

# AGENDA

## Standards Committee

**Tuesday, 11 July 2017 AT 10:00  
In the Slupsk Room, Civic Centre, Carlisle, CA3 8QG**

### **Apologies for Absence**

To receive apologies for absence and notification of substitutions

### **Declarations of Interest**

Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

### **Public and Press**

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

### **Minutes of Previous Meeting**

**3 - 4**

To note the minutes of the meeting held on 31 March 2017

(Copy Minutes herewith)

## **PART A**

**To be considered when the Public and Press are present**

### **A.1 CO-OPTION OF PARISH COUNCIL REPRESENTATIVE**

In accordance with the Council's Scheme of Delegation, the Standards Committee to co-opt a Parish Council representative (non-voting) onto the Standards Committee for 2017/8.

### **A.2 CODE OF CONDUCT - COUNCILLOR CHARLES RAINE 5 - 160**

To consider a report of an Investigating Officer into an allegation and determine the recommended action.

(Copy Report GD.40/17 herewith)

## **PART B**

**To be considered when the Public and Press are excluded from the meeting**

- NIL -

### **Members of the Standards Committee:**

**Conservative:** Mrs Bowman, Mrs Mallinson, Mrs Parsons, Mallinson J (sub), Morton (sub), Nedved (sub)

**Labour:** Mrs Bradley (Chairman), McDonald, Ms Patrick (Vice Chairman), Stothard, Dr Tickner (sub), Ms Quilter (sub), Wilson (sub).

Enquiries, requests for reports, background papers, etc to Democratic Services Officer:

Rachel Plant 817039 or [rachel.plant@carlisle.gov.uk](mailto:rachel.plant@carlisle.gov.uk)

**STANDARDS COMMITTEE  
FRIDAY 31 MARCH 2017 AT 2.00PM**

PRESENT: Councillor Mrs Bradley (Chairman), Councillors Mrs Bowman, Mrs Mallinson, McDevitt and McDonald.

OFFICERS: Legal Services Manager

**ST.01/17 APOLOGIES FOR ABSENCE**

There were no apologies for absence submitted.

**ST.02/17 DECLARATIONS OF INTEREST**

There were no declarations of interest affecting the business to be transacted at the meeting.

**ST.03/17 APPOINTMENT OF INDEPENDENT PERSON**

The Legal Services Manager submitted report GD.14/17 regarding the appointment of the Council's Independent Person.

The Manager reminded the Committee that the Localism Act 2011 required that the Council had at least one Independent Person (IP) to advise it in relation to Standards Matters (and other matters relating to any proposed dismissal of a statutory Chief Officer.)

Following an advertisement and full recruitment process the Council, on 16 July 2013, appointed Ms Jane Salmon (now Elliott) for a period until 30 June 2016 and Mr Keith Thomas until 30 June 2017 as the Council's Independent Persons. Ms Elliott's appointment was subsequently continued until 30 June 2020.

Following changes to the Officer Employment Procedure Rules from May 2015 the Independent Person must be invited to be considered for appointment to any Panel which may be set up to deal with any disciplinary cases involving the Head of Paid Service, Monitoring Officer or Chief Finance Officer. Accordingly the Council's IPs were co-opted onto the Employment Panel.

Nothing had altered Mr Thomas's suitability for the post of IP since his appointment and it was recommended that his appointment be continued for a four year period at which time it could be reviewed again. If the Council did not continue with Mr Thomas's appointment it would be necessary to advertise for a new IP and it was likely that, due to his co-option as a member of the Employment Panel, he would not be able to apply. This was a quirk of the legislation unforeseen by the legislative draftsman.

RESOLVED – That the Standards Committee recommend to Council that it continue the appointment of Keith Thomas as an Independent Person until a review date of 30 June 2021.

**ST.04/17            STANDARDS ACTIVITY REPORT 2016/17**

The Legal Services Manager presented report GD.15/17 which updated the Committee on the Standards activity during the period 2016/17.

The Manager reported that the Council had received two code of conduct complaints, one relating to a Parish Councillor and one in respect of a City Councillor. Both complaints had been considered by the Monitoring Officer, the Chairman of Standards Committee and the Independent Person. It was agreed that the City Councillor complaint did not warrant a formal investigation and the Parish Council complaint and the Parish Councillor complaint had been deemed to be sufficient to be progressed to a formal investigation. The investigation had been concluded and the matter was felt suitable for local resolution.

RESOLVED – That report GD.15/17 Standards Activity Report 2016/17 be noted.

(The meeting ended at 2.02pm)

# Report to Standards Committee

Agenda Item:  
**A.2**

Meeting Date: 11 July 2017  
 Portfolio: Finance, Governance and Resources  
 Key Decision: Not Applicable:  
 Within Policy and Budget Framework: YES  
 Public / Private: Public

Title: Code of Conduct Complaint: Cllr Charles Raine  
 Report of: Monitoring Officer  
 Report Number: GD.40/17

**Purpose / Summary:** A complaint that a Farlam Parish Councillor breached the Code of Conduct has been made and the complaint requires determination by a hearing in accordance with the Council's arrangements for dealing with such matters.

## Recommendations:

In relation to the complaint the Standards Committee is recommended to:

- a. Determine whether there has been a breach of the Code of Conduct or relevant legislation; and
- b. Recommend the appropriate course of action, if any, to Farlam Parish Council.

## Tracking

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## **1. BACKGROUND**

- 1.1 The Council's arrangements for dealing with standards matters are attached as Appendix 1 (this document includes the Code of Conduct). The relevant guidance for Members and others is attached as Appendix 2.
- 1.2 Mrs Jane Thomson made a complaint that Cllr Charles Raine of Farlam Parish Council breached the Code of Conduct regulating the behaviour of Members of the said Council. The Complaint Form is attached as Appendix 3.
- 1.3 In accordance with the arrangements for dealing with such complaints, the matter was reviewed by the Monitoring Officer, the Chair of the Standards Committee and an Independent person and it was decided that the complaint passed the threshold test for further investigation. Accordingly, the Monitoring Officer appointed the Council's Principal Lawyer to carry out an investigation. The Investigation Report is attached as Appendix 4.
- 1.4 Cllr Raine has indicated that he will not be attending the hearing but has sent a detailed reply for consideration which is attached to the Report as Appendix 5.

## **2. PROPOSALS**

- 2.1 The role of the Standards Committee in relation to complaints about the conduct of Parish Councillors is to:
  - a. Determine whether the complaint constitutes a breach of the code of conduct and
  - b. Recommend, if any, a course of action to the Parish Council.
- 2.2 Taking account of the Standards Committee recommendation, it is then for the Parish Council to determine the action to be taken. It is important to note that in the Standards Committee deliberations, it has the benefit of a parish Council representative as a co-opted member.
- 2.3 It is proposed that the Standards Committee fulfil its obligation in accordance with the arrangements for dealing Code of Conduct matters.

## **3. CONSULTATION**

- 3.1 Not applicable.

#### **4. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

4.1 It is for the Standards Committee to reach its conclusion following consideration of the complaint, the investigation report and the response.

#### **5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

5.1 The purpose of the Code of Conduct regime is to ensure openness, transparency and accountability amongst the community's elected representatives.

**Contact Officer: Mark Lambert**

**Ext: 7019**

**Appendices  
attached to report:**

1. Arrangement for dealing with standards allegations under the Localism Act 2011.
2. Guidance on Code of Conduct.
3. Complaint Form
4. Investigation Report
5. The Parish Councillor's response.

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:**

- None

# The Council of the City of Carlisle

## 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 has been made.

### 2 The Code of Conduct

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

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 or email to –

Director of Governance (Monitoring Officer)  
Carlisle City Council,  
Civic Centre,  
Carlisle,  
Cumbria, CA3 8QG

Or –

[MarkL@carlisle.gov.uk](mailto:MarkL@carlisle.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from Reception at the main council Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person and Chair of the Council's Standards Committee, take a decision as to whether it merits formal investigation. This decision will normally be taken within 10 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

In certain cases the Monitoring Officer may refer particular complaints to the Standards Committee where he/she feels that it would be inappropriate for him/her to take a decision on it, for example where he/she has previously advised the member on the matter or the complaint is particularly sensitive.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Clerk 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 other regulatory agencies.

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

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

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint, so that you can explain your understanding of events, 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 disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

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 (following consultation with the Independent Person and Chair of the Standards Committee), if he is satisfied that it 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/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. The matter will be reported to the Standards Committee. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she 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.

### **7.1 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.

### **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.

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.

## **8 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 –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Send a formal letter to the Member;
- 8.3 Report its findings to Council or to the Parish Council for information;
- 8.4 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;
- 8.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;

- 8.7 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.8 Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
- 8.9 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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

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

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.

## **10 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 three members of the Council, appointed on a political balance basis.

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

## **11 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 –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.2 Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area, or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
  - 11.3.1 Spouse or civil partner;

- 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 11.3.3 Grandparent of the other person;
- 11.3.4 A lineal descendent of a grandparent of the other person;
- 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
- 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
- 11.3.7 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.

## **12 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.

## **13 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.

- Appendix One The authority's Code of Conduct
- Appendix Two Procedure for Investigations
- Appendix Three Procedure for Hearings

**CARLISLE CITY COUNCIL**

**CODE OF CONDUCT**

**FOR MEMBERS**

**ADOPTED 1 JULY 2012**

# **CARLISLE CITY COUNCIL**

## **CODE OF CONDUCT**

### **FOR MEMBERS AND CO-OPTED MEMBERS OF THE AUTHORITY**

1. The Council of the City of Carlisle ("The Authority") has adopted the following code dealing with the conduct that is expected of members and co-opted members of the Authority ("Members") when they are acting in that capacity as required by section 27 of the Localism Act 2011 ("the Act").
2. The Authority has a statutory duty under the Act to promote and maintain high standards of conduct by Members and the Code sets out the standards that the Authority expects Members to observe.
3. The Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the Authority. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years.
4. The code is intended to be consistent with the seven principles as attached to this code and applies whenever a person is acting in his/her capacity as a Member of the Authority or co-opted member in the conduct of the Authority's business or acting as a representative of the Authority.
5. When acting in your capacity as a Member
  - (1) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend, a close associate, an employer or a business carried on by you.
  - (2) You must not place yourself under a financial or other obligation to outside individuals or organisations that may influence you in the performance of your official duties.
  - (3) You must not disclose any information given to you as a Member in breach of any confidence.
  - (4) You must not bring your office or your Authority into disrepute.
  - (5) You must treat others with respect and promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers and its other employees.
  - (6) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits on merit.
  - (7) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

- (8) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- (9) You must declare any private interests, both disclosable pecuniary interests and any other registrable interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner which conforms with the procedures set out below.
- (10) You must ensure, when using or authorising the use by others of the resources of your authority, that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (11) You must promote and support high standards of conduct when serving in your office.

### **Registering and declaring disclosable pecuniary and other registrable interests**

- (1) You must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband or wife, or as if you were civil partners. These interests and those at (2) below are shown attached to this code.
- (2) In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.
- (3) If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest' as described by the Localism Act 2011.
- (4) Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
- (5) Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

## SEVEN GENERAL PRINCIPLES OF CONDUCT

### **Preamble**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

### **Selflessness**

1. Holders of public office should act solely in terms of the public interest.

### **Integrity**

2. 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.

### **Objectivity**

3. Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

### **Accountability**

4. Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

5. Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

6. Holders of public office should be truthful.

### **Leadership**

7. Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **PECUNIARY AND OTHER REGISTRABLE INTERESTS**

### **DISCLOSABLE PECUNIARY INTERESTS (as defined by regulations)**

1. *Details of any employment, office, trade, profession or vocation carried on for profit or gain.*
2. *Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).*
3. *Details of 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.*
4. Details of any beneficial interest in land which is within the area of the relevant authority.
5. *Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.*
6. Details of any tenancy where (to M's knowledge) –
  - (a) The landlord is the relevant authority; and
  - (b) The tenant is a body in which the relevant person has a beneficial interest.
7. Details of any beneficial interest in securities of a body where
  - (a) That body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
  - (b) Either –
    - (i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- (ii) If that 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.

### **OTHER REGISTRABLE INTERESTS**

*These interests are what the Council has determined should be entered into the authority's register of interests*

8. *Details of any body of which you are a member, or in a position of general control or management, and to which you are appointed or nominated to by the District Council.*

9 *Details of any body of which you are a member, or in a position of general control or management, and which\_*

*(a) Exercises function of a public nature;*

*(b) Is directed towards charitable purposes; or*

*(c) Is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade unions).*

10. Details of any persons from whom you have received a gift or hospitality with an estimated value of at least £25. (You must register any gifts or hospitality worth £25 or over that you receive personally in connection with your official duties).

## APPENDIX 2

### CARLISLE CITY COUNCIL

## Procedure for Local Investigation of Referred Complaints

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### **Introduction and Summary**

This note sets out the procedure which will be followed in the local investigation of allegations of misconduct by Councillors or Co-opted Members (for ease of reference, hereinafter jointly referred to as "Councillors"). No departure will be made from this procedure unless and until the Monitoring Officer has first notified the Councillor against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.

This procedure applies to breaches of the authority's Code of Conduct for Members.

When the Monitoring Officer receives an allegation of a failure by a Councillor to comply with the Code of Conduct, and, following consultation with the Independent Person and Chair of the Standards Committee, he is of the opinion that the allegation merits investigation, he shall arrange for an Investigating Officer to investigate the allegation and to report to the Monitoring Officer.

Where the Investigating Officer has found, after investigation, that the Councillor has not acted in breach of the authority's Code of Conduct for Members or a local protocol, the Monitoring Officer will review the Investigating Officer's report and, following consultation with the Independent Person and the Chair of the Standards Committee, if he/she is of the view that the report is sufficient he/she will write to you, enclosing a copy of the report and advise you that no further action will be taken.

Where the Investigating Officer has found that there has been a failure to comply with the Code of Conduct for Members or a local protocol and a Local Resolution has not been possible then the Monitoring Officer, following consultation with the Independent Person and the Chair of the Standards Committee, may decide to hold a full hearing to determine whether a breach of the authority's Code of Conduct has occurred and whether any action should be taken in consequence.

In this process, the function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Monitoring Officer, to enable him/her, in consultation with the Chair of the Standards Committee, to make an informed decision as to whether the Councillor has failed to comply with the authority's Code of Conduct for Members, and upon any consequential action. At any Hearing, the Standards Committee acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision. In the event of the Investigating Officer requiring information from, or the attendance of, any Officer or elected Member in connection with the conduct of an investigation, such Officer or Member will be expected to co-operate fully with the Investigating Officer in accordance

with their responsibilities under their contracts of employment and Code of Conduct respectively.

## **1. Interpretation**

‘Councillor’ means the member or co-opted member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Councillor’s representative.

‘Investigating Officer’ means the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer and/or his or her representative).

‘The Matter’ is the subject matter of the Investigating Officer’s report.

‘The Standards Committee’ refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing, unless the context indicates that it refers only to the Standards Committee itself.

## **2. Notification of Reference of Allegation to the Monitoring Officer**

### **(a) Appointment of Investigating Officer**

If it is determined that an investigation is appropriate, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him/her to conduct an investigation of the allegation and to report thereon to the Monitoring Officer. The Investigating Officer may be an officer of the authority, an officer of another local authority, or an external Investigating Officer.

The Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

### **(b) Notification to the Councillor**

The Monitoring Officer will then notify in writing the Councillor against whom the allegation is made:

- (i) that the allegation has been referred to him for local investigation and determination;
- (ii) the identity of the person making the allegation (unless identification of the complainant might prejudice the investigation or put the complainant at risk);
- (iii) of the conduct which is the subject of the allegation;
- (iv) of the section(s) of the Code of Conduct or local protocol which appear to him to be relevant to the allegation;
- (v) of the procedure which will be followed in respect of the allegation, and
- (vi) of the identity of the Investigating Officer.

### **(c) *Notification to the Parish or Town Council Clerk***

*Where the allegation relates to the conduct of a member of a Parish or Town Council in his her capacity as such, at the same time as notifying the Councillor, the Monitoring Officer will notify the Clerk of the Parish or Town Council concerned in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.*

(d) Notification to the Person who made the Allegation

At the same time as notifying the Councillor, the Monitoring Officer will notify the person who made the allegation in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.

(e) Initial response of the Councillor

In notifying the Councillor of receipt of the allegation, the Monitoring Officer shall request the Councillor to respond to the Investigating Officer in writing within 14 days of notification as follows:

- (i) advising the Investigating Officer whether the Councillor admits or denies the breach of the Code of Conduct or local protocol which is the subject of the allegation;
- (ii) listing any documents which the Councillor would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (iii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Councillor would wish the Investigating Officer to interview in the course of any investigation of the allegation (providing that, in the reasonable opinion of the Investigating Officer, the number of such is not excessive or disproportionate), and
- (iv) providing the Investigating Officer with any information which the Councillor would wish the Investigating Officer to seek from any person or organisation.

(f) Supporting information from the person who made the allegation

In notifying the person who made the allegation as above, the Monitoring Officer will request the person to respond to the Investigating Officer within 14 days

- (i) listing any documents which the person would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (ii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the person would wish the Investigating Officer to interview in the course of any investigation of the allegation, and
- (iii) providing the Investigating Officer with any information which the person would wish the Investigating Officer to seek from any person or organisation.

### 3. Conduct of Investigation

(a) Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Monitoring Officer a report which, if subsequently referred to the Standards Committee, would provide it with sufficient information to determine whether the Councillor has acted in breach of the Code of Conduct or local protocol and, where there has been a breach of the Code of Conduct or local protocol, whether any action should be taken in respect of the Councillor or in consequence of the breach, and what any such action should be.

(b) Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Standards Committee and to enable the Standards Committee to come to a considered decision on the allegation.

(c) Additional Matters

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code of Conduct or local protocol by the Councillor other than the breach which he/she is currently investigating, the Investigating Officer shall either:

- (i) *(where the additional matter relates to an apparent breach of the authority's Code of Conduct by a member of the principal authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 2(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct;
- (ii) *(where the additional matter constitutes an apparent breach of the authority's local protocols but not a breach of the Code of Conduct by a member of the principal authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 2(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the authority's code of conduct. The Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, will then take a decision whether to refer the matter to an Investigating Officer for local investigation and/or report to the Standards Committee as appropriate.;
- (iii) *(Where the additional matter relates to an apparent breach of the Code of Conduct by a Parish or Town Councillor)* notify the Clerk to the Town or Parish Council of the additional matter, and take no further action in respect thereof.

(d) Following notification to the Councillor, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. Where the Councillor has provided the Investigating Officer with the information requested in accordance with Paragraphs 2(f)(ii) and (iii) above, the Investigating Officer shall include in this list each document, person and organisation referred to in that response, unless he/she is of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the

investigation rather than contribute to the accuracy of the Investigating Officer's final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.

- (e) Production of documents, information and explanations
  - (i) In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/its possession or control, or provide any explanation, as he/she thinks necessary for the purposes of carrying out the investigation.
  - (ii) In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may require any authority of which the Councillor is a member to provide any document which is in his/its possession or control which he/she thinks necessary for the purposes of carrying out the investigation.
  - (iii) Any decision about whether any particular document is sensitive or commercially sensitive and thus not suitable for publication shall rest with the Monitoring Officer in consultation with the Independent Person and Chair of the Standards Committee.
- (f) Interviews
  - (i) Requesting attendance

In the course of the investigation the Investigating Officer may request any person to attend and appear before him or otherwise provide any information, document or explanation for the purpose of Paragraph 3(e), as he/she thinks necessary for the purposes of carrying out the investigation.
  - (ii) Representation

Any person who appears before the Investigating Officer may arrange to be accompanied at their own expense by a solicitor or friend.
  - (iii) Notes of interviews

Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.
- (g) Costs

The Investigating Officer may, where he/she considers that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to his/her request, such fees or allowances as he/she considers to be appropriate subject to any maxima set by the authority.

