

A meeting of the **STANDARDS COMMITTEE** will be held in **ROOM CVSO 1B, CIVIC SUITE, PATHFINDER HOUSE, ST. MARY'S STREET, HUNTINGDON PE29 3TN** on **THURSDAY, 5 DECEMBER 2013** at **4:00 PM** and you are requested to attend for the transaction of the following business:-

A G E N D A

APOLOGIES

1. MINUTES (Pages 1 - 6)

To approve as a correct record the Minutes of the meeting held on 27th June 2013.

2. MEMBERS' INTERESTS

To receive from Members declarations as to disclosable pecuniary or other interests in relation to any Agenda Item. See Notes below.

3. DCLG GUIDANCE - OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS - IMPACT ON THE CODE OF CONDUCT (Pages 7 - 30)

Report by the Head of Legal and Democratic Services enclosed.

4. ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011: PROPOSED AMENDMENTS (Pages 31 - 42)

Report by the Head of Legal and Democratic Services enclosed.

5. UPDATE ON CODE OF CONDUCT AND REGISTER OF DISCLOSABLE PECUNIARY INTERESTS (Pages 43 - 50)

To consider the up-to-date position on the adoption of a Code of Conduct by Town and Parish Councils and the receipt and publication of registration of interest(s) forms on behalf of District and Town and Parish Councillors.

Report by the Head of Legal & Democratic Services enclosed.

6. UPDATE ON CODE OF CONDUCT COMPLAINTS

Since publication of the Committee's Bulletin in September, the Monitoring Officer has, after consultation with the Independent Persons, resolved four complaints (Nos 75, 80, 81 and 82) involving Members from Huntingdonshire District and St Neots Town Councils. Three of the four complaints concerned alleged conduct around the County Council elections in May 2012. It was decided that no further action was appropriate in each case. One case (No 83) is still outstanding pending the receipt of further information. Formal

Decision Notices in each case can be found on the District Council's website at the following link – [Reviews of Complaints by Independent Person](#).

7. TRAINING UPDATE

Local Training

Since the last meeting in June and largely in response to the notice placed in the Parish Alert reminding Clerks of the opportunity that existed for Parish Councils to receive “free” Code of Conduct training, the Monitoring Officer has conducted four sessions over the Autumn at Needingworth, Hilton, Old Weston and Woodhurst. Preliminary arrangements also have been made for a session at Perry Parish Council in January. In total, the sessions have attracted 45 participants and have, in addition to the parishes in which the training was located, involved Councillors or Clerks from Alconbury, Bluntisham, Earith, Hemingford Grey and Pidley Cum Fenton. It is also the intention to publicise the Perry date to neighbouring parishes to generate further interest. All sessions have been well received and been followed by the receipt of appreciative emails from the respective Parish Clerks. The Deputy Independent Person attended the session at Hilton.

The Monitoring Officer continues to provide informal advice to town and parish Councillors and clerks on request.

Joint Training

A training session on the Code of Conduct, pre determination and bias was held in conjunction with South Cambridgeshire District Council at South Cambridgeshire Hall, Cambourne on 3rd October 2013. The training was led by Peter Keith Lucas from Bevan Brittan Solicitors. Five Members of the Committee and both Independent Persons were able to attend the very informative session.

8. DATE OF NEXT MEETING

The next meeting of the Committee is scheduled to take place on Thursday 6th March 2014 at 4pm in the Civic Suite, Pathfinder House.

Dated this 27day of November 2013



Head of Paid Service

Notes

1. Disclosable Pecuniary Interests

- (1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*

(2) A Member has a disclosable pecuniary interest if it -

(a) relates to you, or

(b) is an interest of -

(i) your spouse or civil partner; or

(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 the other person has the interest.

(3) Disclosable pecuniary interests includes -

(a) any employment or profession carried out for profit or gain;

(b) any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);

(c) any current contracts with the Council;

(d) any beneficial interest in land/property within the Council's area;

(e) any licence for a month or longer to occupy land in the Council's area;

(f) any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or

(g) a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.

Other Interests

(4) If a Member has a non-disclosable pecuniary interest or a non-pecuniary interest then you are required to declare that interest, but may remain to discuss and vote.

(5) A Member has a non-disclosable pecuniary interest or a non-pecuniary interest where -

(a) a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

(b) it relates to or is likely to affect any of the descriptions referred to above, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association

and that interest is not a disclosable pecuniary interest.

2. Filming, Photography and Recording at Council Meetings

The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and available via the following link - [filming, photography and recording at council meetings.pdf](#) or on request from the Democratic Services Team. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chairman of the meeting will facilitate this preference by ensuring that any such request not to be recorded is respected.

Please contact Ms C Deller, Democratic Services Manager, Tel No 01480 388007/e-mail: 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/Panel.

Specific enquiries 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 (*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.

Agenda Item 1

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in the Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Thursday, 27 June 2013.

PRESENT: Councillor A Hansard - Chairman
Councillors K M Baker, Mrs L A Duffy and G J Harlock.

ALSO IN ATTENDANCE: Mr P McCloskey and Mrs D Townsend.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors Mrs B E Boddington, W T Clough and P K Ursell.

3. MINUTES

The Minutes of the meeting of the Committee held on 6th December 2012 were approved as a correct record and signed by the Chairman.

The Chairman welcomed Mr P McCloskey and Mrs D Townsend, Town and Parish Council representatives, to their first meeting of the Committee.

4. MEMBERS' INTERESTS

No interests were declared by the Members present.

5. APPOINTMENT OF NEW LEAD AND DEPUTY INDEPENDENT PERSONS

By way of a report by the Head of Legal and Democratic Services and Monitoring Officer (a copy of which is appended in the Minute Book), the Committee was reminded that the Localism Act 2011 had required the District Council to appoint at least one Independent Person. Under transitional arrangements, Messrs M Lynch and D Hall, former Independent Members of the Committee had been appointed to the roles but were only eligible to serve until 30th June 2013.

Having been reminded of the role of the Independent Person(s), the allowances payable to the appointed persons and the steps taken to advertise the positions, the Panel

RESOLVED

- (a) that the Chairman and Vice-Chairman of the Committee and Councillor T D Sanderson be appointed to comprise the Panel to interview and recommend to the Council on 25th September 2013 candidates for appointment as Lead and Deputy Independent Persons for a three year term; and

- (b) that the Committee place on record its gratitude for the excellent contributions made by Messrs M Lynch and D Hall to the former current standards regime and the Democratic Services Manager be requested to convey these sentiments to the gentlemen concerned.

6. PROTOCOL BETWEEN CAMBRIDGESHIRE AND PETERBOROUGH MONITORING OFFICERS AND CAMBRIDGESHIRE POLICE

The Monitoring Officer reported that he had signed, on behalf of the Committee, a protocol between the Monitoring Officers of Cambridgeshire and Peterborough and Cambridgeshire Police which had established a procedure to follow when reporting or sharing information relating to a potential criminal offence under Section 34 of the Localism Act 2011. A copy of the protocol between Cambridgeshire and Peterborough Monitoring Officers and Cambridgeshire Police is appended in the Minute Book.

