

CARLISLE CITY COUNCIL

Report to:- Carlisle City Council

Date of Meeting:- 25 June 2012

Agenda Item No:-

Public

Title:- CARLISLE CITY COUNCIL: CODE OF CONDUCT

Report of:- Director of Governance

Report reference:- GD36/12

Summary:- The Report explains the impact of the Localism Act 2011 on the Standards Regime; seeks to establish a Standards Committee; recommends a new Code of Conduct/Scheme for the Registration of Interests; and, authorises the advertisement of the position of Independent Person.

Recommendation:-

It is recommended that Council:

- i. Create a Standards Committee with seven members, with terms of reference as specified in the appendices to the Report and the Director of Governance be authorised to make the appropriate amendment to the Council's Constitution, in particular the Responsibility for Functions and Article 9 as detailed in Appendices 1 and 2.**
- ii. Note and that the Council's existing Standards Committee will continue to exist until the relevant provisions of the Localism Act 2011 are implemented and until such time it will continue to deal with any relevant matters including Code of Conduct Complaints that the Council has received or receives under the existing regime.**
- iii. Adopt the Code of Conduct for Members and Co-opted Members of the Council as shown at Appendix 3.**
- iv. Adopt the Register of Members' Interests as shown at Appendix 4.**
- v. In accordance with Council Procedure Rule 24.1, Council suspend Council Procedure Rule 24.2 in order that it may at today's meeting approve the**

amendment to the Council's Rules of Procedure as detailed in paragraph 7.1 of the Report

- vi. Instruct the Director of Governance to advertise for applications from people to be the Council's Independent Person;
- vii. Instruct the newly established Standards Committee to assess applications received to be an Independent Person and make appropriate recommendations as to the appointment of an Independent Person(s) to the Council;
- viii. Authorise the Director of Governance to amend the terms of Reference of the Council's Independent Remuneration Panel to enable it to make recommendations to Council with regard to any allowance payable to any Independent Person engaged by the Council;
- ix. Instruct the Independent Remuneration Panel to make a recommendation to Council as to the appropriate level of remuneration to be paid to the Independent Person(s).
- x. Approve the Arrangements for dealing with complaints as shown in Appendix 5.
- xi. Approve the arrangements relating to Dispensations as shown in Appendix 6.
- xii. Authorise the Director of Governance to make any necessary amendments to the Council's Constitution including the Council Procedure Rules.

Contact Officer: Mark Lambert

Ext: 7019

14 June 2012

1. Background – the Current Position

- 1.1 Members of the Council will be aware of the Localism Act 2011 (the Act) and that it includes provisions relating to the standards of conduct required of elected Members in Local Government.
- 1.2 The Act received Royal Assent on 15 November 2011 and it was originally indicated that the changes to the Code of Conduct would come into effect on 1 April 2012. However, whilst the Government acted to make the Standards Board for England cease its functions on 31 January 2012 and be abolished no later than 31 March 2012, the rest of the changes will be implemented from 1 July 2012 (by virtue of Regulations published as recently as 6 June 2012).
- 1.3 In addition to the abolition of the Standards Board referred to above, the legislation removes the model code of conduct and the statutory requirement for a Standards Committee. What the legislation will require is that the Council must promote and maintain high standards of conduct by its Members and co-opted members; adopt a Code of Conduct; put in place a system to deal with the new regime including the Registration of Members Interests and the appointment of an Independent Person to advise the Council.
- 1.4 The current Standards Committee will cease to exist and there will no longer be the requirement to have Independent and Parish Members on the new Committee.

2 The Standards Committee

- 2.1 The current Standards Committee is a statutory committee but, as stated above, the requirement for this is repealed by the Act. However, there will be a need for the Council to deal with standards issues and case work so it is recommended that the Council creates a body to deal with these.
- 2.2 Any committee dealing with standards will be an ordinary committee of the Council and, as such, membership of the committee will be governed by the rules relating to proportionality. There are two options open to the Council with regard to a 'standards' committee. Firstly, to have a stand alone committee dealing solely with Standards matters or, secondly, to amend the terms of the Council's Audit Committee .