#### **4. The Draft Report**

- (a) When the Investigating Officer is satisfied that he/she has sufficient information to

meet the requirement set out in Paragraph 3(a), or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft report with a “confidential” and “draft” marking setting out:

- (i) the details of the allegation;
  - (ii) the relevant provisions of statute, of the Code of Conduct and any relevant local Protocols
  - (iii) the Councillor’s initial response to notification of the allegation (if any);
  - (iv) the relevant information, evidence, advice and explanations which he/she has obtained in the course of the investigation;
  - (v) a list of any documents relevant to the matter;
  - (vi) a list of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;
  - (vii) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
  - (viii) a statement of his/her draft findings of fact;
  - (ix) his/her conclusion (with reasons) as to whether the Councillor has or has not failed to comply with the Code of Conduct for Members of any authority or a local protocol, and
  - (x) any recommendations which the Investigating Officer is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority’s decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach. *Where the allegation relates to a Parish or Town Councillor, such recommendations would be recommendations which the Investigating Officer would recommend that the Standards Committee make to the Parish or Town Council.*
- (b) The draft report should also state that the report does not necessarily represent the Investigating Officer’s final finding, and that the investigating Officer will present a final report to the Monitoring Officer once he/she has considered any comments received on the draft report.
- (c) The Investigating Officer shall then send a copy of his/her draft report in confidence to the Councillor and the person making the allegation, and request that they send any comments thereon to him/her within 14 days.
- (d) The Investigating Officer may send a copy of, or relevant extracts from his/her draft report in confidence to any person on whose evidence he/she has relied in compiling the draft report, and request that they send any comments thereon to him/her within 14 days.

## **5. The Final Report**

- (a) After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft

report in the light of any comments received, and produce and send to the Monitoring Officer his final report. The final report should be marked "final" and state that the report represents the Investigating Officer's final findings and may, if necessary, be presented to the Standards Committee, and should, subject to 3(e)(iii), have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters, notes of interviews with witnesses and a chronology of events;

- (b) The Monitoring Officer shall then send a copy of the final report to the Councillor, advising that:
  - (i) where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local protocol, (if the Monitoring Officer, in consultation with the Independent Person and Chair of the Standards Committee are satisfied) that no further action is required, and
  - (ii) where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct for Members or with a local protocol, he/she will consider, in consultation with the Independent Person and Chair of the Standards Committee, whether the matter be further dealt with by Local Resolution or a Local Hearing.
- (c) If the complaint is dealt with by Local Resolution then that is the end of the matter.
- (d) If it is determined that there should be a Local Hearing then the Procedure for Determination of Allegations about the Personal Conduct of Members will apply.

## **CARLISLE CITY COUNCIL**

### **PROCEDURE FOR DETERMINATION OF ALLEGATIONS ABOUT THE PERSONAL CONDUCT OF COUNCIL MEMBERS**

#### **INTRODUCTION**

1. The local determination of complaints by the Standards Committee (or sub-committee thereof) following a local investigation and referral by the Monitoring Officer, will be governed by this procedure.
2. The person[s] making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The allegation will be heard by the Standards Committee or a Sub-Committee of the Standards Committee.

#### **PRE-HEARING PROCESS [LOCAL INVESTIGATIONS]**

3. Upon receipt of the final report of the Investigating Officer including a finding that the Member failed to comply with the Code of Conduct for Members and where it has not been possible to reach a local resolution or the Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, finds that the matter should be considered at a formal hearing the Monitoring Officer shall arrange for the Standards Committee to consider the matter.
4. Where the Monitoring Officer is the Investigating Officer he/she must arrange for a separate legal advisor to the Committee to be appointed in respect of the allegation.

#### **NOTIFYING THE MEMBER AND COMPLAINANT**

5. Within five working days of the receipt of the Investigating Officer's report the Monitoring Officer shall send a copy of the report to the Member and, where possible, the Complainant, making the provision of the report conditional upon any appropriate undertaking of confidentiality. The Chairman and Members of the Committee shall be informed of the allegation by the Monitoring Officer, as well as any Parish or Town Council Clerk where the allegation relates to conduct of a Member in his/her capacity as a member of a Parish or Town Council.

6. The Member shall be asked for a written response, within fifteen working days of the receipt of the report, which response shall set out the reply to the Investigating Officer's report and state whether or not he/she:
  - i. disagrees with any of the findings of fact in the Investigating Officer's report, including the reasons for any disagreement;
  - ii. wants to be represented, at his/her own expense, at the hearing by any other person;
  - iii. wants to give evidence to the Committee, either verbally or in writing;
  - iv. wants to call relevant witnesses to give evidence to the Committee;
  - v. wants any part of the hearing to be held in private;
  - vi. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
  
7. The Member shall be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the Monitoring Officer of the intention to do so the Committee may either [a] adjourn the meeting to enable the Investigating Officer to provide a response, or [b] refuse to allow the disputed matter to be raised.
  
8. Upon receipt, the Monitoring Officer shall invite the relevant Investigating Officer to comment, within ten working days, on the Member's response, and to say whether or not he/she:
  - i. wants to be represented or be present at the hearing;
  - ii. wants to call relevant witnesses to give evidence or submit written or other evidence to the Committee;
  - iii. wants any part of the hearing to be held in private;
  - iv. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
  
9. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Member and the Investigating Officer and request the Monitoring Officer to set a date for the hearing in consultation with the Chairman.
  
10. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the Hearing may limit the number of witnesses to be called, if he/she believes the number

requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Committee to reach its decision.

11. Nothing in this procedure shall limit the Chairman of the Hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.
12. The Monitoring Officer, in consultation with the Chairman, will:
  - i. confirm a date, time and place for the Hearing, which must be within three months from the date that the Investigating Officer's report was received;
  - ii. confirm the main facts of the case that are agreed;
  - iii. confirm the main facts that are not agreed;
  - iv. provide copies of any written evidence to the relevant parties;
  - v. confirm which witnesses will be called by the parties;
  - vi. provide the parties with a copy of the proposed procedure for the Hearing, specifying which parts of the matter, if any, may be considered in private; and
  - vii. ensure the appropriate information, with the agenda, is provided to everyone involved in the Hearing at least two weeks before the proposed date of the Hearing.

## **THE HEARING**

13. The Committee shall decide, on a balance of probabilities, whether the complaint[s] is or are upheld upon the evidence presented to it.
14. Each Committee Member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chairman will have second or casting vote.
15. The meeting of the Committee will be open to the public and press unless confidential information or exempt information is likely to be disclosed.

## **PROCEDURE AT THE HEARING**

16. The initial order of business at the meeting shall be as follows:-
  - i. Establishing whether the Committee is quorate;

- ii. Declarations of interest;
  - iii. Introductions
  - iv. Consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
  - v. Consideration of any procedural issues and, in particular, any representation from the Investigating Officer and/or the Member as to reasons why the Committee should exclude the press and public and determination as to whether to exclude the press and public.
17. The purpose of the Hearing is to determine the facts at issue and what action, if any, should be taken. An inquisitorial approach will be adopted by the Committee members in seeking information and clarifying facts and issues. The Chairman will control the procedure and evidence presented at the Hearing, including the questioning of witnesses.
18. The Committee members may at any time seek legal advice from their advisor. [Such advice will be notified to the public in the presence of the Investigation Officer and the Member.]
19. The procedure will be as follows, subject to the Chairman being able to make changes as he or she thinks fit in order to ensure a fair and efficient hearing.

## **PROCEEDING IN THE ABSENCE OF THE MEMBER**

20. If the Member is not present at the start of the Hearing:
- i. The Chairman will ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the Hearing;
  - ii. The Standards Committee shall then consider any reasons which the Member has provided for not attending the Hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
  - iii. If the Standards Committee is satisfied with such reasons, it shall adjourn the Hearing to another date;
  - iv. If the Standards Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the member or to adjourn the Hearing to another date.
21. **Presentation by the Investigating Officer**

- 21.1 The Investigating Officer will present the evidence which is relevant to the matter. The Investigating Officer may introduce any witness required to substantiate any matter contained in the report which has been disputed and present any other relevant evidence.
- 21.2 The Member or his/her representative may ask questions of the Investigating Officer or any witness.
- 21.3 The Committee members may ask questions of the Investigating Officer or any witness.

## **22. Presentation by the Member**

- 22.1 The Member or his/her representative will present the evidence which is relevant to the matter. The Member or his/her representative may introduce witnesses or present any other relevant evidence.
- 22.2 The Investigating Officer may ask questions of the Member, or any witness.
- 22.3 The Committee members may ask questions of the Member or any witness.

## **23 Summing Up**

- 23.1 The Investigating Officer and then the Member or his/her representative will be given the opportunity to sum up.

## **24 Power to Adjourn**

- 24.1 If the Committee at any time prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter the Committee may (on not more than one occasion) adjourn the hearing and make a request to the Monitoring Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee.

## **24. Decision by the Committee**

- 24.1 The Committee will consider in private all the evidence which it has heard in order to establish its findings of fact.
- 24.2 At any stage in the consideration of the matter the Committee may return to ask further questions of the Investigating Officer or the Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.
- 24.3 The Committee may seek legal advice at any time. Such advice may be given in the presence of the Investigating Officer and the Member if appropriate.

- 24.4 At the conclusion of their deliberations, the Chairman will advise the Member and the Investigating Officer of their findings and whether the Code of Conduct has been breached.
- 24.5 If the Committee concludes that the Member has acted in breach of the Code representations will be invited from the Investigating Officer and the Member as to what action, if any, it should take. The Committee may ask questions of the Member and the Investigating Officer.

### **Determining the Matter**

25. The Committee, having heard any representations, will consider what actions, if any, to take.

The findings that the Committee may make are:

- a) That there has been no breach of the Code;
  - b) That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
  - c) That the Member has failed to comply with the Code of Conduct and the sanction(s) should be that the Standards Committee:
    - ❖ Publish its findings in respect of the Member's conduct;
    - ❖ Send a formal letter to the Member
    - ❖ Report its findings to the Council or Parish Council for information;
    - ❖ Recommend to the member's Group Leader (or in the case of an ungrouped member(s), recommend to Council or Committees) that he/she be removed from any or all committees or sub-committees of the Council;
    - ❖ Recommend to the Leader of the Council that the member be removed from the Executive or removed from particular Portfolio responsibilities;
    - ❖ Instruct the Monitoring Officer or recommend that the Parish Council arrange training for the member;
    - ❖ Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Council or the Parish Council;
    - ❖ Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
    - ❖ Exclude or recommend that the Parish Council exclude the member from the member from Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committees and Sub-Committee meetings.
26. In deciding what penalty to set, the Committee will consider all relevant circumstances.

27. The Chairman will announce the decision of the Committee, the action, if any, it will take and the reasons for the decision.
28. The Committee will then consider in open session whether there are any recommendations which should be made to any Authority concerned arising from the consideration of the allegation.

## **APPEAL**

28. There is no right of appeal against the decision of the Hearing Panel.

## **NOTICE OF FINDINGS**

29. A full written decision in draft [including the reasons for it] will be prepared as soon as practicable. The draft decision will be forwarded to the Chairman of the Committee for approval.
30. Once approved and as soon as reasonably practicable after the Hearing the full written decision will be forwarded to the Member, the Complainant [where possible], the Investigating Officer and any other Authority concerned.
31. If the Hearing Panel wishes to publish its finding, the Monitoring Officer, subject to paragraph 32, shall arrange for a summary of the findings to be published in one newspaper circulating in the area of the Authority in accordance with paragraphs 33 and 34 or in such other manner as the Hearing Panel may determine (for example, by reporting the matter to Council for information).
32. Where the Committee determines that there has not been a breach of the Code of Conduct, the notice shall:
  - i. State that the Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
  - ii. Not be published in the local newspaper if the Member so requests.

33. Where the Committee determines that there has been a failure to comply with the Code of Code but no action is required, the notice shall:
  - i. State that the Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
  - ii. Specify the details of the failure;
  - iii. Give reasons for the decision reached; and
  
34. Where the Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:
  - i. State that the Committee found that the Member had failed to comply with the Code of Conduct;
  - ii. Specify the details of the failure;
  - iii. Give reasons for the decision reached;
  - iv. Specify the sanction imposed; and
  
35. Copies of the agenda, reports and minutes of a Hearing, as well as any background papers, apart from sections of documents relating to parts of the Hearing that were held in private, shall be available for public inspection for six years after the Hearing.

## GUIDANCE ON CODE OF CONDUCT

This document has been produced by the Cumbria Monitoring Officers to offer guidance on the revised Code of Conduct for Members as adopted by the principal authorities with effect from 1 July 2012. The code applies to all members and co-opted members of the principal authorities within Cumbria.

The code does not apply to the actions of authorities as a whole, or to the conduct of its officers and employees.

Ultimately, it is the members' responsibility to take specific advice from the Monitoring Officer where appropriate and to make a decision as to the most suitable course of action.

### Code of Conduct

The Code of Conduct ("the Code") is not intended to be an exhaustive list of all the obligations that are placed on Members, but it is the responsibility of individual members to comply with the provisions of the Code as well as such other legal obligations as may apply to them from time to time.

The Code is intended to be consistent with the seven principles as attached to the code which define the standards that members should uphold. A failure to act in accordance with these general principles may amount to a breach of the Code of Conduct. For example, by placing yourself in situations where your honesty and integrity may be questioned, your conduct may be conduct which could "bring your office or your Authority into disrepute".

### When does the Code apply to you?

The Code applies to you whenever you act in your official capacity as a Member or co-opted member of the Authority. A co-opted member is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council and who is entitled to vote on any question that falls to be decided at that meeting of that committee or sub-committee.

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

### General Obligations under the Code

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

For example, your behaviour would be improper if you sought to further your private interests through your position as a member.

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

It would not be appropriate to accept favours, gifts or hospitality from someone that may, at a later date, require something from the Council that you are in a position to influence. For example, you may be offered a discount by a business in the area which subsequently applies for planning permission and/or a licence. You may be on the relevant committee dealing with the application and, therefore, be in a difficult position.

## **You must not disclose any information given to you as a Member in breach of any confidence**

There may be circumstances where you are required to do so by law but you should seek the advice of the Monitoring Officer if there is any doubt about this.

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.
- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
- The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
  1. the disclosure must be reasonable
  2. the disclosure must be in the public interest
  3. the disclosure must be made in good faith
  4. the disclosure must be made in compliance with any reasonable requirements of your authority

In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- (a) A criminal offence is committed.
- (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
- (c) A miscarriage of justice occurs.
- (d) The health or safety of any individual is in danger.
- (e) The environment is likely to be damaged.

(f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.

3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

### **You must not bring your office or your Authority into disrepute**

You must not bring your office or authority into disrepute whilst acting in your official capacity.

As a member, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on your office or your authority. Dishonest and deceitful behaviour in your role as a member may bring your authority into disrepute, as may conduct in your private life which results in a criminal conviction, such as dishonest, threatening or violent behaviour.

**You must treat others with respect and promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their sex, race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers and its other employees.**

### **Respect**

You must treat others with respect. In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the politics and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to failing to treat someone with respect.

Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attacks. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

Whilst there may be unreasonable demands on members, members should, as far as possible, treat people courteously and with consideration. Rude and offensive behaviour lowers the public's expectations and confidence in its elected representatives.

### **Equality**

You must not do anything which may cause your authority to breach any equality laws. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination,

or do anything which hinders your authority's fulfilment of its positive duties under equality laws. Such conduct may cause your authority to breach the law, and you may find yourself subject to a complaint that you have breached this paragraph of the code of conduct.

### **Impartiality and integrity of officers of the authority**

You should respect the impartiality and integrity of the Authority's statutory officers and its other employees.

You should not approach or pressure anyone who works for, or on behalf of the authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

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

As an elected Member of the Council you are responsible for administering resources on behalf of the public of the area that you serve. You should administer these resources fairly and in accordance with the law. It is inappropriate for the Council's resources or powers to be used in such a way that the authority and its Members be left open to accusations that in appropriate influence played a part, for example, "it's not what you know, it's who you know!"

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

This requirement is linked to carrying out all duties in a fair and transparent manner. Members are able to be held to account for their actions and, this being the case, you must be open to and cooperate with any legitimate scrutiny that is to be applied.

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

The law requires that Members give reasons for their decisions. This is so that the public we serve are able to understand why we have taken a course of action and, if necessary, exercise any right of challenge that is open to them.

### **You must declare any private interests, both disclosable pecuniary interests and any other registrable interests, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interest in a matter which conforms to the procedures within the code.**

The Code of Conduct contains a scheme for the registration of interests. It exists to support openness and transparency; the public are able to see where you may have an interest. Secondly, the scheme of registration exists to protect individual Members against accusations of a conflict of interest etc. Lastly, the registration of disclosable pecuniary interests is required by law.

### **You must ensure, when using or authorising the use by others of the resources of your authority, that such resources are not used improperly for political purposes (including**

**party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.**

Where your authority provides you with resources (for example telephone, computer and other IT facilities, transport or support from council employees), you must only use these resources or employees for carrying out your local authority business and any other activity which your authority has authorised you to use them for.

You must be familiar with the rules applying to the use of these resources made by your authority. Failure to comply with the authority's rules is likely to amount to a breach of the code.

If you authorise someone (for example a member of your family) to use your authority's resources, you must take care to ensure that this is allowed by the authority's rules.

You should never use council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.

**You must promote and support high standards of conduct when serving in your office.**

You have a duty to promote and support high standards of conduct and be consistent with the seven general principles attached to the Code.

## **INTERESTS**

### **Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

You have two types of registrable interests

- a) A Disclosable Pecuniary Interest and
- b) Interests other than pecuniary interests that the Council has decided should be registered

### **Disclosable Pecuniary Interests**

1. These are interests which must be notified to the Council's Monitoring Officer within 28 days beginning with the day on which you become a member or co-opted member of the authority in accordance with the statutory requirements of the Localism Act 2011. These are enforced by criminal sanction, and failure to declare is a criminal offence.
2. You need to register your interests so that the public, authority staff and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a potential conflict of interest.
3. The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local government is maintained.
4. A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the following descriptions:
  - (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain
  - (b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by 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).
  - (c) Details of 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 under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
  - (d) Details of any beneficial interest in land which is within the area of the relevant authority.
  - (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
  - (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.

- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and 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 that 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 the purposes of the foregoing “relevant authority” means the District Council, and “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest.

### **Notification of Other Interests**

5. In addition to the disclosable pecuniary interests, you must, within 28 days of the Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, which the Council has decided must be included in the register of interests:
- (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the District Council;
  - (b) Details of any body of which you are a member or in a position of general control or management and which –
    - (i) exercises functions of a public nature,
    - (ii) is directed to charitable purposes or
    - (iii) is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade union);
  - (c) Details of any persons from who you have received a gift or hospitality with an estimated value of at least £25. (You must register any gifts and hospitality worth £25 or over that you receive personally in connection with your official duties).

### **What is a “body exercising functions of a public nature”?**

6. Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition:
- Does that body carry out a public service?
  - Is the body taking the place of local or central government in carrying out the function?
  - Is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
  - Is the function exercised under legislation or according to some statutory power?
  - Can the body be judicially reviewed?

Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

If you need further information or specific advice, please contact your Monitoring Officer.

## What do things mean?

Here are some definitions from the legislation that may help you. Ask for advice if necessary:

<b>"the Act"</b>	means the <a href="#">Localism Act 2011</a> ;
<b>"body in which the relevant person has a beneficial interest"</b>	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
<b>"director"</b>	includes a member of the committee of management of an industrial and provident society;
<b>"land"</b>	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;
<b>"M"</b>	means a member of a relevant authority;
<b>"member"</b>	includes a co-opted member;
<b>"relevant authority"</b>	means the authority of which M is a member;
<b>"relevant period"</b>	means the period of 12 months ending with the day on which M gives a notification for the purposes of <a href="#">section 30(1)</a> or <a href="#">section 31(7)</a> , as the case may be, of the Act;
<b>"relevant person"</b>	means <ul style="list-style-type: none"> <li>(i) M</li> <li>(ii) M's spouse or civil partner,</li> </ul>

	<p>(iii) a person with whom M is living as husband and wife, or</p> <p>(iv) a person with whom M is living as if they were civil partners,</p>
“securities”	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the <a href="#">Financial Services and Markets Act 2000</a> and other securities of any description, other than money deposited with a building society.

### Gifts and Hospitality

7. You must register the gift or hospitality and its source within 28 days of receiving it.
8. You should ask yourself would I have been given this if I was not on the Council? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to the Monitoring Officer or your parish clerk where appropriate.
9. You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should always register a gift or hospitality if it could be perceived as something given to you because of your position or if your authority requires you to.

### What if I do not know the value of a gift or hospitality?

10. The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life.
11. You may have to estimate how much a gift or hospitality is worth. Also, an accumulation of small gifts you received from the same source over a short period that add up to £25 or more should be registered.

### Changes to Interests

12. You must, within 28 days of becoming aware of any new interest or change to any interest registered notify the Monitoring Officer of the details of that new interest or change.

## **Disclosure of Interests**

13. Where you have a registrable interest in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

## **Sensitive interests**

14. Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

## **What is sensitive information?**

15. It may include your sensitive employment (such as certain scientific research or the Special Forces) or other interests that are likely to create serious risk of violence or intimidation against you or someone who lives with you.
16. You should provide this information to your Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your Monitoring Officer agrees but you need to disclose at meetings the fact that you have a disclosable pecuniary interest in the matter concern.

