



<b>GA.63 16/17</b>
Governance and Audit Committee
<b>18 April 2017</b>

# G

**Subject: Members Code of Conduct and Operating Procedures – Final Draft incorporating feedback received to date.**

Report by:

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Purpose / Summary:

This report presents a Final Draft version of the revised Members' Code of Conduct and Operating Procedures

Following previous consideration by this Sub-Committee and the Governance and Audit Committee a number of amendments and additions have been made. These are presented for further consideration and agreement is sought for the finalised documents to be submitted to Annual Council in May 2017 for adoption

An all Member workshop will be held in advance of Annual Council to present the content of the Code to the wider membership in an informal setting.

**RECOMMENDATION(S): That**

- (a) Members review and make comment on the final draft version of the revised Code of Conduct and Operating Procedures prior to its submission to the Governance and Audit Committee;**
- (b) an all Member workshop be held in advance of Annual Council to present the content of the draft revised Code to the wider membership (proposed date of 25 April 2017).**
- (c) the Monitoring Officer be granted delegated Authority to incorporate any further amendments required to the Code of Conduct and Operating Procedures, arising from this meeting, the Governance and Audit Committee Meeting or the above Member Workshop, prior to it being submitted to Annual Council for adoption in May 2017.**

## IMPLICATIONS

### Legal:

The content of any code adopted under the Localism Act is a matter for each local authority to determine subject only to it being consistent with the seven 'Nolan principles'.

The Code does form part of the Council's Constitution and will need approval from Full Council before being implemented.

**Financial :** – none directly arising FIN REF 8/18

### Staffing :

None arising from this report.

### Equality and Diversity including Human Rights :

None arising from this report

### Risk Assessment :

None arising from this report.

### Climate Related Risks and Opportunities :

None arising from this report.

### Title and Location of any Background Papers used in the preparation of this report:

### Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

### Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

## 1. Background, Introduction and Work to Date

- 1.1 The appendices, attached as Appendix A, Ai and Aii to this report, were first considered by the Standards Sub-Committee at its meeting on 9 December 2016.
- 1.2 The Standards Sub-Committee was asked to review its content and make comment thereon.
- 1.3 The main areas which the Sub-Committee asked Officers to give further consideration to were: -
  - **Confidential Information** - Providing examples for clarity
  - **Role of the Ward Member in Parish Council Complaints** - this generated significant debate. The general concluding consensus was that the Ward Member should play a role in the early stages due to their local knowledge, but the issue of public perception and bias was acknowledged. Officers undertook to give this further consideration.
- 1.4 The Parish Council representatives on the Standards Sub-Committee were also asked to review the draft document, in detail and feed through their views from a Parish Council perspective.
- 1.5 Comments were received from both.
- 1.6 The un-amended Code and Operating Procedures were then presented to the Governance and Audit Committee Chairs Briefing in advance of the document being submitted to the Full Committee for early consultation purposes.
- 1.7 Through the Chairs Briefing process the following points for further consideration were also raised: -
  - **Leaving the Room During a Debate** – this should be phrased so that the affected Member must not only leave the room, but also be out of sight of those still present.
  - **Role of the Ward in Parish Council Complaints** – again significant debate, agreed that the Ward Member had a role to play, one mechanism suggested is that all Ward Members would have, say, 7 days to submit comments in writing, on notification of a complaint, similar to making comment on a planning application.
  - **Respect and Bullying** – It has been suggested that it should be clearer that for a person to feel disrespected or bullied, they do not need to be present themselves, for example, if they are spoken very badly about in their absence, this can legitimately give rise for complaints from a third party.
- 1.8 The un-amended Code and Operating Procedures, together with a summary of comments received to that date were then presented to

the Full Governance and Audit Committee at its Meeting on 17 January 2017, for early consultation purposes.

- 1.9 The Committee made a number of comments and suggestions for further consideration and

**RESOLVED** that:

- (a) having reviewed the revised Code of Conduct and Operating Procedures, the Committee's comments, be noted; and
  - (b) the Committee's comments be collated and shared with the Standards Sub-Committee prior to the document being released for wider consultation.
- 1.10. In accordance with this resolution, an informal workshop of the Standards Sub-Committee was held on 16 February 2017 at which Members considered all of the comments made to date. These are set out in full at Appendix B.
- 1.11 Following discussion of each point, Officers were tasked with updating the Code and Operating Procedures to reflect the workshop discussion and Sub-Committee's views expressed.

## **2. Summary of the Arising Changes Incorporated into the Final Draft**

- 2.1 The report and associated appendices, attached at Appendix A - Aii to this report now have incorporated within them a number of track changed amendments which aim to address all those comments received.
- 2.2 It is appreciated that track changed documents can be difficult to follow and are not an easy read. The table below therefore, aims to summarise the comments made (grouped where similar) the arising amendment made as a result, and any rationale for the amendment, or not, as the case may be.