The Committee was advised that the protocol had become necessary given the Government's decision to make it a criminal offence and potentially impose sanctions for –

- ◆ participation in any discussion or vote on a matter in which a Councillor has a disclosable pecuniary interest (without a dispensation); and
- ◆ knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

Having been informed that Cambridgeshire Police had agreed that the Information Management Unit at Thorpe Wood, Peterborough would act as single point of contact for Councils, Members noted that the criminal penalties available to a Court on conviction were to impose a fine not exceeding £5,000 and disqualification from being a Councillor for up to five years. The Committee acknowledged that the protocol was easy to understand, good practice and a positive example of partnership working between Cambridgeshire Authorities.

7. CHANGES TO NOLAN PRINCIPLES

The Committee received and noted a report by the Head of Legal and Democratic Services and Monitoring Officer (a copy of which is appended in the Minute Book) on the conclusions of the 14th Report of the Committee on Standards in Public Life in relation to local government. The Committee had particularly considered the descriptions of the seven principles of public life.

Members were interested to note that the Committee had expressed concern about the impact of the regime introduced by the Localism Act 2011 and had considered the area to be a current risk. Furthermore, the Committee had considered that “the new slimmed down arrangements had yet to prove themselves sufficient for their purpose” and that “we have considerable doubt that they will succeed in doing so”.

The Monitoring Officer indicated his intention to undertake a review of the Code of Conduct after the 2014 local elections and suggested that it might be pertinent to include the descriptions of the seven principles, in full, in any revised Code given that there had been occasions, thus far, when it had been helpful to interpret the Code by reference to the principles. Members also were alerted to a suggestion that consideration might be given to the incorporation of elements of the NALC Code into a new District Council Code. In the event that the Code of Conduct was revised in 2014, the Monitoring Officer confirmed that all other related documents also would be updated at the same time.

8. UPDATE ON CODE OF CONDUCT AND REGISTER OF DISCLOSABLE PECUNIARY INTERESTS

The Committee received and noted a report by the Head of Legal and Democratic Services and Monitoring Officer (a copy of which is appended in the Minute Book) which reminded Members of the duty placed on the Monitoring Officer by the Localism Act 2011 to establish and maintain a register of interests of Members and Co-opted Members and of those Members also serving on Parish Councils. All registers should be published on the District Council's website. Details of the type of Code of Conduct adopted by Town and Parish Councils in Huntingdonshire also were presented.

Whilst generally of the view that the return of DPIs was satisfactory, the Committee drew attention to those Parish Councils where a number of forms still were outstanding. To encourage a return from those Parish Councils who had so far been slow to respond, Members suggested that they or the Chairman of the Committee should give notice of their intention to visit meetings of these Parish Councils to explain how important it was for their Members to complete the forms. The Monitoring Officer undertook to write again to those Parish Councils where concerns had been raised before involving Members as suggested.

9. UPDATE ON CODE OF CONDUCT COMPLAINTS

The Monitoring Officer updated Members on the number of complaints he had received since the last meeting. Of the twelve complaints received, three had been closed and copies of the respective Decision Notices published on the District Council's website. Three complaints had been referred to the Independent Persons with one case almost concluded and ready to publish. There had been a particular increase in complaints relating to the conduct of existing Councillors and candidates around the County Council elections in May which remained to be determined. It was explained that, in general, complaints had originated from both the public and Councillors and involved Members serving on the District Council, St. Neots Town and Hilton and Yaxley Parish Councils.

For the information of Members, the Monitoring Officer described the approach he had taken, thus far, to handling complaints. He confirmed that he agreed a determination following consultation with the Lead or Deputy Independent Person in each case. Whilst potentially serious or clear breaches of the Code would be referred for investigation, the Monitoring Officer indicated that he would be

reluctant to pursue less serious cases through to investigation given the limited sanctions available to him and the cost of the process. In circumstances where there had been an exchange of words between Councillors, for instance, the Monitoring Officer suggested that he would seek to resolve such cases by apology, training or mediation.

The Committee indicated their support for this approach.

10. TRAINING UPDATE

Having noted a report on the training presented by the Monitoring Officer on the Code of Conduct since the last meeting, the Committee suggested that Town and Parish Councils be reminded of the opportunity that existed for the Monitoring Officer to attend local Council meetings to give training on the Code. It was further proposed that those Councils who were slow to send in their DPs should be especially targeted.

In receiving preliminary details of the arrangements being made for a joint training session on the "Code of Conduct, Predetermination and Bias" in conjunction with South Cambridgeshire District Council on 3rd October 2013, the Committee requested the Monitoring Officer to ensure that the newly appointed Independent Persons would be offered the opportunity to attend.

11. REVIEW OF THE ROLE, RESPONSIBILITIES AND TERMS OF REFERENCE OF THE COMMITTEE

The Committee was informed that during a recent review of the District Council's Constitution, the Corporate Governance Panel had recommended that its terms of reference be varied such that it either became a Panel with responsibility for Standards or, that the terms of reference of the existing Standards Committee be extended to comprise, for example, matters relating to governance, the Constitution and complaints about Council services. Although there appeared to be no preferred model across Cambridgeshire Authorities for dealing with standards, governance and constitutional issues, the Council at its April meeting had

RESOLVED

that, in consultation with the Deputy Executive Leader and the Chairman of the Standards Committee, the Corporate Governance Panel be requested to review its role, responsibilities and terms of reference and that of the Standards Committee with a view to a report on the outcome being submitted to the Panel meeting on 26th March 2014, for potential implementation with effect from the Annual Meeting in May 2014."

To assist the Chairman in the early stages of this review, the Committee suggested that matters relating to whistleblowing, complaints and the Constitution might be areas which could potentially become the Committee's responsibility.

12. ARTICLE OF INTEREST - LOCAL GOVERNMENT LAWYER

The Committee noted an extract from the publication entitled “Local Government Lawyer” published in April 2013 relating to the comments of the Committee for Standards in Public Life following its assessment of the state of local government standards.

Of interest to Members was the suggestion by the Committee that they had placed the post Localism Act local government standards regime on a “Watching Brief” suggesting that the lack of available sanctions and independent scrutiny risked damaging public confidence in the probity of local government.

Chairman

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Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: DCLG Guidance - Openness and Transparency on personal interests - Impact on the Code of Conduct

Meeting/Date: Standards Committee - 5 December 2013

Executive Portfolio: Strategic Economic Development & Legal

Report by: Head of Legal & Democratic Services

Wards affected: All

Executive Summary:

To consider recent DCLG Guidance on registering and declaring trade union interests and possible consequential amendments to the Council's Code of Conduct.

Recommendations:

That

- (i) the Head of Legal and Democratic Services prepare a revised Code of Conduct to reflect any changes considered necessary by the Standards Committee, for consideration at the next meeting on 6 March 2014; and
- (ii) any changes be implemented from the beginning of the next municipal year in May 2014.