## **Non participation in case of disclosable pecuniary interest**

17. If you are present at a meeting of the Council, Executive or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
  - You may not participate in any discussion of the matter at the meeting.
  - You may not participate in any vote taken on the matter at the meeting.
  - If the interest is not registered, you must disclose the interest to the meeting.
  - If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

## **In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.**

18. Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## Dispensations

19. The Monitoring Officer or Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. These circumstances are where:
1. It is considered that 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.
  2. That, 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.
  3. That, without a dispensation, no member of the Executive would be able to participate on this matter.
  4. That the authority considers that the dispensation is in the interests of persons living in the authority's area
  5. That the authority considers that it is otherwise appropriate to grant a dispensation.

## Offences

20. It is a criminal offence to
- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
  - Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
  - Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
  - Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
  - As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
  - Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## **Bias/Predetermination**

Although not part of the Code, members need to be clear that they are not biased going into the decision making process.

If you have a personal interest in a matter as a result of the matter affecting the well-being or financial position of yourself, member of your family or close association more than it would affect the majority of other people in the ward or electoral divisions affected by the decision, or in the authority's areas or constituency then there may be potential for bias/predetermination.

The rules against bias say that there are three distinct elements. The first seeks accuracy in public decision-making and the second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal prejudices.

The third requirement is for public confidence in the decision-making process. Even though the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

To varying degrees, these "requirements" might be seen to provide the rationales behind what are generally taken to be three separate rules against bias: "automatic" (or "presumed") bias, "actual" bias and "appearance" bias.

The rationale behind "automatic" or "presumed" bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings) then it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased *in fact*. **In these circumstances you should not participate in a decision.**

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or indirectly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

So, you are entitled to have a pre-disposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come to the relevant meeting with an open mind, able to take account of all of the evidence and make your decision on the day.

### **What does "affecting well-being" or "financial position" mean?**

The term "well-being" can be described as a condition of contentment and happiness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.

A personal interest can affect you, your family or close personal associates positively and negatively. So if you or they have the potential to gain or lose from a matter under consideration, a personal interest would need to be declared in both situations.

## **Who is a member of your family or close association?**

A member of your family should be given wide meaning. It includes a partner (someone you are married to, your civil partner, or someone you live with in a similar capacity), a parent, parent-in-law, a son or daughter, a stepson, or stepdaughter, the child of a partner, a brother or sister of yourself or your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these people.

A person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

## **What if I belong to an authority without wards?**

If you are a member of an authority that does not have wards, you will need to declare a personal interest whenever you consider a matter in a meeting of your authority if it affects the well-being or financial position of you, your family or people with whom you have a close association, more than it would affect other people in your authority's areas.

## **What if I am not aware of my personal interest?**

Clearly you cannot be expected to declare something of which you are unaware. However you should not ignore the existence of interests which, from the point of view of a reasonable and objective observer, you should have been aware.

## **When must I leave the room where the meeting is held?**

You must leave immediately before any debate starts.

## **Non participation in case of pecuniary interest**

### ***Disclosable Pecuniary Interests***

Subject to the following paragraph below if you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, then you should declare that interest to the meeting and should leave the room whilst any discussion or vote takes place.

If a dispensation has been granted to you in relation to a disclosable pecuniary interest then, subject to the terms of the dispensation, you may be relieved from the above restrictions but will still be required to declare the interest to the meeting.

Where you have a disclosable pecuniary interest in any business of the Council, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations etc have been made, the Member should leave the room whilst any discussion or vote takes place.

This would mean that as under current arrangements, Members will leave the room during an item in which they have a Disclosable Pecuniary Interest.

In the interests of transparency it is good practice for you to make the nature of a disclosable interest known when such a matter arises at a meeting. You should identify the nature of the interest which you have in any matter so that is known and understood by all and is a matter of public record. If a declaration is not made, other than through the register, it would not

necessarily be apparent to anyone who is present at the meeting why a particular Member is not participating or voting in any matter.

RETURN THIS PAGE

CARLISLE  
CITY COUNCIL

www.carlisle.gov.uk

Please describe your complaint:

## 1. WHAT TYPE OF SERVICE HAS BEEN AT FAULT?

The behaviour and conduct of Councillor Raine (Farlam parish council) with conflicting interests

## 2. WHAT HAS HAPPENED?

When our plans for an agricultural shed were to be discussed Council Raine declared an interest then remained in the meeting and gave his opinion. What he failed to mention was:- he owned the land adjacent to us, shared the access, rents it out to Councillor Dalton (who uses it daily, sometimes with very heavy machinery) at our meeting, the chairman and two councillors admitted they had no idea about the above information. The other councillor at the meeting was Councillor Dalton,

## 3. WHAT SHOULD BE DONE TO SOLVE THE PROBLEM?

Councillor Raine should resign and Farlam Parish Council should make site visits and check their facts thoroughly before making planning objections

Farlam parish council objected to the planning application, when questioned, they justified the decision saying Highways had carried out a speed survey because the entrance was so dangerous, we repeatedly told them this was untrue and it was an independent survey regarding another planning application, but they didn't believe us and didn't check their facts. See enclosed documentation. Page 49 of 160

There were several other misdemeanours.

4. HAVE YOU REPORTED THIS PROBLEM BEFORE?

Who to:	Chairman and Clerk to Farlam PC
Which office/service:	Farlam Parish Council
The date you reported it:	15/05/16

Please complete this section in capital letters

Title: ~~Mr~~/Mrs/~~Ms~~/Miss

Name: JANE THOMSON

Address: 91 TOWNFOOT PARK  
BRAMPTON

Post Code: CA8 1LA

Signed: J. Thomson. Date: 21/7/16

Tel. No: 01697742447

E-mail address: janethomson91@btinternet.com  
(thomson)

DATA PROTECTION

In order to investigate your complaint the information you provide, including your personal details, may need to be divulged to Council staff and the Elected Councillors.

Details of complaints received and the Council's findings, without publishing names or other personal details, are reported to the full Council and are available to the public.

Should you refer your complaint to any other organisation such as the Local Government Ombudsman then information may be provided to them on request.

**Freepost RLUB-YGCX-YEYB  
Carlisle City Council  
Corporate Complaints  
CARLISLE  
CA3 8QG**

# **INVESTIGATION REPORT**

## **Carlisle City Council – Members’ Code of Conduct**

**Report of Stephen R Brown, Investigating Officer, into a complaint of an alleged breach of the Code of Conduct by Parish Councillor Charles Raine.**

**December 2016**

## 1. Executive Summary

1. This is a report prepared for Mark Lambert (Corporate Director of Governance & Regulatory Services and the Monitoring Officer for Carlisle City Council) into a complaint brought by Mrs Jane Thompson (JT) against Charles Raine who is an elected member of Farlam Parish Council (FPC), the nature of the allegation being that CR was in breach of the Code of Conduct for Members by taking part in a debate during a meeting of FPC which concerned an item of business in which CR had already declared a disclosable pecuniary interest, being contrary to section 31 of the Localism Act 2011.
  2. The substance of the complaint is set out by JT the initial Form of Complaint (*Appendix 1*) which she submitted to Carlisle City Council on 15 May 2016 and a copy of which is annexed hereto and marked JT1.
  3. In brief, JT states that, whilst attending FPC meeting (06 March 2016) at which JT's planning application for the erection of an agricultural shed was under discussion, CR, having already "declared an interest" (the minutes of the meeting do not record the type of interest declared, but the clerk's own note records the interest as "planning NP" (non-pecuniary)) at the start of the said meeting, did not leave the meeting and gave his views and opinions on this agenda item. JT states that CR failed to mention at any point during the meeting, the fact that *"he owned the land adjacent to us, shared the access, rents it out to Cllr Dalton"* (see copy minute of 06/03/16 meeting (attached Appendix 2)).
  4. JT goes on to make more general comments regarding the manner in which FPC "objected" to her planning application and criticises the reasoning behind their objection which, JT feels, lead to the planning application having to be referred to a full meeting of Carlisle City Council's Development Control Committee.
2. In conducting this investigation I have interviewed the following individuals on the dates indicated and made notes of their comments and observations as well as obtaining other documentary evidence in support of their comments, observations and accounts of the events relevant to this complaint:
- a. JT on 02 September 2016 at her home in the presence of Mr Thompson (husband) and telephone conversation of 23 September 2016.
  - b. Allison Riddell (AR) (Clerk to FPC), telephone conversation of 06 September 2016, meeting at Civic Centre, Rickergate on 16 September 2016, and subsequent email correspondence.
  - c. CR, meeting at Civic Centre Rickergate on 04 October 2016.
1. I have considered the following codes, guidance, Land Registry records (copy title of JT and CR's land records, minutes

of FPC meetings (and associated sederunt (notes)) and legislation (where relevant) to the complaint;

- a. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) (*annexure 2*)
- b. The Council of the City of Carlisle - Arrangements for dealing with standards allegations under the Localism Act 2011 (*annexure 3*)
- c. Carlisle City Council – Guidance on Code of Conduct (Version 0.1)
- d. Office Copy Entries for title to CR's land (Appendix 3)
- e. Office Copy Entries for title to JT's land (Appendix 4)
- f. Minutes (and notes) of FPC meeting dated 09 March 2016
- g. Minutes (and notes) of meeting of FPC dated 11 May 2016 (Appendix 5)

## **Outline of the Facts**

Having interviewed the parties referred to above, I have concluded that the facts surrounding this matter are, essentially, not in dispute. In order to understand how this complaint developed it is helpful to set out a chronology of the key events and significant elements of those events:

### **13 May 2015**

Declaration of Pecuniary or Other Registrable Interests Form signed by CR:

CR was elected last elected as a member of FPC on 13 May 2015, and signed and submitted his Declaration of Interests notification as required (appendix 9). Under Disclosable Pecuniary Interests, at section 4 (Beneficial interests in land) CR provided details of his home, Farlam Farm, Farlam Brampton. (Please see Land Registry office copy entries which confirm his ownership of that property which lies directly adjacent to JT's land, the land which is central to the complaint being investigated).

### **18 February 2016**

Application for Planning Permission under Town & Country Planning Act 1990 submitted to Carlisle City Council on behalf of JT in respect of construction of an agricultural building on land owned by JT at Farlam (Carlisle City Council Application Ref: 16/0151 copy attached (appendix5)). The site to which the application relates is land owned by the complainant and her husband and which shares a boundary with CR's land at Farlam Farm (see plans attached).

### **09 March 2016**

Scheduled meeting of FPC attended by CR but not attended by JT. It was at this meeting that the minute records item 104/15 (Declarations of Interest) and that CR declared an interest in item 108/15.1 – “*Application for Planning Consent for Field Opposite Inisfree Farlam (Carlisle City Council Planning Ref: 16/0151)*”. According to the minutes and notes it was resolved, after discussion, that FPC would register their “*objection*” to the planning application on grounds set out in a note and sent on behalf of

FPC to Carlisle City Council after the 09 March meeting (see attached) The “Objection” was then uploaded by Carlisle City Council Development Control staff to the JT’s application file within the planning portal and open to public inspection.

## **11 May 2016**

Scheduled meeting of FPC attended by CR and attended by JT. The minute of this meeting confirm that Cllr Raine was in attendance throughout and refers to there also being present “*2 members of the public (Mr & Mrs Thompson)*”. The minutes records that declarations of interest were called for and resolves that “*there were no declaration of interest*”. Other than the standard matters of business relating to FPC there were only two substantive agenda items, both planning applications referred to FPC in its role of statutory consultees, (items 11/16.1 & 11/16.2) and in respect of which the minute records that both applications FPC have “no observations”.

Before moving to the accounts of the interested parties it is worth noting the format adopted by FPC, and one significant element in particular, (“Public Participation”), as explained to me by the Clerk to FPC, AR, and corroborated by inspection of FPC minutes of previous meetings. Taking as an example the meeting of 09 March 2016, the standard running order is as follows:

1. Apologies for absence;
2. Requests for dispensations;
3. Declarations of interest;
4. Approval of minutes from previous meeting – it is at this point that, according to AR, the formal meeting is “suspended” in order to allow any member of the public present to raise any issue they wish, which is not on the published agenda for the meeting. I am told that this apparent “free for all” was introduced to allow members of the public in attendance to raise issues of their own which, for any number of reasons, would not otherwise be on the agenda as an item of business. In relation to the example I have given, the issue was a complaint about the poor bus service. The reason I want to highlight this element of the meeting will become clearer when I give more detail about both CR’s comments to me as well as those of AR.

I now want to turn to the accounts given to me by AR, JT and CR when I interviewed them.

### **Alison Riddell**

AR has been Clerk to FPC for a number of years. She was interviewed by me at the Civic Centre on 16 September 2016. Prior to meeting I had spoken to AR on the ‘phone and asked her to provide copies of the minutes to both the meetings referred to above, and copies of any notes of her own which she made at the time of the meetings.

AR explained that Details of Planning Application 16/0151 were received by email and put on the agenda for the March meeting of FPC, and that the agenda was circulated electronically on 4th March.

AR says that on or around the 7th March, CR telephoned her with a query regarding one of the agenda items; she says that she remembers CR asking whether he needed to declare a pecuniary interest in the planning application which related to land adjoining his own farm. AR says that her feeling was that, as the application was just another agricultural building in a neighbouring field, it would not affect CR's property and as he had not made any comment personally to the City Council regarding the application, she felt he didn't need to declare any interest. However, AR states that, to be on the safe-side, and before giving a definitive answer, she would make enquiries of Cumbria Association of Local Councils (CALC) for advice and guidance. AR states that she spoke to a Samantha Bagshaw who, she states, said that it was "*a bit of a grey area*" as the status of parish councils is that of "*consultee only*", and not that of a decision making authority. AR states that having been given this guidance she provided the advice given to her was that Councillor Raine did not need to declare a pecuniary interest neither would he be required to leave the room. AR says she made a note of this advice as she wanted to have it available at the meeting.

### **FPC Meeting 09 March 2016**

AR went on to say that, at the meeting on 9th March, when the agenda item for declaring an interest came up - CR declared a non-pecuniary interest in the planning application, after AR had read out to the meeting the advice that she had been given by CALC on the telephone a few days earlier. (NB the minutes show that AR reported that Cllr Raine had "*declared an interest in item 108/15.1*" but the minute itself does not state that it was non-pecuniary interest. However, reference to AR's notes records the information in her handwriting as "*CR – planning (NP)*". This note is preceded with another hand-written record which states, "*CALC – gray area/consultee not dec. making auth – No personal obj/comm. made*"

The planning application came up as an agenda item and several councillors, including CR, made comments and raised various issues with the application – brief details of the comments are contained in AR's note, the comments attributed to Cllr Raine appear to be as follows:

*"[request to] write and highlight the problem, please review" &*

*"there is another access where the other shed is"*

The record shows that Cllrs. Howatt and Marsh also made "observations" and, according to AR, the general tone was decidedly against the proposed scheme; it was resolved that FPC would record in the minutes an "Objection", and this would be made known to Carlisle City Council.

The following day, AR submitted the comments (*see appendix 7*) and raised as an objection to the City Council via the website.

AR states that a few days after the 09 March meeting, JT telephoned and requesting a copy of the minutes. AR explained that the minutes were still in draft and would not be agreed until the next meeting but that she could have a copy in due course.

### **FPC Meeting 11 May 2016**

At this meeting, JT and her husband were in attendance at the meeting, recorded in the minutes as “2 members of the public”. There were two planning applications on the agenda for consideration, but there was no agenda item relating to the Complainant’s planning application.

The meeting was opened by AR and the first item of business was the appointment of a Chair. One nomination was received and seconded, and Cllr. Howatt was appointed. After the appointment of a Vice Chairman and apologies for absence, requests for dispensations, declarations of interest and agreeing of the minutes from the 09 March 2016, AR states that the formal business of the meeting was then suspended and the meeting moved to the “Public Participation” section. AR’s explanation is that, as FPC is only a small Parish Council only meets every other month, members of the public are afforded the opportunity to speak on any parish related item not on the agenda.

AR’s recollection of the meeting was that JT began to ask numerous questions concerning FPC’s “objection” to her planning application. AR states that JT was “*very vocal throughout the meeting and would not listen to what members were trying to explain*”. AR’s note of the meeting records many of the comments and complaints but, most notably, it records the fact that JT specifically made reference to the fact that CR “*has an interest in what I am going to speak about*”, it can be inferred from CR’s recorded response that JT thought that CR should have declared an interest and should, at the very least, not have taken part in the debate around the subject planning application. AR described this period of the meeting as “*very uncomfortable*”. JT and her husband got up and left at which point AR says the meeting went back into formal session and the normal business was resumed.

After this meeting, JT made a formal complaint against CR and AR says she rang CALC again for advice.

### **FPC Meeting 13 July 2016**

The formal complaint was heard directly prior to the July 13th meeting of FPC (copy minute at Appendix 7) when it was resolved that the official complaint would not be upheld. AR states that Members did not feel that CR had acted inappropriately or in breach of the Code or guidance. Members felt that they had given due consideration to the planning application at the March meeting with the information available to them at the time from the Carlisle City Council website.

### **The Complainant**

Turning now to JT's account of events leading up to and including the meeting of 11 May 2016, there does not appear to be any disagreement over the fact that the meeting was a tense affair. JT talks about feeling uncomfortable and unwelcome throughout. By way of background and in order to give some context, when interviewed, JT wanted to make clear the reasons why she felt she and her husband, as applicants, had not been treated fairly by FPC as a whole and, CR in particular. JT expressed her deep concern over the fact that the actions of FPC (and CR in particular) had caused delays in determining their planning application and those delays had a financial consequence.

JT and her husband were of the opinion that the PC's "*objections*" had resulted in their application having to go before the Development Control committee for consideration rather than it simply being left to a planning officer to determine. This delay, they say, meant that they had not been able to order the steelwork when they had planned and the price they were now having to pay was far higher than they had budgeted for.

When asked to describe, in her own words, her recollection of the events leading up to the FPC meeting of 11 May 2016 JT stated that they had not thought it necessary to attend the FPC meeting at which their application was first on the agenda – this was the meeting of 09 March 2016. However, shortly after that meeting JT looked at the FPC website and says she was shocked to discover that the minutes noted a number of "*objections*" to the application. JT says that, in light of this unexpected development, she and her husband had decided to attend the next FPC meeting in order to find out more about the "*objections*" and, hopefully, deal with the FPC's concerns.

JT then described what had happened when she and her husband attended the FPC meeting at Hallbankgate on 11 May 2016. The PC members were present, as was the clerk, but no one acknowledged JT or her husband, neither were they even offered a chair to sit in – though she says they did find chairs at the back of the hall.

When it came to the item on the agenda referred to as "Public Participation", JT states that she was nervous and struggling with her paperwork which she was trying to balance on her lap – she asked if she could use the desk to spread her papers out to make it easier – the Clerk and Chair agreed, but, in JT's opinion, this was done in a "*begrudging fashion*". JT (a former Parish Council member herself) said she then expressed her surprise that CR had not removed himself from the meeting at this point. JT says she even raised this point before giving her presentation but was told, by the AR, that the rules had changed and it was now permissible for a member who had an interest to be present whilst the particular item of business was discussed.

JT says she is quite clear in her recollection that CR (and Cllr. Dalton) fielded all the questions and points that she and her husband were trying to put across, stating that each time she asked for more detail on the "*objections*" she was first of all told that they were only "*observations*" not "*objections*" and, when she pressed further, she states that "*all heads turned to Cllr Raine for the answers*". Another aspect which both JT and her husband found alarming (and distressing to Mrs Thomson who says she was becoming increasingly anxious) but what they both felt particularly strongly about, was the way in

which CR raised his voice and continually repeated that the answers to her (Mrs T's ) questions were "on the website!".

By this point, according to JT's account, she and her husband felt belittled and upset, and, concluding that they were wasting their time, they stood up and left the meeting.

### **Councillor Charles Raine**

In interview CR confirms that he has known the Complainant and his wife for many years in a personal capacity and through FPC dealings. When he became aware that Complainant's planning application was to be discussed at the Parish Council, and as his field is situated next to the proposed development, he asked the Parish Clerk, Alison Riddell, if he should declare an interest. CR stated that AR advised him that she had consulted both CALC and NALC, who advised that this was a "grey area". CR expressed his view that as Parish Councillors they are merely consultees and he felt he had no personal interest in the planning application, but that he declared an interest as he owned the field, but did not leave the room for the discussion that followed regarding access to the proposed development. The comments of the meeting were passed to the Planning Committee by the Parish Clerk on request of the Parish Council Chairman.

