

# Standards Committee

Agenda  
Item:

**A.2**

Meeting Date: 31 March 2021  
Portfolio: Finance, Governance and Resources  
Key Decision: No.  
Within Policy and Budget Framework: Yes.  
Public / Private: Public

Title: Carlisle City Council Code of Conduct, Arrangements and Guidance Revision  
Report of: Monitoring Officer  
Report Number: GD.27/21

### **Purpose / Summary:**

In December 2020 the Local Government Association published its Model Code of Conduct for Local Authority Members. This Report recommends adopting the said Code (with suitable local revisions) together with revisions to the Council's Arrangements for Dealing with Code of Conduct Matters and Guidance so as to implement the Committee for Standards in Public Life's Best Practice Recommendations.

### **Recommendations:**

That the Standards Committee recommends to Council that it adopts the LGA Code of Conduct (as amended), the Arrangements for Dealing with Standards Matters and the Code of Conduct Guidance, as set out in the Report.

### **Tracking**

Scrutiny:	<b>31 March 2021</b>
Council:	<b>27 April 2021</b>

## 1. BACKGROUND

1.1 Members will be aware that in 2019 the Committee on Standards in Public Life published a Report which reviewed ethical standards in Local Government and set out several statements of best practice which it recommended should be implemented. The best practice recommendations are set out for ease of reference in Appendix 1 and following is a link to the full report should Members wish to read it:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

1.2 Many of the recommendations in the Report require changes to legislation and so are the responsibility of Central Government to implement, however, a number are within our gift. The Council already complies with most of the suggested best practice but the opportunity presents itself to review and refresh our Code and associated documentation.

1.3 The first recommendation was that the Local Government Association (“LGA”) should create an updated Model Code of Conduct. The LGA has been working on this (Members will recall that they had the opportunity to contribute to this via a consultation process) and the LGA Model Code was published in December 2020. The Council’s existing Code of Conduct was adopted in 2012 and is broadly similar across all of the Councils in Cumbria. The county wide consistency worked well so the Cumbrian Monitoring Officers have worked together on the Model Code to make appropriate local amendments (the Model Code is promoted as a template to be amended for local circumstances).

1.4 This Report contains sections on the Best Practice Recommendations and then deals with how our documentation may be amended. If the recommendations suggested are approved then the Council will be fully compliant with all of the best practice recommendations.

## 2. BEST PRACTICE RECOMMENDATIONS AND CITY COUNCIL RESPONSE

	<b>Recommendation</b>	<b>Response</b>
1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of	The existing code dealt with this but the proposed revisions do so more explicitly.

	examples of the sort of behaviour covered by such a definition.	
2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	The proposed Code does this and there is a filtration process to stop trivial and malicious allegations by any person.
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	We will do this in future.
4	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.	It is.
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	The Council's register is maintained on an ongoing basis.
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	Included in the proposed revisions.
7	Local authorities should have access to at least two Independent Persons.	The Council has two Independent Persons.
8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	The Council's arrangements for dealing with Code of Conduct matters already includes this provision.
9	Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	The Council's arrangements currently deal with publication but are recommended to be extended so as to comply with the additional suggestions.
10	A local authority should have straightforward and accessible guidance on its website on how to	This information is on the Council's website.

	make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	This recommendation does not require any amendment to the City Council's arrangements.
12	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.	The Council's Monitoring Officer fulfils this role.
13	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	The suggested arrangements deal with this recommendation.
14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	The Council does not have any such bodies but if we did then it would seek to comply with the recommended best practice.
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	This occurs.

### 3 **CODE OF CONDUCT (Appendix 2)**

3.1 The Model Code of Conduct with suggested amendments is shown as Appendix 2 of the Report. The amendments are shown via tracked changes to make it easier for Members to see where the suggestions have been made.

