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STANDARDS

Monday 19 March 2012

Present:- Mr D Burns – in the Chair

Councillors Mrs Burke, Cairns and Tagg J H

Also in attendance: Mr G L E Locke – Staffs Parish Council Association
Mr W Murray – Staffs Parish Council Association
Mr T Sproston – Audley Parish Council
Mr G Sedgley – Loggerheads Parish Council
Mr J Vallings – Loggerheads Parish Council
Mr M Rowley – Madeley Parish Council
Mrs J Rowley – Madeley Parish Council

Apologies for absence were received from Councillors Mrs Hambleton and J Taylor and Mr D Wood.

1. MINUTES OF THE PREVIOUS MEETING

Resolved:- That the minutes of the meeting held on 11 July 2011 be approved as a correct record.

2. DECLARATIONS OF INTEREST

There were none.

3. THE LOCALISM ACT 2011 - THE AMENDED STANDARDS REGIME

Consideration was given to a detailed report setting out the fundamental changes made by the Localism Act 2011 to the system of regulating the standards of conduct expected from elected and co-opted members.

The report described the changes and made recommendations relating to the actions now required by the Council to consider the appointment of a new constituted Standards Committee and to adopt a new Code of Conduct to comply with the relevant provisions of the Act.

It was indicated that the Council remained under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members and that it was for the Council to decide what procedures it wished to put in place to ensure that this duty was met including what to include in a new code of conduct.

The report also dealt with the appointment and role of independent members, the Register of Members' Interests, single member decisions, sensitive interests and the grant of dispensations.

Resolved:- (a) That the Borough Council establish a joint Standards Committee comprising 8 elected members of the Council and 3 Parish Councillors and that the Committee be not appointed proportionally.

(b) That in addition, the Leader of the Council be requested to nominate to the Standards Committee only one member who is a member of the Executive.

(c) That the Parish Councils through the Staffordshire Parish Councils Association be invited to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members of the Committee.

(d) That the Monitoring Officer be requested to prepare and present a draft Code of Conduct to Council for adoption.

The draft Code should:

- (i) equate to Paragraphs 3 to 7 of the current Code of Conduct applied to Member conduct in the capacity of an elected or co-opted Member of the Council or its Committees and Sub-Committees; and
- (ii) require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosure Pecuniary Interests (DPIs)

(e) That, when the DPI regulations are published, the Monitoring Officer, after consultation with the Chair of Standards Committee and the Leader of the Council, will add to that draft Code provisions which he considers to be appropriate for the registration and disclosure of interest other than DPIs.

(f) That the Monitoring Officer be instructed to prepare and submit to Council for approval "arrangements" as follows:

- (i) That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct.
- (ii) That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He should be instructed to seek resolution of complaints without formal investigation wherever practicable, and be given discretion to refer decisions on investigation to the Standards Committee where he feels it is inappropriate for him to take the decision, and to report quarterly to Standards Committee on the discharge of this function.
- (iii) Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant, the Independent Person and the Member concerned, and reporting the findings to the Standards Committee for information.
- (iv) Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, the Monitoring Officer should report the investigation findings to a Hearings Panel of the Standards Committee for local hearing.

(v) That Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a Member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include:-

- Reporting its findings to Council (or to the Parish Council) for information.
- Recommending to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council.
- Recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.
- Instructing the Monitoring Officer to (or recommend that the parish Council) arrange training for the Member.
- Removing (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).
- Withdrawing (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.
- Excluding (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.

(g) That a meeting be arranged between the current Chair of Standards Committee and the Council political group leaders and existing representatives of Parish Councils to discuss how the new system can best operate.

(h) That the Monitoring Officer, in consultation with the Chair of Standards Committee and the Leader of the Council, and with the advice of the Head of HR, be authorised to set the initial allowances and expenses for the Independent Person and any reserve Independent Persons, and this function to subsequently be delegated to the Standards Committee.

(i) That the Monitoring Officer advertises a vacancy of the appointment of one Independent Person and 2 reserve Independent Persons.