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1. WHAT IS THIS REPORT ABOUT?

- 1.1 To consider recent DCLG Guidance on registering and declaring trade union interests and possible consequential amendments to the Council's Code of Conduct.

2. BACKGROUND

- 2.1 Under Sections 28 and 29 of the Localism Act 2011, the Council must adopt a Code of Conduct that is consistent with the Seven Nolan Principles and that includes provision for the registration and disclosure of pecuniary interests and interests other than pecuniary interests.
- 2.2 The Council adopted a Code of Conduct on 4 July 2012, which required the registration of those interests specifically defined by the Government in legislation, namely Disclosable Pecuniary Interests. Other interests defined under the Council's Code simply had to be declared at a meeting if they were affected by a matter under discussion.
- 2.3 DCLG have recently published revised guidance entitled "Openness and transparency on personal interests" (Appendix 1) and an accompanying press release (Appendix 2) indicating that interests to be registered and declared includes membership of a trade union. Whilst there is some doubt about the lawfulness of the DCLG Guidance (Appendix 3), if the Council is to amend its Code to require trade union interests to be registered and declared, it would seem sensible to consider if this should also be extended to include any other interests.

3. ANALYSIS

- 3.1 Under the previous national Code and the current NALC Code there is a requirement for a Member to register and declare:-

An interest which relates to or is likely to affect any body of which the Member is in a position of general control or management and:-

- (a) to which he/she is appointed or nominated by the Council; or*
- (b) exercises functions of a public nature; or*
- (c) Is directed to charitable purposes; or*
- (d) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).*

- 3.2 The Council's current Code does not include a requirement to register the above and were not included in an attempt to comply with Government's objective under the new standards regime of having far fewer restrictions on Members and not having a "gold plated and bureaucratic" process.
- 3.3 As stated above if Members consider that trade union membership should be included on their Register of Interests, then there is a logic in reverting to the requirement of the old Code and requiring registration of all the interests referred to in paragraph 3.1.

4. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

- 4.1 If Members consider that changes should be made to the Code and the content of their Register of Interests, it would seem sensible for this to be introduced from the start of the new municipal year in May 2014. This will avoid additional work of having to produce new Declaration of Interest Forms and all Members having to complete and submit them. It will also provide an opportunity to give advice to and provide training both to Members and to Town and Parish Councils who wish to make the changes to their Codes.

5. LEGAL IMPLICATIONS

- 5.1 The Council has the power under Section 28 of the Localism Act to revise its Code of Conduct.

6. RECOMMENDATIONS

- 6.1 That
- (i) the Head of Legal and Democratic Services prepare a revised Code of Conduct to reflect any changes considered necessary by the Standards Committee, for consideration at the next meeting on 6 March 2014; and
 - (ii) any changes be implemented from the beginning of the next municipal year in May 2014.

7. LIST OF APPENDICES INCLUDED

Appendices 1 & 2 – DCLG Guidance and Press Release (September 2013) on “Openness and transparency on personal interests”

Appendix 3 – Local Government Lawyer (26 September) – Members’ interests and Trade union Membership”

BACKGROUND PAPERS

Localism Act 2011

CONTACT OFFICER

Colin Meadowcroft- Head of Legal & Democratic Services
Tel No. 01480 388021



Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

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The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**⁴.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

financial interests they might have (for example trust funds, investments, and assets including land and property).

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests or your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district of borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

Do I need a dispensation to take part in the business of setting council tax or a precept?

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex A

Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either –
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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PRESS RELEASE

Push for greater town hall transparency on trade union interests

[Department for Communities and Local Government](#)

Published 20 September 2013

[Making local councils more transparent and accountable to local people](#)

[Government efficiency, transparency and accountability](#) and [Local government](#)

Minister: [Brandon Lewis MP](#)

New guidance published requiring councillors to register trade union membership.

Local Government Minister Brandon Lewis announced today (20 September 2013) new rules to increase town hall transparency by producing guidance requiring councillors to register trade union affiliations and dealings. This is intended to avoid conflicts of interest when councils consider issues directly affecting trade unions, such as reviews of taxpayer-funded subsidies given to trade unions.

Government [guidance on openness and transparency](#) of a councillor's personal interests has been revised to include specifically registering union memberships. In addition a council's own code of conduct, guided by the [7 principles of public life](#), should now specify a requirement to register personal trade union interests.

Within 28 days of taking office councillors must register certain financial as well as non-financial interests required by their council's code of conduct, which should include any trade union membership.

Local Government Minister Brandon Lewis said:

For too long residents have been kept in the dark about what union affiliations their councillors hold. All councillors should disclose all their personal and financial interests on a public register, including registering union interests. Given the public debate about 'facility time' and 'pilgrims' in local government, it's vital that conflicts of interest are avoided. These transparency reforms will give local people the confidence that their councillors are putting residents' interests before their own.

The new guidance builds on existing transparency measures introduced as part of the [Localism Act](#) and is part of the new arrangements for local authority standards that replaced the bureaucratic and controversial Standards Board regime, abolished in 2012, which ministers believe had become a vehicle for malicious, petty and politically motivated complaints.

The Standards Board regime also raised concerns that it discouraged councillors from whistleblowing or criticising waste and inefficiency in local government, as it opened them up to complaints by local authority officers.

Further information

1. The new rules requiring councillors to register interests came into force on 1 July 2012. New [guidance published today](#) updates councillors on what they should be registering to include trade union interests.
2. The new, local, arrangements for local authority standards require local authorities to adopt a [code of conduct](#) based on 'Nolan principles', the involvement of an independent person in allegations of misconduct, a register of members' pecuniary interests, and a new criminal offence for failing to declare or register pecuniary interests.
3. The regulations set out the rules for disclosure and registration of pecuniary interests, which may limit a councillor's involvement with the business of the authority, where failure to comply with the rules without reasonable excuse is a criminal offence, punishable with a fine of up to £5,000 and disqualification from office for up to 5 years.
4. Pecuniary interests cover the member's 'employment, office, trade, profession or vocation', any 'sponsorship' of the member, including contributions towards their election expenses, any 'contracts' between the member and the authority, any 'land' the member has an interest in and lies within the area of the authority, any 'licences' the member holds to occupy land in the area, any 'corporate tenancies', and certain 'securities' the member may hold.
5. The new arrangements explicitly state any payment or financial benefit from a trade union must also be declared.
6. The new arrangements reflect the government's policy that elected representatives should continue to declare financial interests in an open and transparent way, to avoid conflicts of interest especially on issues such as planning applications or financially benefiting from the issuing of council contracts.
7. The council's code of conduct should also make provision for registering and declaring pecuniary and non-pecuniary interests that the council consider appropriate and are not covered by the national rules. The guidance issued today makes clear that trade union membership should be registered and declared.

