



SSC.02 16/17

Standards Sub Committee

9 December 2016

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Subject: Code of Conduct Review and Operating Procedures

Report by:

Director of Resources

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Purpose / Summary:

To present a revised Members' Code of Conduct and Operating Procedures for Consultation purposes, including supporting data analysis and rationale for change.

RECOMMENDATION(S): that

- (a) Members review and make comment on the revised Code of Conduct and Operating Procedures;**
- (b) agree that consultation be undertaken with the Core Management Team, Parish Councils and District Councillors on the revised Code of Conduct and Operating Procedures;**
- (c) that following consultation, the proposed Code and Operating Procedures be submitted to the Governance and Audit Committee for further consideration and subsequent adoption by Council in May 2017;**

(d) Officers are requested to report at least annually to this Committee the number, nature and outcome of complaints received under the Code of Conduct.

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'

Financial :

Staffing :

Equality and Diversity including Human Rights :

NB: Please explain how you have considered the policy's impact on different groups (for example: young people, elderly, ethnic minorities, LGBT community, rural residents, disabled, others).

Risk Assessment :

Climate Related Risks and Opportunities :

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

*Wherever possible please provide a hyperlink to the background paper/s
If a document is confidential and not for public viewing it should not be listed.*

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

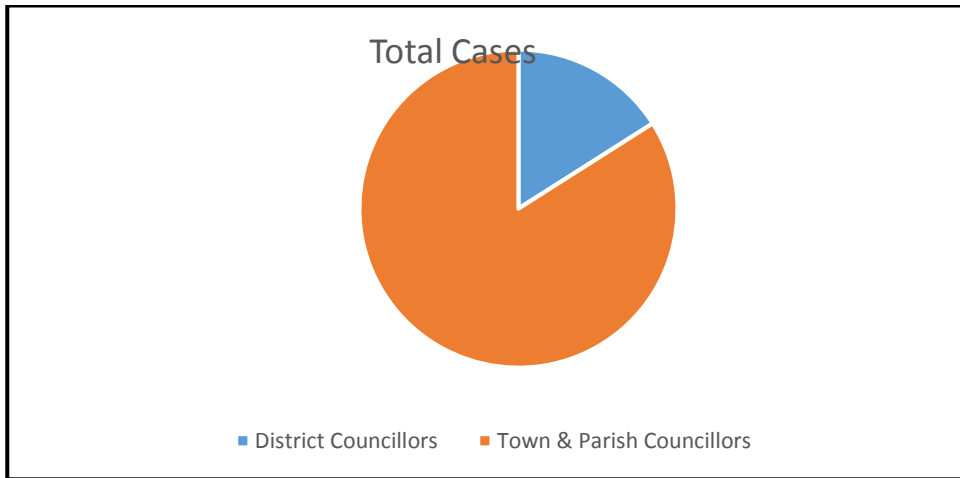
No

1 Background and Introduction

- 1.1 The Council introduced its current Code of Conduct and Operating Procedures in July 2012 in response to the requirements of the Localism Act 2011, which saw the abolition of the Standards Board regime and all the rules under it.
- 1.2 A review of the Code has not been undertaken since its introduction in 2012 and having now worked within its requirements for over four years it would seem appropriate to do so.
- 1.3 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' and different authorities will quite legitimately come to a range of views about the content of their Code.
- 1.4 Having worked with our current Code for around four years, it has become apparent that the general public, Officers and Councillors alike are of the view that these principles do not go far enough.
- 1.5 The Localism Act does not prevent us from including further provisions on our Members and in light of the nature of the complaints that have been received during the period, we would recommend that general obligations **relating to respect, bullying, intimidation and the disclosing of confidential information** be incorporated in our Code of Conduct.
- 1.6 It is also important that all Codes should contain a sufficient level of detail to allow allegations of misconduct or inappropriate behaviour to be properly assessed.
- 1.7 Although a 'minimalist' approach may appear superficially attractive this does not engender confidence amongst citizens that conduct issues will be addressed appropriately.
- 1.8 The Act requires local authorities to ensure that Elected Members maintain high standards of conduct. A sound and robust ethical framework is a key component of effective governance arrangements and this can be demonstrated by the adoption of robust, open and transparent arrangements for dealing with allegations of misconduct.