(j) That a committee comprising the Chair and three other members of Standards Committee be set up to shortlist and interview candidates and to make a recommendation to Council for appointment.

(k) That the Monitoring Officer prepare and maintain a new Register of Members' Interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and to ensure that it is available for inspection as required by the Act.

(l) That the Monitoring Officer ensures that all Members are informed of their duty to register interests.

(m) That the Monitoring Officer prepare and maintain new Registers of Members' interests for each Parish Council in order to comply with the

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Act and any Code of Conduct adopted by each parish Council and to ensure that they are available for inspection as required by the Act.

(n) That the Monitoring Officer arrange through the Staffordshire Parish Councils to inform and if necessary train Parish Clerks on the new registration arrangements.

(o) That the Monitoring Officer be requested to recommend to Council a Standing Order which equates to the current Code of Conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation.

(p) That the Council delegate the power to grant dispensations:

- (i) on Grounds set out in paragraphs 11.1.1 and 11.3.4 of the officer's report to the Monitoring Officer with an appeal to Standards Committee; and
- (ii) on Grounds 11.3.2, 11.3.3 and 11.3.5 of the officer's report to the Standards Committee, after consultation with the Independent Person.

MR D BURNS
Chair

THE LOCALISM ACT 2011 – THE AMENDED STANDARDS REGIME - THE NEW CODE OF CONDUCT FOR MEMBERS AND ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT

Submitted by: Head of Central Services and Monitoring Officer

Ward(s) affected: All

Purpose of the Report

To inform the Members of the Committee of the Code of Conduct and arrangements for dealing with complaints.

Recommendations

(a) That the Code of Conduct for Members and Arrangements for dealing with complaints be received.

(b) That the Committee gives its views on training.

Reasons

To promote and maintain high standards of conduct and to comply with the Localism Act 2011.

Background

1. **The Localism Act 2011**

The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Members.

2. **Duty to Promote and Maintain High Standards of Conduct**

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members. District councils will continue to have responsibility for dealing with standards complaints against elected and appointed Members of town and parish councils.

3. **Code of Conduct**

At its meeting in July, the Council adopted a new Code of Conduct governing the conduct of elected and co-opted Members when acting in that capacity. The Code can of course be reviewed at any time. The Code is set out at Appendix A.

4. **Dealing with Misconduct Complaints**

4.1 **'Arrangements'**

The Council also adopted 'arrangements' for dealing with complaints of alleged breach of Code of Conduct both by district and parish council Members, and such complaints can only be dealt with in accordance with such arrangements. The arrangements set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member found to have failed to comply with the relevant Code of Conduct. The Council's arrangements are attached at Appendix B. These were drawn up in

accordance with what was agreed by Standards Committee in March of this year, having taken note of the views of the Local Government Association, the Association of Council Secretaries and Solicitors (ACSeS), leading practitioners and guidance.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

The new regime will contribute to the overall ethical wellbeing of the Council, and help to ensure a culture of high ethical standards, which the public and the Council's partners can have confidence in. This will thereby contribute to the Council's priority of transforming our Council to achieve excellence.

6. **Legal and Statutory Implications**

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members and to provide the Monitoring Officer with such staff, accommodation and such other resources as are in his opinion sufficient to allow him to perform the duties of the post.

7. **Equality Impact Assessment**

No differential equality impact issues have been identified.

8. **Major Risks**

There are no specific risk issues.

9. **Financial Implications**

There are none flowing from this report.

10. **List of Appendices**

Appendix A – the Code of Conduct for Members

Appendix B – the Arrangements for dealing with Standards allegations under the Localism Act 2011.