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
<b>WITH REGARD TO THE CODE OF CONDUCT</b>			
Confidential Information – examples should be included for clarity	Addition	<p>Paragraph 4 – New Introduction paragraph, including examples of confidential information, included.</p> <p>Concluding guidance note also incorporated.</p> <p>Reference to disclosure through social media.</p>	For clarity and guidance. To make the document more user friendly.
Regarding Interests – the catch all phrase of <b><i>If in doubt Members should seek guidance from the attending Officer or the Chair</i></b> should be included	Addition	Paragraph 9 – Introduction Paragraph / Guidance Note now included	<p>For Clarity and guidance. To make the document more user friendly.</p> <p>Reference has not been made to the Chair as it is not their role to determine whether another Member has an interest or the nature of that interest.</p>
The wording “rough and tumble” is jargon - suggested replacing it and also inserting solely <b><i>.....to stifle proper debate, nor will</i></b>	Amendment	<p>Guidance Note at Conclusion of Paragraph 3 amended to now read:</p> <p><b>Note: Allegations made under this Code relating to respect, bullying and</b></p>	<p>Better Phrasing.</p> <p>Offers clarity to complainants and reassurance to members.</p>

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
<p><b><i>solely malicious...</i></b></p> <p>General Obligations Note: substitute <b><i>the rough and tumble</i></b> for <b><i>Proper</i></b></p>		<p><b>harassment will be assessed within a threshold. This Code is not designed to stifle proper robust political debate nor will solely malicious allegations be accepted.</b></p>	
<p>General Provisions (4) (a) if the Code is to be used by PC's then substitute <b><i>your</i></b> for <b><i>the</i></b> authority;</p>	Amendment	<p>Part 2 General Provisions Paragraph 4 (a) and (b) substituted "the" for "your" as suggested.</p>	Suitable for multi-purpose use.
<p><b>Leaving the Room during a debate</b> – it was suggested this should be phrased so that the affected Member must not only leave the room, but also be out of sight of those still present.</p>	Amendment / additions	<p>Paragraphs 10 (2) and 11 (2) as follows: -</p> <p>"A Member who has left the meeting should not be visible to the remaining committee members, in order as to not influence the decision in any way."</p> <p>Note also added to paragraph 10 (2) to state: - It is a criminal offence to participate in a decision in which you have a DPI.</p>	For the avoidance of doubt. Clarity
<p><b>Respect and Bullying</b> – It has been suggested that it should be clearer that for a person to feel disrespected or bullied, they do</p>	Addition	<p>Additional Introduction Text added Part 2 General Provisions Paragraph 3 as follows: -</p> <p>Disrespect, Bullying and Harassment can be</p>	Respect is difficult to quantify. It is hoped the suggested amendments address the comments and concerns satisfactorily.

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
<p>not need to be present themselves, for example, if they are spoken very badly about in their absence, this can legitimately give rise for complaints from a third party.</p> <p>Respect needs quantifying further</p>		<p>emotive and subjective issues. Members need to be mindful that such behaviour can manifest itself in a number of guises, including through the use of electronic communications, social media and in the absence of a person ( for example if a person is spoken very badly about in their absence, this can legitimately give rise for complaints from a third party.)</p>	<p>Offers clarity to complainants and Members. Raises awareness</p> <p>For Clarity and guidance. To make the document more user friendly</p>
<p>No reference to social media , it was thought there ought to be? Where? What?</p>	Addition	<p>References now included in General Obligations Section 3 (Respect Bullying and Harassment); Section 4 (Confidential Information; Section 5 (Use of Resources)</p>	<p>For Clarity and guidance. To make the document more user friendly. Social Media is often a factor in a number of complaints received. Parish Council's without a Social Media Policy, could choose to adopt the WLDC Version.</p>
<p>Reference to intimidation should be wider than those who are subject to a complaint or a witness etc. Intimidation should not be accepted at any time.</p>	Amendment / Addition	<p>Additional / amended wording to General Obligations Section 3 (Respect Bullying and Harassment); paragraph 2 (c).</p> <p>Paragraph now reads :- "intimidate or attempt to intimidate any person, <b>including</b> those who are or are likely to be –</p>	<p>Clarity Robustness Satisfies expectations</p>



Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
		(i) a complainant, (ii) a witness, or	
<p>There was a comment regarding the highlighted paragraph within the Code which it has been suggested, at this point by Officers, would not apply to Parish Councils</p> <p><b><i>disagree with this statement. Whilst Parish Council's are not decision makers they do comment on applications and those comments do influence your Council's decisions. Our Parish Council requires disclosure on all planning and licensing applications put to us for consultation. "The man on the Clapham Omnibus" needs to see transparency in proper decision making and commentary.</i></b></p>	Amendment and Addition	No amendment made. Wording proposed for Parish Councils to adopt at their discretion, as appropriate for their requirements.	Please see section 2.3 of the report
For local prejudicial interests, the relevant person scope	Addition	Paragraph 7 (2) now amended to read "or any person living habitually under the same	-A prescriptive list would never cover every scenario. We want Members to

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
<p>should be wider, to acknowledge that families are not all of a traditional set up. Old codes cited 14 relevant people as wide as nieces and cousins. If we cannot include a prescriptive list, can we include a catch all phrase that asks people to make a reasonable judgement?</p>		<p>roof"</p>	<p>make a reasonable judgment based on their personal circumstances, giving consideration to public perception. It is hoped the suggested amendment suffices.</p> <p>The phrase "close association" has previously been used but again this is considered quite a subjective term.</p>
<p>Removing disruptive people or those with an interest (perceived interest)</p>	<p>N/A</p>	<p>-</p>	<p>This is not a matter that should be covered by the Code of Conduct.</p> <p>Determining whether an interest is declarable is the sole responsibility of the Member. The Chairman / Officers should not insist someone leaves for the reason. However regarding disruptive behaviour, this should be dealt with by the Authority's Standing Orders.</p> <p>Provision is included in WLDC's Constitution and Parish Council's will be advised to ensure they have provision within their Standing Orders</p>

