(one permanent and one able to act in reserve) and to undertake a review of the role and remuneration of the position;
- (d) that a Selection Panel comprising three Members of the Committee be established to short list and interview candidates for the position of independent persons and to recommend an appointment to Council; and
- (e) that the Head of Legal & Democratic Services and Monitoring Officer be authorised to pursue, if appropriate, the possibility of a joint recruitment exercise with Cambridgeshire Authorities to appoint independent persons.

## 6. **ARRANGEMENTS FOR RESPONDING TO COMPLAINTS (MONITORING OFFICER'S PROTOCOL)**

- 6.1 The Localism Act requires that the Council adopt "arrangements" for dealing with complaints of breach of conduct both by District and Parish Council Members as such complaints can only be dealt with in accordance with such "arrangements". The "arrangements" must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of 'Conduct. The Act repeals the requirements for separate Referrals, Review and Consideration & Hearing Sub-Committees and enables the Council to establish its own process and delegate appropriate powers to any Committee and the Monitoring Officer.
- 6.2 Major changes are required to the current Monitoring Officer's Protocol which is contained in the Part 5 of the Constitution (page 347). Principally this will require amendment to make provisions for the new functions of the independent person. From experience of the nature of complaints which have arisen over the last four years and given the increasing pressure to be placed on the Monitoring Officer in any proposed new approach to the handling of complaints, the Committee might wish to express the view that any new local assessment procedure should include a requirement that complaints made about Parish Councillors should be addressed to the Parish Council under their complaints process in the first instance and only be considered by the Monitoring Officer once local measures have been exhausted unless the town or parish council can demonstrate to the satisfaction of the Monitoring Officer that such a course of action is not practicable.
- 6.3 Most Members have been involved in the Referrals, Review and Consideration & Hearing Sub-Committees over recent years and may wish to comment on how the District Council should respond to complaints in the future bearing in mind that it is the desire to streamline current arrangements.
- 6.4 A draft Monitoring Officer's protocol for the management of complaints and proposed Complaints Procedure Flowchart are

enclosed at Appendices F and G respectively. Member's comments are invited on these proposed procedures.

## RECOMMENDATIONS

- (a) that, subject to Members' views, the Head of Legal & Democratic Services and Monitoring Officer be authorised to finalise the protocol for the discharge of functions in relation to allegations that a Member of Huntingdonshire District Council or Parish Council in the District failed to comply with the adopted Code of Conduct; and
- (b) that the Head of Legal & Democratic Services and Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct and authorised to determine allegations in accordance with the agreed protocol.

## 7. OTHER ISSUES

7.1 The various changes required to the standards regime will have a major impact on the District Council's Constitution. Once decisions have been made by the Council on how it intends to manage standard issues in the future, amendments will have to be made to the following sections -

Article 9 - Standards Committee  
Table 1 - Responsibility for Local Choice functions

Part 5 - Codes and Protocols

7.2 Whilst the proposed new Code of Conduct will make appropriate provisions for the disclosure of interests and for Members to withdraw from the meeting room there is a suggestion that the requirement to withdraw could formally be included within the District Council's Procedure Rules (Council Standing Orders).

7.3 If a Member has a disclosable pecuniary interest 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); or
- ◆ participate in any vote on the matter, unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

7.4 Failure to comply with the requirements becomes a criminal offence rather than leading to sanctions. The requirement to withdraw from the meeting room can be covered by Standing Orders so that failure to comply will be neither a criminal offence nor a breach of code of conduct. A meeting could also vote to exclude a Member. Under the existing statutory Code, Members are required to leave a meeting if they have a prejudicial interest in the business under consideration.

As the Code to be adopted by the District Council is not statutorily prescribed, Members may feel that it is appropriate to reflect this requirement in Standing Orders to strengthen the obligation to declare a disclosable pecuniary interest and withdraw.

- 7.5 Transitional provisions provide for the determination of any outstanding complaints under the current Code of Conduct if these were received before 1st July 2012. Therefore it may be reasonable to retain the Referrals (Assessment), Review and Consideration & Hearing Sub-Committees constituted for this purpose until 30th September 2012 to enable any outstanding complaints to be considered.

## 7.6 **Dispensations**

The provisions on dispensations are significantly changed by the Localism Act 2011.

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

- that at least half of the Members of a decision-making body have prejudicial interests; and
- that so many Members of one political party have prejudicial interests that it will upset the result of the vote on the matter.