CODE OF CONDUCT FOR MEMBERS – JULY 2012

1. Application

This Code of Conduct applies to you whenever you are acting in your capacity as a Member of the Borough Council of Newcastle-under-Lyme, including:

- 1.1 At formal meetings of the Council, its committees and sub-committees and its Cabinet and Cabinet committees
- 1.2 When acting as a representative of the Authority
- 1.3 In taking any decision as a Cabinet member or Ward Councillor
- 1.4 In discharging your functions as a Ward Councillor
- 1.5 At briefing meetings with officers
- 1.6 At site visits
- 1.7 When corresponding with the Authority other than in a private capacity

2. General Conduct

You must:

- 2.1 Provide leadership to the Authority and communities within its area, by personal example; and
- 2.2 Respect others and not bully any person
- 2.3 Recognise that officers (other than political assistants) are employed by and serve the whole Authority
- 2.4 Respect the confidentiality of information which you receive as a Member by:
 - 2.4.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so; and
 - 2.4.2 not obstructing third parties' legal rights of access to information
- 2.5 Not misconduct yourself in a manner which is likely to bring the Authority into disrepute
- 2.6 Use your position as a Member in the public interest and not for personal advantage

- 2.7 Accord with the Authority's reasonable rules on the use of public resources for private and political purposes
- 2.8 Exercise your own independent judgment, taking decisions for good and substantial reasons by:
 - 2.8.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
 - 2.8.2 paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer; and
 - 2.8.3 stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.9 Account for your actions, particularly by supporting the Authority's scrutiny function
- 2.10 Ensure that the Authority acts within the law.

3. Disclosable Pecuniary Interests

You must:

- 3.1 Comply with the statutory requirements in order to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest (DPI(s))
- 3.2 Ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs
- 3.3 Make verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.4 'Meeting' means any meeting organised by or on behalf of the Authority, including:
 - 3.4.1 any meeting of the Council, or a committee or sub-committee of the Council
 - 3.4.2 any meeting of the Cabinet and any committee of the Cabinet
 - 3.4.3 in taking a decision as a Ward Councillor or as a Member of the Cabinet
 - 3.4.4 at any briefing by officers; and
 - 3.4.5 at any site visit to do with business of the Authority.

4. Other Interests

- 4.1 In addition to the requirements of paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a 'non-disclosable pecuniary interest or non-pecuniary interest' in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 4.2 You have a 'non-disclosable pecuniary interest or non-pecuniary interest' in an item of business of your authority where:
- 4.2.1 a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of you or a member of your family or a person with who you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the Ward or electoral area for which you have been elected or otherwise of the Authority's administrative area, or
- 4.2.2 it relates to or is likely to affect any of the interests listed in the table in the appendix to this Code, but in respect of a member of your family (other than a 'relevant person') or a person with whom you have a close association

and that interest is not a disclosable pecuniary interest.

5. Gifts and Hospitality

- 5.1 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 £100 which you have accepted as a Member from any person or body other than the Authority
- 5.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality
- 5.3 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

Disclosable Pecuniary Interests (DPIs)

The duties to register, disclose and not to participate in respect of any matter in which a Member has a DPI are set out in Chapter 7 of the Localism Act 2011.

DPIs are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:

INTEREST	PRESCRIBED DESCRIPTION
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)
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 the Member's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant authority has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to the Member'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

For this purpose:

'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 has a beneficial interest

'director' includes a member of the committee of management in an industrial or provident society

'land' excludes 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

'Member' includes a co-opted Member

'relevant authority' means the Member's Authority

'relevant period' means the period of 12 months ending with the day on which a Member gives a notification for the purposes of Section 30(1) or 31(7) as the case may be, of the Act

'relevant person' means the Member 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 and other securities of any description, other than money deposited with a building society.

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ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011

1. Context

These 'arrangements' set out how you may make a complaint that an elected or co-opted Member of this Authority *[or of a parish council within its area]* has failed to comply with the Authority's Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place 'arrangements' under which allegations that a Member or co-opted Member of the Authority *[or of a parish council within the authority's area]*, or of a committee or sub-committee of the Authority, has failed to comply with that Authority's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Member *[or a Member or co-opted Member of a parish council]* against whom an allegation as been made.

2. The Code of Conduct

The Council has adopted a Code of Conduct for Members, which is attached as Appendix A to these arrangements and is available for inspection on the Authority's website and on request from the Monitoring Officer.

