

Notice of Meeting

Standards Committee and Standards Committee Hearing Panel

Monday, 25th June, 2012 at 10.00 am
in Members' Board Room Council Offices
Market Street Newbury

Date of despatch of Agenda: Friday, 15 June 2012

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Moira Fraser on (01635) 519045
e-mail: mfraser@westberks.gov.uk

Further information and Minutes are also available on the Council's website at
www.westberks.gov.uk



To: Councillors Dominic Boeck (Chairman), Virginia von Celsing,
Adrian Edwards, Mollie Lock, Gwen Mason (Vice-Chairman) and
Garth Simpson

Other Attendees: David Holling, Andy Day, Sarah Clarke, Moira Fraser

Agenda

Part I

Page No.

1. **Apologies**
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 1 - 6
To approve as a correct record the Minutes of the meeting of this Committee held on 10 May 2012 and to note the Minutes of the Committee on the 01 May 2012.
3. **Declarations of Interest**
To receive any Declarations of Interest from Members.
4. **Roles and Functions of the Standards Committee** 7 - 8
To reiterate to Members the roles and responsibilities of the Standards Committee.
5. **Revised Code of Conduct** 9 - 16
To agree the revised Code of Conduct following the issuing of regulations pertaining to interests.
6. **Assessment Criteria** 17 - 18
To agree the revised Initial Assessment Criteria following the introduction of the revised Standards Committee arrangements.
7. **Complaints Form and Guidance Notes** 19 - 26
To agree the revised complaints form and associated guidance notes following the introduction of the revised Standards Committee arrangements.
8. **Update on Appointing Parish Councillors to the Standards Committee and Advisory Panel** Verbal Report
To provide a verbal update on the parish councillors that have expressed an interest in being included on either the Standards Committee or the Advisory Panel and to agree a way forward.



Agenda - Standards Committee and Standards Committee Hearing Panel to be held on
Monday, 25 June 2012 (*continued*)

9. **Update on Recruiting an Independent Person(s)**

Verbal
Report

To provide a verbal update on progress recruiting an Independent Person to the Standards Committee.

10. **Date of the Next Meeting**

- 30 July 2012 Training on the new Standards Regime
- 12 November 2012

Andy Day
Head of Strategic Support

West Berkshire Council is committed to equality of opportunity. We will treat everyone with respect, regardless of race, disability, gender, age, religion or sexual orientation.

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to contact Moira Fraser on telephone (01635) 519045, who will be able to help.



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STANDARDS COMMITTEE AND STANDARDS COMMITTEE HEARING PANEL

**MINUTES OF THE MEETING HELD ON
THURSDAY, 10 MAY 2012**

Councillors Present: Dominic Boeck (Chairman), Virginia von Celsing, Adrian Edwards, Mollie Lock, Gwen Mason (Vice-Chairman) and Garth Simpson

PART I

1. Election of Chairman

RESOLVED that Councillor Dominic Boeck be elected as Chairman of the Standards Committee for the 2012/13 Municipal Year.

2. Appointment of Vice-Chairman

RESOLVED that Councillor Gwen Mason be appointed Vice-Chairman of the Standards Committee for the 2012/13 Municipal Year.

(The meeting commenced at 8.28 pm and closed at 8.29 pm)

CHAIRMAN

Date of Signature

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Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

STANDARDS COMMITTEE AND STANDARDS COMMITTEE HEARING PANEL

MINUTES OF THE MEETING HELD ON TUESDAY, 1 MAY 2012

Councillors Present: John Bingham (Vice-Chairman), Adrian Edwards, Richard Hudspith, Peter Iveson, Mollie Lock, Gwen Mason, Geoff Mayes, James Rees (Chairman), Tony Renouf, Andrew Rowles and Mike Wall

Also Present: David Holling (Head of Legal Services), Moira Fraser (Democratic Services Manager)

Apologies for inability to attend the meeting: Mauline Akins, Chris Bridges and Councillor David Holtby

PART I

16. Minutes

The Minutes of the meetings held on 28 November 2011 were approved as a true and correct record and signed by the Chairman.

17. Declarations of Interest

There were no declarations of interest received.

18. Annual Report of the Standards Committee 2011/12

James Rees welcomed those present to the meeting which he regretted was the last meeting of the Standards Committee in its present form.

The Committee in considering this report (Agenda Item 4) concerning the Annual Standards Committee report noted that the Foreword from the Chairman would be inserted prior to the report being considered at Full Council. Mike Wall also requested that a thank you be inserted in the Foreword to the staff that had supported the Standards Committee over the previous year.

RESOLVED that: subject to the inclusion of the minor amendments set out above the report be recommended to Full Council on the 10 May 2012 for approval.