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
<p>The Code has a very simplistic view of Private and Public Life ...this is not how the public see it, can we deal with this?</p>	<p>N/A</p>	<p>-</p>	<p>too.</p> <p>No amendments have been made to address Members' behaviour in their private capacity, as this would be outside of the legislation.</p> <p>Issues of this nature however will continue to be addressed informally.</p>
<p>WITH REGARD TO THE OPERATING PROCEDURE</p>			
<p>Role of the Ward Member in Parish Council complaints (Further details of the comments received regarding this are contained in Appendix B)</p>	<p>Amendment</p>	<p>See Section 4 of the operating procedure</p>	<p>Arguably the area which generated the most significant debate. It is hoped the amendments offered satisfies both the suggestions and comments that have been raised along with those concerns raised. The suggested approach is similar to that used when seeking views on planning applications. It leaves it to the discretion of the Member as to whether they wish to express a view on the complaint (retaining local context) and emphasises this is an early allegation not within the public domain. It is a time limited opportunity (as with planning applications)</p>

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
			<p>allowing complaints to still be handled swiftly.. It is also hoped this approach will re-affirm the legal position in that it is the Monitoring Officer's decision alone to decide if a complaint should be sent for investigation. The IP will also be asked to submit their comments in writing and as such all written comments will be retained on file. The use of "Panel Meetings" as they are often referred to will not be necessary. It is hoped this will address any bias and public perception concerns which have been raised previously</p>
<p>Do WL have a policy if the person complained about has no transport or claims to not be able to afford to attend a hearing ? should we?</p>	<p>No Amendment</p>	<p>N/A</p>	<p>The Operating Procedure makes it clear that a Hearing can proceed in the absence of the subject member. However respondents are asked to confirm their attendance and cite a reason for non-attendance. It is considered the best approach would be to assess each case on its merit (it would potentially be feasible to fund such costs from existing budgets)</p>

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
			however it is not considered prudent to include an explicit statement.
3.1 – changes needed . Perhaps ‘.....website, or may be obtained on request.....’	Amendment	Paragraph 3.1 amended to read “The complaint form can be downloaded from the authority’s website, or may be obtained on request by telephoning the Monitoring Officer, on 01427 676509.	Better Phrasing
<p>3.2 ‘We ‘is who ? – do we need to clarify?</p> <p>Further suggested Remove ‘At this point in time’. Replace with ‘ The person complained about will be supplied with a copy of your complaint form at the same time.’</p> <p>3.2 the penultimate sentence needs the following addition for clarity ....for information only <b>and on a confidential basis.</b></p>	Amendment	<p>Paragraph 3.2</p> <ul style="list-style-type: none"> <li>• all references to “We” have been amended to the Monitoring Officer.</li> <li>• “at this point in time” removed and replaced with wording suggested</li> <li>• Additional wording added to penultimate sentence as requested.</li> <li>• The words “copy of the complaint” have been replaced with “a copy of the acknowledgement letter”</li> </ul>	<p>Clarity Ownership Better Phrasing</p> <p>To reflect working practises , this was misleading.</p>
4.1 this section states that the MO may also inform the Parish Council. However, in 3.2,	Deletion	<p>Paragraph 4.1</p> <ul style="list-style-type: none"> <li>• “may also inform the Parish Council of your complaint and” have been</li> </ul>	Clarity

Nature of Comment received during Feedback	Type of Change (If Any)	Change Made (including Paragraph reference)	Reasoning and comments
<p>he has already sent a copy to the Parish Clerk. – tidy up / decide which</p>		<p>“removed as this was covered earlier in the procedure.</p> <ul style="list-style-type: none"> <li>• “and or the Local Ward Members(s)” has been removed Ward Member engagement in the process has been addressed by the amendments suggested (detailed in Role of the Ward Members in Parish Council complaints section)</li> </ul>	
<p>Complaints should be time limited ie you cannot make a complaint 3 years after the event, it was suggested this should be 1 month</p>	<p>Addition</p>	<p>Add to the introduction section: -</p> <p>Complaints which relate to an allegation that took place more than 6 months ago will not be accepted, unless in the view of the Monitoring Officer, if proven, they would result in significant breaches of the Code.</p>	<p>1 month was considered too tight. 6 months seems more reasonable. The suggested amendment has left some leeway for the most serious allegations to be looked at even after this date.</p>

- 2.3 The inclusion of prejudicial interests (local provision) for Parish Council's has been a matter of much debate with many differing views expressed.
- 2.3.1 It had previously been proposed that this section would not be applicable to Parish Councils, as they are not the ultimate decision makers in planning applications, but rather consultees. The thrust of the Localism Act was to encourage greater participation at a local level.
- 2.3.2 However it is accepted that public perception is an important consideration and it is therefore proposed that it should be left at the discretion of each Parish Council to determine if they wish to adopt this Section of the Code or not, as set out below: -

**Non participation in case of other (local provision) prejudicial interests (those which arrive from a personal interest but affect your or a relevant persons financial position)**

11. (1) Subject to paragraphs (2) and (3), below where you have a prejudicial interest in any business of your authority –
- (a) **you may not** participate in any discussion of the matter at the meeting.
  - (b) **you may not** participate in any vote taken on the matter at the meeting.
  - (c) if the interest is not registered, you must disclose the interest to the meeting.
  - (d) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

**[Note: In addition you are required to leave the room where the meeting is held while any discussion or voting takes place.**

A Member who has left the meeting should not be visible to the remaining Committee Members, in order as to not influence the decision in any way.

- 2.3.3 Regardless of Section 11 being adopted, Parish Council Members would however still need to state their local provision interest to the meeting as required in Section 9 of the Code. It is the level of involvement that Member is permitted to have thereafter, that each Parish Council will need determine.