In future, a dispensation will be able to be granted in the following circumstances:

- i. that so many Members of the decision-making body have DPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result; and
- ii. that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
- iii. that the authority considers that the dispensation is in the interests of persons living in the authority’s area;
- iv. that, without a dispensation, no Member of the Cabinet would be able to participate on this matter (so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
- v. that the authority considers that it is otherwise appropriate to grant a dispensation.



As at present, any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by a Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds (i) and (iv) are pretty objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to the Standards Committee. Grounds (ii), (iii) and (v) are rather more objective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

## **7.7 RECOMMENDATIONS**

- (a) that, after consultation with the Chairman of the Standards Committee, the Head of Legal & Democratic Services and Monitoring Officer be authorised to make any appropriate variations to the Constitution consequent upon the changes to the District Council's Standards arrangements (7.1);
- (b) that the views of the Committee be requested on whether to amend the Council's Procedure Rules (Standing Orders) to require that a Member must withdraw from a meeting room during the consideration of any item of business in which he/she has a disclosable pecuniary interest (7.2);
- (c) that the Referrals, Review and Consideration & Hearing Sub-Committees as constituted at the meeting of the Committee on 7th July 2011 be re-appointed to enable outstanding complaints to be resolved; and
- (d) that the Committee consider the arrangements that would be appropriate for granting dispensations (7.6).

## **8. CONCLUSIONS**

- 8.1 The Committee/Panel are invited to express their views and consider the recommendations set out in this report.

## **BACKGROUND PAPERS**

Localism Act 2011 (Part 1 - Local Government, Chapter 7, Standards).  
Draft Regulations - The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012  
The Localism Act 2011 (Commencement No 6 and Transitional Savings, Transitional Provisions) Order 2012

**Contact Officer: Colin Meadowcroft,  
Head of Legal & Democratic Services and  
Monitoring Officer/  
Christine Deller, Democratic Services Manager  
Tel Nos: (01480) 388021/388007**

**CAMBRIDGESHIRE AUTHORITIES  
MEMBERS' CODE OF CONDUCT**

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should borne in mind when interpreting the meaning of the Code:-

- (i) **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- (ii) **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- (iii) **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- (iv) **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- (v) **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- (vi) **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- (vii) **Leadership** Holders of public office should promote and support these principles by leadership and example.

**PART 1**

**GENERAL PROVISIONS**

**1. INTRODUCTION AND INTERPRETATION**

- 1.1. This Code applies to **you** as a member of Cambridgeshire Authorities.
- 1.2. The term “**the Authority**” used in this Code refers to Cambridgeshire Authorities.
- 1.3. “**Member**” means any person being an elected or co-opted member of the Authority.
- 1.4. It is **your** responsibility to comply with the provisions of this Code.
- 1.5. 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 area committees;
  - (d) Any of the Authority’s advisory groups and executive boards, working parties and panels
- 1.6. In this Code “relevant authority” has the meaning given to it by section 27(6) of the Localism Act 2011.

**2. SCOPE**

- 2.1. You must comply with this Code whenever you act, claim to act or give the impression you are acting in your official capacity as a Member of the Authority.
- 2.2. Where you act as a representative of the 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**

**3.1. You must treat others with respect.**

**3.2. You must not:-**

- (a) do anything which may cause the Authority to breach UK equalities legislation;
- (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,
- (d) in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct, do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.
- (e) conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

**4. YOU MUST NOT**

**4.1. 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:-**

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) 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
- (d) the disclosure is:-
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the authority; or

**4.2. Prevent another person from gaining access to information to which that person is entitled by law.**

**5. YOU MUST NOT**

- 5.1. 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

**6. YOU MUST**

- 6.1. When using or authorising the use by others of the resources of your authority:-

- (a) act in accordance with your authority's reasonable requirements;
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

- 6.2. Have regard to any Local Authority Code of Publicity made under the Local Government Act 1986.

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**PART 2**

**INTERESTS**

**7. DISCLOSABLE PECUNIARY INTERESTS**

- 7.1. Breaches of the rules relating to disclosable pecuniary interests may lead to criminal sanctions being imposed.

- 7.2. You have a disclosable pecuniary interest if it is of a description specified in regulations made by the Secretary of State and either:

- (a) it is an interest of yours, or
- (b) it is an interest of:
  - (i) your spouse or civil partner;
  - (ii) a person with whom you are living as husband and wife, or
  - (iii) a person with whom you are living as if you were civil partners

and you are aware that that other person has the interest.