CR said that the applicant alleges that the access to CR's field and their own is shared. CR disagrees and says they are separate and says his own access is a Public Right of Way that his tenant of his field uses. He said he felt the complaint was aimed personally at him.

CR reiterated that he has no interest in the application and wondered why the applicant didn't approach him directly over their concerns, especially as they told him about the application on 3 May 2015, prior to its submission.

In answering questions about the running order of FPC meeting, CR stated that the procedure for FPC meetings always followed a standard format:

- The meeting is opened and any declarations of interests are made.
- The meeting is then closed.
- Members of the public then have 10 minutes to speak.
- The meeting is re-opened and the rest of the business is dealt with.

CR was at pains to point out that the proposed application was not on the agenda for the meeting but that the applicants had been invited to speak at the public part of the meeting. JT, the applicant spoke at this part of the meeting and made comments about the planning application which were aimed directly at CR and not the other councillors.

CR stated that Councillor Bowman who was also at the meeting, advised that it was not for the Parish council to decide the result of the application, at which point the applicants Mr and Mrs Thompson, became aggressive and the Parish Clerk stopped the meeting and asked them to leave.

Before leaving, Mr and Mrs Thompson threatened CR saying that it was not the end of it and asked CR if he was going to declare an interest. The Parish Clerk stated that the item was not on the agenda so there was no need for CR to declare an interest as it was not due to be discussed at that meeting.

In interview CR was asked whether had thought to withdraw from the meeting. His response was that he didn't believe he had a sufficient interest to warrant withdrawing, that he had declared an interest the meeting when the matter was discussed as a specific agenda item at the 09 March 2016 meeting. Finally, CR said that he took advice from both the Parish Clerk who was in turn guided by CALC and NALC, and CR did not feel he had done anything wrong, had taken all reasonable steps and acted in good faith throughout.

CR wanted to make it known that when he left the meeting and returned home he saw JT and her husband waiting by their field near to his home. He says that JT knocked on CR's door, after he had gone in. JT then spoke to his daughter and asked to speak to CR, he states that he made it clear that he did not want to speak to her. JT then asked to speak to CR's wife. CR went to speak to JT, who had now entered his house uninvited and asked her several times to leave. After she left the premises, CR rang the police CR stated that he and his family felt intimidated and threatened and he wanted to officially record the incident. The police did not attend his house.

CR confirmed that the FPC had discussed the complaint against him at a meeting in July 2016, which he was not allowed to attend, and found no case to answer.

When asked CR if, with hindsight, there is anything that he would have done differently CR stated he would not, adding that CR he found the complaint process disappointing and that the procedure was stressful and the process had taken a long time. He said he was not notified about the contents of the complaint which came after the Planning Application it referred to had been decided.

### **Summary.**

It is clear that a degree of animosity has built up between CR and JT. No doubt JT feels aggrieved by the fact that her planning application was the subject of, what she considered to be, misguided and overzealous scrutiny. AR conceded that the use of the word "objection" rather than "observation" in relation to the planning comments submitted by FPC's to Carlisle City Council was, at the very least, unfortunate and may have added to the Complainant's perception of unfairness.

In observing the requirements to register interests within 28 days of election as a Parish Councillor, CR is fully compliant. In terms of making an appropriate declaration of interest at the relevant meetings and at the appropriate time, by all accounts it is demonstrated that CR has certainly addressed his mind to this requirement in the context of the circumstances; taking steps to enquire as to the appropriate course of action to follow by enquiring of the Parish Clerk, who in turn made her own enquiries of CALC, is good evidence of this.

In terms of the regulatory requirements, I feel the following issues need to be addressed:

1. *Did CR have an interest in land (Farlam Farm) adjacent to land owned by JT, the subject land?*

The answer to this is in the affirmative as evidenced by official Land Registry documents.

2. *Did CR's declared interest amount to a Disclosable Pecuniary Interest (DPI)?*

For an interest to be a 'disclosable pecuniary interest' (DPI) it must be an interest which falls into one of the categories set out in regulations. As previously mentioned, CR had recorded his ownership of Farlam Farm as a DPI on 13 May 2015.

3. *Did CR declare an interest in agenda item 108/15.1 at the meeting of FPC on 09 March 2016?*

The answer again is in the affirmative. However, having considered the evidence referred to previously, on balance it appears appropriate to accept that the "interest" he declared as a "non-pecuniary" interest. Whether, in actual fact, this declaration was the correct declaration to make is something that the Monitoring Officer and members of the Standard Board may wish to address their collective minds to.

4. *Should CR have made a further declaration of interest (pecuniary or otherwise) at the meeting FPC held on 06 May 2016?*

This is a moot point and turns on the question of whether or not the subject matter (JT's planning application) was being discussed as part of the formal business of the meeting or, as contended by the Clerk to FPC and CR, it was outwith the meeting itself. Common sense may have suggested that, as the matter had already been formally dealt with at the previous meeting, and given the "mood" of the room, it may have been prudent of CR to have avoided contributing to the debate as, it seems clear on all accounts, that emotions were running high and the tension was bound to be exacerbated, and little was to be gained, by arguing over issues which had already been dealt with.

## **Conclusion**

On 13 May 2015 Cllr Raine registered a Disclosable Pecuniary Interest in Farlam Farm (Appendix 8). Farlam Farm was adjacent to land which was the subject of a planning application referred to Farlam Parish Council as a Statutory Consultee. At all material times Cllr. Raine was a member of Farlam Parish Council. Cllr. Raine states that the

proximity of the subject land to his own land was of little if any significance to him and, in terms of his own use and enjoyment of the land, there was no impact; hence he saw no reason to avoid engaging in any debate over the merits or otherwise of the Complainant's application. Cllr Raine points to the fact that he did make what he regards as appropriate and diligent enquires and was guided by advice given to him prior to the meeting.

Carlisle City Council's Code of Conduct guidance is unambiguous on the subject of participation in meetings where a member has a declared (or undeclared for that matter) disclosable pecuniary interest. Page 10, section 17 states;

*"If you are present at a meeting of the Council, Executive or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:*

- *You may not participate in any discussion of the matter at the meeting.*
- *You may not participate in any vote taken on the matter at the meeting."*

A significant factor, and one which arguably weighs in his favour, is the fact that CR sought and then followed advice from AR and CALC. Further, it can reasonably be inferred that CR must have reflected on his position, and perhaps the risks of being accused of bias, and took what he must have thought were appropriate steps by seeking guidance.

By way of completeness, it is perhaps worth providing some background as to the nature, legal definition and custom and practice surrounding DPI's. For an interest to be a 'disclosable pecuniary interest' (DPI) it must be an interest which falls into one of the categories set out in regulations (The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464)). If it is not covered by one of those categories, then it is not a 'DPI'.

If a councillor (or his or her partner) has a DPI, they must do two things; they must register that interest, and, if they "have a DPI in any matter to be considered" they must not take part in the discussion or vote on the matter without a dispensation. It is this wording which can lead to the confusion. What does "having a DPI in any matter" mean? If you have a DPI and you fail to register it or you participate in a meeting without dispensation, then under the Localism Act you have committed a criminal offence. Current (revised) 2012 guidance (annexure 3) seems to suggest that, to be a DPI, the "interest" has to relate to, not merely affect, your DPI. In other words, a DPI must be directly about the thing, rather than just affecting it.

However, most people would think it quite appropriate that a local councillor should be able to take part in matters which affect their community significantly.

On balance, and in my opinion, there has been a breach of the Code of Conduct and, having registered a DPI and declared an interest, in order to be compliant and in

observing the guidance, Cllr Raine should not have taken part in the meeting on 09 March 2016 when the agenda item regarding the Complainant's planning application was under consideration.

However, taking account of the surrounding circumstances, and in particular the fact that Cllr Raine sought guidance on the point at issue, the breach of the code in this case could reasonably be regarded as a technical breach or a breach for which there are a number of mitigating factors which weigh in Cllr Raine's favour and relegate this transgression to a minor misdemeanour. That said, it should not be overlooked that, in my opinion and having spent time with JT, she does appear to have suffered a degree of distress as a result of the encounter at the 06 May meeting, and the general attitude others in attendance (not just CR) and, on balance, I do accept that she felt that she was not treated with the dignity and respect that should have been afforded to her.

### **Recommendation**

My recommendation is that concerns over the manner in which members of the public are treated should be highlighted to the members at Farlam PC; that Members should be encouraged to undertake further or refresher training in respect of the relevant Codes of Practice, as should the Clerk to Farlam PC. Perhaps a letter from the Chair of the Standards Committee or sent on their behalf by the Monitoring Officer to the Clerk asking that she circulates CCC's guidance to all standing Members with a recommendation that they re-familiarise themselves with it. It may even be appropriate to suggest that the Complainant is sent a letter of apology.

With specific regard to Cllr. Raine, again a letter confirming the fact that he was in breach of the Code of Conduct and, under other circumstances, could lead to much more severe consequences including a referral to Crown Prosecution Service.

Stephen R Brown, 03 November 2016.

## CODE OF CONDUCT COMPLAINT – CHARLES RAINE, FARLAM PARISH COUNCIL

### List of appendices and reference materials.

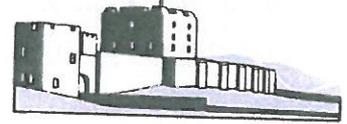
1. Appendix 1 Complaint Form – JT1.
2. Appendix 2 Copy minute & notes of 09/03/16 FPC meeting.
3. Appendix 3 Land registry entries for Title number CU197211.
4. Appendix 4 Land registry entries for Title number CU213833.
5. Appendix 5 Copy minute & notes of 11/05/16 FPC meeting.
6. Appendix 6 JT's Planning Application Ref: 16/0151.
7. Appendix 7 FPC Consultee Comments
8. Appendix 8 Copy minute of 13/07/16 FPC meeting.
9. Appendix 9 CR's last Notification of Member of Pecuniary and Other Registerable Interests (13/05/15).

### List of annexures being guidance and reference materials

1. Annexure 2 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464).
2. The Council of the City of Carlisle - Arrangements for dealing with standards allegations under the Localism Act 2011.
3. Openness and transparency on personal interests - A guide for councillors

RETURN THIS PAGE

CARLISLE  
CITY COUNCIL



www.carlisle.gov.uk

Please describe your complaint:

1. WHAT TYPE OF SERVICE HAS BEEN AT FAULT?

The behaviour and conduct of Councillor Raine (Farlam parish council) with conflicting interests

2. WHAT HAS HAPPENED?

When our plans for an agricultural shed were to be discussed Council Raine declared an interest then remained in the meeting and gave his opinion. What he failed to mention was:- he owned the land adjacent to us, shared the access, rents it out to Councillor Dalton (who uses it daily, sometimes with very heavy machinery) at our meeting the chairman and two councillors admitted they had no idea about the above information. The other councillor at the meeting was Councillor Dalton.

3. WHAT SHOULD BE DONE TO SOLVE THE PROBLEM?

Councillor Raine should resign and Farlam Parish Council should make site visits and check their facts thoroughly before making planning objections

Farlam parish council objected to the planning application, when questioned, they justified the decision saying Highways had carried out a speed survey because the entrance was so dangerous, we repeatedly told them this was untrue and it was an independent survey regarding another planning application, but they didn't believe us and didn't check their facts. See enclosed documentation

There were several other misdemeanours.

4. HAVE YOU REPORTED THIS PROBLEM BEFORE?

Who to:	Chairman and Clerk to Farlam PC
Which office/service:	Farlam Parish Council
The date you reported it:	15/05/16

Please complete this section in capital letters

Title: ~~Mr~~/Mrs/Ms/Miss

Name: JANE THOMSON

Address: 91 TOWNFOOT PARK  
BRAMPTON

Post Code: CA8 1LA

Signed: J. Thomson. Date: 21/7/16

Tel. No: 01697742447

E-mail address: 'janethomson91@btinternet.com  
(thomson)

DATA PROTECTION

In order to investigate your complaint the information you provide, including your personal details, may need to be divulged to Council staff and the Elected Councillors.

Details of complaints received and the Council's findings, without publishing names or other personal details, are reported to the full Council and are available to the public.

Should you refer your complaint to any other organisation such as the Local Government Ombudsman then information may be provided to them on request.

**Freepost RLUB-YGCX-YEYB  
Carlisle City Council  
Corporate Complaints  
CARLISLE  
CA3 8QG**

**PRESENT**

Councillor I. Howatt (Chairman) (in the Chair)  
Councillor A. Shaw  
Councillor C. Raine  
Councillor R. Hinton

Councillor A. Radcliffe  
Councillor C. Marsh  
Councillor A. Murray

**IN ATTENDANCE** – Clerk

**ALSO ATTENDING** – Councillor S. Bowman, Carlisle City Council

**102/15 APOLOGIES FOR ABSENCE**

**RESOLVED** to note that apologies were received from:-

Councillor Bowles – hols  
Councillor Dalton - (work)

**103/15 REQUESTS FOR DISPENSATION**

**RESOLVED** to note that no requests for dispensation were received.

**104/15 DECLARATIONS OF INTEREST**

**RESOLVED** to note that Councillor Raine declared an interest in item 108/15.1

**105/15 MINUTES**

**105/15.1** Minute of the Meeting held on 13th January 2016 was submitted.

**RESOLVED** to authorise the Chairman to sign the minutes of the meeting held on 13th January 2016, confirmed as a true and accurate record, after adding Councillor Raine under apologies for absence.

**106/15 PUBLIC PARTICIPATION**

A member of the public attended the meeting after speaking to Councillor Murray regarding the poor bus service from the area to Carlisle and back. Often the buses were full, you might not get a seat on the return bus and the service only running during term time were a few of the issues.

Members wondered whether the community bus service might start to operate in the area or whether Hallbankgate Hub could help.

**RESOLVED** to note the report and that the Clerk would write to the County Council and explain the situation.

**107/15 REPRESENTATIVES' REPORTS**

**RESOLVED** to note that Councillor Raine would attend the next CPCA meeting.

**108/15 TOWN AND COUNTRY PLANNING APPLICATIONS**

Applications for planning consent were considered.

**RESOLVED** to advise the appropriate Planning Authority of the Council's comments as follows:-

**108/15.1 FIELD OPPOSITE INISFREE, FARLAM (16/0151)** – Proposed agricultural building for housing and feeding livestock.

**OBJECT** - The proposed access to the site is unsuitable. - The proposed building could be sited on the current footprint of redundant buildings already in the field. - The building would have a detrimental impact on the distinctive landscape in the area which is contrary to Policy DP10 of the Carlisle District Local Plan 2001-2016.

**114/15 CALC**

The following correspondence from CALC was received and noted:-

**114/15.1 CALC CIRCULARS** – February and March 2016

**114/15.2 NEW CALC WEBSITE** – Email from S. Bagshaw.

**114/15.3 TRIPARTITE MEETING** – Email from S. Hutchinson.

**115/15 CORRESPONDENCE RECEIVED BY THE CLERK**

**RESOLVED** to note that no correspondence had been received.

**116/15 LITERATURE AVAILABLE IN OFFICE**

**NOTED** that the following literature is available from the office for any interested Councillors:-

**116/15.1 NOTICE OF EXECUTIVE KEY DECISIONS** – 4<sup>th</sup> March 2016.

**116/15.2 ACT GAZETTE** – Spring 2016.

**117/15 AGENDA ITEMS FOR NEXT MEETING**

- Streetlight at Crossgates
- Recycling bins.

Further items to be submitted to the Clerk by Wednesday 4<sup>th</sup> May 2016.

**118/15 DATE OF NEXT MEETING** – Wednesday 11<sup>th</sup> May 2016, 7.30pm, Hallbankgate Village Hall.

**119/15 PUBLIC BODIES (ADMISSION TO MEETINGS) ACT 1960** - To consider resolving, in terms of the Public Bodies (Admission to Meetings) Act 1960, that, in view of the confidential nature of the business to be transacted, it is advisable in the public interest that the public be temporarily excluded and that they be instructed to withdraw for agenda item 120/15.

**120/15 GRASS CUTTING CONTRACT 2016**

There was submitted a report by the Clerk on the tenders invited and received for the grass cutting contract 2016.

**RESOLVED** to accept the tender submitted by Phil Bell Services in the sum of £995.00.

Proposed by Councillor Raine, seconded by Councillor Shaw, all agreed.

 11/05/2016

# FARLAM PARISH COUNCIL

Clerk: Allison Riddell  
Unit 2  
The Old Brewery  
Craw Hall  
Brampton  
CA8 1TR  
Tel: 016977 3382  
Email: farlampc@hotmail.co.uk

6<sup>th</sup> March 2015

Dear Councillor,

You are summoned to a Meeting of the FARLAM PARISH COUNCIL that will be held in HALLBANKGATE VILLAGE HALL, on WEDNESDAY 9th MARCH 2016, at 7.30pm.

IH | CR | CM | AR | RH | AM

SB

Allison Riddell

i Public

## AGENDA

1. **APOLOGIES FOR ABSENCE** – To receive apologies for absence and approve reasons for absence.  
SB - 1618  
SD -
2. **REQUESTS FOR DISPENSATIONS** - The clerk to report any requests received since the previous meeting for dispensations to speak and/or vote on any matter where a member has a disclosable pecuniary interest.  
None received
3. **DECLARATIONS OF INTEREST** – To receive declarations by elected and co-opted members of interests in respect of items on this agenda.  
CALC - gray area / consultee not dec. making auth -  
No personal obj / comm. made -  
cl - planning (NP)
4. **MINUTES**
  - 4.1 **MINUTE OF THE MEETING HELD ON 13TH JANUARY 2016** - To authorise the Chairman to sign, as a correct record, the minutes of the meeting held on 13<sup>th</sup> January 2016. (copy circulated by email)  
Noted. Add cl apols.  
Approved  
AR prop  
AS 2nd  
All approved.

em - community bus

EH - This is peculiar situation

only on CO3 Telfords v helpful.

CE - write & highlight the problem  
please review

EH - call n letter asking for comments.

EH - 281 Miska to H/winstle now running N'land. cc  
The bus Telfords uses is the same for school.

Telfords drivers are extremely helpful.

em - could Hub play role in this. Lifts?

AM - pressure on to get a bigger bus?

Pub - No shops on the route down.

Those who feel not fit to drive forced back  
on the road.

---

could it be sited on existing footprint

CE - There is another access where the other shed is

AM - Had near misses out of Innistrée

Access / speed discussed - Location

☞ Location not suitable (check policy no.)

access

existing footprint

5. **PUBLIC PARTICIPATION (10 minutes)** – The Chairman will adjourn the meeting to allow members of the public an opportunity to ask questions or raise matters of interest.

Pub  
Spoke to AM re public transport for the area  
Bus from Alton to carline inadequate. xl got last seat  
ASG + mltu can't board  
those returning insufficient as add<sup>n</sup> passengers  
couple with baby + child could've been stranded.  
1st can't depend on it. Got to town might not get  
back. Most elderly + some with young kids.  
None when buses finish school.  
No help from co. cnd.  
can PC approach co. cnd + explain the situation  
None on a sat. Young teenagers in Alton can't drive  
frustrating in this day + age

6. **REPRESENTATIVES' REPORTS** - To receive reports by representatives on Outside Bodies.

None.

CR - to attend next CPCA meeting.

7. **TOWN AND COUNTRY PLANNING - APPLICATIONS** – To consider

- 7.1 **FIELD OPPOSITE INISFREE, FARLAM (16/0151)** – Proposed agricultural building for housing and feeding livestock.

CM - Is there a barn already

IT - Yes but redundant. In does useful for purpose

AM - bad bend coming out of there. Access not great. Highways concerned. could put another access where shed is.

CR - Always have asked for more info.

8. **FINANCIAL MATTERS**

- 8.1 **Bank Reconciliation to 14.02.16** – Report by Clerk (copy circulated by email)  
Voted + approved.

CR prop 2nd AS all agreed.

- 8.2 **Expenditure to approve** –

- £330.32 A. Riddell – net wage to 31.03.15

CR prop

AK 2nd

All agreed.

- e- need to reply  
Ask them to reconsider ~~90~~
  - B- U need veh. access for them to be emptied
  - m- yard behind
  - H - ↑ Tenely steps!!
  - m- wud suggest back of car park here
  - H - Hall cttee not happy ↑
  - e- short sighted of them.
  - H - Hub vs community effort.
  - Need s'holders meeting + agree this
- our understanding we may lose facility

9. **RECYCLING BINS** - To consider a letter and email submitted from S. Consterdine, Hallbankgate Hub & an email from Colin Bowley, Carlisle City Council. (copies herewith)

IH - Not a function of the PC - its. ci. Cnd.  
SB - I think the Hub is being bunkered.  
This present admin could remove completely.