- 2.3 There is some merit in using the Audit Committee as this is an established body of Members and its remit naturally leans to matters of probity. One of the responsibilities of the City Council under the new regime will be to deal with complaints relating to Members of Parish Councils. There is the facility to co-opt Parish Members on to our committee as non-voting members. This, in the future, will be worth pursuing so that the Parish Councils feel that they have a role in the system and representation to give a Parish Council perspective. It may be that the Council consider that such co-opted members will be better placed as being co-optees on a standards committee as opposed to the Audit Committee given the non-standards related, sensitive issues that the Audit Committee sometimes has to deal with. As a co-opted member, the Parish Council representative would be entitled to receive all Agenda and papers for meetings of the Committee Meetings. If Members considered that a Standards Committee was the best option it is suggested that the Committee should be a suitable size to facilitate sub-committees to deal with individual matters and it may be that seven members is an appropriate number.
- 2.4 The Act does have a requirement for the Council to appoint an Independent Person(s). This post is referred to later in the Report but the important point to note is that the initial position was that the current Independent Members of the existing Standards Committee may not serve as Independent Members under the new regime, however, transitional arrangements have been announced allowing our current Independent Persons to continue to work with the City Council. The new Independent Person may attend meetings of the new Standards Committee but as an advisor, not a co-opted Member.
- 2.5 It is suggested that the Standards Committee should have the terms of reference shown at Appendix 1 and that Article 9 of the Council's Constitution be amended as per Appendix 2.
- 2.6 Council should note that the current statutory Standards Committee will continue to exist until the legislation requiring it is formally repealed. Until this time, the current Standards Committee will continue to deal with any complaints received under the existing regime.
- 2.7 It is recommended that the Council create a Standards Committee with seven members, with terms of reference as specified in the appendices to the Report and the Director of Governance be authorised to make the appropriate amendment to the Council's Constitution, in particular the Responsibility for Functions and Article 9 as detailed in Appendices 1 and 2.

- 2.8 It is recommended that Council note that the Council's existing Standards Committee will continue to exist until the Localism Act 2011 is implemented and until such time it will continue to deal with any relevant matters including Code of Conduct Complaints that the Council has received or receives under the existing regime.

3 **The Code of Conduct**

- 3.1 The current ten general Principles and the Model Code of Conduct will be repealed and Members will no longer be required to give an undertaking to comply with the Code of Conduct. However, the Council must adopt a new Code of Conduct governing elected and co-opted members' conduct when acting in that capacity. There are seven principles which must be covered within the new Code:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

- 3.2 This means that the principles of personal judgement, respect for others, duty to uphold the law and stewardship are no longer underlying principles.

- 3.3 As stated, the Model Code of Conduct will no longer be 'promoted' by the Government. There have been discussions at a national level aimed at producing a new Code which could be adopted by most authorities to provide a level of consistency. The Department of Communities and Local Government has produced a draft code. It is further considered by officers and Members to be beneficial (but of course subject to each Council's discretion) to agree a Code for Cumbria as this would assist dual-hatted Members (Members of more than one Council) and discussions have taken place with regard to this at meetings of the Cumbrian Solicitors' and Monitoring Officers' Group.

- 3.4 The Government has promised for some time that it will publish regulations and guidance to instruct and advise Councils but, at the time of writing, this is still to be forthcoming. As said, discussions have taken place on a Cumbria

wide basis and the result of this is the recommended code, based on the draft code promulgated by the Department of Communities and Local Government, with some local amendment, shown attached as Appendix 3. It is envisaged that the Code will be adopted by all of the Principal Councils in Cumbria.

- 3.5 Parish Councils may adopt the Code which has been approved by its District Council and it is hoped that this will occur in our area thus making training and monitoring much easier.

4 **Disclosable Pecuniary Interests and Other Registrable Interests**

- 4.1 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (draft at the time of writing) specify what a Disclosable Pecuniary Interests (“DPI”) is for the purposes of section 30 of the Localism Act 2011. The legislation sets out what pecuniary interests must be disclosed. A pecuniary interest is a disclosable pecuniary interest in relation to a person (“M”) if it is of a description specified in regulations made by the Secretary of State and either –

- (a) it is an interest of M’s or
 - (b) it is an interest of –
 - (i) M’s spouse or civil partner,
 - (ii) a person with whom M is living as husband and wife,
- or
- (iii) a person with whom M is living as if they were civil partners, and M is aware that that other person has the interest.

- 4.2 The interests which may require to be disclosed relate to such matters as employment, sponsorship, contracts, land, licenses, corporate tenancies and securities.