19. Revised Standards Arrangements - Localism Act 2011

The Committee considered a report (Agenda Item 5) concerning the changes that were required to the regulation of conduct for Members and members of Parish Councils following the introduction of the Localism Act 2011. The report outlined the changes that were required to the Standards Committee arrangements, governance of the Standards Committee and to the Council's Constitution. The report would need to be agreed by Full Council on the 10 May 2012.

James Rees in introducing the item noted that a Task Group of the Standards Committee had met on a number of occasions since January 2012 to consider the amendments that would be required. This report set out their recommendations. He was of the opinion that the Task Group had delivered a workable revised Code of Conduct and underlying

STANDARDS COMMITTEE AND STANDARDS COMMITTEE HEARING PANEL - 1 MAY 2012 - MINUTES

governance proposals and processes for the Standards Committee given that the revised system appeared to be less than perfect.

Mr Rees highlighted that the new system included a shift in emphasis from general standards of behaviour to issues relating to councillors financial interests. In future breaches of the Code pertaining to financial interests would be deemed to be a criminal offence. David Holling would meet with the Local Area Commander to discuss how the criminal convictions would be dealt with under the revised processes once a definition of 'disclosable pecuniary interest' had been formulated by Government.

Mr Rees noted however that the regulations relating to disclosable pecuniary, non-pecuniary and non disclosable interests had yet to be issued and that the report had been drafted in such a way as to reflect this and the subsequent changes that would have to be made particularly as regards the Code would be delegated to Standards Committee and the Monitoring Officer.

Mr Rees explained that the issue of whether the Code applied to councillors in their private capacity had finally been resolved and as part of the new arrangements it would only apply to councillors acting in their official capacity.

One of the main concerns with the new system was the requirement for Standards Committees to be politically balanced. There were a number of possible dangers associated with this proposal. Firstly Standards Committees could end up making disproportionate judgements (i.e. applying sanctions that were either too 'heavy' or too 'light') and secondly there were likely to be situations where complainants might view decisions of the Committee as politically biased. The inclusion of Independent Members and Parish/ Town Councillors in the previous regime had served to ameliorate these issues. The proposal was for a Standards Committee to be set up comprising six Members (politically balanced) together with two non-voting co-opted Parish/Town Councillors.

The Task Group had therefore sought to overcome this issue, as well as the issue of losing valuable experience of both the independent and parish council representatives on the Committee, by recommending that an Advisory Panel be set up (comprising two independent members, two parish representatives and two members from each of the main political groups). This Advisory Panel would be responsible for considering complaints and making recommendations to the Standards Committee. Mr Rees hoped to meet with the two Group Leaders and the Chief Executive in advance of the Council meeting.

David Holling noted that Officers (and Tony Renouf) had lobbied the local MP (Richard Benyon) in respect of Independent Persons as defined under the Localism Act. Richard Benyon had sent a letter to the Secretary of State (Eric Pickles). A response had been received from Bob Neill which outlined that the Government was minded to allow transitional arrangements to be put in place whereby existing Independent Members could be retained for a year or such a time as the Council saw fit. The Monitoring Officer cautioned however that the detail of how this would operate was still awaited.

The role of the Independent Member was that they would be consulted by the Monitoring Officer on all complaints received and that they could discuss the complaint with both the subject member and the complainant before any item proceeded to investigation or local determination. David Holling explained that he had prepared a joint advert for four of the six Berkshire Unitary Authorities and he was awaiting comments from his counterparts.

Mr Rees raised concerns about some aspects of the revised arrangements as set out in the legislation but reiterated that the proposals set out in the report were an attempt to deliver a transparent, fair process within the confines of the legislation.

**STANDARDS COMMITTEE AND STANDARDS COMMITTEE HEARING PANEL - 1 MAY
2012 - MINUTES**

In response to a query from Councillor Andrew Rowles, David Holling explained that the processes would be reviewed after they had been in operation for a year to ensure that the system was functioning effectively.

The members of the Standards Committee were concerned that the parishes across the District would all adopt their own unique Codes of Conduct. David Holling explained that it would be within their power to do so provided that their Code accorded with the legislation. The model Code of Conduct developed by the Council would however be circulated to all the parishes and they would be encouraged to use this version. The Monitoring Officer pointed out that there were a number of models in existence and the national Association of Local Councils (NALC) had recently published their own version. A training session for both District and Parish Councillors was also being set up; a date had yet to be agreed however due to the uncertainty as to when the regulations around interests would be published.

Mike Wall requested that in respect of Appendix 3, section 6 the words 'not influential' be removed in the row related to 'cons'. The Committee agreed to this suggestion. It was also noted that there was a typographical error on page 51 paragraph 1.3 where the word 'have' should be replaced with the word 'half'.