3.2 Hopefully the changes are self explanatory but providing some additional detail:

- 3.3 Paragraph 7.2 deals with the use of Council resources for political purposes. At the moment the position is clear, Members may not use Council resources to promote any particular political party. The Cumbrian Monitoring Officers are of the opinion that the suggested wording in the LGA Model Code would introduce ambiguity where none currently exists, hence the suggested amendment.
- 3.4 Paragraph 10.2 covers the value of gifts/hospitality to be recorded. Members have previously discussed this and felt £25 was an appropriate amount. Members may wish to revisit or reaffirm the amount.
- 3.5 In relation to matters where Members disclose a disclosable pecuniary interest, the amendment to the proposed code continues the current arrangement whereby if the public has the right to speak then so does the Member. The Member, having spoken, then must leave the room/meeting. This ensures that Members do not have fewer rights than they would do as ordinary members of the public.
- 3.6 In relation to other declarations of interest (non-pecuniary) the LGA Code requires the Member to leave the room/meeting. However, this goes further than the law requires and is unnecessary; not participating when it would be inappropriate to do so is the more important point.
- 3.7 In paragraph 9 on page 13 of the Code, the LGA attempts to revert to the pre 2012 Statutory Code of Conduct. The test as to whether a Member's financial position is affected "to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision" is too imprecise a test to apply. The suggested local amendment of whether an ordinary member of the public would believe the Member's judgement be affected is a far clearer, objective judgement and should be easier to apply and use.

#### 4 **ARRANGEMENTS FOR DEALING WITH STANDARDS MATTERS (Appendix 3)**

- 4.1 Section 28(6) of the Localism Act 2011 requires that the Council must have in place arrangements under which investigations can be investigated and under which decisions on allegations can be made. The Council's existing arrangements with suitable amendments are attached as Appendix 3 to the Report.
- 4.2 Other than minor amendments, Members will see via tracked changes that the Arrangements have been amended so as to:
- 4.2.1 Explicitly deal with conflicts of interest.

4.2.2 Include a section setting out the Public Interest Test as per the recommendation from the Committee on Standards in Public Life (Section 7 of the Arrangements).

4.3 More specific requirements regarding the published Decision Notice are set out in Section 9 and in paragraph 34 of the procedure for dealing with matters.

## 5 **CODE OF CONDUCT GUIDANCE (Appendix 4)**

5.1 The suggested Guidance includes new sections on Bullying and Harassment.

## 6 **RISKS**

6.1 The risk to the Council in not implementing the proposed changes is that it will fall behind the recommended best practice in the area of our ethical conduct practice, policies and procedures.

## 7 **CONSULTATION**

7.1 The Local Government Association carried out a wide consultation when formulating its proposed Code of Conduct. This was promoted with Members at the time in order that they could contribute. The suggested Code and amendments have been consulted upon and discussed by the Cumbrian Monitoring Officers. The Council's appointed Independent Person has also been consulted and her advice will be given via the Monitoring Officer at the Meeting.

## 8 **CONCLUSION AND REASONS FOR THE RECOMMENDATIONS**

8.1 In order to comply with recommended best practice and also maintain consistency in Cumbria, it is recommended that the LGA Code of Conduct, with suggested amendments, together with the revised Arrangements and Guidance be recommended to Council for adoption.

**Contact Officer:** Mark Lambert

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### **Appendices attached to report:**

- 1. Recommendations of the Committee for Standards in Public Life**
- 2. Proposed Code of Conduct**
- 3. Proposed Arrangements for Dealing with Standards Matters.**
- 4. Proposed revised Guidance for Standards Matters**

**Note:** in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:

- None

**CORPORATE IMPLICATIONS:**

**LEGAL – Incorporated within the body of the report**

**FINANCE – None**

**EQUALITY – None**

**INFORMATION GOVERNANCE – None**



# List of recommendations

<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>1</b>	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
<b>2</b>	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
<b>3</b>	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
<b>4</b>	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
<b>5</b>	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
<b>6</b>	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government