- 4.3 Whilst Members must comply with the requirements around DPis, any other registrable interests are for determination by the Council as it chooses. Appendix 4 sets out a revised draft Register of Members’ Interests. Those interests appearing under the disclosable pecuniary interests heading are those specified within the legislation (subject to any reported changes). The interests under the heading “other registrable interests” have been considered by the Standards Committee, and incorporate those interests which are not DPis, but which were in the original code. Members are requested to consider these and determine whether these should also form part of the register. Members may like to consider whether the limit for hospitality should be raised from the present £25 to, say, £50?

5. Declaration of Interests

5.1. Section 31 of the Act relates to pecuniary interests in matters which are considered at meetings of the Council. If a Member is present at a meeting of the Council and is aware that he has a disclosable pecuniary interest in any matter to be considered or which is being considered at the meeting, he or she must:

- (a) If the interest is not entered on the Council's register he or she must disclose that interest at the meeting;
- (b) If the interest is not entered on the Council's register and is not the subject of a pending notification, the Member concerned must notify the Council's Monitoring Officer of the interest before the end of twenty-eight days beginning with the date of the disclosure;
- (c) Not participate or participate further in any discussion of the matter at the meeting; and
- (d) Not participate in any vote or further vote taken on the matter at the meeting.

5.2 In the legislation the phrase "pending notification" is used in relation to an interest and is where the interest itself is notified to the Council's Monitoring Officer but has not been, as yet, been entered in the register as a consequence of that notification.

6. Sensitive Interests

6.1. A sensitive interest may be omitted from any published version of the register. A sensitive interest is one which a Member has but is of a nature whereby the Member and the Council's Monitoring Officer consider that its disclosure could lead to the Member or a person who is connected with him or her being subject to violence or intimidation.

7. Procedural Rules

7.1. Whilst the new code does not make provision with regard to Members leaving the room during the discussion or vote on matters where they do have DPIs, legislation provides that standing orders may provide for such exclusion and Members are requested to consider that the Procedural Rules be amended to include an additional Rule as follows:-

Interests

Disclosable Pecuniary Interests

- (1) Subject to (2) below if a Member has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

then the Members should declare that interest to the meeting and should leave the room whilst any discussion or vote takes place.

- (2) If a dispensation has been granted to a Member in relation to a disclosable pecuniary interest then subject to the terms of the dispensation the Member may be relieved from the above restrictions but will still be required to declare the interest to the meeting.
- (3) Where a Member has a disclosable pecuniary interest in any business of the Council, he/she 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 DPI.

- 7.2 It would seem appropriate in the interests of transparency for a Member to make the nature of a disclosable interest known when such a matter arises at a meeting. The current process is known and understood by Members and requires a declaration of interest to be made at the outset of the meeting. It is considered that this should continue and that Members should identify the nature of the interest which they 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.

8. **Independent Person**

- 8.1. The 'arrangements' adopted by the Council must include provision for the appointment by the Council of at least one Independent Person who must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all Members of the Council (not just of those present and voting).
- 8.2. A person is not considered independent if he/she is, or has been within the last five years an elected or co-opted Member of the Council, a Parish Council in the District, or a Committee or sub-committee of either type of

Council. Similarly, the Independent Person must not have been an officer of the Council/Parish Council or be a relative/close friend of a current Member or officer of either type of Council. This paragraph is subject to the caveat that the Government has recently announced that, for transitional purposes, the Council's existing Independent Persons may apply to be considered for the same titled but slightly different role under the new regime.

- 8.3. The Independent Person must be consulted before the Council makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member. The Independent Person may be consulted by the Council in respect of a standards complaint at any other stage and may also be consulted by any Member against whom a complaint has been made. Clearly there is an issue as to the fairness of the Independent Person separately consulting with a Member who is the subject of a complaint and, thereafter, being required to advise the Council.
- 8.4. The Act does give the Council the discretion to appoint more than one Independent Person but provides that each such person must be consulted before any decision is taken on a complaint; the appointment of more than one Independent Person would not resolve the potential 'conflict' issue raised in 8.3.
- 8.5. It is sensible for the Council to advertise as soon as possible for an Independent Person(s) and once the applications have been assessed by the Standards Committee, Council will be able to take a view as to which candidate they approve of and, indeed, whether they wish to appoint more than one Independent Person.
- 8.6. The Independent Person may receive allowances and expenses but, as they are not a 'member' of the Council, the amount of any such payment is a matter at the sole discretion of the Council. The Independent Remuneration Panel will be able to make an appropriate recommendation to Council (and it is recommended that the terms of reference of the said Panel be formally amended to allow this).