James Rees, on his last occasion as Chairman, noted his sincere thanks to all Members of the current and previous Standards Committees for their valuable and unstinting contributions to its work over the last nine years. He also thanked the Officers and members of staff for the immense amount of assistance and advice they had so willingly given. Moira Fraser deserved a particular mention for her unusually high contribution. A final word of thanks was to the Councillors themselves who had been so co-operative and courteous.

RESOLVED that the recommendations as set out in the report, subject to the inclusion of the minor amendments set out above, be recommended to Full Council for approval at the 10 May 2012 meeting.

(The meeting commenced at 10.00 am and closed at 10.50 am)

CHAIRMAN

Date of Signature

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Role and Function of the Standards Committee

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) assisting the Councillors and co-opted Members, to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted Members on requirements relating to interests set out in the Members' Code of Conduct;
- (g) ensuring arrangements are in place under which allegations of misconduct in respect of the members' Code of Conduct can be investigated and to review such arrangements appropriately;
- (h) the exercise of (a) to (g) above in relation to the Parish / Town Councils wholly or mainly in its area and the Members of those Parish / Town Councils;

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DRAFT
CODE OF CONDUCT FOR MEMBERS OF
[WEST BERKSHIRE DISTRICT COUNCIL]

1. INTRODUCTION

- 1.1. This Code of Conduct was adopted by the Council at its meeting on 10 May 2012 pursuant to the Localism Act 2011 and its duty to promote and maintain high standards of conduct by members and co-opted members of the Council.

2. APPLICATION

- 2.1. This Code of Conduct applies to you as a member of this Council when you are acting or purporting to act in your role as a member and you have a responsibility to comply with the provisions of this Code.

- 2.2. This Code of Conduct is consistent with and based upon the following principles:

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

The above terms are expanded at the end of this Code under the heading 'The Principles'.

- 2.3. Should a complaint be made against you in your role as a Councillor it will be dealt with in accordance with the Localism Act 2011 and its supporting regulations.

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3. GENERAL OBLIGATIONS

When acting or purporting to act in your role as a member of the Council, you must have regard to the following obligations. If you are not acting in your role as Councillor then no breach of the Code is likely to occur:

RESPECT

- 3.1. Treat members, officers, members of the public and service providers with courtesy and respect and do not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.

BRIBERY ACT 2010

- 3.2. Ensure that you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Member and on the Council.

DISCLOSURE OF INFORMATION

- 3.3.1. Do not disclose information given to you in confidence by anyone or information acquired by you which you believe or are aware is of a confidential nature.
- 3.3.2. You may disclose such information where:-
- (i) you have the consent of a person authorised to give it
 - (ii) you are required to do so by law
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice
 - (iv) the disclosure is reasonable and in the public interest
 - (v) is made in good faith and in compliance with the reasonable requirements of the Council or “its professional advisers”.

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ACCESS TO INFORMATION

- 3.4. Do not prevent another person from accessing information if that person is entitled to do so by law.

DECISION MAKING

- 3.5. When involved in the decision making of the Council:
- 3.5.1. Have regard to any advice provided to you by the Council's Chief Financial Officer and Monitoring Officer [Responsible Officer/Clerk to Parish Council] pursuant to their statutory duties.
- 3.5.2. Give reasons for the decisions in accordance with any legal requirements or reasonable requirements of the Council.

RESOURCES

- 3.6. When using or authorising the use by others of the resources of the Council:-
- 3.6.1. Do act in accordance with the Council's reasonable requirements including the requirements of the Council's ICT policy and all relevant policies. Copies of these policies have been provided to you, are available on the Council's Intranet and you are deemed to have read and understood them.
- 3.6.2. The Policies referred to in paragraph 3.6.1 may be updated from time to time and you will be notified of any changes. You must comply with the updated policies as soon as you have been provided with a copy of the same.
- 3.6.3. Make sure that such resources are used for and in accordance with your duties as a Councillor and are not used improperly.

USE OF INFORMATION

- 3.7. Do not improperly use knowledge gained solely as a result of your role as a member for the advancement of your disclosable pecuniary interests.

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PUBLICITY

- 3.8. Have regard to the applicable Local Authority Code of Publicity under the Local Government Act 1986.

4. PECUNIARY INTERESTS AND INTERESTS OTHER THAN PECUNIARY INTERESTS

4.1. Pecuniary Interests

- 4.1.1. By virtue of the Localism Act 2011 and the Regulations 2012 you must disclose and register disclosable pecuniary interests as defined in the foregoing legislation. Failure to disclose such interests may result in prosecution by which could result in a fine not exceeding £ .

- 4.1.2. A Disclosable Pecuniary Interest [DPI] is
[await new regulations/exclude as may be defined in Law?]