- 2.3.4 It is important to remember that if a Parish Council does adopt section 11 of the Code, and a Member fails to abide by its requirements, this will have not meet the threshold for a disclosable pecuniary interest and thus no criminal act will have been committed.
- 2.3.5 Each Parish Council will need to advise the Monitoring Officer, on adoption whether they have adopted Section 11 in order that any complaints can be assessed effectively.
- 2.3.6 Greater engagement and training will be undertaken with the Parish Council during 2017/18 regarding the new Code.

### **3 Recommendations**

That

- (a) Members review and make comment on the final draft version of the revised Code of Conduct and Operating Procedures prior to its submission to the Governance and Audit Committee;
- (b) an all Member workshop be held in advance of Annual Council to present the content of the draft revised Code to the wider membership (proposed date of 25 April 2017pm).
- (c) the Monitoring Officer be granted delegated Authority to incorporate any further amendments required to the Code of Conduct and Operating Procedures, arising from this meeting, the Governance and Audit Committee Meeting or the above Member Workshop, prior to it being submitted to Annual Council for adoption in May 2017.





APPENDIX A

**West Lindsey District Council**

**Members' Code of Conduct**

# WEST LINDSEY DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT

## FOR ELECTED AND CO-OPTED MEMBERS OF WEST LINDSEY DISTRICT COUNCIL

### **Part 1: The Principles**

As a member or co-opted member of West Lindsey District Council, you have a responsibility to represent the community and work constructively with your fellow members, our staff and partner organisations to secure better social, economic and environmental outcomes for all.

When acting in this capacity you must have regard to the following principles in carrying out your duties, in accordance with the requirements of the Localism Act 2011 (The Act) :-

1. Selflessness.
2. Integrity.
3. Objectivity.
4. Accountability.
5. Openness.
6. Honesty.
7. Leadership.

More specifically that means observing the following rules of behavior to maintain public confidence in this Authority :-

### **Principle 1 – Selflessness**

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 or close associate.

### **Principle 2 – Integrity**

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

### **Principle 3 – Objectivity**

When carrying out your public duties / business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you must make all choices, on merit.

#### **Principle 4 – Accountability**

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

#### **Principles 5 and 6 – Openness and Honesty**

You must be as open as possible in respect of all your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions. You should only restrict information when the wider public interest clearly demands it (see general obligation 4 also).

You must declare any private interests, both pecuniary and non-pecuniary, 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 conforming with the procedures set out in Part 3 of this Code.

#### **Principle 7 – Leadership**

You must promote and support and promote the above principles by leadership and example.

In addition West Lindsey District Council's Code also includes local provision relating to

1. Respect Bullying and Harassment
2. Confidential Information
3. Use of Resources

The requirements relating to these aspects are set out in more detail in Part 2 of this Code under General Obligations.

These principles articulate the fundamental values of public service that underpin the conduct of members. The following provisions of the Code of Conduct for members are derived from those principles and provide a set of enforceable minimum standards for the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

Examples, but not an exhaustive list, of how Elected Members will display ~~behaviour~~ **behavior** in accordance with these principles is set out in Appendix A to the Code.

### **Part 2: General Provisions**

#### **Introduction and Interpretation**

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles set out above.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code –  
“meeting” means any meeting of –
  - (a) ~~your~~ authority;
  - (b) Any of ~~your~~ authority’s or its committees, sub-committees, joint committees, subcommittees, or area committees; “member” includes a co-opted member.

### **Scope**

2. (1) You must comply with this Code whenever you –
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed);
  - (b) act, or claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.
- (2) Where you act as a representative of your authority:-
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (3) Members should note that the Act creates specific criminal offences in relation to disclosable pecuniary interests (disclosable pecuniary interests are contained in Appendix B together with the offences)

### **General Obligations**

#### **3 Respect, Bullying and Harassment**

Disrespect, Bullying and Harassment can be emotive and subjective issues. Members need to be mindful that such behaviour can manifest itself in a number of guises, including through the use of electronic communications, social media and in the absence of a person ( for example if a person is spoken very badly about or too/ present or absent, this can effect third parties and legitimately give rise for complaints .)

~~(1) You must treat others with respect.~~

Councillors at all times must show respect to each other, staff and members of the public and engage with them in an appropriate manner and one that underpins the mutual respect that is essential for local government. Councillors may not always agree with the political views of their member colleagues but they will respect the right for those views to be held.

1) You must treat others with respect.

(2) You must not –

- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person, including those who ~~are is~~ or ~~are is~~ \_\_\_\_\_ likely to be –
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

**Note:** Allegations made under this code relating to respect, bullying and harassment will be assessed within a threshold. This code is not designed to stifle proper robust the rough and tumble of political \_\_\_\_\_ debate nor will solely malicious allegations be accepted or as a tool to resolve personal conflicts.

#### 4. Confidential information

The disclosure of confidential information can seriously undermine the position of your Authority. It can be detrimental to the Council's reputation, and could result in legal action being taken against your authority. This is particularly important in relation to the procurement of contracts.

Examples (but not an exhaustive list) of confidential information include: -

- matters which have been discussed in closed /private session
- reports which have been marked as exempt or restricted
- staffing matters / salaries
- code of conduct matters
- matters relating to contracts under procurement

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Therefore You must not, via any means, including through social media –

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- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
- (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is: -
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

**Guidance Note: Members considering making a public disclosure are advised to seek guidance from the Monitoring Officer / Clerk in the first instance.**

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## 5. Use of Resources

You –

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources

of your authority –

- (i) act in accordance with your authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the relevant legislation in existence at the time.