Media enquiries

Email press.office@communities.gsi.gov.uk

News desk 0303 444 1201

APPENDIX 3



Graham Creer analyses the decision by the Department for Communities and Local Government to require councillors to disclose trade union interests.

Despite his intolerance for the politics of the 1980s, Communities and Local Government Secretary Eric Pickles, and his CLG colleagues, have unaccountably revived union bashing.

Earlier in the year, he advised local authorities to cut back facility time for employees who are trade union officers. An attempt to ban the automatic deduction of union subscriptions from civil servants' pay has just been quashed by the High Court. Now Local Government Minister Brandon Lewis has circulated amended guidance on the registration and declaration of members' interests, highlighting the issue of trade union membership.

In *Guys and Dolls*, Big Julie shoots craps with a pair of blank dice. A polite query is answered by one of his henchmen: "Big Julie knows where the spots used to be". We are becoming used to this approach to member conduct.

Chapter 7 of Part 1 of the Localism Act 2011 does not, unlike the old legislation, empower the Secretary of State to issue statutory guidance, so none of the Minister's pronouncements has the force of law.

The legal requirement is in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, which list the "disclosable pecuniary interests" which elected members must place on the public register, or declare at meetings. They include "Sponsorship ... any payment or provision of any other financial benefit ... in respect of any expenses incurred by [a member] in carrying out duties as a member, or towards [the member's] election expenses. The Regulations then say "This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992."

The interest is the sponsorship - the payment or financial benefit - not the membership of the trades union. Some councillors are sponsored by trades unions, but many are ordinary union members, and receive no financial support.

Of course, many local authorities adopted codes of conduct which incorporated elements of the old Model Code, abolished by the Localism Act. These codes often require members to register and declare other interests, in addition to disclosable pecuniary interests, commonly including "membership of any body one of whose principal purposes includes the influence of public opinion or policy, including a political party or trades union". But this is the "old centralist code" condemned by government. Ironically, members of those authorities that adopted the minimalist codes recommended by CLG minister Bob Neil, or by the LGA, will search in vain for an explicit duty to declare trade union membership, and will now be in some difficulty.

The new Guidance draws attention to the seven statutory principles of public life, and in particular to the principle of integrity. According to the Guidance, this says "Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships."

This does not, however, imply a duty to declare trade union membership. A trade union member is not "under an obligation" to act in a particular way because of his or her membership, nor is any influence that a union might seek to exercise – by briefing for example – necessarily "inappropriate". Also, the wording of the seven principles does not appear in the Localism Act, just the word "integrity". The wording quoted in the Guidance is different from that of the equivalent "Nolan" principle, and from that of the Relevant Authorities (General Principles) Order 2001, now repealed. So there is no magic in this particular form of words, and it has no legal resonance.

The new Guidance then says "All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, **such as your membership of any Trade Union.**" But this cannot mean that the legislation obliges you to register or declare trade union membership, if you do not receive sponsorship, because it simply does not have that effect.

It is always fun to look at the CLG press release that accompanies these homilies.

“Local Government Minister Brandon Lewis announced today (20 September 2013) new rules to increase town hall transparency by producing guidance requiring councillors to register trade union affiliations and dealings.” There are no new rules.

“Government guidance on openness and transparency of a councillor’s personal interests has been revised to include specifically registering union memberships. In addition a council’s own code of conduct, guided by the 7 principles of public life, should now specify a requirement to register personal trade union interests.” There is nothing in the guidance telling local authorities – those that adopted the Bob Neil CLG Code, for example – to change their codes, except that the CLG “illustrative text” has been changed. Even if there had been, this is the “should” of exhortation, not of obligation.

Local Government Minister Brandon Lewis said: “For too long residents have been kept in the dark about what union affiliations their councillors hold.” The legal obligation to disclose sponsorship has been around since 1992. There was an explicit obligation to register trade union membership from 2001 until the Localism Act abolished the Model Code.

“All councillors should disclose all their personal and financial interests on a public register, including registering union interests. Given the public debate about ‘facility time’ and ‘pilgrims’ in local government, it’s vital that conflicts of interest are avoided. These transparency reforms will give local people the confidence that their councillors are putting residents’ interests before their own.” This is the nub of it. Having swept away the “bureaucratic and controversial Standards Board regime”, including the duty to adopt a code containing detailed rules on non-pecuniary interests, the government now finds it politically expedient to pretend that it can reintroduce one of those rules by ministerial diktat. Big Julie would be impressed.

So what should local authorities and their monitoring officers now do? Those that hung on to the old version of the code, despite government criticism, can relax. The others are in a bit of a fix.

Should they change their codes, because of the press release? If they do, they will have to insert a specific requirement to register trade union membership in a document which is otherwise couched in entirely general terms. The CLG text is attached to the Guidance,

amended to do something along those lines.

Whether or not they change their code, the monitoring officer will have to advise members whether they need to register or declare trade union membership before participating in a debate about trade union facilities, to comply with the general principle of integrity. This will depend on the wording in the code. The LGA Code says “I will ... address the statutory principles ... by ... “exercising independent judgement and not compromising my position by placing myself under obligations to outside organisations who might seek to influence the way I perform my duties as a member ...”. Note that word “obligation” again. This will not bite on trades union membership unless a new duty is inserted.

The CLG Code now says “You must declare any private interests, **including your membership of any Trade Union**

, 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”. The box contains a description of the statutory obligation to register and declare disclosable pecuniary interests, but also says “In addition, you must ... notify your authority’s monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included on the register”. This goes round in circles, though, because section 28 of the Localism Act says that any such requirements should be included in the Code. The first bit is odd. If you are a trade union member, and that membership “relates to” your duties as a councillor, then you have to declare an interest. As the Code does not say that you have to register it, you have to make an oral declaration at the meeting. Then, if there is a conflict of interest, you have to resolve it in some unspecified way. To be fair, this would have the effect of making a trade union member declare his or her membership at a meeting dealing with facilities for trade union officials. What else it might do is unclear.

And, in all these contexts, monitoring officers may want to think about membership of other lobbying groups, like the CBI, political parties, and charities, which does not currently need to be registered under the LGA or CLG codes. A member of Unison may be affected by a proposal to reduce facility time, because of the effect on Unison. If so, an ordinary member of a charity should likewise be obliged to declare an interest in any commercial dealings with that charity. But a member of, say, EQUITY, or the Rugby Players Association, would be less affected. Their connection with the subject matter is essentially conceptual. Does a member of one cricket club have to declare an interest in a decision to grant a lease to a different one? And is the integrity principle only engaged if there is a direct financial impact on the organisation, or would a member of the National Trust or the Campaign to Protect Rural England need to declare an interest in a debate on green belt development? And so on.

If the Monitoring Officer takes a narrow view, he or she will be flying in the face of the guidance. Otherwise, logically we will start to stray into the world of “gold plated” advice, and Brandon Lewis’s own caustic comment “Whether because of excessive caution, bureaucrats’ love of bureaucracy for its own sake, or a misplaced belief that they and not members should be in the driving seat on standards, officers often advise that something more or less akin to the old Standards Board regime should be continued.”