- 4.2. Interests Other than Pecuniary Interests?
[await regulations/will breach involve criminal action or breach of Code?]

5. SENSITIVE INTERESTS

- 5.1. Where a member is concerned that the disclosure of the details of an interest (either a DPI or any other interest which the member is required to disclose) at a meeting or on the Register of Members' Interests, and such disclosure would lead to the member or a person associated with him/her being subject to violence or intimidation, the member may request the Monitoring Officer agree that such interest is a sensitive interest.
- 5.2. If the Monitoring Officer agrees that the interest is a sensitive interest the member must still disclose the existence of the interest at a relevant meeting but the member is not required to provide the details of the sensitive interest during the meeting. The Monitoring Officer shall also exclude the details of the sensitive interest from the published version of the Register of Members' Interests.

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6. DISCLOSURE AND PARTICIPATION

- 6.1. Should you have a disclosable pecuniary interest you **MUST NOT** take part in the decision making process of the Council and in order to ensure transparency you must withdraw from such process as regards that DPI.
- 6.2. The Localism Act 2011 makes participation in such matters if you have a DPI a criminal offence.

7. GIFTS AND HOSPITALITY

- 7.1. You must disclose and record any gift or hospitality you receive in your capacity as a member of the Council. Such disclosure should be made in writing or by email to the Monitoring Officer in accordance with the Council's Protocol on Gifts and Hospitality.

8. DISPENSATIONS

- 8.1. Members who have a disclosable pecuniary [or other interest] may apply for a dispensation on specific grounds which are set out in the Dispensation Procedure [annexed to this Code of Conduct].

9. INTERPRETATION

"Co-opted member", means a person who is not a member of the Council but who:-

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

and who is entitled to vote on any question which is to be decided at any meeting of the committee or sub-committee.

"Disclosable Pecuniary Interests (DPI)" means those interests prescribed by the Secretary of State as such under the Localism Act 2011.

"Pecuniary Interests" means only those interests prescribed by the Secretary of State as "disclosable pecuniary interests".

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“Other Interests” means interests other than DPI’s which a member is required (by law) to disclose.

“Meeting” means any meeting of:-

- (a) the Council;
- (b) the executive of the Council;
- (c) any of the Council’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members.

“Member” includes a co-opted member.

“Bullying and intimidating behaviour” means offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim’s confidence, capability and health.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs, (but within the scope of the Code of Conduct).

It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a member will be found guilty of bullying when both parties have contributed to a breakdown in relations.

DRAFT
THE PRINCIPLES
(referred to in paragraph 2.2 above)

- Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

- Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

- Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

- Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

- Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

- Leadership

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

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STANDARDS COMMITTEE
25th June 2012

Update and Briefing Note

Following the publication of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and a further Commencement Order by the Department of Communities and Local Government on 6th June 2012 it has been necessary to revisit the Code of Conduct which was agreed by Council on 10th May 2012. This was recognised in the report and delegated authority provided to Standards Committee in consultation with the Monitoring Officer to make appropriate amendments to the Code and then issue the revised version to all Members of the Council and parishes as well.

A revised version of the Code of Conduct is attached to this note for Members to review and if agreed approve. As a result of the secondary legislation the following needs to be addressed at this meeting in order to ensure the Cod is in place .from 1st July 2012

- (1) To resolve to adopt the Code of Conduct as amended and that it is issued to all Members of the Council
- (2) That the Monitoring Officer sends copies of the Code of Conduct to all Parish Council Clerks within the District and encourages them a request to consider and adopt this Code of Conduct or a version which reflects the particular needs
- (3) That all outstanding cases which have been referred as Complaints to Standards Committee be dealt with under this new Code of Conduct notwithstanding that the original complaint was referred under the earlier Code of Conduct.

Amendments to the Code

The changes which have been made to the Code considered by Council are as follows:-

- (a) Paragraph 1.1 – added reference to Standards Committee reaffirming adoption of the Code in order to ensure compliance with the terms of the Commencement Order.
- (b) Updated paragraph 4 – This has been changed to reflect the definition/description of ‘disclosable pecuniary interests’(DPI’s) and the dates from which the Code applies to existing and future members of the Council and when they become aware of such interest. All members have 28 days within which to register these interests by notifying the Monitoring Officer. A form will be sent out all members after 1st July. It is important that these forms are accurately completed and kept up to date as any breach will leave members open to potential prosecution.
- (c) The definition of DPI’s is annexed to the Code as an Appendix 1 and is a direct copy of the Regulations. This includes a note showing the error under the subject column. In addition and attached to this Briefing is a ‘Guidance Note’ for members explaining the DPI’s. This will be forwarded along with a copy of the Code to all members and to Parish Clerks.
- (d) The Fines which can be imposed are highlighted in this section of the Code

- (e) Paragraph 4.2 deals with ‘other interests’ which are not in the category defined as DPI’s but from a public perception could appear to impact on decision making . These are not interests which attract a criminal sanction and are akin to the former Personal interests under the old Code. The reason for raising the matter is for members to consider whether it would be appropriate for a councillor to sit in a meeting considering a planning application relating to a close relative such as son or daughter? Members are asked to review the paper attached which seeks to cover this aspect. If members consider it appropriate the section would be inserted at paragraph 4.2.
- (f) At Council an amendment to Paragraph 7 was agreed relating to the value of gifts and hospitality which were to be declared if they exceeded £25.