- Too exposed in car park.

- Too far down at co-op by the wall.

ce - Does recycling create revenue -  
school used to get it -

cm - Stopped the income 11 year.

Its a community hub - we are 11 owners.  
" " " facility.

AS - ppl will use the shop when using the bus

ce - Its a mess

AM - Some comments re parking + deliveries have  
been ok so far

AS - should stay.

IH - part of the grounds is hubs + part garages  
nothing from garage owners.

No - one's attended

RH - Don't c where H+S comes in

cm - have a re think  
community hub - not a great start =

←

10. **SPEED GUN** - To receive a report from Councillor Shaw.

No comment

Try LF.

11. **CROSSGATES STREETLIGHT** - To receive an update from Councillor Bowman and Councillor Graham.  
IH - Had another letter thanking PC 4 efforts 2 do cond  
SB - Co. Cncl matter.  
clerk - no response from W. Graham.  
IH - Still on Co USB.

IH - spoke about future lighting. being paid for.  
CPCA. might come up again -

~~✗~~

12. **TRANSPARENCY FOR SMALLER AUTHORITIES -**

12.1 **TRANSPARENCY FUND GRANT** - To receive an update if applicable.  
Has been submitted to HALC by CALC - not heard  
anything back yet.

12.2 **ANNEX A AND B** - To receive a report from Councillor Hinton.  
As of next month - draft mins on within 1 month.  
Just to RH - not circulated.  
Agenda on web - fri b4 meeting.  
AR - responsibility for p/ground to go on -  
FB - page.

13. **CALC** - To receive, note and where applicable respond to the following correspondence, circulated by email prior to meeting:-

13.1 **CALC CIRCULARS** - February & March 2016.  
Noted.

13.2 **NEW CALC WEBSITE** - Email from S. Bagshaw.  
Noted

13.3 **TRIPARTITE MEETING** - Email from S. Hutchinson  
Noted

said  
agenda

ok to attend

14. **CORRESPONDENCE RECEIVED BY THE CLERK.** - To note items of correspondence received since the last meeting and take actions as appropriate.

None received to date

15. **LITERATURE AVAILABLE FROM CLERK** - To note items of literature received since the last meeting:-

Noted

15.1 **NOTICE OF EXECUTIVE KEY DECISIONS** - 4<sup>th</sup> March 2016.

15.2 **ACT GAZETTE** - Spring 2016

16. **AGENDA ITEMS FOR NEXT MEETING** - To consider items for the next meeting.

- lamppost
- recycling bins

17. **DATE OF NEXT MEETING** - Wednesday 11th May 2016, 7.30pm, Hallbankgate Village Hall.

18. **PUBLIC BODIES (ADMISSION TO MEETINGS) ACT 1960** - To consider resolving, in terms of the Public Bodies (Admission to Meetings) Act 1960, that, in view of the confidential nature of the business to be transacted, (contract terms), it is advisable in the public interest that the public be temporarily excluded and that they be instructed to withdraw.

19. **GRASS CUTTING 2016 CONTRACT** - Report by Clerk. (to be tabled at meeting)

CR propose we accept  
2nd AS.  
AU agreed.

7689 - turn @ v coalfield  
turn off rd onto track  
houses to railway  
opp minor monument on left  
view



Official copy  
of register of  
title

Title number CU197211

Edition date 28.05.2004

- This official copy shows the entries on the register of title on 02 SEP 2016 at 08:49:33.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 02 Sep 2016.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by Land Registry, Durham Office.

## A: Property Register

This register describes the land and estate comprised in the title.

CUMBRIA : CARLISLE

- 1 (31.03.2000) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land lying to the north west of Farlam Farm, Farlam.
- 2 (31.03.2000) The land in this title was formerly copyhold of the Manor of Farlam and the rights saved to the lord by the 12th Schedule of the Law of Property Act 1922 are excepted from the registration.
- 3 (31.03.2000) The land has the benefit of the rights reserved by but is subject to the rights granted by a Conveyance of land on the west dated 8 August 1979 made between (1) John Edmund Lee and (2) Cumbria County Council.  
*NOTE: Copy filed under CU155170.*
- 4 (31.03.2000) The Conveyance dated 8 August 1979 referred to above contains a provision as to boundary structures.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

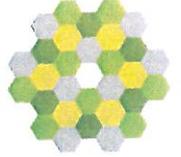
### Title absolute

- 1 (14.05.2004) PROPRIETOR: CHARLES ROBERT RAINE and PENELOPE ANNE RAINE of Farlam Farm, Farlam, Brampton, Cumbria CA8 1LA.
- 2 (14.05.2004) The price stated to have been paid on 2 April 2004 was £27,550.
- 3 (14.05.2004) A Transfer of the land in this title dated 2 April 2004 made between (1) Terry Harry Wilson and (2) Charles Robert Raine and Penelope Anne Raine contains Transferees personal covenant(s).

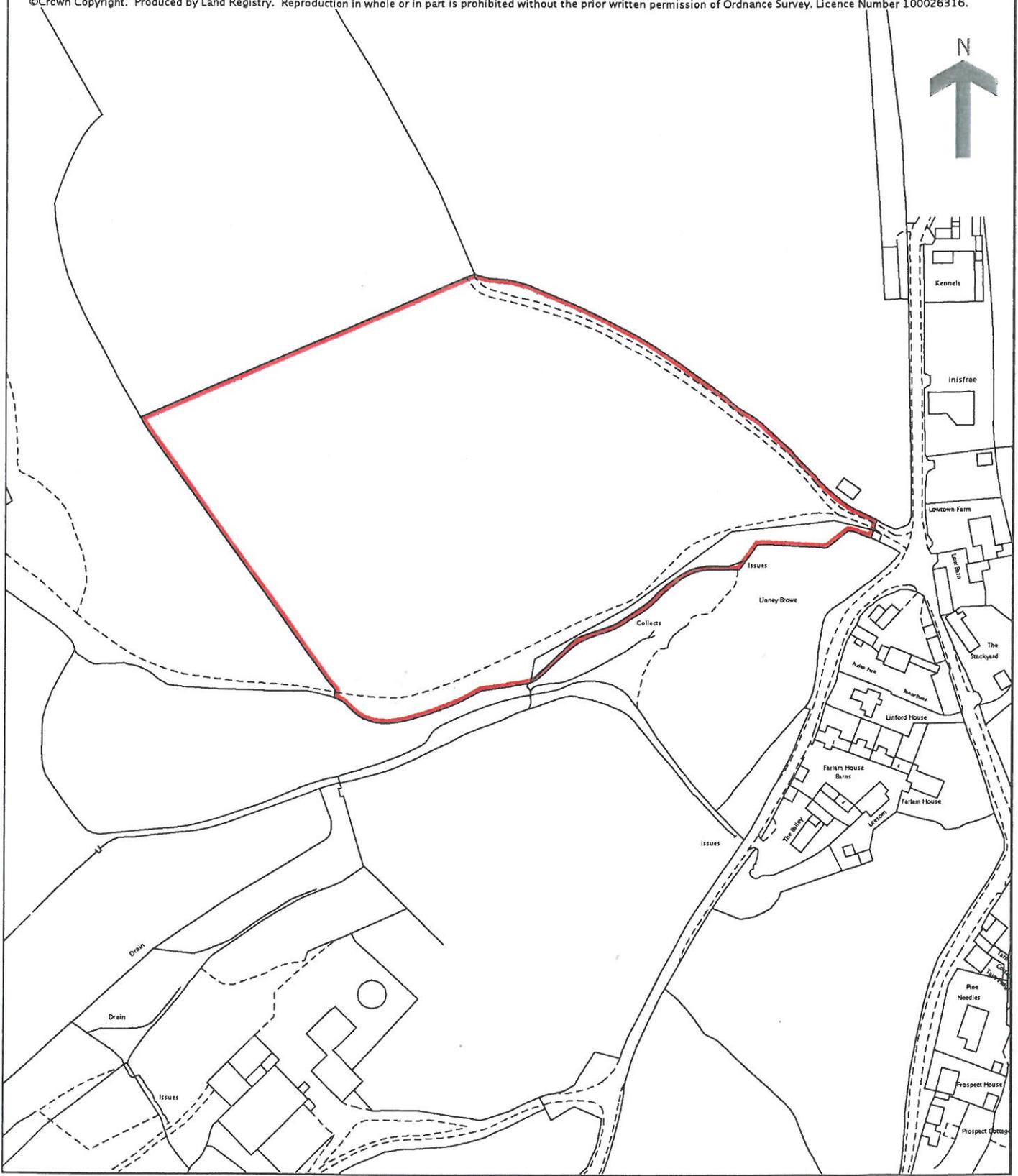
*NOTE: Copy filed.*

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



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**These are the notes referred to on the following official copy**

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

This official copy is issued on 02 September 2016 shows the state of this title plan on 02 September 2016 at 08:49:33. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the Land Registry, Durham Office .

Title number CU197211

End of register



Official copy  
of register of  
title

Title number CU213833

Edition date 06.08.2014

- This official copy shows the entries on the register of title on 02 SEP 2016 at 08:47:20.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 02 Sep 2016.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by Land Registry, Durham Office.

## A: Property Register

This register describes the land and estate comprised in the title.

CUMBRIA : CARLISLE

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land at Farlam House Farm, Farlam, Brampton.
- 2 (31.03.2000) The land in this title was formerly copyhold of the Manor of Farlam and the rights saved to the lord by the 12th Schedule of the Law of Property Act 1922 are excepted from the registration.
- 3 (16.07.1990) A Conveyance of the land edged blue on the title plan and other land dated 20 June 1990 made between (1) Robert Young Wilson (Vendor) and (2) Colin Isaac Reed and Victoria Anne Reed (Purchasers) contains the following provision:-  
  
"IT IS HEREBY AGREED AND DECLARED that all easements rights and privileges hitherto subsisting for the benefit of the property or any part thereof over all or any part of the adjoining land of the Vendor shall forthwith cease and be extinguished."
- 4 (11.10.2005) The land has the benefit of the rights granted by but is subject to the rights reserved by the Transfer dated 2 September 2005 referred to in the Charges Register.
- 5 (06.08.2014) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (11.10.2005) PROPRIETOR: MAURICE THOMSON and JANE THOMSON of Innisfree Kennels, Farlam, Brampton, Cumbria CA8 1LA.
- 2 (11.10.2005) The price stated to have been paid on 2 September 2005 was £75,000.

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

Title number CU213833

## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (16.07.1990) The land edged blue on the title plan is subject to the following rights contained in a Deed dated 10 June 1966 made between (1) Robert Young Wilson (Owner) (2) The National Commercial Bank of Scotland Limited (Mortgagee) and (3) The Mayor Aldermen and Citizens of The City of Carlisle (Corporation):-

"The easement and right of laying mains or pipes for carrying or conducting water (with such air valves washout valves and sluice valves as may be necessary) together with a signal cable running alongside such mains or pipes in under and through the said land of such size and in the position approximately indicated by a red line between the letters D-E as are shown on the plan hereto annexed Reference Number NE/T/3/A TOGETHER WITH the right and liberty of entering upon the said land from time to time for the purpose of inspecting maintaining cleansing repairing renewing and enlarging such mines pipes valves and signal cable (the said mains pipes valves and signal cable being hereinafter collectively referred to as "the said mains" and the laying inspecting maintaining cleansing repairing renewing and enlarging of the said mains and signal cable being hereinafter collectively referred to as "laying the said mains")."

The said Deed also contains restrictive covenants by the owner:-

"THE Owner hereby covenants with the Corporation as follows:-

(a) That in laying the said mains the Corporation shall have the right and liberty by their duly authorised agents and workmen at all times whether by day or night with or without horses carts wagons vehicles plant machinery tools materials appliances and things to enter upon and pass and re-pass over and along the said land and to do thereon all things necessary or desirable in connection therewith and for the purpose of enabling the Corporation to use and enjoy the said easement and right to the fullest extent.

(b) That for and with the intent to bind so far as may be himself and his successors in title that he and they will not at any time hereafter do or suffer to be done in upon or under the said land any act or thing which may in any way damage the said mains or diminish interfere with or adversely affect the purity of flow of water coming to or carried by the said mains."

NOTE: The red line between points D and E referred to above is shown by a blue broken line and points D and E have been reproduced on the title plan.

- 2 The land tinted pink on the title plan is subject to the rights granted by a Conveyance of land on the west side of the land in this title dated 8 August 1979 made between (1) John Edmund Lee and (2) Cumbria County Council.

NOTE: Copy filed under CU155170.

- 3 (11.10.2005) A Transfer of the land in this title dated 2 September 2005 made between (1) Terry Harry Wilson and (2) Maurice Thomson and Jane Thomson contains restrictive covenants.

NOTE: Copy filed.

End of register



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This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the Land Registry, Durham Office .

**PRESENT**

Councillor I. Howatt (Chairman) (in the Chair)  
Councillor C. Raine  
Councillor A. Murray  
Councillor S. Dalton

Councillor S. Bowles  
Councillor R. Hinton  
Councillor C. Marsh

**IN ATTENDANCE** – Clerk

**ALSO ATTENDING** – Councillor S. Bowman, Carlisle City Council  
2 members of the public (Mr & Mrs Thomson)

**1/16 ELECTION OF CHAIRMAN**

Councillor S. Bowles, seconded by Councillor C. Raine, moved that Councillor I. Howatt be elected to the office of Chairman of the Council.

There were no other nominations for Chairman.

**RESOLVED**, unanimously, that Councillor Howatt be duly elected as Chairman for the next year.

**2/16 DECLARATION OF ACCEPTANCE OF OFFICE OF CHAIRMAN**

**RESOLVED** to note that Councillor Howatt, in the presence of the Council, signed the Declaration of Acceptance of Office of Chairman of the Council.

**3/16 ELECTION OF VICE CHAIRMAN**

Councillor C. Raine, seconded by Councillor C. Marsh, moved that Councillor S. Bowles be elected to the office of Vice Chairman of the Council.

Councillor S. Bowles, seconded by Councillor R. Hinton, moved that Councillor A. Shaw be elected to the office of Vice Chairman of the Council.

**RESOLVED**, after a vote of 5 to 2, that Councillor S. Bowles be duly elected as Vice-Chairman for the next year.

**4/16 APOLOGIES FOR ABSENCE**

**RESOLVED** to note that apologies were received from:-

Councillor A. Shaw (ill)

**5/16 REQUESTS FOR DISPENSATION**

**RESOLVED** to note no requests for dispensation were received.

**6/16 DECLARATIONS OF INTEREST**

**RESOLVED** to note that there were no declarations of interest.

**7/16 OUTSIDE BODIES - REPRESENTATION**

**RESOLVED** that the following appointments be made:-

**CARLISLE PARISH COUNCILS ASSOCIATION**

Councillors I. Howatt/C. Raine

**BRAMPTON & BEYOND COMMUNITY TRUST**

Councillor S. Bowles

**8/16 MINUTES**

**8/16.1** Minute of the Meeting held on 9th March 2016 was submitted.

**RESOLVED** to authorise the Chairman to sign the minutes of the meeting held on 9th March 2016, confirmed as a true and accurate record.

## 9/16 PUBLIC PARTICIPATION

Mr and Mrs Thomson spoke with regard to planning application 16/0151, raising the following points:-

- Why did members object to the planning application
- The buildings mentioned in the planning application were still useful not redundant
- Who made the comments on the website
- Photos of the access to the planning application were distributed
- What happens if it is denied because of the access
- The application now has to go to committee because of the objection
- We were refused a year ago where we wanted to build a house
- The building would not spoil the landscape as the area is surrounded by agricultural buildings
- Parish Council has been unfair

Members of the Parish Council responded with the following points:-

- Objections were made on the supporting documents of the planning application available on the City Council website
- Some of the building on the land are described as unfit for purpose as per the Design and Access Statement submitted with the application
- The Parish Council does not make the final decision on a planning application it is only a consultee
- Plans and supporting documents are what members refer to when considering a planning application. It is very rare that a site visit is made.
- Highways have an issue with the application (detailed on the City Council website) which prompted concern from members
- Many planning applications have to go to committee for a decision, not just because the Parish Council objects.
- As the applicants you can attend the committee meeting and speak about the application
- There are other objections to the application
- It is a democratic process that is followed when making a decision – this is not an isolated objection – the Parish Council has objected to several applications in the parish and some have been passed by the City Council
- The application has not been refused – the Parish Council has merely made an objection as a consultee
- Suggested that the applicants speak to Chris Hardman as a new local plan would be in place shortly

Mr and Mrs Thomson left the meeting. Mr Thomson shouted "I'll be seeing you Charles", which Councillor Raine felt was a threat and intimidating.

**RESOLVED** to note the Thomson's concerns regarding the planning application process.

## 10/16 REPRESENTATIVES' REPORTS

Councillor Raine reported on the recent tri-partite meeting highlighting the following:-

- Planning Charter agreed – to be adopted in due course
- Street lighting
- Fly tipping
- Grants

**RESOLVED** to note the report.

## 11/16 TOWN AND COUNTRY PLANNING APPLICATIONS

Applications for planning consent were considered.

**RESOLVED** to advise the appropriate Planning Authority of the Council's comments as follows:-

**11/16.1 CAIRN COTTAGE, HIGH FELL, HALLBANKGATE (16/0341)** – Proposed rear ground floor (sun lounge) and rear first floor (bedroom and en-suite) extension to rear of existing residential house.

No observations.

**11/16.2 3 COAL FELL, HALLBANKGATE (15/0397)** –Demolition of existing rear extensions; erection of single storey rear extension to provide kitchen/dining room; construction of first floor dormer to enlarge existing bedrooms and provide 1 bathroom

No observations.

**12/16 FINANCIAL MATTERS -**

**12/16.1 BANK RECONCILIATION to 14.04.16**

There was submitted a report by the Clerk on the reconciliation of the Council's financial records with its bank account statements.

**RESOLVED** to receive and note the bank reconciliation and balance of the HSBC Account to 14<sup>th</sup> April 2016 of £4,231.62.

**12/16.2 EXPENDITURE TO APPROVE**

**RESOLVED** to authorise the following expenditure for payment:-

- £330.52 A. Riddell – net wage to 31.05.16
- £177.00 CALC – annual subscription 2016/17
- £56.78 Carlisle City Council – playground inspection
- £142.16 P Bell Services – grass cutting

**12/16.3 INSURANCE**

There was submitted, by Zurich, the Parish Council's current insurers, an invitation for the Parish Council to renew its insurance cover with the company for the period 1st June 2016 to 31st May 2017 along with cover for the village hall to be included.

**RESOLVED** to renew the existing cover at a cost of £1,456.35 which includes the village hall. The Hall insurance costs would be reimbursed from village hall funds.

**12/16.4 ACCOUNTS – Accounts for the year ended 31<sup>st</sup> March 2016**

There were submitted Section 1 and 2 of the Annual Return, Receipts and Payments Accounts, Balance Sheet and Supporting Notes for the year ended 31st March, 2016.

**12/16.4.1 RESOLVED** to approve sections 1 and 2 of the Annual Return, the Accounts, Balance Sheet and Supporting Notes as reflecting the Parish Council's financial position at 31st March 2016 and authorise the Chairman to sign the annual return for 31<sup>st</sup> March 2016;

**13216.4.2 RESOLVED** to acknowledge the members' responsibility for the preparation of the Accounts; and

**12/16.4.3 RESOLVED** to confirm that to the best of the members' knowledge and belief,

**12/16.4.3.1** the Accounts for the year to 31st March 2016 had been prepared in accordance with the requirements of the Accounts and Audit Regulations and proper accounting practice;

**12/16.4.3.2** the Council had maintained adequate systems of internal control;

**12/16.4.3.3** the Council had taken all reasonable steps to assure compliance with legislation;

**12/16.4.3.4** the Council had provided proper opportunity for the exercise of electors' rights;

**12/16.4.3.5** the Council had met the requirements of the Audit Commission as to risk assessment, adequacy and effectiveness of systems of internal audit and action on previous Audit recommendations; and

**12/16.4.3.6** the Council had considered provision for litigation, liabilities, etc.

#### **12/16.5 HIGHWAYS REPORT**

Members reviewed the revised financial regulations issued from NALC.

**RESOLVED** to adopt the new revised financial regulations.

#### **13/16 STREETLIGHT AT CROSSGATES**

**RESOLVED** to note that the missing streetlight at Crossgates was the responsibility of the County Council and that the Clerk would chase the matter up.