<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>7</b>	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	Government
<b>8</b>	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
<b>9</b>	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
<b>10</b>	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
<b>11</b>	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
<b>12</b>	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
<b>13</b>	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>14</b>	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
<b>15</b>	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
<b>16</b>	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
<b>17</b>	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
<b>18</b>	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
<b>19</b>	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
<b>20</b>	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
<b>21</b>	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
<b>22</b>	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>23</b>	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
<b>24</b>	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
<b>25</b>	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
<b>26</b>	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



Local Government Association Model

CARLISLE CITY COUNCIL

Councillor Code of Conduct 20210

**Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

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## **Introduction**

~~The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.~~

~~All councils are required to have a local Councillor Code of Conduct.~~

~~The LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.~~

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

### General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

#### **General Conduct**

##### **1. Respect**

###### **As a councillor:**

###### **1.1 I treat other councillors and members of the public with respect.**

###### **1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. Bullying, harassment and discrimination**

### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in [virtual meetings](#), emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.



### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can 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. However, 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.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## 5. Disrepute

### As a councillor:

#### 5.1 I do not bring my role or local authority into disrepute.

As a ~~Councillor~~councillor, you are trusted to make decisions on behalf of your community and 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 you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## 6. Use of position

### As a councillor:

#### 6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## 7. Use of local authority resources and facilities

### As a councillor:

#### 7.1 I do not misuse council resources.

#### 7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and
- b. ensure that such resources are not used for political purposes, ~~unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.~~

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose 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 disclosed by you or other councillors when making or taking part in decisions, 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 governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## 10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least ~~£2550~~ within 28 days of its receipt.
- 10.3 I register with the Monitoring Officer any ~~significant~~ gift or hospitality with an estimated value of at least £25 that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

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 disclose and resolve any interests and relationships.

#### **Objectivity**

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

#### **Accountability**

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**

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**

Holders of public office should be truthful.

#### **Leadership**

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.

## Appendix B Registering

### interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"**Disclosable pecuniary interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"**Partner**" means a spouse or civil partner, or 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.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room/meeting unless you have been granted a dispensation. In addition, you may speak on the matter only if members of the public are also allowed to speak and having spoken you must leave the room/meeting. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as an Cabinet-Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registrable Interests

5-6. Where a matter arises at a meeting which directly relates to one of your Other

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Registrable Interests (as set out in Table 2), you must disclose the interest. If you have such an interest you must consider whether a reasonable member of the public, knowing all the facts, would think the interest such that it may influence the way you vote. If the ordinary person would think that the interest may influence your vote then you should not participate in the matter. In these circumstances you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter. If it is a 'sensitive interest', you do not have to disclose the nature of the interest

## Disclosure of Non-Registrable Interests

~~6.7.~~ Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter ~~and must not remain in the room~~ unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

~~7.8.~~ Where a matter arises at a meeting which **affects**—

- your own financial interest or well-being;
- a financial interest or well-being of a friend, relative, close associate; or
- a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you may participate in the meeting you can remain in the meeting after disclosing your interest the following test should be applied:

~~8.9.~~ Where a matter **affects** your financial interest or well-being so that a reasonable member of the public knowing all the facts would believe that it may affect your view of the wider public interest:

- ~~to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;~~
- ~~a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest~~

~~you~~ you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter ~~and must not remain in the room unless you have been granted a dispensation.~~

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

~~9.10.~~ Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.



**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her 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.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and  (b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.  'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and  (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and  (b) either—</p> <p>(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 councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were</p>