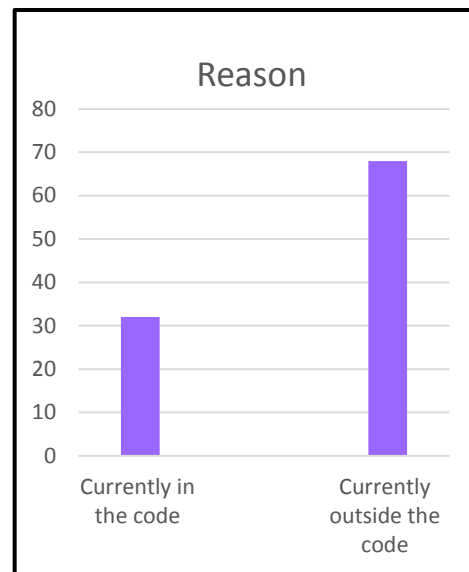
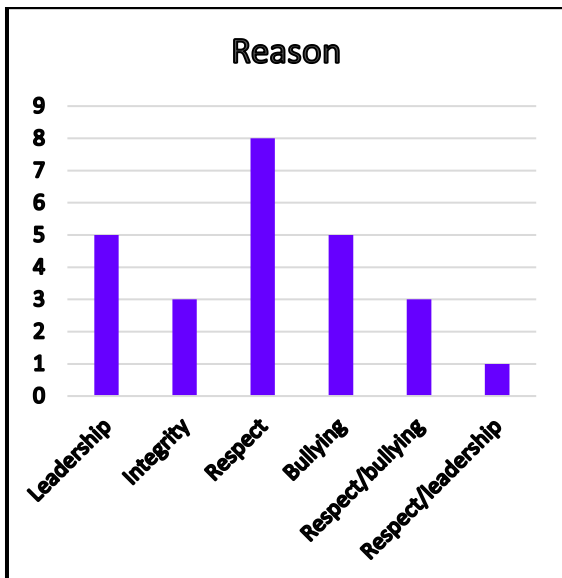
2. Summary of Number, Nature and Outcome of Complaints between the Period 1 October 2015 – 30 September 2016

- 2.1 During the period 1 October 2015 – 30 September 2016, there has been a total of 25 individual complaints. Four made against District Councillors and 21 made against Parish Councillors. This is shown in percentage terms in the chart below:



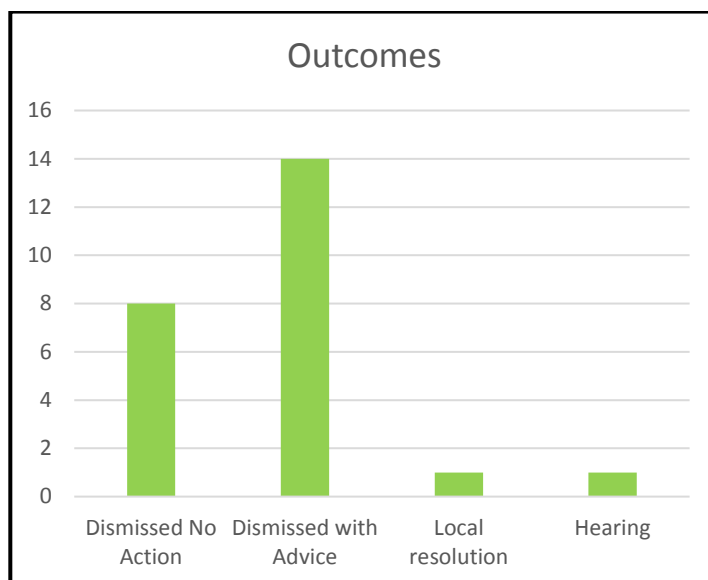
2.2 Of these, only two complaints have led to a formal investigation.

2.3 The reasons cited by the complainants when initially making the complaint are set out below:



2.4 As the current Code of Conduct in force does not have provisions included relating to bullying and respect, a number of complaints fell outside of the Code's current remit, shown above.

2.5 In such cases, dependent upon the issues contained with the complaint, the Monitoring Officer will often seek to take informal action and give guidance about expected behaviour. The graph below, shows the types of actions which were taken in response.