#### **14/16 RECYCLING BINS**

Councillor Bowles reported that enquiries had been made for alternative sites for the recycling bins currently situated at the old Co-op as Hallbankgate Hub ultimately does not want the bins there as an outdoor seating area would be preferred. Councillor Bowles was not aware of the correspondence received previously by the Parish Council regarding the matter.

Members reported that the original correspondence was not very diplomatic and raised concerns that the bins could ultimately be removed if a suitable location could not be found. It was felt that the Parish Council should work with Hallbankgate Hub rather than separately.

**RESOLVED** to note the report.

#### **15/16 FOOTPATHS**

Councillor Hinton reported that work to footpaths in the parish had been rolled over to this financial year as it was not completed last year. Councillor Hinton was happy to meet with the Footpath's Officer and raise any concerns and would also look into whether the path from Hallbankgate to Tindale was a public footpath.

**RESOLVED** to note the report.

#### **16/16 PLAY AREA**

The annual inspection of the play area was submitted to the meeting.

**RESOLVED** to note the report and that the Clerk would liaise with Councillor Radcliffe regarding the work required. Councillor Dalton would arrange the removal of the carcass from the neighbouring field.

#### **17/16 TRANSPARENCY GRANT FUNDING**

Councillor Hinton reported that the transparency grant funding had been received in the sum of £669.74. A laptop and printer would be purchased along with the necessary software and hosting.

**RESOLVED** to note the report.

#### **18/16 DOG FOULING**

**RESOLVED** to note that Councillor Howatt would liaise with Councillor Radcliffe regarding the ongoing fouling of the play area. If possible, the owner would be reported to the dog warden at Carlisle City Council.

#### **19/16 CALC**

The following correspondence from CALC was received and noted:-

**19/16.1 CALC CIRCULARS** – April and May 2016

**19/16.2 HEALTHWATCH CUMBRIA SURVEY** – Email from S. Bagshaw.

**19/16.3 PATIENT ONLINE** – Email from S. Bagshaw.

**19/16.4 s137 EXPENDITURE LIMIT 2016/17** – Email from S. Bagshaw.

**20/16 CORRESPONDENCE RECEIVED**

**RESOLVED** to note the following correspondence had been received:-

**20/16.1 PARISH COUNCIL AND VILLAGE HALL CAPITAL GRANT 2016/17 SECOND ROUND** – Email from Zoe Sutton.

**21/16 LITERATURE AVAILABLE FROM THE CLERK**

**NOTED** that the following literature is available from the Clerk for any interested Councillors:-

**21/16.1 NOTICE OF EXECUTIVE KEY DECISIONS – 6 May 2016**

**21/16.2 CLERKS & COUNCILS DIRECT – May 2016**

**22/16 AGENDA ITEMS FOR NEXT MEETING**

- Wall at Greenside Estates
- Recycling bins

Further items for consideration should be submitted to the Clerk by 6th July 2016.

**23/16 DATE OF NEXT MEETING – Wednesday 13<sup>th</sup> July 2016, 7.30pm, Hallbankgate Village Hall.**

  
13/7/2016

# FARLAM PARISH COUNCIL

Clerk: Allison Riddell  
Unit 2  
The Old Brewery  
Craw Hall  
Brampton  
CA8 1TR  
Tel: 016977 3382  
Email:farlampc@hotmail.co.uk

6th May 2016

Dear Councillor,  
You are summoned to the Annual Meeting of the FARLAM PARISH COUNCIL that will be held in HALLBANKGATE VILLAGE HALL, on WEDNESDAY 11th MAY 2016, at 7.40pm.

IH/CR/AM/cm/SB/EH/SD

SB

Allison Riddell

2 public  
(Thomsons)

## AGENDA

- 1. **ELECTION OF CHAIRMAN** – To receive and consider nominations for the office of Chairman.

SB prop

CR

2nd

IH said wud be moving 12-18 mths

No other nominations -

All agreed.

- 2. **DECLARATION OF ACCEPTANCE OF OFFICE OF CHAIRMAN** – To receive the Chairman's Declaration of Acceptance of Office.

- 3. **ELECTION OF VICE CHAIRMAN** - To receive and consider nominations for the office of Vice Chairman. AS happy to carry on as V.C.

CR prop SB

cm 2nd SB

SB prop AS

EH 2nd AS  
2.

5

SB elected as VC

- 4. **APOLOGIES FOR ABSENCE** – To receive apologies for absence and approve reasons for absence.

AS - ill

cm - we look on the website. That was the observation.

MT - who made the comment

JT - Uve a lot to say CR.

IH - we look @ plans supplied. We don't normally look @ sites - H'ways have a problem with the app'n.

cm - what do u want 2 proceed & make ultimate decision

JT - I want the vote.

AM - my obs was the access - don't think its suitable. Or a blind corner to the left.

MT - passed papers round.

JT - what if its denied coz of access

MT - Does that mean we have to stop using it

I'll be used less if theres a shed there. then what is now

SB - U need 2 put this to C. Cnd.

JT - Now has to go to cttee coz PC objected.

cm - many issues do recommend u say they're not redundant.

cl - says so in supporting documents.

IH - very rare they take notice. don't remember the actual document

JT - Not only that - building is a silage pit

cm - when goes to cttee u can explain this.

JT - we were refused when we wanted to build a house 1yr

CR - Thought it was a shed.

JT - surrounded by ag. buildings - doesn't spoil the landscape.

Do u know the proposed area - it is hidden by trees only flat piece on the land.

SB - cttee will come out & look -

CR - others have objected

cm - we take that on board, but its a democratic process if its a good app'n it will be passed.

JT - Uve been unfair

cl - L'scape policy is in our planning policy

JT - there's nowhere else 2 put it.

cm - we can go round in circles.

5. **REQUESTS FOR DISPENSATIONS** - The clerk to report any requests received since the previous meeting for dispensations to speak and/or vote on any matter where a member has a disclosable pecuniary interest.

None received -

6. **DECLARATIONS OF INTEREST** - To receive declarations by elected and co-opted members of interests in respect of items on this agenda.

None declared.

## 7. MINUTES

- 7.1 **MINUTE OF THE MEETING HELD ON 9TH MARCH 2016** - To authorise the Chairman to sign, as a correct record, the minutes of the meeting held on 9th March 2016. (copy circulated by email)

Noted + approved

CR prop

AM 2nd.

All agreed.

8. **ADJOURNMENT OF MEETING (10 minutes)** - The Chairman will adjourn the meeting to allow members of the public an opportunity to ask questions or raise matters of interest.

JT- Cllr Raine has an interest in what I'm going to speak about.

CR- No, don't need to

JT- You all objected to the plans. wanted to ask why.

CR says in supporting document

JT- In my view still useful building.

CR - says in planning app'n.

I'm allowed to look at app'n & speak.

I can object I'm a member of the public.

JT- It is not a redundant building.

CR - You can

JT- We use it.

CM- We don't make a decision the pl. auth do. They must have their issues

cm - Another large shed we commented on  
has been passed.

Am - we make comment - planning look @ it -  
can understand ur frustration,  
many decisie taken here more serious points  
that have been ignored -  
Ur problem is with ci, Cnel.

JBS - Its not as if ur been refused

SI B - New local plan coming out - explained briefly,  
speak to CHRIS Hardman.

JT - feel like ur all been really unfair.

MT - On way out shouted I'll be seeing you Charles.

**9. REPRESENTATIVES' REPORTS - To receive reports by representatives on Outside Bodies.**

CR - Tri - partite meeting

- 1- Now agreed planning charter. 2 b adopted soon.
- 2- Issue raised re PC's contributing @ site meetings been resolved. that PC can spk thro ci cltr.
- 3- Street lighting
- 4- fly tipping
- 5- V. hall grants.

**10. TOWN AND COUNTRY PLANNING - APPLICATIONS - To consider**

**10.1 CAIRN COTTAGE, HIGH FELL, HALLBANKGATE (16/0341) - Proposed rear ground floor (sun lounge) and rear first floor (bedroom and en-suite) extension to rear of existing residential house.**

RH - couple of objections from n' bours. re windows overlooking.

No observations.

10.2. 3 coal fell -  
passed round.

7 - Outside Bodies - CPCA - IH | CR.

B+B - SB

All agreed.

## 11. FINANCIAL MATTERS

### 11.1 Bank Reconciliation to 14.04.16 - Report by Clerk (copy circulated by email)

Noted & approved.

### 11.2 Expenditure to approve -

Am prop.  
cm 2nd  
all agreed.

- £330.52 A. Riddell - net wage to 31.05.16
- £177.00 CALC - annual subscription 2016/17
- £56.78 Carlisle City Council - playground inspection
- £142.16 P Bell Services - grass cutting

### 11.3 Insurance - Invitation to renew from Zurich - (copy to follow)

IH - prop  
CR - 2nd  
all agreed

- 11.3 REVISED FINANCIAL REGULATIONS** – To review and adopt the revised financial regulations. Email from S. Bagshaw. (copy circulated by email)

SB prop  
AM 2nd  
all agreed.

- 11.4 Accounts - Accounts for the year ended 31st March 2016 - Report by Clerk.**  
(copy to be tabled at meeting)

Clerk explained  
CR queried assets

CR prop  
CM 2nd.

All agreed.

- 12. STREETLIGHT AT CROSSGATES** – To receive an update.

co. cncl responsibility.

Clerk to chase

13. RECYCLING BINS - To receive an update.

SB - Don't know much about this  
At the min - not in the way  
wud like it 2 b a nice area rather than  
bins. Made enquiries for alternative sites.

cm - letter wasn't diplomatic

SB - She does her best

IH - Not our prerogative - belong to ci. cnd

Sibo - They will relocate once but not again.

SB - Will have to see how it goes.

Ultimately don't want them there,  
want oldoor seating area.

It would seem no other obvious area in village.

IH - parking / access another issue.

cm - I think pc in p'ship working together is better.

14. FOOTPATHS - To receive an update from Councillor Hinton on the works programme for public footpaths in the parish.

IH - 2-3 months ago were being surveyed.  
contacted Chris Graham - unable to  
complete 11yr. Rolled over to this yr.  
happy 2 provide copy of survey.

" to meet to discuss.

heard that track HBG 2 Tundale - f' path

IH - not a footpath.

SD - Sandy has put signs up - use at own risk.

IH - U can have an official path.  
will check whether NOT registered.

CR - Sostrane said that area was a problem

E

15. **PLAY AREA** – To receive, note and act where applicable on the annual inspection of the play area. (copy to be tabled at meeting)

SD - Why use timber? Low low metal much better.  
lot of kids on the street  
why other area not used

IA - Not permitted.

CR - V. controversial.

\* Spk to AR + Playdale.

SD will sort carcass.

16. **TRANSPARENCY GRANT FUNDING** – To receive an update from Councillor Hinton.

RH - Got £ from them - laptop / printer  
software to sort out

Agreed £ for future hosting.

continuing to see what we can get.

still having trouble with google.

2 ppl "like" FB.

**17. DOG FOULING** – To receive a report from Councillor Hewitt.

AR emailed IH - Crossgates rd - letting dog into play area.

SB - get name + address - dog warden will come out.

AM - Is there a sign up? IH - yes there is.

\* Ian will speak to AR.

**18. CALC** - To receive, note and where applicable respond to the following correspondence, circulated prior to meeting by email:-

**18.1 CALC CIRCULARS** – April and May 2016

**18.3 HEALTHWATCH CUMBRIA SURVEY** – Email from S. Bagshaw.

**18.4 PATIENT ONLINE** – Email from S. Bagshaw.

**18.5 s137 EXPENDITURE LIMIT 2016/17** – Email from S. Bagshaw. 7-42.

Noted

**19. CORRESPONDENCE RECEIVED BY THE CLERK.**

**19.1 PARISH COUNCIL AND VILLAGE HALL CAPITAL GRANT 2016/17 SECOND ROUND** – Email from Zoe Sutton

SB - Don't know if will apply

**20. LITERATURE AVAILABLE FROM CLERK** – To note items of literature received since the last meeting

*None* } **20.1 NOTICE OF EXECUTIVE KEY DECISIONS** – 6 May 2016

**20.2 CLERKS & COUNCILS DIRECT** – May 2016

**21. AGENDA ITEMS FOR NEXT MEETING** - To submit items for the next meeting and note that any further items for consideration should be submitted to the Clerk on or before 6th July 2016.

- wall @ Greenside Estates - Ian Bell - leaseholder
  - recycling bins
- \* email h/ways.*

**22. DATE OF NEXT MEETING** – Wednesday 13th July 2016.

Application for Planning Permission.  
 Town and Country Planning Act 1990

**Publication of applications on planning authority websites.**

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

**1. Applicant Name, Address and Contact Details**

Title:  First name:  Surname:

Company name:

Street address:

Town/City:   
 County:   
 Country:   
 Postcode:

Telephone number:   
 Mobile number:   
 Fax number:

Country Code:   
 National Number:   
 Extension Number:

Email address:

Are you an agent acting on behalf of the applicant?  Yes  No

**2. Agent Name, Address and Contact Details**

Title:  First Name:  Surname:

Company name:

Street address:

Town/City:   
 County:   
 Country:   
 Postcode:

Telephone number:   
 Mobile number:   
 Fax number:

Country Code:   
 National Number:   
 Extension Number:

Email address:

**3. Description of the Proposal**

Please describe the proposed development including any change of use:

Has the building, work or change of use already started?  Yes  No

#### 4. Site Address Details

Full postal address of the site (including full postcode where available)

Description:

House:	<input type="text"/>	Suffix:	<input type="text"/>
House name:	<input type="text"/>		
Street address:	Farlam		
Town/City:	Farlam		
County:	Cumbria		
Postcode:	CA8 1LA		

Description of location or a grid reference (must be completed if postcode is not known):

Easting:	355544
Northing:	558835

#### 5. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?  Yes  No

#### 6. Pedestrian and Vehicle Access, Roads and Rights of Way

- Is a new or altered vehicle access proposed to or from the public highway?  Yes  No
- Is a new or altered pedestrian access proposed to or from the public highway?  Yes  No
- Are there any new public roads to be provided within the site?  Yes  No
- Are there any new public rights of way to be provided within or adjacent to the site?  Yes  No
- Do the proposals require any diversions/extinguishments and/or creation of rights of way?  Yes  No

#### 7. Waste Storage and Collection

- Do the plans incorporate areas to store and aid the collection of waste?  Yes  No
- Have arrangements been made for the separate storage and collection of recyclable waste?  Yes  No

#### 8. Authority Employee/Member

With respect to the Authority, I am:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

Do any of these statements apply to you?  Yes  No

#### 9. Materials

Please state what materials (including type, colour and name) are to be used externally (if applicable):

##### Walls - description:

Description of *existing* materials and finishes:

N/A

Description of *proposed* materials and finishes:

Upper walls - timber cladding  
Lower walls - pre-cast concrete panels

##### Roof - description:

Description of *existing* materials and finishes:

N/A

Description of *proposed* materials and finishes:

Cement fibre sheeting

##### Windows - description:

Description of *existing* materials and finishes:

N/A

Description of *proposed* materials and finishes:

N/A

### 9. (Materials continued)

**Doors - description:**

Description of *existing* materials and finishes:

N/A

Description of *proposed* materials and finishes:

Galvanised steel frame and sheeting

**Boundary treatments - description:**

Description of *existing* materials and finishes:

Mixture of hedgerows and timber post and wire fencing

Description of *proposed* materials and finishes:

N/A

**Vehicle access and hard standing - description:**

Description of *existing* materials and finishes:

N/A

Description of *proposed* materials and finishes:

N/A

**Lighting - add description**

Description of *existing* materials and finishes:

N/A

Description of *proposed* materials and finishes:

N/A

**Others - description:**

Type of other material:

Description of *existing* materials and finishes:

N/A

Description of *proposed* materials and finishes:

N/A

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement?  Yes  No

If Yes, please state references for the plan(s)/drawing(s)/design and access statement:

Location Plan

Proposed Plans and Elevations

### 10. Vehicle Parking

Please provide information on the existing and proposed number of on-site parking spaces:

Type of vehicle	Existing number of spaces	Total proposed (including spaces retained)	Difference in spaces
Cars	0	0	0
Light goods vehicles/public carrier vehicles	0	0	0
Motorcycles	0	0	0
Disability spaces	0	0	0
Cycle spaces	0	0	0
Other (e.g. Bus)	0	0	0
Short description of Other			

### 11. Foul Sewage

Please state how foul sewage is to be disposed of:

Mains sewer

Package treatment plant

Unknown

Septic tank

Cess pit

Other

N/A

Are you proposing to connect to the existing drainage system?

Yes

No

Unknown

## 12. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Environment Agency's Flood Map showing flood zones 2 and 3 and consult Environment Agency standing advice and your local planning authority requirements for information as necessary.)

Yes  No

If Yes, you will need to submit an appropriate flood risk assessment to consider the risk to the proposed site.

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)?

Yes  No

Will the proposal increase the flood risk elsewhere?

Yes  No

How will surface water be disposed of?

Sustainable drainage system

Main sewer

Pond/lake

Soakaway

Existing watercourse

## 13. Biodiversity and Geological Conservation

To assist in answering the following questions refer to the guidance notes for further information on when there is a reasonable likelihood that any important biodiversity or geological conservation features may be present or nearby and whether they are likely to be affected by your proposals.

Having referred to the guidance notes, is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, OR on land adjacent to or near the application site:

a) Protected and priority species

Yes, on the development site

Yes, on land adjacent to or near the proposed development

No

b) Designated sites, important habitats or other biodiversity features

Yes, on the development site

Yes, on land adjacent to or near the proposed development

No

c) Features of geological conservation importance

Yes, on the development site

Yes, on land adjacent to or near the proposed development

No

## 14. Existing Use

Please describe the current use of the site:

Agricultural grazing

Is the site currently vacant?

Yes  No

Does the proposal involve any of the following?

If yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated?

Yes  No

Land where contamination is suspected for all or part of the site?

Yes  No

A proposed use that would be particularly vulnerable to the presence of contamination?

Yes  No

## 15. Trees and Hedges

Are there trees or hedges on the proposed development site?

Yes  No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?

Yes  No

If Yes to either or both of the above, you may need to provide a full Tree Survey, at the discretion of your local planning authority. If a Tree Survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'B55837: Trees in relation to design, demolition and construction - Recommendations'.

## 16. Trade Effluent

Does the proposal involve the need to dispose of trade effluents or waste?

Yes  No

## 17. Residential Units

Does your proposal include the gain or loss of residential units?

Yes  No

## 18. All Types of Development: Non-residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?

Yes  No

Use class/type of use	Existing gross internal floorspace (square metres)	Gross internal floorspace to be lost by change of use or demolition (square metres)	Total gross new internal floorspace proposed (including changes of use) (square metres)	Net additional gross internal floorspace following development (square metres)

### 18. All Types of Development: Non-residential Floorspace (continued)

A1	Shops Net Tradable Area	0.0	0.0	0.0	0.0
A2	Financial and professional services	0.0	0.0	0.0	0.0
A3	Restaurants and cafes	0.0	0.0	0.0	0.0
A4	Drinking establishments	0.0	0.0	0.0	0.0
A5	Hot food takeaways	0.0	0.0	0.0	0.0
B1 (a)	Office (other than A2)	0.0	0.0	0.0	0.0
B1 (b)	Research and development	0.0	0.0	0.0	0.0
B1 (c)	Light industrial	170.0	0.0	0.0	0.0
B2	General industrial	0.0	0.0	0.0	0.0
B8	Storage or distribution	0.0	0.0	0.0	0.0
C1	Hotels and halls of residence	0.0	0.0	0.0	0.0
C2	Residential institutions	0.0	0.0	0.0	0.0
D1	Non-residential institutions	0.0	0.0	0.0	0.0
D2	Assembly and leisure	0.0	0.0	0.0	0.0
Other	Please Specify	0.0	0.0	0.0	0.0
	Total	170.0	0.0	0.0	0.0

For hotels, residential institutions and hostels, please additionally indicate the loss or gain of rooms:

Use Class	Types of use	Existing rooms to be lost by change of use or demolition	Total rooms proposed (including changes of use)	Net additional rooms

### 19. Employment

If known, please complete the following information regarding employees:

	Full-time	Part-time	Equivalent number of full-time
Existing employees	0	0	0
Proposed employees	0	0	0

### 20. Hours of Opening

If known, please state the hours of opening (e.g. 15:30) for each non-residential use proposed:

Use	Monday to Friday		Saturday		Sunday and Bank Holidays		Not Known
	Start Time	End Time	Start Time	End Time	Start Time	End Time	

### 21. Site Area

What is the site area?

06.00 hectares

### 22. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

General Agricultural activities

Is the proposal for a waste management development?