**8. REGISTRATION OF DISCLOSABLE PECUNIARY INTERESTS AND PERSONAL INTERESTS**

8.1. Subject to paragraph 10 below (sensitive interests), you must, within 28 days of:

- (a) this Code being adopted or applied by the Authority; or
- (b) your election or appointment (where that is later),

notify the Authority's Monitoring Officer in writing of any Disclosable Pecuniary Interests and/or Personal Interests you have at that time.

8.2. Subject to paragraph 10 below (sensitive interests), you must, within 28 days of becoming aware of any new Disclosable Pecuniary Interest/Personal Interests or any change to any such interest, notify the Authority's Monitoring Officer in writing of that new pecuniary interest or change, pursuant to sub-paragraph 9.1 above.

**9. DISCLOSABLE PECUNIARY INTERESTS IN MATTERS CONSIDERED AT MEETINGS OR BY A SINGLE MEMBER**

9.1. If you attend a meeting and have and are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at that meeting -

- (a) if the interest is not entered in the Authority's register of members' interests, you must, subject to sub-paragraph 11.1 below, disclose to the meeting the fact that you have a Disclosable Pecuniary Interest in that matter. If you have not already done so, you must notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure, and
- (b) whether the interest is registered or not you must not – unless you have obtained a dispensation from the Authority's Monitoring Officer –
  - (i) apart from making representations, giving evidence or answering questions, prior to the commencement of the debate on that matter, participate, or participate further, in any discussion of the matter at the meeting; or
  - (ii) remain in the meeting room whilst the matter is being debated or participate in any vote taken on the matter at the meeting.

***Single member action***

9.2. If you are empowered to discharge functions of the Authority acting alone, and have and aware that you have a disclosable pecuniary interest in any matter dealt with, or being dealt with, by you in the course of discharging that function, you must not take any steps, or any further steps, in relation to the matter (except for the purposes of enabling the matter to be dealt with otherwise than by you).

**10. SENSITIVE INTERESTS**

- 10.1. Where you consider (and the Authority's Monitoring Officer agrees) that the nature of a Disclosable Pecuniary or Personal Interest is such that disclosure of the details of the interest could lead to you or a person connected with you being subject to intimidation or violence, it is a "sensitive interest" for the purposes of the Code, and the details of the sensitive interest do not need to be disclosed to a meeting, although the fact that you have a sensitive interest must be disclosed, in accordance with paragraph 9.1 above.

**11. PERSONAL INTERESTS**

- 11.1. You have a personal 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 -
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) 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) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) 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;
    - (vi) 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 exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) 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 specified in paragraph (vi);



- (viii) the interests of any person from whom you have received a gift or hospitality th an estimated value of at least £50;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) 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 (vi) is, the tenant;
  - (xi) 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
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- 11.2. In sub-paragraph (1)(b), a relevant person is -
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of 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 a type described in sub-paragraph (1)(a)(i) or (ii).

### **PART 3**

#### **RELATED DOCUMENTS**

12. Arrangements for dealing with alleged breaches of the Cambridgeshire Authorities Members' Code of Conduct.

**Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

**Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

## APPENDIX C

### Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

## APPENDIX C

As a Member of *[X authority]*, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the *[county][borough][Authority's area]* or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## NALC's template code of conduct for parish councils

As explained in paragraph 13 of LTN 80 – 'Members' conduct and the registration and disclosure of their interests (England)', NALC has produced a template code of conduct for parish councils because:

- it does not recommend that parish councils adopt the LGA's template code of conduct and
- parish councils may not want to draft their own or adopt their principal authority's code of conduct.

Unlike the LGA's template code of conduct, the attached NALC template code of conduct has the following features:

1. It uses concise and clear language to define members' obligations in respect of their conduct.
2. It incorporates members' mandatory obligations in respect of disclosable pecuniary interests. These are yet to be defined by regulations which are expected to be made before 1 July 2012 and will be inserted in Appendix A of the NALC template.
3. It sets out other pecuniary interests and non pecuniary interests in Appendix B of the NALC template about which members have obligations with regard to registration, disclosure, and speaking at meetings.
4. It describes the circumstances in which a parish council may grant a dispensation for members to participate and vote on a matter at a meeting.
5. It accommodates variations to be made to it except in relation to members' mandatory obligations about disclosable pecuniary interests in Appendix A. Substantive amendments to the NALC template code of conduct are not recommended because it establishes (i) the minimum standards for members' conduct which are consistent with the Nolan principles of conduct in public life and (ii) a proportionate range of pecuniary and non pecuniary interests which members are subject to.