9. **Arrangements for Standards**

- 9.1 Attached at Appendix 5 to the report are draft arrangements for dealing with complaints with regards to Members. It is proposed that the Monitoring Officer is the proper officer to receive complaints of failure to comply with

the Code of Conduct. It is further proposed that the Monitoring Officer be given delegated power, in consultation with the Chair of the Standards Committee and the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. The Monitoring Officer is to have discretion to refer any complaint to the Standards Committee where it is felt to be inappropriate for the decision on requiring a formal investigation to be taken in this manner. The Monitoring Officer report to the Standards Committee on a regular basis on the discharge of these functions. The arrangements set out what action the Standards Committee/Hearing Panel can take where a member has failed to comply with the code of conduct.

- 9.2 Members are requested to approve these arrangements subject to review after a period of operation.

10. **Dispensations**

- 10.1 It is possible for the Council to grant a dispensation from the restrictions which apply to a Member's participation in or voting in the discussion on any matter where he or she has a DPIS. Appendix 6 details the circumstances in which dispensations may be granted and makes recommendations regarding dealing with requests for dispensation.

- 10.2 Members are requested to consider and agree the delegation arrangements for dispensations.

10. **Parish Register of Interests**

- 10.1. The Monitoring Officer is required by the Act to set up and maintain registers of interest for each Parish Council, available for inspection at the District Council offices and on the Council's website and, where the Parish Council has a website, provide the Parish Council with the information required to enable the Parish Council to put the current register on its own website.

11. **Training**

- 11.1 It is intended that training will be provided for all members on the new provisions, and it is suggested that the new Standards Committee provide

feedback to Council in an annual report on the operation of the new arrangements.

- 11.2 The Monitoring Officer will also work with CALC with regard to provision of training for Parishes and their Clerks.

12. Conclusion

The recommendations in this Report enable the Council to comply with the changes to the Code of Conduct regime brought about by the Localism Act 2011. The existing Standards Committee will consider this matter at its Meeting on 18 June and the relevant Minutes will be referred to Special Council.

13. Implications

- Staffing/Resources – The Standards Committee and Code of Conduct regime will be supported by staff from the Governance Directorate.
- Financial – The Independent Person will receive an allowance at a rate to be determined by Council. However, the Council will no longer have to pay the allowance to the statutory Independent Persons under the current and outgoing regime.
- Legal – The Report contains the relevant statutory framework. The relevant Act is the Localism Act 2011 and, at the time of writing, relevant Regulations are awaited.
- Corporate – It is important that the Council is compliant with the law and also that there are guidelines to assist elected Members.
- Risk Management – The risk is failure to comply with the law. This Report puts in place the strategy to deal with this risk.
- Equality and Disability – The Code of Conduct will apply equally to all Members.
- Environmental – N/A

- Crime and Disorder – The legislation does provide criminal sanctions in certain circumstances for failure to comply with the rules.
- Impact on Customers – None.

Impact assessments

Does the change have an impact on the following?

Equality Impact Screening	Impact Yes/No?	Is the impact positive or negative?
Does the policy/service impact on the following?		
Age	No	
Disability	No	
Race	No	
Gender/ Transgender	No	
Sexual Orientation	No	
Religion or belief	No	
Human Rights	No	
Health inequalities	No	
Rurality	No	

If you consider there is either no impact or no negative impact, please give reasons:

..The new regime will apply equally to all elected Members.....

If an equality Impact is necessary, please contact the P&P team.

Terms of Reference for the Standards Committee established pursuant to Article 9

MEMBERSHIP

Seven Members of the authority other than the Leader.

Up to 3 Parish Council Members (co-opted but non-voting)

Independent Person (advisory but non-voting)

FUNCTIONS

The promotion and maintenance of high standards of conduct within the Council

To advise the Council on the adoption or revision of its Code of Conduct. To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law and relevant guidance.

To determine the Arrangements and Guidance for dealing with any Code of Conduct matters.

To determine any allegations of a breach of such protocols by members in accordance with procedures adopted by the Committee

Assistance to members and co-opted members of the authority

To ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code

Other functions

All functions relating to standards of conduct of members under any relevant legislation or regulations. These are more fully set out in Article 9 of the Constitution where the role and function of the Committee are described.