Yes  No

### 23. Hazardous Substances

Is any hazardous waste involved in the proposal?

Yes  No

### 24. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

Yes  No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

The agent  The applicant  Other person

## 25. Certificates (Certificate A)

### Certificate of Ownership - Certificate A

#### Town and Country Planning (Development Management Procedure) (England) Order 2015 Certificate under Article 14

I certify/The applicant certifies that on the day 21 days before the date of this application nobody except myself/the applicant was the owner (*owner is a person with a freehold interest or leasehold interest with at least 7 years left to run*) of any part of the land to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding (*"agricultural holding" has the meaning given by reference to the definition of "agricultural tenant" in section 65(8) of the Act*).

Title:  First name:  Surname:

Person role:  Declaration date:   Declaration made

## 26. Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

Date

# Consultee Comments for application 16/0151

## Application Summary

Application Number: 16/0151

Address: Field opposite Inisfree, Farlam, Brampton, CA8 1LA

Proposal: Proposed Agricultural Building For Housing And Feeding Livestock

Case Officer: Christopher Hardman

## Consultee Details

Name: Mrs Allison Riddell

Address: Unit 2 Old Brewery Yard Craw Hall, Brampton CA8 1TR

Email: farlampc@hotmail.co.uk

On Behalf Of: Farlam Parish Council

## Comments

### OBJECT -

- The proposed access to the site is unsuitable.
- The proposed building could be sited on the current footprint of redundant buildings already in the field.
- The building would have a detrimental impact on the distinctive landscape in the area which is contrary to Policy DP10 of the Carlisle District Local Plan 2001-2016.

**MINUTE** of the Meeting of **FARLAM PARISH COUNCIL** held in **HALLBANKGATE VILLAGE HALL, HALLBANKGATE** on **WEDNESDAY, 13th JULY, 2016** at 7.30 p.m.

**PRESENT**

Councillor I. Howatt (Chairman) (in the Chair)  
Councillor S. Bowles  
Councillor C. Marsh  
Councillor R. Hinton

Councillor A. Shaw  
Councillor C. Raine  
Councillor Mrs. A. Radcliffe  
Councillor S. Dalton

**IN ATTENDANCE** – Clerk

**ALSO ATTENDING** – Councillor S. Bowman, Carlisle City Council

**24/16 APOLOGIES FOR ABSENCE**

**RESOLVED** to note the following apologies for absence:-

Councillor Murray (ill)  
Councillor Graham, Cumbria County Council (attending other meeting)

**25/16 REQUESTS FOR DISPENSATION**

**RESOLVED** to note that no requests for dispensation were received.

**26/16 DECLARATIONS OF INTEREST**

**RESOLVED** to note the following declarations of interest were made:-

Councillor Raine declared a non-prejudicial interest in item 30/16.

**27/16 MINUTES**

**27/16.1** Minute of the Meeting held on 11th May 2016 was submitted.

**RESOLVED** to authorise the Chairman to sign the minutes of the meeting held on 11th May 2016, confirmed as a true and accurate record.

**28/16 PUBLIC PARTICIPATION**

**RESOLVED** to note that there were no members of the public present.

**29/16 REPRESENTATIVES' REPORTS**

**RESOLVED** to note there were no representatives' reports.

**30/16 TOWN AND COUNTRY PLANNING APPLICATIONS**

Applications for planning consent were considered.

**RESOLVED** to advise the appropriate Planning Authority of the Council's comments as follows:-

**30/16.1 LAND ADJ. THE BAILEY, FARLAM HOUSE BARNES, FARLAM (16/0432)** – Erection of 1 dwelling

**OBSERVATION** – members are concerned about the access to the site.

**31/16 FINANCIAL MATTERS**

**31/16.1 BANK RECONCILIATION to 14.06.16**

There was submitted a report by the Clerk on the reconciliation of the Council's financial records with its bank account statements.

**RESOLVED** to receive and note the bank reconciliation and balance of the HSBC Account to 14<sup>th</sup> June 2016 of £5,827.06.

## **31/16.2 EXPENDITURE TO APPROVE**

**RESOLVED** to authorise the following expenditure for payment:-

- £330.32 A. Riddell – net wage to 31.07.16
- £82.40 HMR&C – PAYE
- £26.00 A. Shaw – plants/compost
- £141.43 P. Bell – grass cutting

## **32/16 OFFICIAL COMPLAINT**

Councillor Howatt reported on the meeting held prior to the full council meeting which heard the official complaint made by Mrs Thomson.

Councillor Howatt recommended not to uphold the complaint as members had acted on information provided by the City Council and that the complainant had not attended the meeting when the relevant planning application had been discussed. It was felt that the complaint made about the Parish Council costing the Thomson's money because the planning application had to go to committee was irrelevant.

Councillor Shaw proposed that the complaint should not be upheld, seconded by Councillor Marsh.

**RESOLVED** after a vote of 7 for and 1 abstention that the complaint made by Mrs. Thomson would not be upheld. The Clerk would inform Mrs. Thomson.

## **33/16 RECYCLING BINS**

An email was submitted from S. Consterdine asking for retraction from the Parish Council regarding the recycling bins article in the Village News.

Members discussed the matter but S. Consterdine had signed and submitted the letter requesting removal of the bins and the matter had to go on the agenda to be discussed whether someone from the Hub attended the meeting or not.

Councillor Bowles gave an update on the recycling bins which have been removed from the area near Hallbankgate Hub. It was hoped that the group would come to some arrangement when the bins are returned with perhaps a containment wall being erected. It was a concern to the group that the bins were in such close proximity to the building where food was being prepared and that it may be a concern.

Members were not happy that the bins had been removed and felt that it was an important facility for the parish.

**RESOLVED** to note the update from Councillor Bowles and that no retraction would be made regarding the article in the Village News.

## **34/16 WALL AT GREENSIDE ESTATES**

Councillor Howatt reported that the wall just past Hallbankgate School had been hit by a vehicle and needed repaired.

**RESOLVED** to note the report and that the Clerk would contact the highways department.

## **35/16 CALC**

The following correspondence from CALC was received and noted:-

**35/16.1 CALC CIRCULAR** – June and July/August 2016

**35/16.2 CUMBRIA FLOOD RECOVERY FUND** - Email from S. Bagshaw.

**35/16.3 LIVING MEMORY PROJECT** – Email from S. Bagshaw.

**35/16.4 CHANGES TO LAW RE BANKRUPTCY** – Email from S. Bagshaw.

**35/16.5 REVISED LEGAL TOPIC NOTES** – Email from S. Bagshaw.

**36/16 CORRESPONDENCE RECEIVED BY THE CLERK**

**NOTED** that the following correspondence had been received:-

**36/16.1 CARLISLE EDUCATION CHARITY** – Email from Rachel Rooney.

**37/16 LITERATURE AVAILABLE IN OFFICE**

**NOTED** that the following literature is available from the office for any interested Councillors:-

**37/16.1 NOTICE OF EXECUTIVE KEY DECISIONS** – 1st July 2016

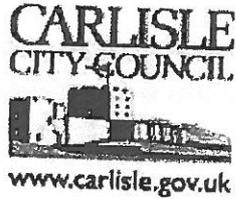
**37/16.2 CLERKS AND COUNCILS DIRECT** – July 2016

**38/16 AGENDA ITEMS FOR NEXT MEETING**

- Village News –report from Councillor Howatt.

**39/16 DATE OF NEXT MEETING** – Wednesday 14th September 2016, 7.30pm, Hallbankgate Village Hall.

**DRAFT**



**NOTIFICATION BY MEMBER OF THE COUNCIL OF THE CITY OF CARLISLE OF PECUNIARY AND OTHER REGISTERABLE INTERESTS**

Localism Act 2011, Sections 28 & 29

**The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012**

In order to comply with The Council of the City of Carlisle's Code of Conduct, a Member or Co-opted Member ("M") must register their pecuniary and interests other than pecuniary interests with the Council's Monitoring Officer within 28 days of the date of their election or co-option. *(failure to declare a disclosable pecuniary interest is a criminal offence).*

*Important Notes –*

*You may complete this form electronically but you must personally sign the completed form.*

*If in doubt about whether or not something should be declared, you are urged to err on the side of openness and avoid the risk of not registering something in error.*

*If you have any difficulty completing any part of this form please contact the Council's Monitoring Officer for advice.*

**NAME OF MEMBER:**

(please print) CHARLES ROBERT RAINE

**GIVE NOTICE that I have the following pecuniary and other interests as are required to be registered by the Code and relevant Regulations**

*(Please state NONE where appropriate) -*

DISCLOSABLE PECUNIARY INTERESTS

These are interests if it is of a description specified in regulations made by the Secretary of State and either it is your interest or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions.

1. Details of any employment, office, trade, profession or vocation carried on for profit or gain.

YOUNGERS, PEDESTROPPLE  
HAKIM NEYBIPS

2. Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.)

NONE

3. Details of 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.

NONE

4. Details of any beneficial interest in land which is within the area of the relevant authority.

TAEUM FARM, TAEUM  
BRAMPTON CABLA

5. Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

None

6. Details of any tenancy where (to M's knowledge) –
- (a) The landlord is the relevant authority; and
  - (b) The tenant is a body in which the relevant person has a beneficial interest.

None

7. Details of any beneficial interest of M's in securities of a body where
- (a) That body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
  - (b) Either –
    - (i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (ii) If that 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.

None

**OTHER REGISTRABLE INTERESTS**

*These interests are what the Council has determined should be entered into the authority's register of interests*

8. Details of any body of which you are a member, or in a position of general control or management, and to which you are appointed or nominated to by the City Council.

NONE

- 9 Details of any bodies of which you are a member, or in a position of general control or management, and which\_
- (a) Exercises function of a public nature;
  - (b) Is directed towards charitable purposes; or
  - (c) Is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade unions).

NONE

10. Details of any persons from whom you have received a gift or hospitality with an estimated value of at least £25. (You must register any gifts or hospitality worth £25 or over that you receive personally in connection with your official duties).

NONE

Signed: .

Signature has been redacted

Dated: .....

13 May 2015.

**Note – A Member must, within 28 days of becoming aware of any new personal interest or change to any personal interest specified above, register details of that new personal interest or change by providing written notification to the Council's Monitoring Officer.**



NOTIFICATION BY MEMBER OF THE COUNCIL OF THE CITY OF CARLISLE OF PECUNIARY AND OTHER REGISTERABLE INTERESTS

Localism Act 2011, Sections 28 & 29

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

In order to comply with The Council of the City of Carlisle's Code of Conduct, a Member or Co-opted Member ("M") must register their pecuniary and interests other than pecuniary interests with the Council's Monitoring Officer within 28 days of the date of their election or co-option. *(failure to declare a disclosable pecuniary interest is a criminal offence).*

*Important Notes –*

*You may complete this form electronically but you must personally sign the completed form.*

*If in doubt about whether or not something should be declared, you are urged to err on the side of openness and avoid the risk of not registering something in error.*

*If you have any difficulty completing any part of this form please contact the Council's Monitoring Officer for advice.*

**NAME OF MEMBER:**

(please print) CHARLES ROBERT RAINE

**GIVE NOTICE that I have the following pecuniary and other interests as are required to be registered by the Code and relevant Regulations**

*(Please state NONE where appropriate) -*

DISCLOSABLE PECUNIARY INTERESTS

These are interests if it is of a description specified in regulations made by the Secretary of State and either it is your interest or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions.

1. Details of any employment, office, trade, profession or vocation carried on for profit or gain.

YOUNGERS, PRIESTROPPE  
HAKHAM NEYBIPS

2. Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

None

3. Details of 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.

None

4. Details of any beneficial interest in land which is within the area of the relevant authority.

TAEHAM FARM, FAEHAM  
BRAMPTON CABLA

5. Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

NONE

6. Details of any tenancy where (to M's knowledge) –
- (a) The landlord is the relevant authority; and
  - (b) The tenant is a body in which the relevant person has a beneficial interest.

NONE

7. Details of any beneficial interest of M's in securities of a body where
- (a) That body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
  - (b) Either –
    - (i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (ii) If that 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.

NONE

OTHER REGISTRABLE INTERESTS

*These interests are what the Council has determined should be entered into the authority's register of interests*

8. Details of any body of which you are a member, or in a position of general control or management, and to which you are appointed or nominated to by the City Council.

NONE

- 9 Details of any bodies of which you are a member, or in a position of general control or management, and which\_

- (a) Exercises function of a public nature;
- (b) Is directed towards charitable purposes; or
- (c) Is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade unions).

NONE

10. Details of any persons from whom you have received a gift or hospitality with an estimated value of at least £25. (You must register any gifts or hospitality worth £25 or over that you receive personally in connection with your official duties).

NONE

Signed: .

Signature has been redacted

Dated: 13 May 2015.

**Note – A Member must, within 28 days of becoming aware of any new personal interest or change to any personal interest specified above, register details of that new personal interest or change by providing written notification to the Council's Monitoring Officer.**

2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

# The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

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<i>Made</i>	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i>	<i>1st July 2012</i>

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

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## Extent

Preamble: England

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Law In Force

### 1.— Citation, commencement and interpretation

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

(2) In these regulations—

“the Act” means the Localism Act 2011;

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

“director” includes a member of the committee of management of [a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union]<sup>1</sup>;

“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;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;  
“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;  
“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;  
“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

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**Notes**

- <sup>1</sup> Words substituted by Co-operative and Community Benefit Societies and Credit Unions Act 2010 (Consequential Amendments) Regulations 2014/1815 Sch.1 para.30 (August 1, 2014 immediately after 2014 c.14)

**Commencement**

reg. 1(1)-(2) definition of "securities": July 1, 2012

**Extent**

reg. 1(1)-(2) definition of "securities": England

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Law In Force

**2. Specified pecuniary interests**

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

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**Commencement**

reg. 2: July 1, 2012

**Extent**

reg. 2: England

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Law In Force

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

*Grant Shapps*  
Minister of State  
Department for Communities and Local Government

6th June 2012

## SCHEDULE

## Regulation 2

Law In Force

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
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	<u>Any beneficial interest in land which is within the area of the relevant authority.</u>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)—  (a) the landlord is the relevant authority; and  (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where—  (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and  (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**Commencement**

Sch. 1 para. 1: July 1, 2012

**Extent**

Sch. 1 para. 1: England

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## EXPLANATORY NOTE

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

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

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

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# The Council of the City of Carlisle

## 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 has been made.

### 2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority's website and on request from Reception at the Council Offices, Civic Centre, Carlisle.

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 or email to –

Director of Governance (Monitoring Officer)  
Carlisle City Council,  
Civic Centre,  
Carlisle,  
Cumbria, CA3 8QG

Or –

[MarkL@carlisle.gov.uk](mailto:MarkL@carlisle.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from Reception at the main council Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person and Chair of the Council's Standards Committee, take a decision as to whether it merits formal investigation. This decision will normally be taken within 10 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

In certain cases the Monitoring Officer may refer particular complaints to the Standards Committee where he/she feels that it would be inappropriate for him/her to take a decision on it, for example where he/she has previously advised the member on the matter or the complaint is particularly sensitive.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Clerk 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 other regulatory agencies.

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

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

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an

officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint, so that you can explain your understanding of events, 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 disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

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 (following consultation with the Independent Person and Chair of the Standards Committee), if he is satisfied that it 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/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. The matter will be reported to the Standards Committee. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she 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.

**7.1 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.

### **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.

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.

## **8 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 –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Send a formal letter to the Member;
- 8.3 Report its findings to Council or to the Parish Council for information;

- 8.4 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;
- 8.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
- 8.7 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.8 Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
- 8.9 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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

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

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.

## **10 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 three members of the Council, appointed on a political balance basis.

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

## **11 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 –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.2 Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority’s area, or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
  - 11.3.1 Spouse or civil partner;
  - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 11.3.3 Grandparent of the other person;
  - 11.3.4 A lineal descendent of a grandparent of the other person;
  - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 11.3.7 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.

## **12 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.

## **13 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.

- Appendix One      The authority’s Code of Conduct
- Appendix Two      Procedure for Investigations
- Appendix Three    Procedure for Hearings

Appendix 1

The Authority's Code of Conduct (please see appendix 3 of the main report).

## APPENDIX 2

### CARLISLE CITY COUNCIL

## Procedure for Local Investigation of Referred Complaints

\*\*\*\*\*

### **Introduction and Summary**

This note sets out the procedure which will be followed in the local investigation of allegations of misconduct by Councillors or Co-opted Members (for ease of reference, hereinafter jointly referred to as "Councillors"). No departure will be made from this procedure unless and until the Monitoring Officer has first notified the Councillor against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.

This procedure applies to breaches of the authority's Code of Conduct for Members.

When the Monitoring Officer receives an allegation of a failure by a Councillor to comply with the Code of Conduct, and, following consultation with the Independent Person and Chair of the Standards Committee, he is of the opinion that the allegation merits investigation, he shall arrange for an Investigating Officer to investigate the allegation and to report to the Monitoring Officer.

Where the Investigating Officer has found, after investigation, that the Councillor has not acted in breach of the authority's Code of Conduct for Members or a local protocol, the Monitoring Officer will review the Investigating Officer's report and, following consultation with the Independent Person and the Chair of the Standards Committee, if he/she is of the view that the report is sufficient he/she will write to you, enclosing a copy of the report and advise you that no further action will be taken.

Where the Investigating Officer has found that there has been a failure to comply with the Code of Conduct for Members or a local protocol and a Local Resolution has not been possible then the Monitoring Officer, following consultation with the Independent Person and the Chair of the Standards Committee, may decide to hold a full hearing to determine whether a breach of the authority's Code of Conduct has occurred and whether any action should be taken in consequence.

In this process, the function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Monitoring Officer, to enable him/her, in consultation with the Chair of the Standards Committee, to make an informed decision as to whether the Councillor has failed to comply with the authority's Code of Conduct for Members, and upon any consequential action. At any Hearing, the Standards Committee acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision. In the event of the Investigating Officer requiring information from, or the attendance of, any Officer or elected Member in connection with the conduct of an investigation, such Officer or

Member will be expected to co-operate fully with the Investigating Officer in accordance with their responsibilities under their contracts of employment and Code of Conduct respectively.

## **1. Interpretation**

'Councillor' means the member or co-opted member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Councillor's representative.

'Investigating Officer' means the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer and/or his or her representative).

'The Matter' is the subject matter of the Investigating Officer's report.

'The Standards Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing, unless the context indicates that it refers only to the Standards Committee itself.

## **2. Notification of Reference of Allegation to the Monitoring Officer**

### **(a) Appointment of Investigating Officer**

If it is determined that an investigation is appropriate, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him/her to conduct an investigation of the allegation and to report thereon to the Monitoring Officer. The Investigating Officer may be an officer of the authority, an officer of another local authority, or an external Investigating Officer.

The Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

### **(b) Notification to the Councillor**

The Monitoring Officer will then notify in writing the Councillor against whom the allegation is made:

- (i) that the allegation has been referred to him for local investigation and determination;
- (ii) the identity of the person making the allegation (unless identification of the complainant might prejudice the investigation or put the complainant at risk);
- (iii) of the conduct which is the subject of the allegation;
- (iv) of the section(s) of the Code of Conduct or local protocol which appear to him to be relevant to the allegation;
- (v) of the procedure which will be followed in respect of the allegation, and
- (vi) of the identity of the Investigating Officer.

(c) *Notification to the Parish or Town Council Clerk*

*Where the allegation relates to the conduct of a member of a Parish or Town Council in his/her capacity as such, at the same time as notifying the Councillor, the Monitoring Officer will notify the Clerk of the Parish or Town Council concerned in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.*

(d) Notification to the Person who made the Allegation

At the same time as notifying the Councillor, the Monitoring Officer will notify the person who made the allegation in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.

(e) Initial response of the Councillor

In notifying the Councillor of receipt of the allegation, the Monitoring Officer shall request the Councillor to respond to the Investigating Officer in writing within 14 days of notification as follows:

- (i) advising the Investigating Officer whether the Councillor admits or denies the breach of the Code of Conduct or local protocol which is the subject of the allegation;
- (ii) listing any documents which the Councillor would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (iii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Councillor would wish the Investigating Officer to interview in the course of any investigation of the allegation (providing that, in the reasonable opinion of the Investigating Officer, the number of such is not excessive or disproportionate), and
- (iv) providing the Investigating Officer with any information which the Councillor would wish the Investigating Officer to seek from any person or organisation.