It is likely that some of the interests presently included in Appendix B of the NALC template will constitute disclosable pecuniary interests, prescribed by regulation, and that any such interests will need to be included in Appendix A. NALC will publish the final version of its template code of conduct after regulations which define disclosable pecuniary interests have been made.

**This briefing was issued by Meera Tharmarajah, Solicitor and Head of Legal Services**

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## **NALC template code of conduct for parish councils**

### **Introduction**

Pursuant to section 27 of the Localism Act 2011, X [Parish/Town/Village/Community/Neighbourhood] Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

### **Definitions**

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

### **Member obligations**

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

### ***Registration of interests***

6. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the categories set out in Appendices A and B.
7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests in Appendices A and B.
8. A member shall register any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
9. A member need only declare on the public register of interests the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'.



## APPENDIX D

A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

### ***Declaration of interests***

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
10. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting.
12. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter before withdrawing. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.

## APPENDIX D

13. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate, the member shall disclose the nature of the interest and withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

### **Dispensations**

14. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

**Appendix A**

Such interests, as prescribed by regulations, are.....

### Appendix B

[Unless they are interests prescribed by regulation for inclusion in Appendix A] any interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
  - (a) exercising functions of a public nature;
  - (b) directed to charitable purposes; or
  - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;
- (iii) any employment or business carried on by the member;
- (iv) any person or body who employs or has appointed the member;
- (v) any person or body, other than the Council, who has made a payment to the member in respect of his/her election or any expenses incurred by him/her in carrying out his/her duties;
- (vi) any person or body who has a place of business or land in the Council's area, and in whom the member has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

## APPENDIX D

- (vii) any contract for goods, services or works made between the member's Council and the member or a firm in which he/she is a partner, a company of which he /she is a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.
- (ix) any land in the Council's area in which the member has a beneficial interest;
- (x) any land where the landlord is the Council and the member is, or a firm in which the member is a partner, a company of which the member is a remunerated director, or a person or body of the description specified in paragraph (vi), is the tenant;
- (xi) any land in the Council's area for which the member has a licence (alone or jointly with others) to occupy for 28 days or longer.

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 STATUTORY INSTRUMENTS
 

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2012 No.

## LOCAL GOVERNMENT, ENGLAND

 The Relevant Authorities (Disclosable Pecuniary Interests)  
 Regulations 2012

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	1st July 2012

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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

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(a) 2011 c.20.

(b) 2000 c. 8.

## Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of section 30(3) of the Localism Act 2011 are the interests specified in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Date \_\_\_\_\_  
Name  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

## SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

(a) 1992 c. 52.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a local authority and certain other authorities, on taking office, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.





**Huntingdonshire District Council  
Draft Model Arrangements  
for dealing with standards allegations under the Localism Act 2011**

**1 Context**

Under Section 28 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, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

**2 The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is attached as an Appendix to these arrangements and available for inspection on the authority’s website and on request from the Council’s Offices.

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**

If you wish to make a complaint, please write to:

“The Monitoring Officer  
Huntingdonshire District Council

Or email: [colin.meadowcroft@huntingdonshire.gov.uk](mailto:colin.meadowcroft@huntingdonshire.gov.uk)

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.

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 model complaint form, which can be downloaded from the authority’s website, next to the Code of Conduct, and is available on request from the Council Offices.

Please do 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, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

#### **4 Complaint Process**

The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint. If sufficient supporting evidence is not provided, the Monitoring Officer will require the complainant to provide such evidence.

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.

Within 5 working days of receiving a valid Code of conduct complaint and supporting evidence the Monitoring Officer shall:-

- (i) Contact the subject member with a summary of the complaint and evidence; and
- (ii) Ask the subject member to provide a written response to the allegation(s) and supporting evidence within 5 working days.

