

# Public Document Pack

**Date of meeting** Tuesday, 23 July 2013  
**Time** 7.00 pm  
**Venue** Council Chamber, Civic Offices, Merrial Street,  
Newcastle-under-Lyme, Staffordshire, ST5 2AG  
**Contact** Nick Lamper  
01782 742227

## Standards

### AGENDA

#### **PART 1 – OPEN AGENDA**

- 1 Apologies**
- 2 MINUTES OF LAST MEETING** (Pages 1 - 4)  
Held on 7 January 2013, to be signed as a correct record.
- 3 Declarations of Interest**
- 4 Local Government Ombudsman Annual Letter Arrangements** (Pages 5 - 6)
- 5 OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS - A GUIDE FOR COUNCILLORS - REVISED GOVERNMENT GUIDANCE** (Pages 7 - 18)

The attached guidance was issued in March 2013 by the Department for Communities and Local Government, and supersedes the previous version issued in August 2012.

The committee is requested to note the content of the guidance, which will be circulated to all members.

- 6 Urgent Business**
- 7 EXCLUSION OF PRESS AND PUBLIC**

The committee is invited to resolve that the press and public be excluded from the meeting during the consideration of the following four items because it is likely that there will be a disclosure in each case of exempt information as defined in paragraphs 1 and 2 of Part I of Schedule 12A of the Local Government Act 1972.

#### **PART 2 – CLOSED AGENDA**

- 8 MONITORING OFFICER'S REPORT ON COMPLAINT REFERENCE SBO14/13**

(Pages 19 - 26)

A copy of the model arrangements for dealing with Standards allegations under the Localism Act 2011 is appended to this item to assist the committee in dealing with it and the following two items.

- 9      **Monitoring Officer's Report on Complaint Reference SBO15/13**      **(Pages 27 - 28)**
- 10     **Monitoring Officer's Report on Complaint Reference SBO17/13**      **(Pages 29 - 30)**
- 11     **Appointment of Reserve Independent Person(s)**                      **(Pages 31 - 36)**

**Members:**      Councillors Mrs Beech, Cairns, Cooper, Mrs Cornes, Mrs Hambleton (Chair),  
Mrs Heesom (Vice-Chair) and Olszewski

**Members of the Council: If you identify any personal training/development requirements from the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.**

*Officers will be in attendance prior to the meeting for informal discussions on agenda items.*

## STANDARDS COMMITTEE

Monday, 7th January, 2013

**Present:-** Councillor Terry Turner – in the Chair

Councillors Cairns, Cooper and Taylor.J

Mrs Wenslie Naylor representing Keele Parish Council

### 1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs Heesom and Mrs Hambleton and Mr D Wood (Independent Member)

### 2. DECLARATIONS OF INTEREST

There were none.

### 3. MINUTES OF THE PREVIOUS MEETING

**Resolved:** That the minutes of this Committee held on 1 October 2012 be approved as a correct record and the actions taken by the Monitoring Officer regarding the completion of disclosure of pecuniary interest forms by Members and Code of Conduct Flow Chart be noted.

### 4. ROLE OF THE INDEPENDENT MEMBER

Consideration was given to a report containing a job description that set out the role of Independent Members appointed under Section 28(7) of the Localism Act 2011.

The Committee was advised that Mr D Wood had confirmed his willingness to continue to serve as an Independent Member and of the intention to advertise for a second person to act in this capacity to provide back-up when Mr Wood was not available for consultation.

Although the Independent Member would not be a member of the committee when it considered complaints made against Borough or Parish Councillors it was indicated that he would, if required, by the Councillor complained against advise on the process to be followed in dealing with the particular complaint.

He would also be consulted by the Monitoring Officer on complaints received and asked to give a view on whether a particular complaint warranted investigation as a breach of the adopted Code of Conduct. If an investigation is considered appropriate he would then be consulted on the findings of the investigation and asked whether, in his opinion, the matter should be referred to the Standards Committee or dealt with informally for example, if acceptable to the complainant, the Councillor concerned might be asked to make an apology for his/her actions leading to the complaint being made.

The Committee agreed that each stage of the process and timescale to be followed when dealing with complaints should be set out very clearly on an information sheet and made available to all Councillors and Parish Clerks. The information should also

provide details of the respective roles in the process of the Monitoring Officer, Independent Member and Standards Committee when processing complaints.

In conclusion the Monitoring Officer summarised the position with regards to complaints made alleging breaches of the Code of Conduct and confirmed that a more detailed report would be submitted to the next meeting.

**Resolved:** (a) That the information be received.

(b) That the Monitoring Officer drafts a procedural note/flowchart as indicated above for approval by this Committee before it is made available to Borough Councillors, Parish Clerks and put on display for the general public to see.

## 5. **DISPENSATIONS**

Consideration was given to a report advising of requests for Borough Councillors to be granted a dispensation in accordance with the provisions of the Localism Act 2011 to enable them to deal with the following matters:-

- (i) Allowance, payment or indemnity to Members.
- (ii) Ceremonial honours given to Members.
- (iii) Setting Council Tax or a precept under the Local Government Finance Act 1992, as amended from time to time, or any superseding legislation.
- (iv) Setting a local scheme for the payment of business rates, including eligibility for rebates and reductions for the purposes of the Local Government Finance Act 2012, as amended from time to time, and any superseding legislation.
- (v) Council Tax Local Benefit Scheme(if found to be necessary).