(f) Supporting information from the person who made the allegation

In notifying the person who made the allegation as above, the Monitoring Officer will request the person to respond to the Investigating Officer within 14 days

- (i) listing any documents which the person would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (ii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the person would wish the Investigating Officer to interview in the course of any investigation of the allegation, and
- (iii) providing the Investigating Officer with any information which the person would wish the Investigating Officer to seek from any person or

organisation.

### 3. Conduct of Investigation

(a) Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Monitoring Officer a report which, if subsequently referred to the Standards Committee, would provide it with sufficient information to determine whether the Councillor has acted in breach of the Code of Conduct or local protocol and, where there has been a breach of the Code of Conduct or local protocol, whether any action should be taken in respect of the Councillor or in consequence of the breach, and what any such action should be.

(b) Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Standards Committee and to enable the Standards Committee to come to a considered decision on the allegation.

(c) Additional Matters

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code of Conduct or local protocol by the Councillor other than the breach which he/she is currently investigating, the Investigating Officer shall either:

(i) *(where the additional matter relates to an apparent breach of the authority's Code of Conduct by a member of the principal authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 2(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct;

(ii) *(where the additional matter constitutes an apparent breach of the authority's local protocols but not a breach of the Code of Conduct by a member of the principal authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 2(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the authority's code of conduct. The Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, will then take a decision whether to refer the matter to an Investigating Officer for local investigation and/or report to the Standards Committee as appropriate.;

(iii) *(Where the additional matter relates to an apparent breach of the Code of Conduct by a Parish or Town Councillor)* notify the Clerk to the Town or Parish Council of the additional matter, and take no further action in respect thereof.

(d) Following notification to the Councillor, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. Where the Councillor has provided the Investigating Officer with the information requested in

accordance with Paragraphs 2(f)(ii) and (iii) above, the Investigating Officer shall include in this list each document, person and organisation referred to in that response, unless he/she is of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the investigation rather than contribute to the accuracy of the Investigating Officer's final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.

(e) Production of documents, information and explanations

(i) In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/its possession or control, or provide any explanation, as he/she thinks necessary for the purposes of carrying out the investigation.

(ii) In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may require any authority of which the Councillor is a member to provide any document which is in his/its possession or control which he/she thinks necessary for the purposes of carrying out the investigation.

(iii) Any decision about whether any particular document is sensitive or commercially sensitive and thus not suitable for publication shall rest with the Monitoring Officer in consultation with the Independent Person and Chair of the Standards Committee.

(f) Interviews

(i) Requesting attendance

In the course of the investigation the Investigating Officer may request any person to attend and appear before him or otherwise provide any information, document or explanation for the purpose of Paragraph 3(e), as he/she thinks necessary for the purposes of carrying out the investigation.

(ii) Representation

Any person who appears before the Investigating Officer may arrange to be accompanied at their own expense by a solicitor or friend.

(iii) Notes of interviews

Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.

(g) Costs

The Investigating Officer may, where he/she considers that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to his/her request,

such fees or allowances as he/she considers to be appropriate subject to any maxima set by the authority.

#### 4. The Draft Report

- (a) When the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in Paragraph 3(a), or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft report with a "confidential" and "draft" marking setting out:
- (i) the details of the allegation;
  - (ii) the relevant provisions of statute, of the Code of Conduct and any relevant local Protocols
  - (iii) the Councillor's initial response to notification of the allegation (if any);
  - (iv) the relevant information, evidence, advice and explanations which he/she has obtained in the course of the investigation;
  - (v) a list of any documents relevant to the matter;
  - (vi) a list of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;
  - (vii) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
  - (viii) a statement of his/her draft findings of fact;
  - (ix) his/her conclusion (with reasons) as to whether the Councillor has or has not failed to comply with the Code of Conduct for Members of any authority or a local protocol, and
  - (x) any recommendations which the Investigating Officer is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority's decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach. *Where the allegation relates to a Parish or Town Councillor, such recommendations would be recommendations which the Investigating Officer would recommend that the Standards Committee make to the Parish or Town Council.*
- (b) The draft report should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the investigating Officer will present a final report to the Monitoring Officer once he/she has considered any comments received on the draft report.
- (c) The Investigating Officer shall then send a copy of his/her draft report in confidence to the Councillor and the person making the allegation, and request that they send any comments thereon to him/her within 14 days.
- (d) The Investigating Officer may send a copy of, or relevant extracts from his/her

draft report in confidence to any person on whose evidence he/she has relied in compiling the draft report, and request that they send any comments thereon to him/her within 14 days.

## **5. The Final Report**

- (a) After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer his final report. The final report should be marked "final" and state that the report represents the Investigating Officer's final findings and may, if necessary, be presented to the Standards Committee, and should, subject to 3(e)(iii), have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters, notes of interviews with witnesses and a chronology of events;
- (b) The Monitoring Officer shall then send a copy of the final report to the Councillor, advising that:
  - (i) where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local protocol, (if the Monitoring Officer, in consultation with the Independent Person and Chair of the Standards Committee are satisfied) that no further action is required, and
  - (ii) where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct for Members or with a local protocol, he/she will consider, in consultation with the Independent Person and Chair of the Standards Committee, whether the matter be further dealt with by Local Resolution or a Local Hearing.
- (c) If the complaint is dealt with by Local Resolution then that is the end of the matter.
- (d) If it is determined that there should be a Local Hearing then the Procedure for Determination of Allegations about the Personal Conduct of Members will apply.

**CARLISLE CITY COUNCIL****PROCEDURE FOR DETERMINATION OF ALLEGATIONS ABOUT THE  
PERSONAL CONDUCT OF COUNCIL MEMBERS****INTRODUCTION**

1. The local determination of complaints by the Standards Committee (or sub-committee thereof) following a local investigation and referral by the Monitoring Officer, will be governed by this procedure.
2. The person[s] making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The allegation will be heard by the Standards Committee or a Sub-Committee of the Standards Committee.

**PRE-HEARING PROCESS [LOCAL INVESTIGATIONS]**

3. Upon receipt of the final report of the Investigating Officer including a finding that the Member failed to comply with the Code of Conduct for Members and where it has not been possible to reach a local resolution or the Monitoring Officer, in consultation with the Independent Person and the Chair of the Standards Committee, finds that the matter should be considered at a formal hearing the Monitoring Officer shall arrange for the Standards Committee to consider the matter.
4. Where the Monitoring Officer is the Investigating Officer he/she must arrange for a separate legal advisor to the Committee to be appointed in respect of the allegation.

**NOTIFYING THE MEMBER AND COMPLAINANT**

5. Within five working days of the receipt of the Investigating Officer's report the Monitoring Officer shall send a copy of the report to the Member and, where possible, the Complainant, making the provision of the report conditional upon any appropriate undertaking of confidentiality. The Chairman and Members of the Committee shall be informed of the allegation by the Monitoring Officer, as well as any Parish or Town Council Clerk where the allegation relates to conduct of a Member in his/her capacity as a member of a Parish or Town Council.

6. The Member shall be asked for a written response, within fifteen working days of the receipt of the report, which response shall set out the reply to the Investigating Officer's report and state whether or not he/she:
  - i. disagrees with any of the findings of fact in the Investigating Officer's report, including the reasons for any disagreement;
  - ii. wants to be represented, at his/her own expense, at the hearing by any other person;
  - iii. wants to give evidence to the Committee, either verbally or in writing;
  - iv. wants to call relevant witnesses to give evidence to the Committee;
  - v. wants any part of the hearing to be held in private;
  - vi. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
7. The Member shall be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the Monitoring Officer of the intention to do so the Committee may either [a] adjourn the meeting to enable the Investigating Officer to provide a response, or [b] refuse to allow the disputed matter to be raised.
8. Upon receipt, the Monitoring Officer shall invite the relevant Investigating Officer to comment, within ten working days, on the Member's response, and to say whether or not he/she:
  - i. wants to be represented or be present at the hearing;
  - ii. wants to call relevant witnesses to give evidence or submit written or other evidence to the Committee;
  - iii. wants any part of the hearing to be held in private;
  - iv. wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
9. Upon receipt of the Investigating Officer's response, the Monitoring Officer will consider the responses of the Member and the Investigating Officer and request the Monitoring Officer to set a date for the hearing in consultation with the Chairman.
10. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the Hearing may

limit the number of witnesses to be called, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Committee to reach its decision.

11. Nothing in this procedure shall limit the Chairman of the Hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.
12. The Monitoring Officer, in consultation with the Chairman, will:
  - i. confirm a date, time and place for the Hearing, which must be within three months from the date that the Investigating Officer's report was received;
  - ii. confirm the main facts of the case that are agreed;
  - iii. confirm the main facts that are not agreed;
  - iv. provide copies of any written evidence to the relevant parties;
  - v. confirm which witnesses will be called by the parties;
  - vi. provide the parties with a copy of the proposed procedure for the Hearing, specifying which parts of the matter, if any, may be considered in private; and
  - vii. ensure the appropriate information, with the agenda, is provided to everyone involved in the Hearing at least two weeks before the proposed date of the Hearing.

## **THE HEARING**

13. The Committee shall decide, on a balance of probabilities, whether the complaint[s] is or are upheld upon the evidence presented to it.
14. Each Committee Member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chairman will have second or casting vote.
15. The meeting of the Committee will be open to the public and press unless confidential information or exempt information is likely to be disclosed.

## **PROCEDURE AT THE HEARING**

16. The initial order of business at the meeting shall be as follows:-

- i. Establishing whether the Committee is quorate;
  - ii. Declarations of interest;
  - iii. Introductions
  - iv. Consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
  - v. Consideration of any procedural issues and, in particular, any representation from the Investigating Officer and/or the Member as to reasons why the Committee should exclude the press and public and determination as to whether to exclude the press and public.
17. The purpose of the Hearing is to determine the facts at issue and what action, if any, should be taken. An inquisitorial approach will be adopted by the Committee members in seeking information and clarifying facts and issues. The Chairman will control the procedure and evidence presented at the Hearing, including the questioning of witnesses.
18. The Committee members may at any time seek legal advice from their advisor. [Such advice will be notified to the public in the presence of the Investigation Officer and the Member.]
19. The procedure will be as follows, subject to the Chairman being able to make changes as he or she thinks fit in order to ensure a fair and efficient hearing.

## **PROCEEDING IN THE ABSENCE OF THE MEMBER**

20. If the Member is not present at the start of the Hearing:
- i. The Chairman will ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the Hearing;
  - ii. The Standards Committee shall then consider any reasons which the Member has provided for not attending the Hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
  - iii. If the Standards Committee is satisfied with such reasons, it shall adjourn the Hearing to another date;
  - iv. If the Standards Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the member or to adjourn the Hearing to another date.

## 21. **Presentation by the Investigating Officer**

21.1 The Investigating Officer will present the evidence which is relevant to the matter. The Investigating Officer may introduce any witness required to substantiate any matter contained in the report which has been disputed and present any other relevant evidence.

21.2 The Member or his/her representative may ask questions of the Investigating Officer or any witness.

21.3 The Committee members may ask questions of the Investigating Officer or any witness.

## 22. **Presentation by the Member**

22.1 The Member or his/her representative will present the evidence which is relevant to the matter. The Member or his/her representative may introduce witnesses or present any other relevant evidence.

22.2 The Investigating Officer may ask questions of the Member, or any witness.

22.3 The Committee members may ask questions of the Member or any witness.

## 23 **Summing Up**

23.1 The Investigating Officer and then the Member or his/her representative will be given the opportunity to sum up.

## 24 **Power to Adjourn**

24.1 If the Committee at any time prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter the Committee may (on not more than one occasion) adjourn the hearing and make a request to the Monitoring Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee.

## 24. **Decision by the Committee**

24.1 The Committee will consider in private all the evidence which it has heard in order to establish its findings of fact.

24.2 At any stage in the consideration of the matter the Committee may return to ask further questions of the Investigating Officer or the Member or seek further

information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

- 24.3 The Committee may seek legal advice at any time. Such advice may be given in the presence of the Investigating Officer and the Member if appropriate.
- 24.4 At the conclusion of their deliberations, the Chairman will advise the Member and the Investigating Officer of their findings and whether the Code of Conduct has been breached.
- 24.5 If the Committee concludes that the Member has acted in breach of the Code representations will be invited from the Investigating Officer and the Member as to what action, if any, it should take. The Committee may ask questions of the Member and the Investigating Officer.

### **Determining the Matter**

25. The Committee, having heard any representations, will consider what actions, if any, to take.

The findings that the Committee may make are:

- a) That there has been no breach of the Code;
- b) That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- c) That the Member has failed to comply with the Code of Conduct and the sanction(s) should be that the Standards Committee:
- ❖ Publish its findings in respect of the Member's conduct;
  - ❖ Send a formal letter to the Member
  - ❖ Report its findings to the Council or Parish Council for information;
  - ❖ Recommend to the member's Group Leader (or in the case of an un-grouped member(s), recommend to Council or Committees) that he/she be removed from any or all committees or sub-committees of the Council;
  - ❖ Recommend to the Leader of the Council that the member be removed from the Executive or removed from particular Portfolio responsibilities;
  - ❖ Instruct the Monitoring Officer or recommend that the Parish Council arrange training for the member;
  - ❖ Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Council or the Parish Council;
  - ❖ Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
  - ❖ Exclude or recommend that the Parish Council exclude the member from the member from Council's offices or other premises, with the

exception of meeting rooms as necessary for attending Council, Committees and Sub-Committee meetings.

26. In deciding what penalty to set, the Committee will consider all relevant circumstances.
27. The Chairman will announce the decision of the Committee, the action, if any, it will take and the reasons for the decision.
28. The Committee will then consider in open session whether there are any recommendations which should be made to any Authority concerned arising from the consideration of the allegation.

## **APPEAL**

28. There is no right of appeal against the decision of the Hearing Panel.

## **NOTICE OF FINDINGS**

29. A full written decision in draft [including the reasons for it] will be prepared as soon as practicable. The draft decision will be forwarded to the Chairman of the Committee for approval.
30. Once approved and as soon as reasonably practicable after the Hearing the full written decision will be forwarded to the Member, the Complainant [where possible], the Investigating Officer and any other Authority concerned.
31. If the Hearing Panel wishes to publish its finding, the Monitoring Officer, subject to paragraph 32, shall arrange for a summary of the findings to be published in one newspaper circulating in the area of the Authority in accordance with paragraphs 33 and 34 or in such other manner as the Hearing Panel may determine (for example, by reporting the matter to Council for information).
32. Where the Committee determines that there has not been a breach of the Code of Conduct, the notice shall:

- i. State that the Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
  - ii. Not be published in the local newspaper if the Member so requests.
33. Where the Committee determines that there has been a failure to comply with the Code of Code but no action is required, the notice shall:
  - i. State that the Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
  - ii. Specify the details of the failure;
  - iii. Give reasons for the decision reached; and
34. Where the Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:
  - i. State that the Committee found that the Member had failed to comply with the Code of Conduct;
  - ii. Specify the details of the failure;
  - iii. Give reasons for the decision reached;
  - iv. Specify the sanction imposed; and
35. Copies of the agenda, reports and minutes of a Hearing, as well as any background papers, apart from sections of documents relating to parts of the Hearing that were held in private, shall be available for public inspection for six years after the Hearing.



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

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

<sup>3</sup> <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'<sup>4</sup>.**

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

<sup>4</sup> [http://www.public-standards.gov.uk/Library/Seven\\_principles.doc](http://www.public-standards.gov.uk/Library/Seven_principles.doc)

<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.

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.

Parish Councillor C R Raine  
 Farlam Farm  
 Farlam  
 Brampton  
 Cumbria  
 CA8 1LA

Ref MDL/001698

Mark Lambert Esq  
 Corporate Director of Governance and Regulatory Services  
 Civic Centre  
 Carlisle  
 CA3 8QG

2 May 2017

Dear Mr Lambert

**Code of Conduct Complaint: Cllr C R Raine**

Thank you for your letter of the 19<sup>th</sup> April 2017. My response to the Investigating Officer's report is as follows:

**i) The Report**

**JT's Complaint**

- JT mentions Cllr Dalton twice in her complaint as having an interest in her application. She also mentions in her statement that she is "quite clear in her recollection that CR (and Cllr Dalton) fielded all the questions..." However, she has not made a personal complaint about Cllr Dalton. This demonstrates that JT is bearing some kind of grudge against me personally.
- In her complaint, JT states that CR failed to mention at any point during the meeting (11 May 2016) the fact that *"he owned the land adjacent to us, shared an access, rents it out to Cllr Dalton"*. However, it is undisputed that I had "declared an interest" at the meeting on 9 March 2016 which is what the law required me to do. The details of that were not required.
- The report seems to imply that the complaint is about a different meeting where the planning application referred to was not on the agenda.

**FPC Meeting 11 May 2016**

- I did not "declare an interest" at this meeting as JT's planning application was not on the agenda, it had been dealt with at the previous meeting and there was, therefore, no agenda item to declare an interest in.
- Cllr Bowman was in attendance at this meeting, so he would be able to give an unbiased opinion of the proceedings at the meeting and of the Thompson's behaviour towards me at the meeting.

**Allison Riddell's statement**

- It is clear from this statement that I asked Allison for advice, she then took advice from CALC and I then acted upon it. I am a volunteer, I give my time to the PC for no other reason than that of community spirit and an awareness that "somebody has to do it". If I am unsure of the correct way to proceed, surely it is reasonable to ask the professional advice of the Parish Clerk and of CALC and to expect that that advice is correct and that I can act upon it in good faith.

- In AR's notes from the meeting of 9 May 2016 she makes note of six comments from Councillors of which two were mine, two were Angus Murray's and there was one each from Chris Marsh and Ian Howatt. I am the only Councillor who lives in Farlam so it is natural that I would be moved to comment. However, please note that JT has not made a complaint against Angus Murray, although he had as much to say as I did at this meeting. Again, it is clear that JT is pursuing a personal agenda against me.
- I understand that technically I should have obtained a derogation to enable this although the advice was there was no need to declare my interest as a pecuniary interest.

#### **JT's Statement**

- It is reported that JT felt "belittled and upset" after the meeting of 11 May 2016 and that she and her husband felt they were "wasting their time", so "they stood up and left the meeting".
- In fact, they became aggressive and were asked to leave the meeting. At which point, Mr Thompson threatened me. They then waited until the meeting had finished before JT came to my house, intimidating my children in the process and demanded to be let in. It was an extremely unpleasant situation which resulted in my calling the Police as my whole family felt under threat.

#### **Summary**

- This seems to me to be grossly unfair. The planning application to which most of JT's complaint relates was not on the agenda, so I could not possibly have known it was going to be discussed. The matter had already been formally dealt with at the meeting of 9 March 2016 so there was nothing to declare an interest in at the 13 May meeting.

#### **Conclusion**

- The Investigating Officer says " A significant factor, and one which arguably weighs in his favour, is the fact that CR sought and then followed advice from AR and CALC". I am at a loss to understand as to how he can say that this "arguably" weighs in my favour! What was I supposed to do? I reiterate the fact that I was aware that there may be an issue, I asked advice and I followed it. Farlam is a very small parish. I appreciate that the safe way to deal with anything is to declare an interest and not take part in the discussion, but, as I say, we live in a very small parish, I am the only Councillor that lives in the village of Farlam and I sit on the PC so that I can contribute something to the community which I can only do if I am allowed to comment on it where I have something to contribute.
- The Parish Council has a statutory duty to look at planning applications and to make comments or objections where they deem appropriate. JT seems to have fundamentally misunderstood the process and is simply looking for a scapegoat on whom to pin her frustrations and blame the alleged delay in the planning consent. She has lighted on me and is determined to wreak maximum havoc. She was offered an apology which she has declined. Honestly, what had I got to gain from commenting on JT's planning application, even bearing in mind that I own the adjacent land. The answer is absolutely nothing.
- I would like to point out that this matter has now been going on for over a year. It is distressing to myself and my family to have had this hanging over me for such a long time. I do not understand why it has taken so long for the complaint to be dealt with. Mr and Mrs Thompson take every opportunity to stare and glare threateningly at my family as they come and go from their field and we all feel very intimidated.

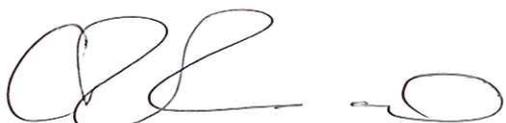
**Further Points**

- ii) I do not wish to be present at the hearing or to be represented.
- iii) I may give further evidence if required in writing.
- iv) I reserve the right to call witnesses.
- v) I would prefer the hearing to be held in private.
- vi) I would prefer the investigating officer's report to be kept private between the parties.

I await your further contact.

Regards.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by 'R' and 'Raine' in a cursive script. To the right of the main signature is a smaller, separate circular flourish or mark.

C R Raine