(d) Act in accordance with your Authority's Social Media Policy or equivalent.

### **Part 3: Interests**

#### **Notification of Interests**

6. (1) You must, within 28 days of the adoption of this Code or of taking office as a member or co-opted member, notify the Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State.

Those which are covered by these regulations are listed at Appendix B of this code.

*[Note: the regulations currently in force apply where the disclosable 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.]*

- (2) If a disclosable pecuniary interest, as defined above, has not been entered into the authority's Register upon notification under paragraph 6 (1), you must disclose the interest to any meeting of the authority at which you in any matter being considered and whether the matter is not a 'sensitive interest'. Following any such disclosure of an interest, you must notify the Monitoring Officer within 28 days beginning with the date of disclosure.
- (3) In addition to the disclosable pecuniary interests which are the subject of paragraph 6 (1) above, you must, within 28 days of:-
- (a) this code being adopted by or applied to the authority; or
  - (b) your election or appointment to office (where that is later),

notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the descriptions set out in paragraph 8 below for inclusion in the Register of Interests.

- (4) You must, within 28 days of becoming aware of any new interest or change to any interest to be registered under the requirements of

paragraphs 6 (1) – (3), notify the Monitoring Officer of the details of that new interest or change.

### **Definition of Personal Interest**

7. (1) You have a personal interest in any business of the authority where either:-
- (a) it relates to or is likely to affect –
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body –
      - (aa) exercising functions of a public nature; (bb) directed to charitable purposes; or
      - (cc) one of whose principle purposes including the influence of public opinion or policy (including any political party or trade union);of which you are a member or in a position of general controlor management.
- or
- (b) a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- (2) For the purposes of paragraph 7 (1) (b), a relevant person is – a member of your immediate family, namely your mother, father, sister, brother; son daughter, any person habitually living under the same roof,- or
- (a) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
  - (b) any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body.



### **Definition of Prejudicial Interests**

8. The Council has decided that in addition to disclosable pecuniary interests referred to in paragraph 6 (1) above, you also have a prejudicial interest if you have a personal interest in any business of the authority where the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business:-
- (a) affects your financial position or the financial position of a person or body described in paragraph 7; and
  - (b) relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 7.

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### **Disclosure of Interests**

**Guidance Note: Members who are unsure whether they have an interest and, if so, the nature of that interest should seek guidance from the Monitoring Officer / Clerk (ideally in advance of the meeting) Ultimately, however, it is for the Member themselves to determine their position.**

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9. (1) Subject to sub-paragraph (2) where you have a personal interest in any business of your authority and where you are aware or ought reasonably to be aware of the existence of the personal interest and you attend a meeting of the authority where the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of the meeting and prior to any discussion of the relevant item, or as soon as the interest becomes apparent to you. **You can remain in the meeting, take part in the debate and vote on the matter.**
- (2) Where you have a personal interest, but, by virtue of paragraph 14 sensitive information relating to it is not registered in your authority's Register of Members Interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

### **Non-Participation in Case of Disclosable Pecuniary Interest (Detailed in Appendix B)**

10. (1) If you are present at any meeting of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:-
- (a) **you may not participate** in any discussion of the matter at the meeting.

- (b) **you may not participate** in any vote taken on the matter at the meeting.
- (c) if the interest is not registered, you must disclose the interest to the meeting.
- (d) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

- (2) **In addition, you are required to leave the room where the meeting is held while any discussion or voting takes place.**  
A Member who has left the meeting should not be visible to the remaining committee members, in order as to not influence the decision in any way.

It is a criminal offence to participate in a decision in which you have a DPI

**Non participation in case of other (local provision) prejudicial interests (those which arrive from a personal interest but effect your or a relevant persons financial position)**

11. (1) Subject to paragraphs (2) and (3), below where you have a prejudicial interest in any business of your authority –
- (a) **you may not** participate in any discussion of the matter at the meeting.
  - (b) **you may not** participate in any vote taken on the matter at the meeting.
  - (c) if the interest is not registered, you must disclose the interest to the meeting.
  - (d) if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

**[Note: In addition you are required to leave the room where the meeting is held while any discussion or voting takes place.**

A Member who has left the meeting should not be visible to the remaining committee members, in order as to not influence the decision in any way.

- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence

relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

- (3) There are some decisions that affect every Member, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your authority in respect of:-
- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (d) an allowance, payment or indemnity given to members;
  - (e) any ceremonial honour given to members; and
  - (f) setting council tax or precept under the Local Government Finance Act 1992.
  - (g) an interest arising from your membership of another local authority or parish council.

#### **Dispensations**

12. The Governance and Audit Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a prejudicial interest, including a disclosable pecuniary interest.

#### **Register of Interests**

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

#### **Sensitive Interests**

14. Where you consider that disclosure of the details of an interest could lead to

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

**Gifts and Hospitality**

15. The Council has determined that as a matter of good practice you must also declare to the Monitoring Officer within 28 days the interest of any person from whom you have received, in connection with your official duties as a member, a gift or hospitality with an estimated value of at least £50.

## APPENDIX A

As a Member of West Lindsey District Council, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me – and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of West Lindsey or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

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

Disclosable pecuniary interests include not only your interests but also the interests of your 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 they were a civil partner, so far as you are aware of the interests of that person.