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 20 working days of receipt of your complaint and the subject member's response. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

#### **5 Criteria for Assessment**

The Monitoring Officer has the discretion to refuse any complaints:-

- (i) Containing no or insufficient evidence to demonstrate a breach of the code;
- (ii) Are trivial, malicious or tit for tat;
- (iii) Are anonymous, unless serious and supported by sufficient evidence;
- (iv) Where an investigation would not be in the public interest or the matter would not warrant any sanction;
- (v) Where a substantially similar complaint has previously been considered and no new material evidence has been submitted;
- (vi) Relate to allegations concerning a Member's private life;
- (vii) Relate to conduct in the distant past (over 12 months before)
- (viii) Relate to dissatisfaction with a Council [or Parish Council] decision;
- (ix) Is about someone who is no longer a member of the Council [or relevant Parish council] or who is seriously ill;

#### **6 Informal Resolution**

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 a reasonable proposal for local resolution is proposed, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

## **7 Criminal Conduct**

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to refer the matter to the Police or any other relevant regulatory agency. In such cases the complainant and subject member will be notified in writing.

## **8 How is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will 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 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 the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would 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.

At the end of his/her investigation, the Investigating Officer will produce a draft 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.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **9 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

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 Investigating Officer's final report. 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.

## **10 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

### **10.1 Local 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. 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 where appropriate] for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

## 10.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local 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.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her 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 may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, 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 so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel 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..

## 11 **What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel 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 Hearings Panel may:

- 11.1 Censure or reprimand the member;
- 11.2 Publish its findings in respect of the member's conduct;
- 11.3 Report its findings to Council [or to the Parish Council] for information;

- 11.4 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 11.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 11.6 Recommend to Council that the member be replaced as Executive Leader;
- 11.7 Instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
- 11.8 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];
- 11.9 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
- 11.10 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.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## **12 What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to the complainant, to the member and to the Parish Council, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Standards Committee.

## **13 Who are the Hearings Panel?**

The Hearings Panel is a sub-committee of the Council's Standards Committee comprising a maximum of five members, including not more than one member of the authority's Executive and comprising members drawn from at least two different political parties. Subject to those requirements, it is appointed in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel 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.

## **14 Who is the Independent Person?**

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.

A person cannot be “independent” if he/she:

- 14.1 Is, or has been within the past five years, a member, co-opted member or officer of the authority, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;
- 14.2 [Is or has been within the past five years, a member, co-opted member or officer of a parish council within the authority’s area], or
- 14.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means:
  - 14.3.1 Spouse or civil partner;
  - 14.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 14.3.3 Grandparent of the other person;
  - 14.3.4 A lineal descendant of a grandparent of the other person;
  - 14.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 14.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 14.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **15 Revision of these arrangements**

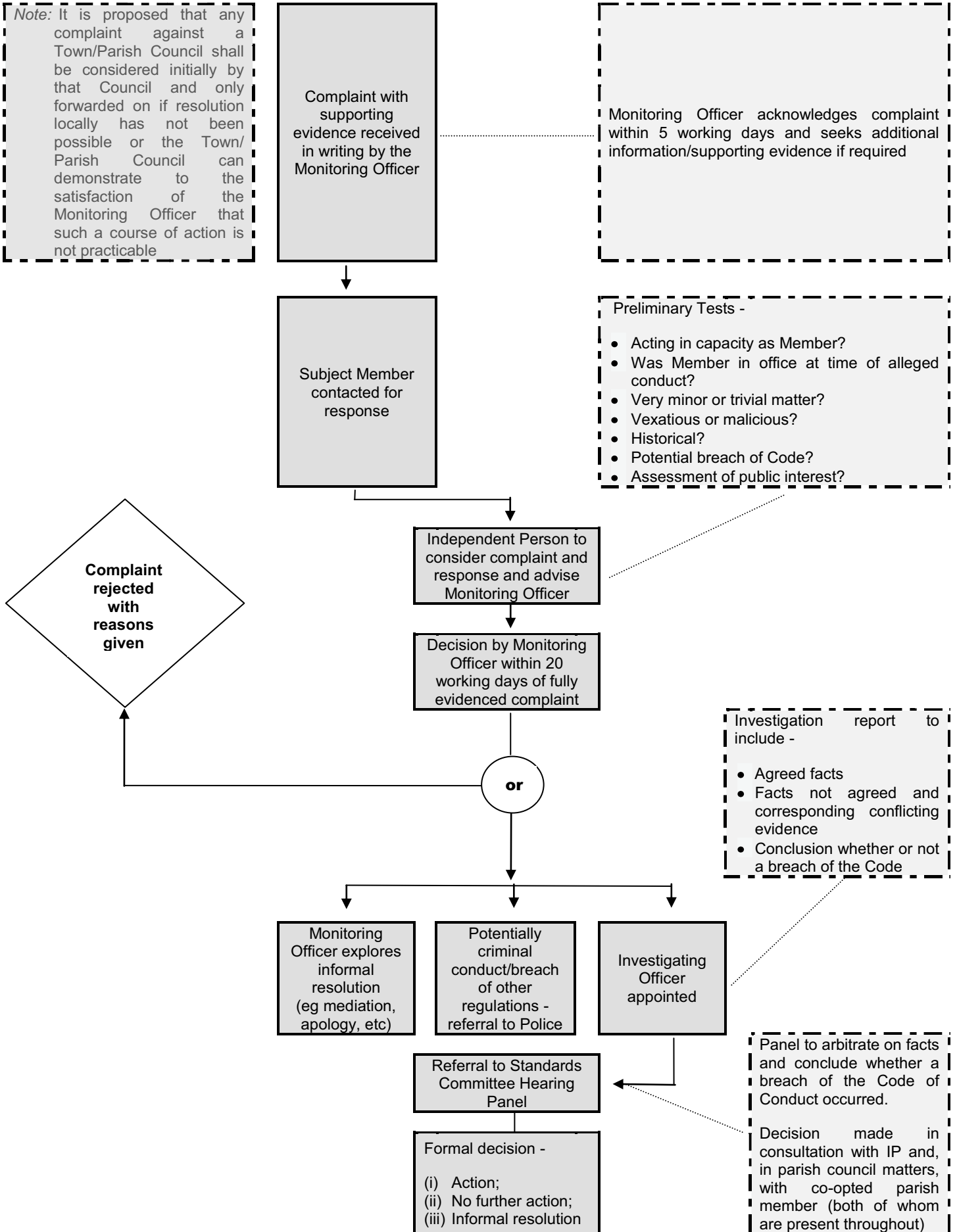
The Council may amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **16 Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