Advising the Council on the adoption or revision of any relevant supporting protocols relating to standards of conduct by members, monitoring the operation of such protocols and providing training for members on them.

Granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members Code of Conduct

Dealing with reports from the Monitoring Officer

Granting exemptions for politically restricted posts

Parish Council functions

To carry out all the above functions in respect of Parish Councils and their members for which the City Council is responsible under any relevant provision of, or regulations made under the Local Government Act 2000 or any amendment or re-enactment

thereof.

ARTICLE 9 - THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of seven Members of the City Council other than the Leader;
- (b) **Independent Person.** The Independent Person will attend the Committee in an advisory capacity but will not be entitled to vote at meetings;
- (c) **Parish members.** If Parish Members are co-opted on to the Committee (subject to a maximum of three) - at least one Parish Member must be present when matters relating to parish councils or their members are being considered, Parish Members are not entitled to vote at meetings;
- (d) **Chairing the Committee.** An elected district member must chair the committee.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) determining any allegations of a breach of such protocols by members in accordance with procedures adopted by the Committee
- (c) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (d) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (e) monitoring the operation of the Members' Code of Conduct;
- (f) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (g) granting dispensations to councillors and co-opted members from requirements relating to interests where not otherwise delegated to the Monitoring Officer;

- (h) the exercise of (a) to (f) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (i) overview of the whistle blowing policy;
- (j) overview of complaints handling and Ombudsman investigations;
- (k) overview of Employee Register of Interests and Gifts and Hospitality;
- (l) overview of member/officer protocol;
- (m) power to shortlist and interview candidates and make recommendations to Council regarding appointment of Independent Persons, and to make any appropriate recommendations with regard to Parish Members;
- (n) To determine the Arrangements and Guidance for dealing with any Code of Conduct matters.

CODE OF CONDUCT

FOR MEMBERS AND CO-OPTED MEMBERS OF THE AUTHORITY

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

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

Registering and declaring disclosable pecuniary and other registrable interests

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

SEVEN GENERAL PRINCIPLES OF CONDUCT

Selflessness

1. Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

2. Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

3. In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

Accountability

4. Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

5. Holders of public office should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

Honesty

6. Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest

Leadership

7. Holders of public office should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence.

PECUNIARY AND OTHER REGISTRABLE INTERESTS

DISCLOSABLE PECUNIARY INTERESTS (as defined by regulations)

1. Details of any employment, office, trade, profession or vocation carried on for profit or gain.
2. Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
3. Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority –
 - (a) under which goods or services are to be provided or works are to be executed; and
 - (b) which has not been fully discharged.
4. Details of any beneficial interest in land which is within the area of the relevant authority.
5. Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
6. Details of any tenancy where (to M's knowledge) –
 - (a) The landlord is the relevant authority; and
 - (b) The tenant is a body in which the relevant person has a beneficial interest.
7. Details of any beneficial interest in securities of a body where
 - (a) That body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
 - (b) Either –
 - (i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (ii) If that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

OTHER REGISTRABLE INTERESTS

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

8. Details of any body of which you are a member, or in a position of general control or management, and to which you are appointed or nominated to by the District Council.
9. Details of any body of which you are a member, or in a position of general control or management, and which_
 - (a) Exercises function of a public nature;
 - (b) Is directed towards charitable purposes; or
 - (c) Is a body which includes as one of its principal purposes influencing public opinion or policy (this includes political parties or trade unions).
10. Details of any persons from whom you have received a gift or hospitality with an estimated value of at least £25. (You must register any gifts or hospitality worth £25 or over that you receive personally in connection with your official duties).



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

Localism Act 2011, Sections 28 & 29

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

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

Important Notes –

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

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

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

NAME OF MEMBER:

(please print)

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

(Please state NONE where appropriate) -

DISCLOSABLE PECUNIARY INTERESTS

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

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

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

9. Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority –
 - (a) under which goods or services are to be provided or works are to be executed; and
 - (b) which has not been fully discharged.