<i>Subject</i>	<i>Prescribed description</i>
1. Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
2. Sponsorship	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).</p>
3. Contracts	<p>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—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
4. Land	Any beneficial interest in land which is within the area of the relevant authority.

5. Licences Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
6. Corporate tenancies Any tenancy where (to M's knowledge)—
- (a) the landlord is the relevant authority; and
  - (b) the tenant is a body in which the relevant person has a beneficial interest.
7. Securities Any beneficial interest in securities of a body where—
- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
  - (b) either—
    - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

. It is a criminal offence:-

- i. to fail to register a Disclosable Pecuniary Interest (DPI) you are aware of within 28 days of your election or re-election;
- ii. to take part in the debate or vote at any meeting where you have a registered or unregistered DPI;
- iii. to fail to declare at a meeting and/or to take part in the debate or vote, if you are aware you have a DPI which is not yet registered or notified to the Monitoring Officer;
- iv. if you have declared an unregistered DPI at a meeting, to fail to register that within 28 days of that declaration;
- v. to provide false or misleading information in relation to any registration or to be reckless as to its accuracy;
- vi. to take any steps or further action on a matter in which you have a DPI other than referring it elsewhere;

in each case without reasonable excuse

## Glossary of Terms

<b>Member:</b>	a person elected or co-opted to office
<b>Act</b>	refers to the Localism Act 2011
<b>Meeting</b>	a formally arranged gathering, attended by you in Capacity
<b>Disclosable Pecuniary Interest</b>	as defined in statute and set out in appendix B to this Code. Only relate to you or your spouse Criminal sanctions applicable
<b>Prejudicial Interest</b>	local provision – see section 8, most likely to occur in planning and licensing matters (as the wording relates to the granting of a license or application)
<b>Personal Interest</b>	See Section 7
<b>Relevant Person</b>	your spouse, mother, father, sister brother son daughter <u>or anyone</u> <u>habitually living under the same roof</u>

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## Arrangements for dealing with standards allegations (against a District Councillor) under the Localism Act 2011

### 1 Context

The "Arrangements" set out how you may make a complaint that an elected or co-opted member of this authority 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 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.

The 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 against whom an allegation has been made.

Complaints which relate to an allegation that took place more than 6 months ago will not be accepted, unless in the view of the Monitoring Officer, if proven, they would result in significant breaches of the Code.

The Monitoring Officer will appoint a Deputy to oversee complaints in which he is referenced.

### 2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority's website and on request from Reception at the Council offices.

### 3 Making a complaint

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.

3.1 In order to ensure that ~~the Monitoring Officer~~~~we have~~ all the information which ~~he~~~~we~~ needs to be able to process your complaint, please complete and ~~return these~~~~send us the~~ complaint form, which can be downloaded from the authority's website, ~~next to the Code of Conductor or may be obtained on,~~ and is available on request by telephoning the Monitoring Officer on 01427 676509.

3.2 ~~We~~~~The Monitoring Officer~~ will aim to acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint. ~~At this point in time, the person complained about will be supplied with a copy of your complaint form.~~

The person complained about will be supplied with a copy of your complaint form at the same time. The Monitoring Officer will also send a copy of the acknowledgement letter and complaint form to the relevant Group Leader (or the Leader of the Council, if the Member is an Independent Councillor) for information only and in confidence.

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**Please note at this time the information you provide to us will not be made available in the public domain.**

### 4 Will your complaint be investigated?

The Monitoring Officer will now review your complaint received and after consultation with the Independent Person and the relevant Group Leader, take a decision as to whether it merits formal investigation. This decision will normally be taken within 20 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 writing.

4.1 Where the Monitoring Officer 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. Such requests will be made in writing, in confidence.

4.2 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 suggested 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.

4.3 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?

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.

- 5.1 The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.
- 5.2 The Investigating Officer would normally write, **in confidence**, to the member against whom you have complained, and ask the member to provide his/her explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview.
- 5.3 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.
- 5.4 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.

5.5 We would aim to complete this stage of the process within 3 months of your having been advised that the complaint will be investigated.

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

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you **in confidence** and to the member concerned 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.

**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 and the relevant Group Leader, 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 the relevant Group Leader 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 suggested by the authority.

If the member complies with the suggested resolution, the Monitoring

Officer will report the matter to the Standards Sub-Committee 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 then make a decision as to whether to, along with the Independent Person and the Group Leader, refer the matter for a local hearing.

## 7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, 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 (usually in public) 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.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

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

## **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 Censure or reprimand the member;
- 8.2 Publish its findings in respect of the member's conduct;

- 8.3 Report its findings to Governance and Audit Committee;
- 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 any particular responsibilities;
- 8.6 Instruct the Monitoring Officer to arrange training for the member;

- 8.7 Remove from all outside appointments to which he/she has been appointed or nominated by the authority;
- 8.8 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- 8.9 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 (usually within 5 working days), 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, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Governance and Audit Committee.

## **10 Who are the Hearings Panel?**

The Hearings Panel is made up of 3 members selected from the Standards Sub-Committee.

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 within the past 5 years, been 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 Appeals**

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

The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly or if it sought to impose a sanction which the authority had no power to impose.

Note 1: In those instances where there is no Group Leader to consult, the Monitoring Officer should consult with the Leader of the Council.

Note 2: If the complaint concerns a Group Leader or the Leader of the Council, then the Monitoring Officer will involve the relevant person from another Local Authority.