# Cambridgeshire Authorities' Complaints Procedure Flowchart





**APPLICATIONS FOR DISPENSATION  
(Report by the Head of Legal & Democratic Services  
and Monitoring Officer)**

**1. INTRODUCTION**

- 1.1 Members may recall that at the meetings held on 4th March 2010 (Minute No. 39 refers) and 7th July 2011 (Minute No 15 refers) the Committee granted dispensation to Members of St. Ives Town Council to enable them to speak and vote at meetings on matters likely to effect a community interest company set up to manage the Corn Exchange in St. Ives. The dispensation was granted for the period to 30th April 2012.
- 1.2 Similarly, the Committee at their meeting held on 8th July 2010 (Minute No 10 refers) granted dispensation to Members of Great and Little Gidding Parish Council to enable them to speak and vote on matters relating to the Village Hall and Recreation Field and Great Gidding Charity.
- 1.3 Following elections in both parishes, the Clerks to these authorities have now written formally to request a further dispensation to cover the term of office of the new Councils.

**2. LEGISLATIVE BACKGROUND**

- 2.1 The Committee are reminded that the circumstances in which a Standards Committee may grant dispensations to Town/Parish/District Councillors are currently prescribed in the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 and subsequently varied by the Standards Committee (Further Provisions) (England) Regulations 2009.

The Regulations provide that a Member with a prejudicial interest in a matter which was coming before the Authority could apply to the Standards Committee for a dispensation to allow the Member to speak and vote on the matter at meetings. The Regulations specify two grounds for dispensation –

- (i) the number of Members of the Authority that are prohibited from participating exceeds 50% of those Members that are entitled or required to so participate; or
  - (ii) that the business of the Authority will be impeded because the absence of Members as a consequence of prejudicial interests would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.
- 2.2 The reference in the foregoing paragraph to the duty under the 1989 Act refers to the requirement for principal Councils – ie. not Town/Parish Councils, to allocate seats on Committees, etc.

proportionately according to the representation of political groups in full Council.

- 2.3 Having regard to the circumstances of an application, Standards Committees are required to consider whether it is appropriate that the dispensation allows Members to either speak and not vote or to fully participate and vote. A dispensation can be granted for a particular meeting or for a period not exceeding four years.
- 2.4 Where dispensations are granted, Standards Committees must ensure that their nature and duration are recorded in a register for the purpose.