Conclusion

The timetable for dealing with the changes to the Code of Conduct has been particularly tight but it hoped members can assess and approve the proposed amendments in order that it can be in place by 1st July 2012. The DCLG has indicated that it will be issuing ‘Guidance’ on DPI’s but has yet to confirm when that will be. Council agreed that the new arrangements would be reviewed after a year and the opportunity can be taken at that point to make any further changes that are necessary

David Holling
Monitoring Officer
Head of Legal Services

22nd June 2012

DRAFT
CODE OF CONDUCT FOR MEMBERS OF
WEST BERKSHIRE DISTRICT COUNCIL

1. INTRODUCTION

- 1.1. This Code of Conduct was adopted by the Council at its meeting on 10th May 2012 and reaffirmed by its Standards Committee on 25th June 2012 pursuant to the Localism Act 2011 and its duty to promote and maintain high standards of conduct by members and co-opted members of the Council. It will come into effect on 1st July 2012

2. APPLICATION

- 2.1. This Code of Conduct applies to you as a member of this Council when you are acting or purporting to act in your role as a member and you have a responsibility to comply with the provisions of this Code.
- 2.2. This Code of Conduct is consistent with and based upon the following principles:

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

The above terms are expanded at the end of this Code under the heading 'The Principles'.

- 2.3. Should a complaint be made against you in your role as a Councillor it will be dealt with in accordance with the Localism Act 2011 and its supporting regulations.

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3. GENERAL OBLIGATIONS

When acting or purporting to act in your role as a member of the Council, you must have regard to the following obligations. If you are not acting in your role as Councillor then no breach of the Code is likely to occur:

RESPECT

- 3.1. Treat members, officers, members of the public and service providers with courtesy and respect and do not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.

BRIBERY ACT 2010

- 3.2. Ensure that you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Member and on the Council.

DISCLOSURE OF INFORMATION

- 3.3.1. Do not disclose information given to you in confidence by anyone or information acquired by you which you believe or are aware is of a confidential nature.
- 3.3.2. You may disclose such information where:-
- (i) you have the consent of a person authorised to give it
 - (ii) you are required to do so by law
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice
 - (iv) the disclosure is reasonable and in the public interest
 - (v) is made in good faith and in compliance with the reasonable requirements of the Council or “its professional advisers”.

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ACCESS TO INFORMATION

- 3.4. Do not prevent another person from accessing information if that person is entitled to do so by law.

DECISION MAKING

- 3.5. When involved in the decision making of the Council:
 - 3.5.1. Have regard to any advice provided to you by the Council's Chief Financial Officer and Monitoring Officer [Responsible Officer/Clerk to Parish Council] pursuant to their statutory duties.
 - 3.5.2. Give reasons for the decisions in accordance with any legal requirements or reasonable requirements of the Council.

RESOURCES

- 3.6. When using or authorising the use by others of the resources of the Council:-
 - 3.6.1. Do act in accordance with the Council's reasonable requirements including the requirements of the Council's ICT policy and all relevant policies. Copies of these policies have been provided to you, are available on the Council's Intranet and you are deemed to have read and understood them.
 - 3.6.2. The Policies referred to in paragraph 3.6.1 may be updated from time to time and you will be notified of any changes. You must comply with the updated policies as soon as you have been provided with a copy of the same.
 - 3.6.3. Make sure that such resources are used for and in accordance with your duties as a Councillor and are not used improperly.

USE OF INFORMATION

- 3.7. Do not improperly use knowledge gained solely as a result of your role as a member for the advancement of your disclosable pecuniary interests.

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PUBLICITY

- 3.8. Have regard to the applicable Local Authority Code of Publicity under the Local Government Act 1986.

4. DISCLOSABLE PECUNIARY INTERESTS AND INTERESTS OTHER THAN DISCLOSABLE PECUNIARY INTERESTS

4.1. Disclosable Pecuniary Interests

- 4.1.1. By virtue of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 you must disclose and register disclosable pecuniary interests as defined in the foregoing legislation by notifying the Monitoring Officer within 28 days

- (a) the adoption of this Code or
- (b) Becoming a member of the Council or
- (c) Becoming aware of such an interest

4.1.2 Failure to disclose such interests may result in prosecution by which could result in a fine not exceeding £5000 (Level 5 on the Standard scale)

- 4.1.3. A Disclosable Pecuniary Interest [DPI] 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) The descriptions of disclosable pecuniary interests are set out in Appendix 1 to this Code of Conduct.