## Arrangements for dealing with standards allegations (against a Parish Councillor) under the Localism Act 2011

### 1 Context

The "Arrangements" set out how you may make a complaint that an elected or co-opted member of a parish council within the area of West Lindsey has failed to comply with the Parish Council's Code of Conduct. They set out how West Lindsey District Council (WLDC) will deal with allegations of a failure to comply with the Parish Council's Code of Conduct.

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

The 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. The Independent Person's views can be sought by the authority at any other stage, or by a member or co-opted member of a parish council against whom an allegation has been made.

Complaints which relate to an allegation that took place more than 6 months ago will not be accepted, unless in the view of the Monitoring Officer, if proven, they would result in significant breaches of the Code.

The Monitoring Officer will appoint a Deputy to oversee complaints in which he is referenced.

### 2 The Code of Conduct

Each Parish Council has adopted 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

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

3.1 In order to ensure that ~~the Monitoring Officer~~ ~~we~~ ~~has~~ ~~ve~~ all the information which ~~he~~ ~~w~~ ~~e~~ ~~needs~~ to be able to process your complaint, please complete and ~~send us~~ ~~return~~ the complaint form. The complaint form can be downloaded from the authority's website, or ~~may be obtained on available on~~ request by telephoning the Monitoring Officer, on 01427 676509.

**3.2** ~~The Monitoring Officer~~ ~~We~~ will aim to acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint. ~~The person complained about will be supplied with a copy of your complaint form at the same time~~ ~~At this point in time, the person complained about will be supplied with a copy of your complaint form.~~ ~~The Monitoring Officer~~ ~~We~~ will also send a copy of the ~~complaint acknowledgement letter~~ to the Parish Clerk and the Local Ward Member(s) for information only ~~and in confidence.~~

**3.2** ~~..~~ ~~Please note at this time the information you provide to us will not be made available in the public domain.~~

### 4 Will your complaint be investigated?

The Monitoring Officer will review your complaint.

~~To assist him in doing this he will seek the views of the Local Ward Member(s) in confidence. Local Ward Members will be provided with a copy of the complaint and will be asked to submit any comments they have in writing to the Monitoring Officer within 5 working days. They will be asked to state any conflict of interest they may have. Non response from the Local Ward Member will not be chased up, it will be at their discretion as to whether they participate in the process at this stage.~~

~~At the same time a copy of the complaint will also be shared with the Independent Member. They too will be asked to submit any comments they have in writing to the Monitoring Officer within 5 working days.~~

~~On receipt of any written responses and~~ ~~received and~~ after consultation with the Independent Person ~~the Monitoring Officer will~~ take a decision as to whether ~~the complaint~~ ~~#~~ merits formal investigation. This decision will normally be taken within 20 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, you will be informed of the decision, and the reasons for that decision, in writing.

4.1 Where the Monitoring Officer requires additional information in order to come to a decision, ~~he~~ ~~she~~ may come back to you for such information. Also information may be requested from the member against whom your complaint is directed. ~~Such requests will be made in writing~~ The Monitoring Officer may also ~~inform the Parish Council of your complaint and~~ seek the views of the Parish Council ~~and/or the Local Ward Member(s),~~ **in confidence**, before deciding whether the complaint merits formal investigation.

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- 4.2 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution, known as a local resolution, may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action suggested 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.
- 4.3 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?**

If the Monitoring Officer decides that a complaint merits formal investigation, an Investigating Officer will be appointed who may be another senior officer of WLDC, an officer of another authority or an external investigator.

- 5.1 The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint. You will have the opportunity to explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.
- 5.2 The Investigating Officer would normally write, **in confidence**, to the member against whom you have complained and ask the member to provide his/her explanation of events and to identify what documents he/she needs to see and who needs to be interviewed.
- 5.3 At the end of the Investigating Officer's investigation a draft report will be produced and a copy will be sent, **in confidence**, to you and to the member concerned. You will both be given the opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.
- 5.4 Having received and taken into account of any comments which you may make on the draft report, the Investigating Officer will send a final report to the Monitoring Officer.

5.5 We would aim to complete this stage of the process within 3 months of your having been advised that the complaint will be investigated.

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

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned—and to the Parish Council **in confidence**, 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.

## **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 after consulting with the Independent Person either send the matter for local

hearing before the Hearings Panel or 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 the Monitoring Officer will consult with the Independent Person and with you as complainant to seek to agree what you consider to be a fair resolution. This 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 suggested by the Parish Council.

If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Sub-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 then make a decision along with the Independent Person as to whether to refer the matter for a local hearing.

#### 7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will refer the Investigating Officer's report to the Hearings Panel. The Hearings Panel will conduct a local hearing (usually in public) 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.

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. 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 the final report, call such witnesses as considered 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 this. 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 Hearings Panel will endeavor to take into account all aspects of the particular case and look at the picture as a whole. In order to help a Parish Council to develop and improve functionality, the Hearings Panel may –

- 8.1 Report its findings to the Parish Council for information;
- 8.2 Recommend that the Parish Council arrange training for the Member;
- 8.3 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;
- 8.4 Recommend specific action or training to the Parish Council to aid its development and improve functionality;

- 8.5 Recommend to the Parish Council that it withdraws facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
- 8.6 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.

## **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 (usually within 5 working days), the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, the member and the Parish Council. That decision notice will be made available for public inspection. The decision will be reported to the next convenient meeting of the Governance and Audit Committee.

## **10 Who are the Hearings Panel?**

The Hearings Panel is made up of 3 members selected from the Standards Sub-Committee.

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 within the past 5 years, been 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 Appeals**

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

The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly or if it sought to impose a sanction which the authority had no power to impose.