[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
Civic Offices
Merrial Street,
Newcastle,
Staffordshire, ST7 2AG

Or email: StandardsCommittee@newcastle-staffs.gov.uk

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The Monitoring Officer has statutory responsibility for maintaining the Register of Members' Interests and 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 complaint form, which can be downloaded from the Authority's website, or available on request from the Monitoring Officer.

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.

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.

4. Will Your Complaint Be Investigated?

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 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he will inform you of his decision and the reasons for that decision.

Where he requires additional information in order to come to a decision, he may come back to you for such information, and may request information from the Member against whom your complaint is directed.

[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]

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

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

5. How is the Investigation Conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he 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. In exceptional cases, where it is appropriate to keep your identity confidential, or if disclosure of details of the complaint to the Member may prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

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.

6. 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.

7. 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.

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 which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee [*and the Parish Council*] for information, but will take no further action. 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.

1.1 Local Hearing

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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, such as giving an apology, 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.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements.

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.

2. **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:

- 2.1 Censure or reprimand the Member;
- 2.2 Publish its findings in respect of the Member's conduct;
- 2.3 Report its findings to Council [*or to the Parish Council*] for information;
- 2.4 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;
- 2.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 2.6 Recommend to Council that the Member be replaced as Executive Leader;

- 2.7 Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Member;
- 2.8 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]*;
- 2.9 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
- 2.10 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.

3. **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 you, 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 Council.

4. **Who are the Hearings Panel?**

The Hearings Panel is a sub-committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise a maximum of five Members of the Council, 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 on the nomination of party group leaders 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.

5. **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 the appointed by a positive vote from a majority of all the Members of Council.

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

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- 5.1 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;
- 5.2 *[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*
- 5.3 Is a relative or close friend of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means:
 - 5.3.1 Spouse or civil partner;
 - 5.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 5.3.3 Grandparent of the other person;
 - 5.3.4 A lineal descendant of a grandparent of the other person;
 - 5.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 5.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 5.3.7 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.

6. **Revision of these arrangements**

The Council may by resolution agree to 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.

7. **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.

GOVERNMENT GUIDANCE ON OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS

Submitted by: Head of Central Services and Monitoring Officer

Ward(s) affected: All

Purpose of the Report

To inform the Members of the Committee of recent Government guidance on certain aspects of the new Standards regime.

Recommendation

That the guidance be received.

Reasons

To promote and maintain high standards of conduct and to comply with the Localism Act 2011.

1. Background

- 1.1 This report deals with a key statutory role of the Borough Council, discharged by this Committee, together with the promotion and enforcement of high standards of conduct by Members of the Borough Council whilst acting in their official capacity.
- 1.2 As the Committee will be aware, the new Standards regime came into effect on 1 July 2012. In August 2012, the Department for Communities and Local Government issued a guide for councillors on 'Openness and Transparency on Personal Interests'. A copy of this guidance was circulated to all Members on 10 August 2012.
- 1.3 The contents of the guide are largely self-explanatory. There are some key messages which the guidance seeks to emphasise. The first key message is that the registration of personal interests should conform with the principle of honesty (as set out in the seven principles of public life), which states: *'holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflict arising in a way that protects the public interest'*.
- 1.4 The second major area covered by the guide relates to pecuniary interests, which are described broadly as 'business' interests (for example employment, trade, profession, contracts, or any company with which a Member is associated) – and wider financial interests (for example trust funds, investments and assets including land and property). The guide also clarifies that the name of a Member's spouse or civil partner does not need to appear on the register of interests. The Borough Council's register invites Members to state whether the interest is theirs and/or their spouse/partner's, but does not require the latter to be identified. The guide acknowledges that the detailed format of the register of Members' interests is for each Council to decide. Also, consistent with the guidance, the Borough Council will not publish personal signatures of councillors online in the register.
- 1.5 The practices adopted by the Borough Council in terms of inspection of the register, the withholding of information from the published register and the removal of certain information are fully consistent with the guidance. Members have been provided with a copy of the guidance informing them on what having a disclosable pecuniary interests prevents them from doing and also, where prohibitions apply, when they have to leave the meeting room.