4.2. Interests Other than Pecuniary Interests?

See attached paper outlining other interests

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5. SENSITIVE INTERESTS

- 5.1. Where a member is concerned that the disclosure of the details of an interest (either a DPI or any other interest which the member is required to disclose) at a meeting or on the Register of Members' Interests, and such disclosure would lead to the member or a person associated with him/her being subject to violence or intimidation, the member may request the Monitoring Officer agree that such interest is a sensitive interest.
- 5.2. If the Monitoring Officer agrees that the interest is a sensitive interest the member must still disclose the existence of the interest at a relevant meeting but the member is not required to provide the details of the sensitive interest during the meeting. The Monitoring Officer shall also exclude the details of the sensitive interest from the published version of the Register of Members' Interests.

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6. DISCLOSURE AND PARTICIPATION

- 6.1. Should you have a disclosable pecuniary interest you MUST NOT take part in the decision making process of the Council and in order to ensure transparency you must withdraw from such process as regards that DPI.
- 6.2. The Localism Act 2011 makes participation in such matters if you have a DPI a criminal offence.

7. GIFTS AND HOSPITALITY

- 7.1. You must disclose and record any gift or hospitality you receive in your capacity as a member of the Council in excess of £25.00. Such disclosure should be made in writing or by email to the Monitoring Officer in accordance with the Council's Protocol on Gifts and Hospitality.

8. DISPENSATIONS

- 8.1. Members who have a disclosable pecuniary [or other interest] may apply for a dispensation on specific grounds which are set out in the Dispensation Procedure set out in Appendix 2 to this Code of Conduct.

9. INTERPRETATION

“Co-opted member”, means a person who is not a member of the Council but who:-

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

and who is entitled to vote on any question which is to be decided at any meeting of the committee or sub-committee.

“Disclosable Pecuniary Interests (DPI)” means those interests prescribed by the Secretary of State as such under the Localism Act 2011 and set out in Appendix 1 to this Code of Conduct.

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“Other Interests” means interests other than DPI’s which a member is required (by law) to disclose.

“Meeting” means any meeting of:-

- (a) the Council;
- (b) the executive of the Council;
- (c) any of the Council’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members.

“Member” includes a co-opted member.

“Bullying and intimidating behaviour” means offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim’s confidence, capability and health.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs, (but within the scope of the Code of Conduct).

It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a member will be found guilty of bullying when both parties have contributed to a breakdown in relations.

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THE PRINCIPLES
(referred to in paragraph 2.2 above)

- Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

- Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

- Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

- Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

- Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

- Leadership

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

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Appendix 1

(In the extracts from the Regulations below, 'M' means you, when acting as a member of the Council, and 'relevant person' means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
<i>Employment, office, trade, profession or vacation</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>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.</i>
<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>
<i>Corporate tenancies</i>	<i>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.</i>

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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.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

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

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Dispensations under the Localism Act 2011

1. Introduction
 - 1.1. The provisions on dispensations are significantly changed under the Localism Act. Previously there was a reference in the legislation and over a number of years Government produced regulations dealing with the process.
 - 1.2. It should be noted that Parish Councils under the legislation are given the ability to deal with their own dispensations but it is not clear at this time whether or not they will be required to consult either the Monitoring Officer or the Independent Person. Further it is not clear if any regulations relating to Parish Councils will be issued.
 - 1.3. At present a Member who has a prejudicial interest may apply to the Standards Committee for a dispensation on two grounds. These are:-
 - (i) that at least half of the Members of the decision making body have a prejudicial interest thus preventing the transaction of business. This provision has been used on a number of occasions in respect of Parish Councils.
 - (ii) that so many Members of one political party have prejudicial interests in the matter that it would upset the result of the vote on a political matter by impacting on the proportionality rules affecting the particular body.
 - 1.4. Members will be aware of the current process and the documentation which is used in order that in effect a “digital” meeting of the Standards Committee comments and proves otherwise that application for a dispensation.
2. The New Dispensation Regime
 - 2.1. Under Section 33 of the Localism Act 2001 in future a dispensation will be able to be granted in the following circumstances.

The Council may on:-

 - (a) a written request
 - (b) made to the Proper Officer of the Council
 - (c) by a Member or Co-Opted Member of the authority.

grant a dispensation enabling a Member or Co-opted Member to participate in a meeting notwithstanding that they have a Disclosable Pecuniary Interest under Section 31 of the Act.
 - 2.2. The criteria which now apply are increased and cover the following circumstances:-
 - (i) that so many Members of the decision making body have Disclosable Pecuniary Interests in a matter that it would “impede” the transaction of the business of that body. [In practice this means the decision making body would be inquorate as a result.]