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

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

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

13. Details of any beneficial interest of M's in securities of a body where
- (c) That body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
 - (d) Either –
 - (iii) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (iv) If that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

OTHER REGISTERABLE INTERESTS

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

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

10 Details of any bodies of which you are a member, or in a position of general control or management, and which_

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

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

Signed:

Dated:

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

The Council of the City of Carlisle

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

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

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

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

2 The Code of Conduct

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

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

3 Making a complaint

If you wish to make a complaint, please write or email to –

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

Or –

MarkL@carlisle.gov.uk

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

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

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

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

4 Will your complaint be investigated?

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

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

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

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

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

5 How is the investigation conducted?

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

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint, so that you can explain your understanding of events, suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and (following consultation with the Independent Person and Chair of the Standards Committee), if he is satisfied that it is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. The matter will be reported to the Standards Committee. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

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

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings

Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Send a formal letter to the Member;
- 8.3 Report its findings to Council or to the Parish Council for information;
- 8.4 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the member;
- 8.7 Remove or recommend to the Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.8 Withdraw or recommend to the Parish Council that it withdraws certain facilities provided to the member by the Council; or
- 8.9 Exclude or recommend that the Parish Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member and to the Parish Council,

make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

10 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Standards Committee has decided that it will comprise three members of the Council, appointed on a political balance basis.

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

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

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

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

12 Revision of these arrangements

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

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix One The authority's Code of Conduct

Appendix Two Procedure for Investigations

Appendix Three Procedure for Hearings

Appendix 1

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

APPENDIX 2

CARLISLE CITY COUNCIL

Procedure for Local Investigation of Referred Complaints

Introduction and Summary

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

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

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

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

Where the Investigating Officer has found that there has been a failure to comply with the Code of Conduct for Members or a local protocol and a Local Resolution has not been possible then the Monitoring Officer, following consultation with the Independent Person and the Chair of the, 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 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 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.

**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.

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

22.5 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.

23. Decision by the Committee

23.1 The Committee will consider in private all the evidence which it has heard in order to establish its findings of fact.

- 23.2 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.
- 23.3 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.
- 23.4 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.
- 23.5 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.
24. 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.

25. In deciding what penalty to set, the Committee will consider all relevant circumstances.
26. The Chairman will announce the decision of the Committee, the action, if any, it is proposed to take and the reasons for the decision.
27. The Committee will then consider in open session whether there are any recommendations which should be made to any Authority concerned arising from the consideration of the allegation.

APPEAL

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

NOTICE OF FINDINGS

29. A full written decision in draft [including the reasons for it] will be prepared as soon as practicable. The draft decision will be forwarded to the Chairman of the Committee for approval.
30. Once approved and as soon as reasonably practicable after the Hearing the full written decision will be forwarded to the Member, the Complainant [where possible], the Investigating Officer and any other Authority concerned.
31. If the Hearing Panel wishes to publish its finding, the Monitoring Officer, subject to paragraph 32, shall arrange for a summary of the findings to be published in one newspaper circulating in the area of the Authority in accordance with paragraphs 33

and 34 or in such other manner as the Hearing Panel may determine (for example, by reporting the matter to Council for information).

32. Where the Committee determines that there has not been a breach of the Code of Conduct, the notice shall:
 - i. State that the Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
 - ii. Not be published in the local newspaper if the Member so requests.

33. Where the Committee determines that there has been a failure to comply with the Code of Code but no action is required, the notice shall:
 - i. State that the Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
 - ii. Specify the details of the failure;
 - iii. Give reasons for the decision reached; and

34. Where the Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:
 - i. State that the Committee found that the Member had failed to comply with the Code of Conduct;
 - ii. Specify the details of the failure;
 - iii. Give reasons for the decision reached;
 - iv. Specify the sanction imposed; and

35. Copies of the agenda, reports and minutes of a Hearing, as well as any background papers, apart from sections of documents relating to parts of the Hearing that were held in private, shall be available for public inspection for six years after the Hearing.

Dispensations

Section 33 Localism Act details the circumstances in which dispensations may be granted. It is recommended:

That the Council delegate to the Monitoring Officer, in consultation with the Independent Person and Chairman of Standards Committee, the power to grant dispensations up to a maximum of 4 years in the following circumstances with an appeal to the Standards Committee –

1. That he/she considers 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 Cabinet would be able to participate on this matter.

That the Council delegate to the Standards Committee, in consultation with the Independent Person, to grant dispensations up to a maximum of 4 years in the following circumstances:

1. That the authority considers that the dispensation is in the interests of persons living in the authority's area;
2. That the authority considers that it is otherwise appropriate to grant a dispensation.

The Standards Committee to have authority to deal with any of those dispensations delegated to the Monitoring Officer where the Monitoring Officer considers it inappropriate to deal with a request and chooses to refer to the Standards Committee for determination.