The old conduct regime was disliked and discredited because it tried to draw fine distinctions to resolve issues like this, but, by singling out trade union membership, Big Julie may have reopened Pandora’s box.

[Graeme Creer](#) is a consultant at [Weightmans LLP](#) . He can be contacted on 0151 243 9834 or by [email](#) .

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Agenda Item 4

Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Arrangements for dealing with Standards allegations under the Localism Act 2011: Proposed amendments

Meeting/Date: Standards Committee - 5 December 2013

Executive Portfolio: Strategic Economic Development & Legal

Report by: Head of Legal & Democratic Services

Wards affected: All

Executive Summary:

To review and update the adopted procedure for dealing with Code of Conduct standards complaints in the light of practical experience over the last 18 months.

Recommendation:

That the proposed amendments to the "Arrangements for Dealing with Standards Allegations under the Localism Act 2011" Protocol set out in Appendix 1 be approved.

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1. WHAT IS THIS REPORT ABOUT?

- 1.1 To review and propose amendments to the Protocol for dealing with Standards allegations under the Localism Act 2011, in the light of practical experience in operating the scheme for 18 months.

2. BACKGROUND

- 2.1 Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a 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.
- 2.2 A Protocol was approved when the new Code of Conduct was adopted in July 2012. A number of issues have been raised as a result of the complaints received and it is considered necessary to make a number of changes to the Protocol to clarify certain aspects and thereby better manage expectations of complainants.

3. ANALYSIS

- 3.1 Whilst the Code expressly states that the Code of Conduct only applies whenever a Councillor is acting in an official capacity e.g. at formal meetings of the Council (or if they are claiming or giving the impression they are acting in an official capacity), many complainants believe that the Code of Conduct applies to their conduct or actions at all times. Hence complaints have been made where the alleged conduct related to a neighbour dispute. Equally, there were complaints arising from alleged breaches arising from the County Council election campaign where again the individuals were candidates and not acting in their “official” capacity as a Councillor.
- 3.2 In addition the Courts have made it clear that a balance needs to be struck between compliance with the Code of Conduct e.g. in treating others with respect and the right to freedom of expression, particularly freedom of political expression. In *Calver v Public Services Ombudsman for Wales* the High Court quashed the censuring of a Councillor for “sarcastic and mocking” comments posted on a website. The Judge said that “despite the unattractiveness of much that was posted” most was not simply personal abuse and fell within political expression “in its broader sense”. He also commented about the need for “politicians to have thicker skins than others”. Whilst not condoning or encouraging intemperate or excessive language, there is a balance to be struck as it is not the purpose of the Code to inhibit robust political debate.
- 3.3 The new paragraph 4 of the Appendix is intended to address and clarify the issues described in 3.1 and 3.2 above.
- 3.4 As Members are aware, the cost of carrying out a full investigation will usually cost several thousand pounds and can be much more. Under the present regime, the sanctions available are very limited and so it seems sensible to take account of whether there are more suitable routes for resolution that could be pursued at least in the first instance and to emphasise that not all complaints will be pursued, even where there may be prima facie evidence of a potential breach, if it is not sufficiently serious to justify further action.
- 3.5 The issues identified in 3.4, together with the point made in the *Calver* case regarding the expectation regarding the expectations of elected members as

opposed to members of the public, are addressed in the amendments to the “Criteria for Assessment” set out in the new paragraph 6 of the Appendix.

4. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

4.1 It is proposed that the amended Protocol be introduced immediately.

5. LEGAL IMPLICATIONS

5.1 As stated in paragraph 2.1 the Council is required to put in place arrangements for dealing with standards complaints.

6. RECOMMENDATIONS

6.1 The Committee is

RECOMMENDED

to approve the amendments to the “Arrangements for Dealing with Standards Allegations under the Localism Act 2011” Protocol set out in Appendix 1

7. LIST OF APPENDICES INCLUDED

Appendix 1 – “Arrangements for Dealing with Standards Allegations under the Localism Act 2011.”

BACKGROUND PAPERS

Localism Act 2011

CONTACT OFFICER

Colin Meadowcroft- Head of Legal & Democratic Services
Tel No. 01480 388021

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 (the “Subject Member”) 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 published on the Council’s website and available for inspection on request from the Council’s Offices (see address below).

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, it should be available on any website operated by the parish council or request the parish clerk to allow you to inspect a copy at their offices.

3. MAKING A COMPLAINT

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

The Monitoring Officer
Huntingdonshire District Council
Pathfinder House
St Mary’s street
Huntingdon
PE29 3TN

or email: CodeofConduct@huntingdonshire.gov.uk

The Monitoring Officer is a senior officer of the Council 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 ‘Standards and Conduct’ page of Council’s website [Huntingdonshire District Council - Standards and conduct](#) or is available on request from the Monitoring officer at the above address.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress.

As a matter of fairness and natural justice, the Subject Member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant’s identity, if on request from the complainant, or otherwise, he or she is satisfied that there reasonable grounds for doing so

e.g. belief that the complainant or any witness relevant to the complaint may be at risk of physical harm or intimidation, or his or her employment may be jeopardised if their identity is disclosed.

If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, the complainant will be offered the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the Subject Member.

4. SCOPE OF COMPLAINTS

The Code of Conduct does not apply to Councillors 24 hours a day, 7 days a week, but only covers Councillors when they are acting in their official capacity as a member, or giving the impression that they are. The Code does **NOT** apply when acting in their capacity as a private individual. For example, if you live next to a Councillor and your complaint relates to a neighbour dispute, then the Councillor will not be subject to the Code of Conduct. If someone who happens to be a Councillor, is offensive or abusive in their private life, they are not covered by the Code of Conduct.

In addition it is not the purpose of the Code to restrict political debate. The requirements of the Code of Conduct have to be assessed against Article 10 of the European Convention on Human Rights – the right to freedom of expression. In a High Court case relating to this issue, the Judge stated that the “traditions of robust debate” may include “some degree of lampooning of those who place themselves in public office”, which would necessarily require politicians to have “thicker skins than others”.

Furthermore, complaints can only be dealt with under the Code of Conduct procedure where they relate to the alleged misconduct of an individual Councillor, **NOT** against a decision made by the Council or any of its committees.

5. COMPLAINT PROCESS

The Monitoring Officer will acknowledge receipt of your complaint normally within five working days of receiving it and will keep you informed of the progress of your complaint. The complainant has primary responsibility for providing relevant, supporting evidence, but if the Monitoring Officer considers that the evidence is inadequate or unclear, he may require the complainant to provide further evidence before proceeding with the complaint.

Where your complaint relates to a Parish Councillor, then unless you have already been through their complaints process, the complaint will normally be referred to the Parish Council in the first instance to see if they can achieve a local resolution of the matter.

Within five working days of receiving a valid code of conduct complaint and supporting evidence, or if the complaint relates to a town or parish councillor and a satisfactory local resolution has not been achieved, 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 ten 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.