### **3. BACKGROUND TO APPLICATION**

- 3.1 Thirteen of the seventeen Members of St. Ives Town Council are Board Members of a Community Interest Company set up to manage the Corn Exchange, a public building in St. Ives. If the Town Council is dealing with anything likely to affect the company in Council or Committee meetings then the Members would have to declare personal interests but if that matter was financial or regulatory it would also be prejudicial. This would leave the Town Council unable to deal with the matter, unless dispensation is granted to the following Members – Councillors Ayres-Wilson, Collier, Davies, Dibben, Dobson, Edey, Hodge, Luter, Pope, Richardson, Salt, Smith and Townsend.
- 3.2 Great and Little Gidding Parish Council have resubmitted an application for dispensation to enable Members of that Parish Council to transact Parish business concerning the Village Hall and Recreation Field and the Great Gidding Charity. All Members of the Parish Council are trustees to the Village Hall and Recreation Ground and the Council is sole Trustee of the Great Gidding Charity. As the number of Parish Councillors prohibited from participating at meetings (when matters arise relating to Village Hall, Recreation Field and the Charity) exceeds 50% of those Members that are entitled or required to participate a dispensation is required to allow business in relation to these matters to continue. The quorum for meetings of the Parish Council is three.

### **4. CONCLUSION**

- 4.1 In the circumstances described, dispensations are required to prevent the transaction of Town and Parish Council business from being impeded.
- 4.2 That part of the Regulations which would enable dispensations to be granted is reproduced in paragraph 2.1 (i) ante.
- 4.3 Should the Committee look favourably on these applications, it is suggested that consideration should be given to granting dispensations to speak and to vote to the named Members of St Ives Town Council and the seven Members of Great and Little Gidding Parish Council until 30th April 2016 after which time an application for

the newly elected Councillors would need to be submitted should it be considered necessary.

## **BACKGROUND INFORMATION**

The Local Authorities (Model Code of Conduct) Order 2007.  
The Relevant Authorities (Standards Committee) Dispensation Regulations 2002 and Standards Committee (Further Provisions) (England) Regulations 2009.  
Letters received from the Town Clerk to St. Ives Town Council and the Parish Clerk to Great and Little Gidding Parish Council

**Contact Officer: Christine Deller, Democratic Services Manager -  
Tel: (01480) 388007.**

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**LOG OF CODE OF CONDUCT ENQUIRIES SINCE LAST MEETING – 1st DECEMBER 2011**

CASE NO.	DATE OF ENQUIRY	NATURE OF ENQUIRY	ADVICE GIVEN	CODE OF CONDUCT REFERENCE
87	22.12.11	Enquiry from a District Councillor regarding the interests he would need to declare at District/Parish meetings as a dual hatted Member and a Member of the Development Management Panel in the event of a planning or TPO application.	<p>The Code does not prevent a Member from considering, speaking or voting on the same issue at more than one tier of government.</p> <p>Advice given on what action the District Councillor as a Member of Development Management Panel should take if a planning application was considered by a Parish Council ie. make it clear that you are a Member of the Panel but will take into account all evidence and representations made at that time. At Development Management Panel declare a personal interest as a Member of the Parish Council but that you are considering the matter afresh in the light of new information which may be available. (CD)</p>	8, 9, 10 and 12

88	5.3.12	Enquiry from a Parish Councillor regarding the interests he would need to declare as one of his colleague Councillors had a planning application under consideration by the Council.	<p>Advised that the Councillor (who had submitted the application) had a clear personal and prejudicial interest but could speak under paragraph 12(2) and then leave the room if this had been adopted by the Parish Council.</p> <p>Remainder of the Parish Council would need to decide whether they were close associates of the Councillor ie. Is the applicant someone who a member of the public is likely to think a Member might be prepared to favour or disadvantage. (CM)</p>	10 and 12
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89	8.3.12	Various enquiries	General advice given to all Members to share with their Town and Parish Councils information on Section 25 of the Localism Act 2011 and Predetermination. Section 25 introduces a presumption that because a Councillor has previously indicated a view on a matter it does not mean they have a closed mind. A Councillor is able to hold a preliminary view, freely discuss and publicise their views and voting intentions. However, Councillors must show that they are prepared to listen to all of the arguments and evidence before making a decision and be prepared to change views if persuaded that they should. (CM)	6 c
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90	12.3.12	Enquiry from a Town Council regarding an interpretation of the Code on Local Authority Publicity.	The circumstances involved Town Council elections and publicity for events locally. Advice given that there would be no problem provided there was no mention of the names of those Councillors standing for election in the publicity issued by the Council. If the publicity was issued on behalf of the Council as a body, without identifying individuals this would be acceptable. (CM)	6 c
91	3.4.12	Enquiry from a Parish Council regarding publication of an Annual Report and publicity.	Advice given based on the Code of Recommended Practice on Local Authority Publicity 2011, that it would be preferable to wait until after elections to publish an annual report especially if it referred to Parish or District Councillors who might be standing for election. Alternative would be to anonymise the report. (CM)	6 c