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- (ii) that without the dispensation the representation of different political groups on the body transacting the business would be such as to alter the outcome of the vote on that particular matter.
- (iii) that the authority considers that the dispensation is in the interests of persons living in the authority's area.
- (iv) that without a dispensation no Member of the Executive would be able to participate in a particular matter. They suggest that where the Executive would be inquorate as a result then the particular decision could be dealt with by an individual Member of the Executive. It may be necessary to make provision in the Scheme of Delegation to enable this to occur although it does appear to be an unlikely event.
- (v) that the Council considers that it is "otherwise appropriate" to grant a dispensation. This is a particularly wide provision as to some extent is (iii) above.

2.3 In each case when a dispensation is granted it must specify how long it lasts for to a maximum of four years (this reflects the previous legislation) and the Council must consider the application "after having had regard to all relevant circumstances".

2.4. Overall the provisions of the new legislation do expand the instances when a dispensation may be granted which for Parish Councils may be of assistance although it could equally bring comment from the public who may perceive that certain individuals have an interest but are still taking part in the decision making process.

3. Delegation

3.1. A major change from the previous legislation under the Local Government Act 2000 is that the Localism Act gives discretion for this power to be delegated to Standards Committee, a Sub-Committee or to the Monitoring Officer. Previously, the Standards Committee itself had to deal with any applications for dispensation.

3.2. It is considered that grounds (i) and (iv) are objective and it is recommended that dispensations on these grounds are delegated to the Monitoring Officer with an appeal to a Standards Committee. This would enable dispensations to be granted effectively "at the door of the meeting".

3.3. Grounds (ii), (iii) and (v) are rather more complex and subjective and it is considered appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee after consultation with the independent person.

4. Considerations in granting a dispensation

4.1. As mentioned above it is not clear whether not the Department of Communities and Local Government will issue further guidance and/or regulations dealing with dispensations but it is considered that Members should be given some pointers as to what they may wish to consider when considering a dispensation and when matters are delegated to the Monitoring Officer to ensure consistency. Having reviewed the previous guidance it is considered that the following applies:-

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- (i) the Standards Committee should weigh up the effect of Members' prejudicial Interest(s) against the outcome of the vote if they are not participating in the vote.
- (ii) the Standards Committee should consider whether the nature of the interest in question is such that public confidence in the authority would be damaged if that Member were allowed to vote.
- (iii) the Standards Committee should look at whether the interest in question is one that is common to both the Member and to a significant proportion of the population.
- (iv) account should also be taken of the expertise and knowledge of the Member and whether this justifies their participation in the item in question. For example, if members of Police and/or Fire authorities would be able to bring their expertise by addressing the meeting.
- (v) Standards Committee Members should have regard to whether the business in question relates to a voluntary or public body which is to be considered by an Overview and Scrutiny Committee, and additionally whether the interest is a financial one.
- (vi) if a dispensation not being granted would mean the meeting was not quorate, this might be a reason to grant the dispensation.

5. Process for granting and recording a dispensation

- (i) a Member must apply in writing to the Monitoring Officer for a dispensation as soon as possible, setting out why it is required. The Monitoring Officer will then arrange for the Standards Committee to consider the request. Only written requests are acceptable, and cannot be made by someone else on behalf of the Member. Group and joint requests are not permitted. Each Member should apply individually.
- (ii) a meeting of the Standards Committee must be then convened to consider the application. In the case of urgent items if it is possible to convene a virtual meeting of the Committee, an urgent dispensation may still be granted.
- (iii) the Standards Committee should then consider the legal implications for the dispensation set out at 4(i) to (v) as well as at 2.1(a) above. This consideration may also take account of any other relevant circumstances or local criteria.
- (iv) members of the Standards Committee should determine whether the applicant should be permitted to make oral representations to the meeting of the Standards Committee or whether written applications only will be allowed.
- (v) the Standards Committee should then determine the nature of any dispensation they are minded to grant:
 - (a) whether the applicant can speak and not vote; or
 - (b) whether the applicant can participate fully and vote.Additionally the Committee can also decide the length of the dispensation (not more than four years).
- (vi) it should be noted that the regulations do not allow for the Standards Committee to grant a general dispensation to cover any situation where a prejudicial interest may arise.
- (vii) if the Committee grants a dispensation it should do so in writing and before the meeting in question is held.
- (viii) the Standards Committee may decide to refuse an application for a dispensation. This is within their discretion under the regulations.