In appropriate cases the Monitoring Officer may also consult with one or more Members of the Standards Committee.

6 CRITERIA FOR ASSESSMENT

The cost of carrying out a formal investigation and hearing can be significant. Taking account of the limited potential remedies available in the event of a breach of the Code of Conduct ultimately being found, normally only more serious allegations are likely to be referred for investigation.

The Monitoring Officer has the discretion to not proceed with complaints, including those:-

- (i) containing no or insufficient evidence to demonstrate a breach of the code;
- (ii) where there are alternative, more appropriate remedies that should be explored first;
- (iii) where the complaint is by one Member against another, a greater allowance for robust political debate, (but not personal abuse or “unparliamentary” language) may be given;
- (iv) that are not sufficiently serious, or are malicious or tit for tat;
- (v) that are anonymous, unless serious and supported by sufficient evidence;
- (vi) where an investigation would not be in the public interest or the matter would not warrant any sanction;
- (vii) where a substantially similar complaint has previously been considered and no new material evidence has been submitted;
- (viii) relating to allegations concerning a Member’s private life;
- (ix) relating to conduct in the distant past (over six months before);
- (x) relating to dissatisfaction with a Council [or Parish Council] decision;
- (xi) about someone who is no longer a member of the Council [or relevant Parish Council] or who is seriously ill;

7 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. 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.

8 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.

9. HOW IS THE INVESTIGATION CONDUCTED?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer (“IO”), who may be another senior officer of the authority, an officer of another authority or an external investigator. The IO 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 IO needs to see, and who the IO needs to interview.

The IO would normally write to the member against whom you have complained, provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, to identify what documents the IO needs to see and who the IO needs to interview.

At the end of his/her investigation, the IO 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 IO will send his/her final report to the Monitoring Officer.

10. 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 IO's report and, if he is satisfied that the IO'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 IO's final report. If the Monitoring Officer is not satisfied with any particular aspect of the investigation or report, he may ask the IO to reconsider his/her report.

11. 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 IO's report and will then either send the matter for local hearing before a Hearings Panel or, after consulting the Independent Person, seek local resolution.

(a) 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 e.g. training. If the Subject 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. If the complainant or the Subject Member refuses local resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a Local Hearing without further reference to the complainant or the Subject Member.

(b) Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the Subject Member concerned is not prepared to undertake any proposed remedial action, then the Monitoring Officer will report the IO'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.

The Monitoring Officer will conduct a "pre-hearing process", requiring the Subject Member to give his/her response to the IO's report, in order to identify what is agreed and what is likely to be in contention at the hearing. The Chairman of the Hearings Panel, may issue directions as to the manner in which the hearing will be conducted. At the hearing, the IO 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 IO may ask you as the complainant to attend and give evidence to the Hearings Panel, although often this will not be necessary. The Subject 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, concludes that the member did not fail to comply with the Code of Conduct, they will dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chairman 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..

12. WHAT ACTION CAN THE HEARINGS PANEL TAKE WHERE A MEMBER HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT?

Where the Hearings Panel find that a member has failed to comply with the Code of Conduct it may -

- (a) censure or reprimand the member;
- (b) publish its findings in respect of the member's conduct;
- (c) report its findings to Council [or to the Parish Council] for information;
- (d) 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;
- (e) in the case of an executive member, recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) in the case of the Executive Leader recommend to Council that the member be replaced as Executive Leader;
- (g) instruct the Monitoring Officer to [or recommend that the Parish Council] arrange training for the member;
- (h) 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 Council;
- (i) 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
- (j) 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.

13. WHAT HAPPENS AT THE END OF THE HEARING?

At the end of the hearing, the Chairman 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 Chairman of the Hearings Panel, and send a copy to the complainant, to the Subject Member and to the Parish Council (where appropriate), make that decision notice available for public inspection and report the decision to the next convenient meeting of the Standards Committee.

14. WHO ARE THE HEARINGS PANEL?

The Hearings Panel is a sub-committee of the Council's Standards Committee comprising three 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/her 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.

15. WHO IS THE INDEPENDENT PERSON?

The Lead and Deputy Independent Persons are appointed by the Council.

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

- (a) 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 until 30 June 2013;
- (b) 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
- (c) is a relative, or close friend, of a person within paragraph (a) or (b) above.

16. REVISION OF THESE ARRANGEMENTS

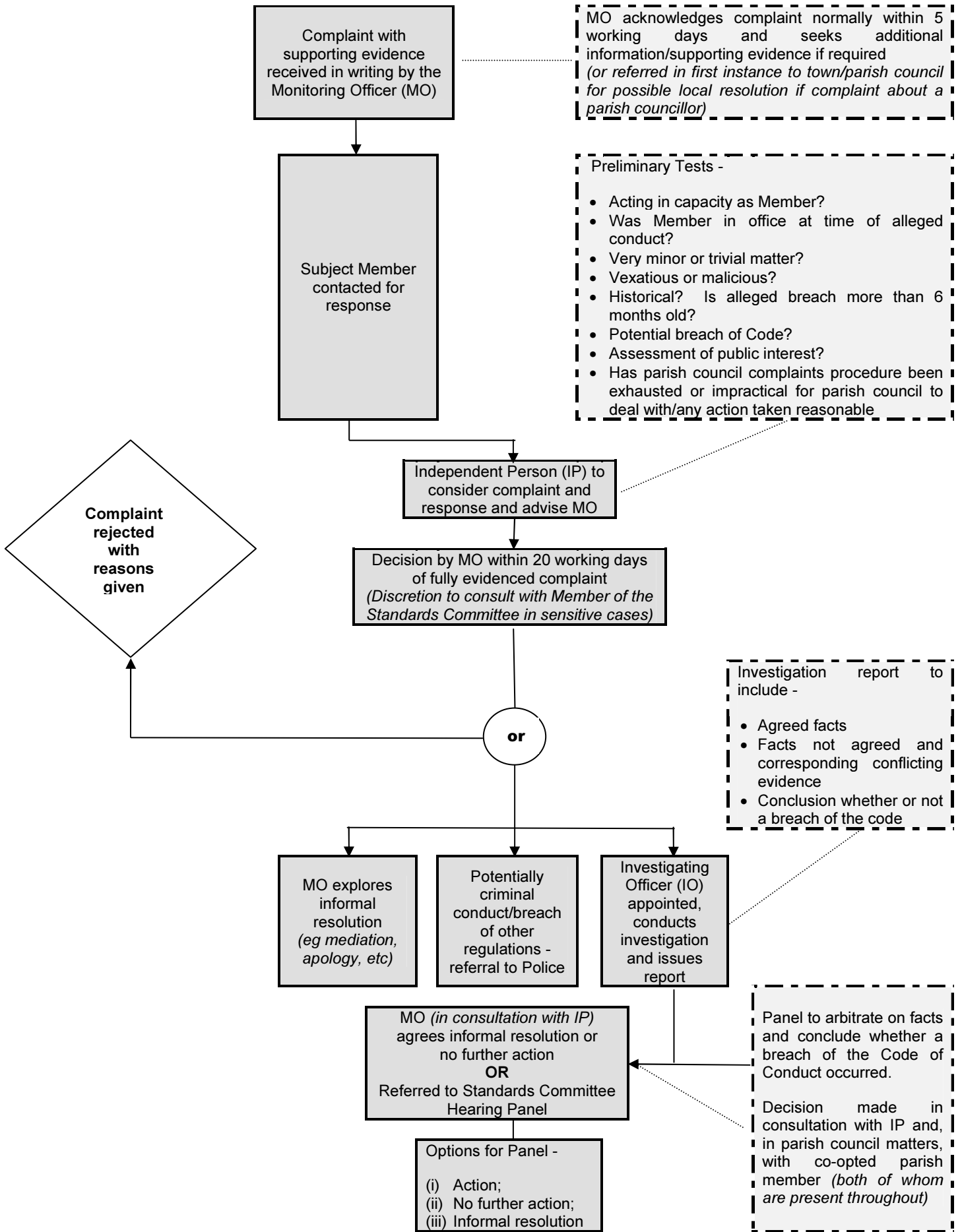
The Council may amend these arrangements, and has delegated to the Chairman of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