3 Proposed Amendments

3.1 General Comments

3.1.1 It has become normal practice when policies are reviewed to include for ease of reference an additions/ amendments/ deletions sheet. In this case the new Code is written very differently so this was not deemed appropriate on this occasion. The Code has been reviewed to ensure it is clearer and easier to understand. The proposed revised Code is attached at Appendix A. The Code currently in force is attached at Appendix B for comparison.

3.1.2 It is now written in a more appropriate language following a similar style to a number of other local authorities and has been split into three sections namely: -

- Part 1: The Principles
- Part 2: General Provisions
- Part 3: Interests and Notifications of Interest

3.1.3 The list of example behaviours previously included has been removed from the main body of the Code and attached as an Appendix (Appendix A of the proposed Code), again to make the document an easier read. It is made clear in the main body of the code that these are examples of how Elected Members will display behaviour in accordance with these Principles, as opposed to an exhaustive list.

3.1.4 The Code is also now easier to interpret and assess behaviour against.

3.1.5 The revised Code aims to make clearer the expectations on all Members. Arguably, all the proposed revisions are in accordance with how the majority of Elected Members currently behave and conduct themselves, and how we would all wish to be treated in our daily life but these have not previously been documented and therefore were not enforceable under the Code.

3.2 Part 1 – The Principles

3.2.1 This section sets out the seven Nolan Principles. The wording remains the same as set out in the previous Code agreed in July 2012 and places no further requirements on Members.

3.2.2 However, the words “holders of public office” have been replaced with “You” – increasing ownership of the Principles. And the words “should” with “must”. We consider this demonstrates a greater commitment to uphold the Principles

3.3 Part 2 – General Provisions

3.3.1 This is a new section within the Code and comprises: -

- An Introduction and Interpretation
- Scope
- New General Obligations on Members relating to respect, bullying, harassment, confidential information and use of resources

3.3.2 Introduction / Interpretation and Scope

It is hoped that the inclusion of an Introduction / Interpretation and Scope Section within the Code offers further clarity and clearly sets out to Members and the public when the Code of Conduct is engaged and can be applied. This is aimed at increasing understanding. This fact used to be clearly set out in the Authority’s previous Code and the wording is taken from there. Similar wording is used by other local authorities, and within Codes that are deemed exemplar models, such as Melton Mowbray. The section now also draws Members’ attention to the fact that failure to abide by the Code in certain scenarios is now a criminal offence (since the introduction of the Localism Act), and those such offences have been compiled as a further Appendix to the Code (Appendix B of the proposed Code).

3.3.3 General Obligations

This section arguably places three new requirements for Members to adhere to these being : -

- Respect / Bullying and Harassment
- Confidential Information; and
- Use of Resources

3.3.4 Again, this is how the majority of Elected Members currently behave when conducting their business and how we would all wish to be treated in our daily life, but they have not previously been documented and therefore were not enforceable under the Code.

3.3.5 Such matters as confidential information and the use of resources are covered in other Codes and Protocols within the Council's Constitution, so Members are familiar with the expectations but they would become enforceable if part of the Elected Members' Code of Conduct.

3.3.6 The wording which has been used is similar to other local authorities and was used in all pre 2011 codes.

3.4 **Part 3 - Interests / Notification of / Participation**

3.4.1 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 sets out the Statutory requirements placed upon Members regarding their interests.

3.4.2 In 2012 this legislation was only issued the day before, new Codes had to come into force and therefore a large number of local authorities only implemented the minimum statutory requirements.

3.4.3 As previously advised, The Localism Act did give authorities permission to include further local provision relating to interests and left it to local discretion as to whether Members were asked to leave the room if they had a disclosable pecuniary interest.

3.4.4 West Lindsey's Code only currently includes a direct lift from this legislation (see Appendix of Current Code (Appendix B)) and this is displayed in a very un-user-friendly format. In 2012 no local provision interests were introduced or addressed through the Code, nor was the issue of leaving the meeting addressed.

3.4.5 The proposed revised Code now includes local provision and does place a requirement on Members to leave the room if they have either a disclosable pecuniary interest (as set out in Statute and included as Appendix B in the new proposed Code) or a local provision prejudicial interest. If this change is accepted, Council Procedure rules will need to be amended to reflect the requirement to leave the room, in such circumstances. It can be argued that failure to leave the room will diminish confidence in open decision making and would become enforceable if part of the Elected Members Code of Conduct.