92	12.4.12	Enquiry from a Town Council regarding an interpretation of the Code of Recommended Practice on Local Authority Publicity 2011 given events being arranged to celebrate the Diamond Jubilee.	Advice given that there would be a problem if notices promoting events were published and a person associated with an event was standing for election. However, if publicity was issued before the Town Council was aware that an individual was a candidate in an election it cannot reasonably be considered to be a breach, but any publicity subsequent to nomination as a candidate, would be. (CM).	6 c
93	10.4.12	Enquiry from Town Council regarding the interests to be declared if a planning application was submitted by the Council.	Advice given that all Members of the Town Council's Planning Committee would have to declare a personal and prejudicial interest. Mention was made of the entitlement to speak and then withdraw in paragraph 12(2) had been adopted.	8,9,10 and 12

93 cont'd			Advice given about dispensation. Recommended that the Council decide not to make representations as a statutory consultee on their own application. (CM)	
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## CASE DETAILS

### [R \(on the application of LEWIS MALCOLM CALVER\) \(Claimant\) v ADJUDICATION PANEL FOR WALES \(Defendant\) & PUBLIC SERVICES OMBUDSMAN FOR WALES \(Interested Party\) \(2012\)](#)

**In light of the strength of the right to freedom of expression and the fact that the majority of comments posted by a councillor on his website were directed at other councillors, a decision by the Adjudication Panel of Wales that those comments broke the local authority code of conduct was a disproportionate interference with his rights under the [European Convention on Human Rights 1950 art.10](#).**

The claimant councillor (C) applied for judicial review of a decision of the defendant panel that a number of comments posted on C's website breached a local authority's code of conduct.

As a member of the community council, C was required to abide by the code of conduct which had been adopted by the local authority pursuant to its obligations under the [Local Government Act 2000](#). C had posted comments containing his opinions on other councillors and the general running of the council. The local authority standards committee found that he had breached paras.4(b), which required members to show respect and consideration for others, and para.6(1)(a), bringing C's office into disrepute, of the code of conduct and required him to attend a training session. The panel found that his comments did not constitute political expressions and so did not attract the enhanced level of protection of the [European Convention on Human Rights 1950 art.10](#) and dismissed C's appeal.

C submitted that the findings of the standards committee and the panel breached his right to freedom of expression under art.10.

HELD: (1) The committee and the panel were entitled to conclude that C's comments breached the code, [Sanders v Kingston \(No.1\) \[2005\] EWHC 1145 \(Admin\), \[2005\] B.L.G.R. 719](#) applied. The comments were sarcastic and mocking and the panel was entitled to take into account the cumulative view of the effect of C's postings and conclude that their tone publicly ridiculed his fellow councillors. The regular conduct over a long period of time did prima facie bring C's office into disrepute (see paras 66-67, 70 of judgment). (2) However, the real issue concerned whether the restriction on C's right to freedom of expression was justified by reason of the requirements of art.10(2). The code of conduct was prescribed by law for the purposes of art.10(2). The panel fell into error in a number of respects. It took an over-narrow view of what amounted to "political expression". The majority of the comments related to the way council meetings were run and recorded and the competence of other councillors. Those comments fell within the term "political expression". No account was taken by the panel of the need for politicians to have thicker skins. The requirement of necessity in a democratic society in art.10(2) set a high threshold and most of C's comments were not purely personal abuse or a breach of obligation, [Livingstone v Adjudication Panel for England \[2006\] EWHC 2533 \(Admin\), \[2006\] H.R.L.R. 45](#) and [R. \(on the application of Mullaney\) v Adjudication Panel for England \[2009\] EWHC 72 \(Admin\), \[2010\] B.L.G.R. 354](#) considered. In light of the strength of the right to freedom of expression and the fact that the majority of the comments were directed at other councillors, the panel's decision that those comments broke the code was a disproportionate interference with C's rights under art.10. The panel's decision was set aside (paras 71,76-77, 80-84, 90).

Application granted

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