17. 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.

Huntingdonshire District Council - Complaints Procedure Flowchart



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Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Update on Code of Conduct and Register of Disclosable Pecuniary Interests

Meeting/Date: Standards Committee – 5th December 2013

Executive Portfolio: Strategic Economic Development and Legal

Report by: Head of Legal & Democratic Services and Monitoring Officer

Wards affected: All Wards

Executive Summary:

As the Monitoring Officer has a duty to establish and maintain a register of disclosable pecuniary interests and as matters relating to breaches of the Code of Conduct remain under the auspices of the Committee, to receive an update on the current level of returns and to consider any action that might be necessary to encourage those Councils who continue to fail to return their forms to comply.

Recommendation:

The Committee is requested to note the current position.

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1. WHAT IS THIS REPORT ABOUT/PURPOSE?

- 1.1 Chapter 7 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members and co opted Members of the Authority (the District Council). The Monitoring Officer also continues to be responsible for maintaining the Register for Parish Councils which has to be open for inspection at the District Council's Offices and published on the District Council's website. Where a Parish Council has a website, the District Council also is required to provide that Council with the information necessary to enable it to publish their current register on its own website. Information in respect of the DPIs of each Parish Council is presented in the Appendix to the report.
- 1.2 Each Parish Council also has a duty to adopt a Code of Conduct. All Town and Parish Councils were requested to advise the Monitoring Officer when their Council had adopted a new Code and to confirm whether it was identical to that adopted and promoted by the District Council or alternatively the version produced by the National Association of Local Councils (NALC) or any other.
- 1.3 This report describes the current position in relation to both of these matters.

2. WHY IS THIS REPORT NECESSARY/BACKGROUND

- 2.1 The Committee is responsible for maintaining high standards of conduct by Members of the District, Town and Parish Councils, for monitoring operation of the Code of Conduct and for considering the outcome of investigations in the event of breaches of the Code. The District Council has a duty to maintain and publish the Registers of Pecuniary Interests of both the District and Town and Parish Councils. Those Members who fail to comply with the 2011 Act are guilty of an offence and liable to a maximum fine of £5,000 and disqualification for up to 5 years.

3. CURRENT POSITION – DISPOSABLE PECUNIARY INTERESTS (DPIs)

- 3.1 DPI forms have been received from all 52 District Councillors and are published. Any changes made to pecuniary interests since the last update report in June also have been published.
- 3.2 Of 71 Town and Parish Councils, 61 have had their full Register published and 6 part Registers (which comprise the DPIs of all Councillors) on the District Council's website and copies of their Register returned to their Clerk for publication locally should that be possible.
- 3.3 In terms of individual DPIs, 587 of a total of 650 have been received from Parish Councillors and 63 are outstanding twenty of which are vacancies. Principally, those outstanding are due from Abbots Ripton, Abbotsley, Grafham and Old Weston. Following the last meeting of the Committee, returns from all these Parishes were actively pursued. The up to date position on each Council is noted in the Appendix. In terms of Old Weston, training was presented to the Parish Council on 5th November. It was their intention to adopt a Code of Conduct at the meeting of the Parish Council which was to follow. Regrettably this did not happen as the item was deferred again to their January meeting. The remainder of the outstanding forms are those where resignations have recently occurred and DPIs are still awaited from newly co opted Councillors. The Committee will appreciate that it is unlikely that there will ever be a complete return at any one time because of ever changing nature of the system.

- 3.4 The Monitoring Officer continues to pursue those Parish Councils where DPIs are still outstanding and may be in a position to give a further update at the meeting. Similarly, incomplete or inaccurate forms are returned to Parish Councils with a request to revise and return.

4. CURRENT POSITION – CODES OF CONDUCT

- 4.1 Whilst there is no legal obligation upon Town and Parish Councils to notify the Monitoring Officer, records indicate that 70 out of 71 Town and Parish Councils have adopted a Code of Conduct. Fifty-six of those Parish Councils have adopted a Code based on that adopted by the District Council. Ten Town and Parish Councils have opted for the Code promoted by NALC. Of the remaining Councils, 4 have adopted their own version of the Code but having had sight of these the Monitoring Officer is satisfied that they are adequate for the purpose. Old Weston Parish Council have not yet adopted a Code of Conduct.

5. FUTURE ACTION

- 5.1 The Committee may recall that they had suggested, at the last meeting, that they or the Chairman should give notice of their intention to visit meetings of the 4 Parish Councils where DPIs are outstanding to explain how important it was for their Members to complete the forms. Members are asked to indicate whether they still wish to pursue this option or, given the few involved, whether they would prefer the Monitoring Officer to continue to pursue the forms in the usual way.