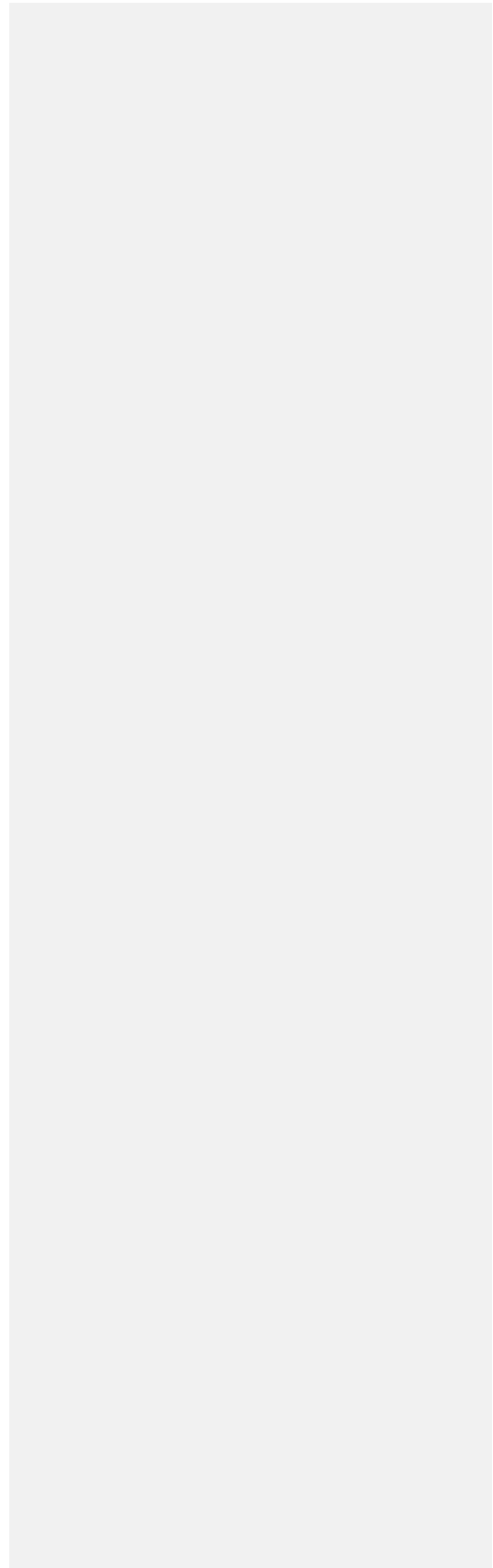
	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* '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.

**Table 2: Other Registerable Interests**

<p>You have a personal interest in any business of your authority where it relates to or is likely to affect:</p> <ul style="list-style-type: none"> <li>a) any body of which you are in general control or management and to which you are nominated or appointed by your authority</li> <li>b) any body <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) any body directed to charitable purposes or</li> <li>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</li> </ul> </li> </ul>
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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 any 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 [do so by going to the 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) [StandardsCttee@carlisle.gov.uk](mailto:StandardsCttee@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.

[The Monitoring Officer will seek to identify any conflicts of interest which may arise at any stage of the process and put alternative arrangements in place as appropriate.](#)

#### **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, [after considering the public interest](#), will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

[The Public Interest Stage](#)

[In every case where there is sufficient evidence to justify an investigation or formal hearing, Monitoring Officer must go on to consider \(in consultation with the Independent Person\) whether an investigation or formal hearing is required in the public interest.](#)

[It is not the case that an investigation or formal hearing will automatically take place once the evidential stage is met. An investigation or formal hearing will usually take place](#)

unless the Monitoring Officer is satisfied that there are public interest factors tending against such an investigation/hearing which outweigh those tending in favour. In some cases, the Monitoring Officer may be satisfied that the public interest can be properly served by offering the relevant elected Member the opportunity to have the matter dealt with by an alternative remedy rather than bringing the complaint before a formal hearing of the Standards Committee.

When deciding the public interest, Monitoring Officer should consider each of the questions set out below as paragraphs a) to e) so as to identify and determine the relevant public interest factors tending for and against investigation/hearing. These factors should enable the Monitoring Officer to form an overall assessment of the public interest.

The explanatory text below each question in paragraphs a) to e) provides guidance to the Monitoring Officer when addressing each particular question and determining whether it identifies public interest factors for or against investigation/hearing. The questions identified are not exhaustive, and not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

It is quite possible that one public interest factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against an investigation or in a particular case, the Monitoring Officer should consider whether nonetheless an investigation/formal hearing should go ahead and those factors put to the Standards Committee for consideration when coming to its decision.