It was indicated that dispensations may be granted if, having regard to all relevant circumstances, the Committee considered that:-

- (i) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
- (ii) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
- (iii) granting the dispensation was in the interests of persons living in the authority's area.
- (iii) without the dispensation each member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the authority's Executive or
- (iv) that it is otherwise appropriate to grant a dispensation.

The Committee was advised that if granted, a dispensation must specify the period for which it has effect, and that must not exceed 4 years. On the assumption that the Committee granted the dispensation then all current Members would be covered by it.

**Resolved:** That dispensations be granted for a period terminating with the next Borough Council elections for each Member granted a dispensation.

**6. GOVERNMENT GUIDANCE ON OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS**

Following on from the discussion at the last meeting the Committee was, in the interests of maintaining high standards of conduct and to comply with the Localism Act 2011, was recommended to adopt the flowchart drafted to help Members to decide whether they needed to disclose interests in a particular matter.

**Resolved:** (a) That the flowchart referred to above be approved as drafted.

(b) That the Committees earlier resolution to offer training to Parish Councils on the Code of Conduct be re-affirmed.

**7. THE QUALITY TOWN AND PARISH COUNCIL SCHEME**

The Committee considered a report providing details of the Quality Parish and Town Council Scheme that was launched in 2003 following the Government's Rural White Paper, 2000. The aim of the Scheme was to provide benchmark minimum standards for rural and town councils.

It was indicated that to achieve Quality Status, parish and town councils were required to demonstrate that they had reached the required standards in a wide range of areas as outlined in an appendix to the officer's report.

The Scheme was currently under review during which time transitional arrangements had been put in place

An application form and a frequently asked questions document were appended to the officer's report.

Members were advised that the Borough Council, under Section 28 of the Localism Act 2011, had in place arrangements to deal with complaints against Parish Councillors and to recommend actions to them.

Accordingly, in the interests of promoting and maintaining high standards of conduct and to comply with the Localism Act it was agreed that Parish Councils should be encouraged to seek Quality Parish Council Accreditation.

**Resolved:** That the Monitoring Officer submits a report to a subsequent meeting outlining how this matter can be taken forward possibly involving the Parish Councils Association.

**COUNCILLOR TERRY TURNER**  
**Chair**

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### MONITORING OFFICER'S REPORT TO STANDARDS COMMITTEE

23<sup>rd</sup> JULY 2013

#### 1. LOCAL GOVERNMENT OMBUDSMAN ANNUAL LETTER ARRANGEMENTS

**Submitted by:** LGO Link Officer, Mrs. J. Johnston

**Ward(s) affected:** All

##### **Purpose of the Report**

To inform the Members of the Committee of recent changes in the way that the Local Government Ombudsman (LGO) deals with complaints and the publication of its decisions.

##### **RECOMMENDATION:**

**That the report be received.**

##### **Reasons**

Part of being an open and accountable Ombudsman service is having transparent decision making processes.

##### **Background**

- 1.1 In previous years, the LGO has provided an annual summary of complaints they had received against the Council. This annual letter covered a 12 month period from April to March and included statistics on the number of enquiries and complaints received by the LGO Advice Team.
- 1.2 This year the LGO is not producing annual letters for individual councils about complaints received against them in the same way it has done in previous years. This is because part way through the year, the LGO began to make changes in the way it handles complaints, and therefore it was felt that any statistics would not provide a comparable picture throughout the year. However, I can inform Members that complaint outcomes from April 2012 to March 2013 show that no reports have been issued against this Council.
- 1.3 In July the LGO will be sending a letter to all councils which will include high level information about complaints which have been made and also giving the Council the opportunity to contribute to a consultation on what annual letters will look like in the future and how they can better meet the Council's needs. At the time of preparation of this report this letter has not been received. If it is received by the date of your meeting, it will be circulated to you.
- 1.4 The LGO will also be publishing all of the decisions on complaints it receives after 1<sup>st</sup> April 2013, making them the first public sector Ombudsman scheme to do so. Decision statements will be published on the LGO website no earlier than three months after the date

of the final decision. The information published will not name the complainant or any individual involved with the complaint. A small number of examples of decisions on complaints received before 1<sup>st</sup> April 2013 will also be published.

- 1.5 Part of being an open and accountable Ombudsman service is having transparent decision making processes. The LGO will publish its decisions so that the public and bodies within its jurisdiction see the full range of decisions and can feel reassured that they are fair, thorough and impartial.
- 1.6 Publishing decisions also recognises the key role the LGO plays in helping to ensure that public services are accountable to the public, who use and fund those services. Greater transparency of the LGO's decisions means greater transparency of public services.
- 1.7 The LGO does however retain discretion not to publish a decision, for example where it would not be in the interests of the person complaining to publish or where there is a reason in law not to.

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

The LGO service contributes to the Council's priority of delivering high quality community driven services.

## 6. Legal and Statutory Implications

There are no new legal or statutory implications.

## 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 no financial implications flowing from this report but the Council does face the risk of financial penalty should there be a finding of maladministration in any future complaints.

## 10. List of appendices

None





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 2011<sup>1</sup>.

## 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.<sup>2</sup>

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

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<sup>1</sup> 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.

<sup>2</sup> 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.<sup>3</sup>

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

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

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

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 disclose<sup>5</sup> 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 financial interests they might have (for example trust funds, investments, and assets including land and property).

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<sup>5</sup> 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.

## 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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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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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](mailto:StandardsCommittee@newcastle-staffs.gov.uk)

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.

**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

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

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

- 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.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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