BACKGROUND PAPERS

Register of DPIs

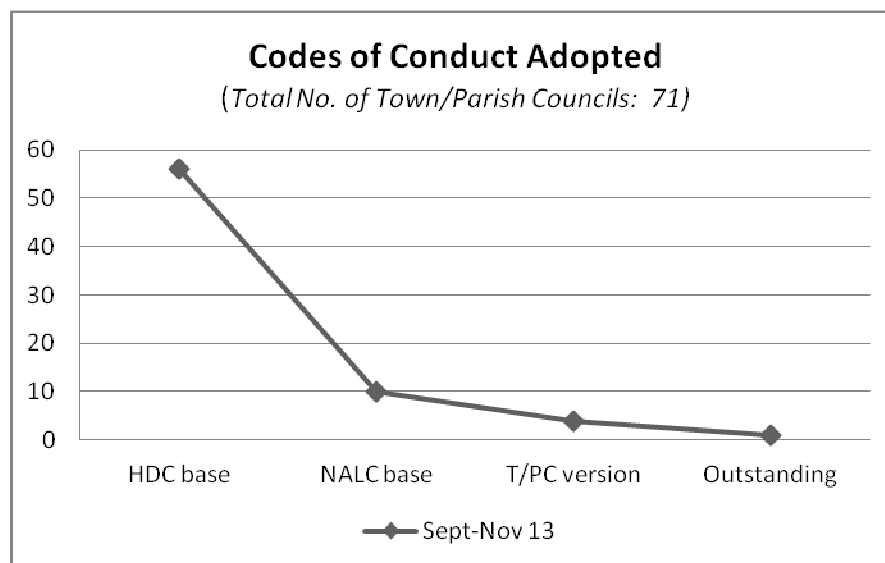
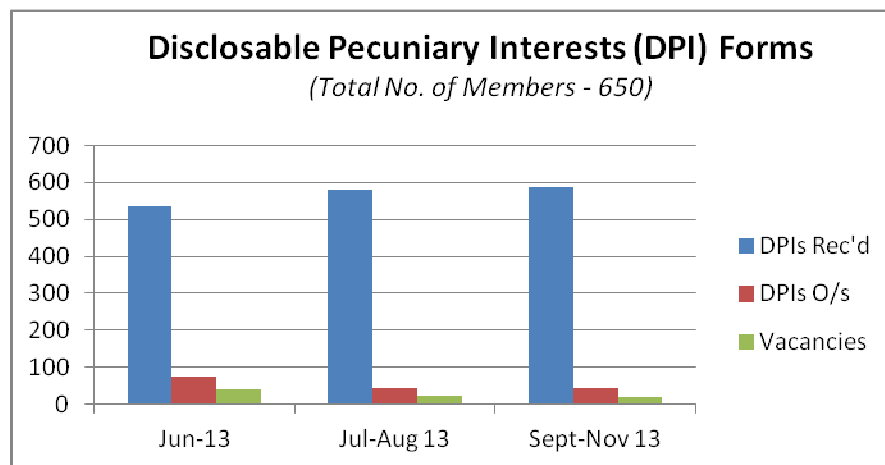
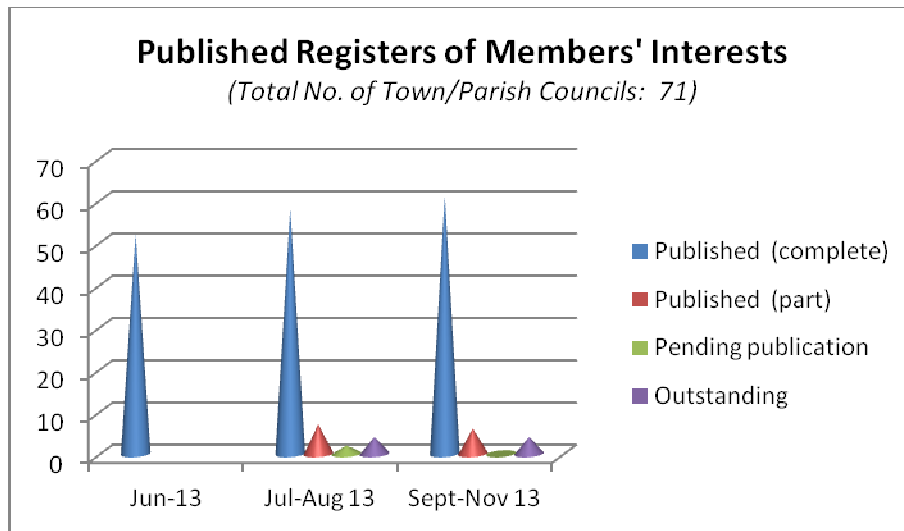
CONTACT OFFICER

Christine Deller – Democratic Services Manager
Tel No. 01480 388007

RECORD OF TOWN AND PARISH COUNCIL DPI FORMS AS AT 25/11/13

	Town/Parish Council	No of Cllrs	DPIs Received	Seat(s) Vacant	DPIs Outstanding	Notes
1	Abbots Ripton	6	0		6	Latest - Forms to be redistributed by new Clerk
2	Abbotsley	7	0		7	New Clerk appointed - forms on their way
3	Alconbury	11	11			
4	Alconbury Weston	7	7			
5	Alwalton	5	5			
6	Barham & Woolley	5	5			
7	Bluntisham	11	10	1		
8	Brampton	15	14	1		
9	Brington & Molesworth	5	5			
10	Broughton	7	7			
11	Buckden	15	15			
12	Buckworth	5	5			
13	Bury	9	9			
14	Bythorn & Keyston	5	4	1		
15	Catworth	7	7			
16	Colne	9	9			
17	Conington	5	5			
18	Earith	11	11			
19	Easton	5	5			
20	Ellington	7	6	1		
21	Elton	9	8	1		
22	Farcet	11	9	1	1	
23	Fenstanton	13	13			
24	Folksworth & Washingley	9	8	1		
25	Glatton	5	5			
26	Godmanchester	17	17			
27	Grafham	7	0	1	6	Reminders sent 29/7 and 29/8
28	Great & Little Gidding	7	7			
29	Great Gransden	9	9			
30	Great Paxton	9	8	1		
31	Great Staughton	9	9			
32	Hail Weston	7	7			
33	Hemingford Abbots	7	7			
34	Hemingford Grey	13	11	2		
35	Hilton	9	9			

	Town/Parish Council	No of Cllrs	DPIs Received	Seat(s) Vacant	DPIs Outstanding	Notes
36	Holme	7	7			
37	Holywell cum Needingworth	13	13			
38	Houghton & Wyton	9	8	1		
39	Huntingdon	19	19			
40	Kimbolton & Stonely	11	11			
41	Kings Ripton	5	3		2	
42	Leighton Bromswold	7	3		4	
43	Little Paxton	15	12	3		
44	Offord Cluny & Offord Darcy	11	11			
45	Old Hurst	7	6		1	
46	Old Weston	7	0		7	Training undertaken on 5 Nov 13
47	Perry	9	8	1		
48	Pidley cum Fenton	7	7			
49	Ramsey	17	16		1	
50	Sawtry	15	15			
51	Sibson cum Stibbington	7	7			
52	Somersham	15	15			
53	Southoe & Midloe	7	2	1	4	
54	Spaldwick	7	7			
55	St Ives	17	17			
56	St Neots	21	21			
57	Stilton	11	11			
58	Stow Longa	5	5			
59	The Stukeleys	9	9			
60	Tilbrook	5	5			
61	Toseland	5	5			
62	Upton & Coppingford	5	5			
63	Upwood & The Raveleys	9	9			
64	Warboys	15	13	1	1	
65	Waresley cum Tetworth	5	5			
66	Wistow	7	7			
67	Woodhurst	7	7			
68	Woodwalton	5	5			
69	Wyton on the Hill	7	5	2		
70	Yaxley	17	14		3	
71	Yelling	7	7			
	Totals	650	587	20	43	



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