## **APPENDIX B**

### **Code of Conduct Comments Received to Date for further consideration and discussion (as presented to the workshop on 16 February 2017)**

#### **Made at the Standards Sub-Committee on 9 December 2016: -**

The main areas which the Sub-Committee asked Officers to give further consideration to were : -

- **Confidential Information** - Providing examples for clarity
- **Role of The Ward Member in Parish Council complaints** - this generated significant debate. The general concluding consensus was that the Ward Member should play a role in the early stages due to their local knowledge, but the issue of public perception and bias was acknowledged. Officers have undertook to give this further consideration.

#### **Extracts from the Minutes**

- Confidentiality - Parish Council representatives welcomed its inclusion and suggested that further clarification of “confidential information” and specific examples would be of assistance.
- There was very lengthy discussion regarding the proposed change to the Operating Procedure. Officers gave substantial detail regarding the reasons this change was being proposed and perceived issues that had arisen as result.

Some elected Members had concern that without local Member input there would be no local context to complaints. Parish Council representatives considered it was important that this was retained, whilst accepting that the public must have confidence that complaints would be handled fairly. A number of suggestions as to how this involvement could be maintained, albeit in a different guise, were suggested. This included written representations, information from the Clerk or a more a fluid statement leaving it at the discretion of the Monitoring Officer. Caution was again expressed that all complaints needed to be handled the same and discretion often led rise to allegations of unfairness. There was a view that if it was a multiple member ward, then all should be asked for their views.

#### **Made via e-mail (from Parish Council representatives)**

- Do WL have a policy if the person complained about has no transport or claims to not be able to afford to attend a hearing ? should we?



Parish Councillors Arrangements ( Appendix C)

- 3.1 – changes needed . Perhaps ‘.....website, or may be obtained on request.....’
- 3.2 ‘We ‘is who ? – do we need to clarify?  
Further suggested Remove ‘At this point in time’. Replace with ‘ The person complained about will be supplied with a copy of your complaint form at the same time.’  
It might be good practice to inform the complainant that there is nothing to prevent the subject of the complaint from putting the information into the public domain.
- 4.1 I note that this section states that the MO may also inform the Parish Council. However, in 3.2, he has already sent a copy to the Parish Clerk. – tidy up / decide which
- Regarding Interests – the catch all phrase of ***If in doubt members should seek guidance from the attending officer or the Chair*** should be included
- The wording “rough and tumble” is jargon - suggested replacing it and also inserting solely -....***to stifle proper debate, nor will solely malicious...***
- There was a comment regarding the highlighted paragraph with in the Code which it has been suggested, at this point by Officers, would not apply to Parish Councils  
***disagree with this statement. Whilst Parish Council’s are not decision makers they do comment on applications and those comments do influence your Council’s decisions. Our Parish Council requires disclosure on all planning and licensing applications put to us for consultation. “The man on the Clapham Omnibus” needs to see transparency in proper decision making and commentary.*** – It is felt this point needs more discussion
- General Provisions (4) (a) if the code is to be used by PC’s the substitute ***your*** for ***the*** authority;
- At 3 General Obligations Note: substitute ***Proper*** for ***the rough and tumble.***
- Appendix C (arrangements for dealing with a Parish Councillor) I am not sure how you will deal with PC’s whose Code is useless !! At 3.2 the penultimate sentence needs the following addition for clarity ....for information only ***and on a confidential basis.***

### **Made at G and A chairs Briefing on Wednesday 4 January 2017**

Through the Chairs Briefing process the following points for further consideration were also raised: -

- **Leaving the Room during a debate** – it was suggested this should be phrased so that the affected Member must not only leave the room, but also be out of sight of those still present.
- **Role of the Ward in Parish Council complaints** – again significant debate, suggested that the Ward Member had a role to play, one mechanism suggested is that all Ward Members would have say 7 days to submit comments in writing, on notification of a complaint, similar to making comment on a planning application.
- **Respect and Bullying** – It has been suggested that it should be clearer that for a person to feel disrespected or bullied, they do not need to present themselves, for example, if they are spoken very badly about in their absence, this can legitimately cause rise for complaints from a third party.

### **Made at G and A Committee on 17 January 2017**

Through the debate at this Committee, these were the main points which arose for further consideration.

- The Code has a very simplistic view of Private and Public Life ...this is not how the public see it, can we deal with this? Mo has advised the law is law however this would not prevent us from having a quiet word and gave examples of how such cases have been dealt with to date, can we / should we make this any clearer in the documentation?
- Removing disruptive people or those with an interest (perceived interest) . Note from Officers: -Determining whether an interest is declarable is the sole responsibility of the Member. The Chairman / Officers should not insist someone leaves for the reason. However regarding disruptive behaviour, this should be dealt with by the Authority's Standing Orders – we need to ensure there is provision and its clear.
- For local prejudicial interests, the relevant person scope should be wider, to acknowledged that families are not all of a traditional set up. All codes cited 14 relevant people as wide as niece and cousins. If we cannot include a prescriptive list, can we include a catch all phrase that asks people to make a reasonable judgement?

- Member involvement in complaints must be a must! – need to determine how
- Respect needs quantifying further?
- No reference to social media , it was thought there ought to be? Where? What?
- Reference to intimidation should be wider than those who are subject to a complaint or a witness etc. Intimidation should not be accepted at any time.
- Complaints should be time limited ie you cannot make a complaint 3 years after the event, it was suggested this should be 1 month?
- Arrangements for dealing with complaints – need greater clarity at each step. Each step should be formally minuted.