3.4.6 Whilst arguably the contents of this part of the Code have not fundamentally changed, the largest change does come from the

introduction of what have been termed local provision prejudicial interests.

- 3.4.7 These would be most applicable when a Councillor was considering such matters as licensing or planning applications. Whilst the statutory disclosable pecuniary interest only asks Councillors to declare interests relating to themselves or their spouse, the scope for relevant person, in the case of local provision prejudicial interests has been extended to include not only spouse but any member of their immediate family, this being, mother, father, sister, brother, son and daughter.
- 3.4.8 So for example, if you were a Member of the planning committee and your mother had a planning application, under the new Code you would be deemed to have a local provision prejudicial interest and be required to leave room. Whilst most Councillors would operate that way, this has never been laid down as a clear enforceable expectation since the introduction of the 2012 Code.
- 3.4.9 This is a similar approach to what was in force prior to the Localism Act and is arguably how most Councillors have continued to conduct themselves, so Members are familiar with the expectations but they would become enforceable if part of the Elected Members' Code of Conduct.
- 3.4.10 This wider approach supports good ethical governance and probity in areas which have a high risk of challenge. Probity in Planning also supports this approach, and advises that conflicted Members leaving the room is a must.
- 3.4.11 A number of other Councils have extended their Codes to make such local provision including the need to leave the room.

4 Gifts and Hospitality

- 4.1 Gifts and Hospitality were not mentioned within the 2012 Code. Since that time Officers have been operating by previously agreed rules laid out in the pre 2012 codes. This matter is now dealt with in the revised Code and places similar requirements on Members to those expected by other local authorities

5 Amendments to Operating Procedure

- 5.1 The revised Operating Procedures are attached at Appendix 3. There has been little revision to their content.
- 5.2 The two main areas are: -
- Making it clear throughout the document which stages of the process are not within the public domain.

- Removing consultation with the Ward Member (for Parish Council complaints)

5.3 Arguably the latter may be viewed by Members as a significant change, however this change is recommended from experience of having operated within the procedure and from feedback received and concerns raised.

5.4 Consultation with the Ward Member was originally included in the hope that Ward Members would provide some local context to complaints received. They are the eyes and ears on the ground and are often involved in democracy at the grass roots level. It was therefore intended to ensure that actions which were appropriate to that parish, within their context, were taken. Whilst this has been the case with a large number of the complaints we have received, it has also been a point of contention and concern for both complainants and Subject Members on a number of occasions. It has also given rise to allegations regarding conflict of interest and bias.

5.5 It is therefore proposed that the Ward Member consultation be removed from the process, and consultation only be with the Independent Member.

5.6 All relevant Ward Members will be notified when a complaint is made, and when a first stage decision has been made (dismissed or other action required). This will be in confidence. Ward Members will then be free to take part in any complaints which reach a more formal stage, whether this be by giving a statement to any investigating Officer or choosing to act as an advocate for a Parish Councillor who is the subject of an allegation.

5.7 It is still proposed to include consultation with the relevant Group Leader, regarding allegations made against District Councillors. The reason being that the more mature political group structure seen at second tier Government, gives Group Leaders arguably more leverage to deal with issues than the Monitoring Officer, particularly given the very limited imposable sanctions, offered by legislation.

6 Enforcement of the Code

6.1 This Code will be enforced with the ethos of good governance, openness and transparency underpinning any decisions made. Local and informal resolution will always be used wherever possible. This is particularly important due to the imposable sanction being limited. Complaints will only be released into the public domain, when all forms of local and informal resolutions have failed.

6.2 Complaints regarding respect, bullying and harassment, will be considered within a threshold of tolerance, with less tolerance applied for complaints regarding behaviour towards the public or very public acts.

- 6.3 The Code aims to respect a Councillors' right to a private life, however, it is important to understand that the public, particularly in small communities, will never see their elected Members as off duty.
- 6.4 The Code is not intended to stifle the rough and tumble of political debate, nor will malicious, petty or politically or personally motivated complaints be pursued
- 6.5 Nor is the Code intended to prevent involvement at a local level. The new requirement regarding interests relating to planning and licensing would not be applicable at a Parish Council level (highlighted in yellow on the proposed Code), as they are not the decision makers. It is important that local communities can participate at a local level, as this is often the driver for them first engaging in local democracy.