The Monitoring Officer should consider each of the following questions:

**a. How serious is the breach of the Code?**

- The more serious the breach, the more likely it is that a formal hearing is required.
- When assessing the seriousness of a breach, the Monitoring Officer should include in their consideration the elected Member's culpability and the harm caused, by asking themselves the questions at b) and c).

**b) What is the level of culpability of the elected Member?**

- The greater the Member's level of culpability, the more likely it is that an investigation is required.
- Culpability is likely to be determined by:
  - the Member's level of involvement;
  - the extent to which the breach of the Code was premeditated and/or planned;



- the extent to which the Member has benefitted from the conduct;
- whether the Member has previously breached the Code of Conduct;
- whether the breach was or is likely to be continued, repeated or escalated;

**c) What are the circumstances of and the harm caused to the complainant?**

- The circumstances of the complainant are highly relevant. The more vulnerable the complainant's situation, or the greater the perceived vulnerability of the complainant, the more likely it is that a formal investigation or hearing is required.
- This includes where a position of trust or authority exists between the Member and complainant.
- It is more likely that a formal hearing is required if the conduct complained of was motivated by any form of prejudice against the complainant's actual or presumed ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or if the Member targeted or exploited the complainant, or demonstrated hostility towards the complainant, based on any of those characteristics.
- The Monitoring Officer also needs to consider if a formal hearing is likely to have an adverse effect on the complainant's physical or mental health, always bearing in mind the seriousness of the conduct complained of, the availability of special measures and the possibility of a formal hearing without the participation of the complainant.
- The Monitoring Officer should take into account the views expressed by the complainant about the impact that the conduct has had. In appropriate cases, this may also include the views of the complainant's family.
- However, the Monitoring Officer does not act for complainants or their families in the same way as solicitors act for their clients, and Monitoring Officers must form an overall view of the public interest.

**d) What is the impact on the community?**

- The greater the impact of the conduct complained of on the community, the more likely it is that an investigation or formal hearing is required.
- Community is not restricted to communities defined by location and may relate to a group of people who share certain characteristics, experiences or backgrounds, including an occupational group.

**e) Is an investigation or formal hearing a proportionate response?**

- In considering whether investigation or formal hearing is proportionate to the likely outcome, the following may be relevant:
  - i. The cost, especially where it could be regarded as excessive when weighed against any likely penalty. The Monitoring Officer should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in paragraphs a) to e), but cost can be a relevant factor when making an overall assessment of the public interest.
  - ii. Cases should be dealt with in accordance with principles of effective case management.

## 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.

[The decision notice will include a brief statement of the facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision maker and any sanction applied. The decision notice will be published on the Council's website.](#)

## **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 <a href="#">[New one to be inserted]</a>
Appendix Two	Procedure for Investigations
Appendix Three	Procedure for Hearings

Appendix 1

## [New Code of Conduct]

## 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 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 include a brief statement of the facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision maker and any sanction applied. The decision notice will be published on the Council's website.

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- ~~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 ~~4 July 2012~~[\[insert date\]](#). The code, [amended from time to time to reflect current guidance](#), 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.

## **Bullying**

You should not bully any person. As an elected Member you are in a position of authority and power over Council employees and others. Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:

- (a) physical or psychological threats;
- (b) overbearing and intimidating levels of supervision/instruction;
- (c) inappropriate derogatory remarks about someone's performance;

Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

## **Harassment**

You should not harass any person. Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.

It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.

Harassment may include, for example:

- (a) unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing;
- (b) continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- (c) sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);



- (d) unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- (e) racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- (f) outing or threatening to out someone as gay or lesbian;
- (g) offensive e-mails, text messages or social media content; or
- (h) mocking, mimicking or belittling a person's disability.

A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment.

### **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. [If you become aware, or should have realised, that you have an interest during consideration of the item, you should immediately declare this and take the appropriate action.](#)

## **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.