- 1.6 The guide also sets out the rules on dispensations.
- 1.7 Finally, the guidance emphasises the point that failure to comply with the rules on disclosable pecuniary interests is a criminal offence.

2. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

The new regime will contribute to the overall ethical wellbeing of the Council, and help to ensure a culture of high ethical standards, which the public and the Council's partners can have confidence in. This will thereby contribute to the Council's priority of transforming our Council to achieve excellence.

3. **Legal and Statutory Implications**

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members and to provide the Monitoring Officer with such staff, accommodation and such other resources as are in his opinion sufficient to allow him to perform the duties of the post.

4. **Equality Impact Assessment**

No differential equality impact issues have been identified.

5. **Major Risks**

There are no specific risk issues.

6. **Financial Implications**

There are none flowing from this report.

7. **List of Appendices**

Appendix C – DCLG guidance previously circulated



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

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).

- the Broads Authority
- 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.

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 honesty - that **'holders of public office have a duty to declare any private interests**

³ <http://www.communities.gov.uk/publications/localgovernment/localcodeconduct>

relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest'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. 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

⁴ http://www.public-standards.gov.uk/Library/Seven_principles.doc

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.

associated) and wider 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 of 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 or 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.

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

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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FUTURE WORK PROGRAMME

Submitted by: **Head of Central Services and Monitoring Officer**

Ward(s) affected: **All**

Purpose of the Report

To invite the Members of the Committee to consider its programme for future work (other than the requirement to deal with complaints as they occur).

Recommendation

That Committee consider its future work programme.

Reasons

To promote and maintain high standards of conduct and to comply with the Localism Act 2011.

1. Background

1.1 This Committee was established by the Borough Council in response to the requirements imposed on it by the Localism Act 2011, and following the abolition of Standards for England. The Committee has the following functions delegated to it:

- (1) To ensure that the Council adheres to the highest standards of probity in all of its transactions.
- (2) To promote and maintain high standards of conduct by Members and co-opted Members.
- (3) To assist Members and co-opted Members to observe the Members' Code of Conduct.
- (4) To advise the Council on the adoption or revision of the Members' Code of Conduct.
- (5) To monitor the operation of the Members' Code of Conduct.
- (6) To advise, train or arrange to train Members and co-opted Members on matters relating to the Members' Code of Conduct.
- (7) To grant dispensations to Members and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct.
- (8) To deal with any reports from the Monitoring Officer on any matter and to appoint sub-committees to determine such matters.
- (9) To exercise all the above functions in relation to the Parish Councils wholly or mainly within the area of the Borough and in relation to Members of those Parish Councils.
- (10) To receive reports following the completion of investigations into allegations made under the Council's Whistleblowing procedure and other investigations which disclose failings in the Council's existing procedures.

1.2 These functions in the main may be regarded as the standing business of the Committee and are predominantly reactive, for example dealing with complaints and applications for dispensations.

1.3 The Committee's views are sought on which areas, if any, it would wish to see prioritised in terms of the preparation and issuing of guidance on best practice. Any such areas identified would then be the subject of a further, detailed report.

2. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

2.1 The new regime will contribute to the overall ethical wellbeing of the Council, and help to ensure a culture of high ethical standards, which the public and the Council's partners can have confidence in. This will thereby contribute to the Council's priority of transforming our Council to achieve excellence.

3. **Legal and Statutory Implications**

3.1 The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members and to provide the Monitoring Officer with such staff, accommodation and such other resources as are in his opinion sufficient to allow him to perform the duties of the post.

4. **Equality Impact Assessment**

No differential equality impact issues have been identified.

5. **Major Risks**

There are no specific risk issues.

6. **Financial Implications**

There are none flowing from this report.

7. **List of Appendices**

None