7 Recommendations

On that Basis Members are asked to

- (a) review and make comment on the revised Code of Conduct and Operating Procedures;
- (b) agree that consultation be undertaken with the Core Management Team, Parish Councils and District Councillors on the revised Code of Conduct and Operating Procedures;
- (c) that following consultation, the proposed Code and Operating Procedures be submitted to the Governance and Audit Committee for further consideration and subsequent adoption by Council in May 2017;
- (d) Officers are requested to report at least annually to this Committee the number, nature and outcome of complaints received under the Code of Conduct.



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 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) the authority;
 - (b) Any of the 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

- (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.

- (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 who is or 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 the rough and tumble of political debate or as a tool to resolve personal conflicts.

4. Confidential information

You must not –

- (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.

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.

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 control
- or 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 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.

Disclosure of Interests

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.**

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), 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.

- (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 vacation	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

Member:	a person elected or co-opted to office
Act	refers to the Localism Act 2011
Meeting	a formally arranged gathering, attended by you in Capacity
Disclosable Pecuniary Interest	as defined in statute and set out in appendix B to this Code. Only relate to you or your spouse Criminal sanctions applicable
Prejudicial Interest	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)
Personal Interest	See Section 7
Relevant Person	your spouse, mother, father, sister brother son daughter

Appendix B**West Lindsey District Council****Members Code of Conduct**

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

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

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

ACCOUNTABILITY: 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: Holders of public office should be as open as possible about all 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: 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: Holders of public office should promote and support these principles by leadership and example.

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 the [county][borough][Authority's area] 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.

The Act further provides for registration and disclosure of interests and in West Lindsey District Council, this will be done as follows:

1 Notification of interests

(1) In addition to the disclosable pecuniary interests notifyable under the Localism Act 2011, you must, within 28 days of—

(a) this Code being adopted by or applied to your 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 following descriptions, for inclusion in the register of interests.

(2) You have a personal interest in any business of your 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 principal purposes includes 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 control or management;

(3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

2 Disclosure of interests

(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 1 above or in paragraph (2) below 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 your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) (A) You have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being 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;

(B) In sub-paragraph (2)(A), a *relevant person* is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) 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;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in paragraph 1(2)(a)(i) or (ii).

(3) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 1(2)(a)(i) or 1(2)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(4) Where you have a personal interest but, by virtue of paragraph 4, 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.

(5) Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

3 Register of interests

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

4 Sensitive interests

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

5 Non participation in case of pecuniary interest

(1) Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business 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 X
;or

(b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.

APPENDIX A

(2) Subject to paragraph (3) and (4), where you have a pecuniary 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.

(3) Where you have a pecuniary 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.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) 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;

(iii) 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;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

(5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

6 Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

Note re 1 (1) above;

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

They come into force on 1 July.

1 Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

<i>Interest</i>	<i>description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

APPENDIX A

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> <ul style="list-style-type: none">(a) under which goods or services are to be provided or works are to be executed; and(b) which has not been fully discharged.
Land	<p>Any beneficial interest in land which is within the area of the relevant authority.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</p>
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <ul style="list-style-type: none">(a) the landlord is the relevant authority; and(b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where—</p> <ul style="list-style-type: none">(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and(b) either— <ul style="list-style-type: none">(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.

APPENDIX A

It is a criminal offence to

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

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



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 Persons 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.

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 we have all the information which we need to be able to process your complaint, please complete and send us the ~~model~~ complaint form. The complaint form can be downloaded from the authority's website, ~~or and is~~ available on request by telephoning the Monitoring Officer, on 01427 676509.

3.2 ~~WeThe 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. We will also send a copy of the complaint to the Parish Clerk and the Local Ward Member(s) for information only. 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 received and after consultation with the Independent Person take a decision as to whether it merits formal investigation. This decision will normally be taken within 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 request from the member against whom your complaint is directed. 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.

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.

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, 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 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, 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.



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.

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 we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request by telephoning the Monitoring Officer on 01427 676509.
- 3.2 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. At this point in time, the person complained about will be supplied with a copy of your complaint form. **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.
- 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.

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 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 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, 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.