DRAFT

- (ix) a written record of the decision taken must be kept and placed with the Register of Interests maintained under Section 81(1) of the Local Government Act 2000.
- 5.2. Any advice on the process of granting dispensations and any questions relating to this arrangement should be directed to the Monitoring Officer.

Other Interests

1. Notification of interests

(1) You must, within 28 days of—

(a) this Code being adopted by or applied ; or

(b) your election or appointment to office (where that is later),

notify the Monitoring Officer of your disclosable pecuniary interests that are notifyable under the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, for inclusion in the register of interests, and

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;

(iii) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.

(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

(i) 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, or

(ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.

(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. 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 paragraphs 1(2) or 2(2) ;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.

(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.

Note: In addition the Rules of Procedure of the Council and its Committees require you to leave the room where the meeting is held while any discussion or voting takes place.

(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.

Guidance Note on Disclosable Pecuniary Interests

This note explains the requirements of the Localism Act 2011 (Ss 29-34) and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

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:

(In the extracts from the Regulations below, 'M' means you, when acting as a member of the Council, and 'relevant person' means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
<i>Employment, office, trade, profession or vacation (Note :this reflects the Regulations)</i>	<i>Any employment, office, trade, profession or vocation carried on for profit or gain.</i>
<i>Sponsorship</i>	<i>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.</i>
<i>Contracts</i>	<i>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</i>
<i>Land</i>	<i>Any beneficial interest in land which is within the area of the relevant authority.</i>
<i>Licences</i>	<i>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</i>
<i>Corporate tenancies</i>	<i>Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and</i>

(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

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

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

2 Register of interests (Code of Conduct – para. 4)

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 Council's website.

3 Sensitive interests (Code of Conduct – para. 5)

Where you consider that disclosure of the details of a disclosable pecuniary 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 a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

4 Non participation in case of disclosable pecuniary interest

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

1. You may not participate in any discussion of the matter at the meeting.
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. 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, the Rules of Procedure of the Council and its Committees require you to leave the room where the meeting is held while any discussion or voting takes place.

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

5 Dispensations (Code of Conduct – Appendix 2)

The Council through the Standards Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. There is separate guidance on the process for applying for a dispensation within the Code of Conduct.

6 Offences

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 (£5000) and disqualification from being a councillor for up to 5 years. If a complaint is received in respect of non-disclosure the matter may be referred to the Police to investigate because of the criminal nature of the breach. It is not a matter which the Standards Committee or Monitoring Officer have statutory authority to investigate under the Act

June 2012

Initial Assessment Criteria

Initial tests

Before assessment of a complaint begins, the Monitoring Officer (and if required the Independent Person(s)) should be satisfied that the complaint meets the following tests:

1. it is a complaint against one or more named members of the authority or an authority covered by the Standards Committee;
2. the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
3. the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

Agreed Assessment Criteria

Q: Has the complainant submitted enough information to satisfy the Assessment Monitoring Officer that the complaint should be referred for investigation or other action?

If the answer is **no**: “The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the Monitoring Officer is taking no further action on this complaint.”

Q: Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the Monitoring Officer wish to refer the complaint to the Monitoring Officer of that other authority?

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the Standards Committee of that authority to consider.”

Q: Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If the answer is **yes**: “The matter of complaint has already been subject to a previous investigation or other action and there is nothing more to be gained by further action being taken.”

Q: Is the complaint about something that happened so long ago that there would be little benefit in taking action now?

If the answer is **yes**: “The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided under the circumstances that further action was not warranted.”



Q: Is the complaint too trivial to warrant further action?

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

Q: Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

If the answer is **yes**: “The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted”.



Complaint about an elected Councillor's Conduct Form

Please read the Guidance Notes before completing this form.

Use this form to tell us and send it to:
 Monitoring Officer, Legal Services, West Berkshire Council, Council Offices, Market Street,
 Newbury RG14 5LD

Your details

1. Please provide us with your name and contact details

Title:		
First Name:		
Last Name:		
Address:		
	Postcode:	
Daytime telephone:		
Evening telephone:		
Mobile:		
Email address:		

2. Please tell us which complainant type best describes you:

- | | |
|--|--|
| <input type="checkbox"/> Member of the public | <input type="checkbox"/> Local Authority monitoring officer |
| <input type="checkbox"/> An elected or co-opted member of an authority | <input type="checkbox"/> Other council officer or authority employee |
| <input type="checkbox"/> Member of Parliament | <input type="checkbox"/> Other (please describe) |

If 'other' please state:

--

Please note that as part of this procedure your details will be made known to the person you are complaining about. If you wish your details to remain confidential please let us know the reasons why. West Berkshire Council's Monitoring Officer will then consider your request.

3. Equality Monitoring

It will help us to give a fair and equal service to everyone if you answer the following monitoring questions - we will keep this information confidential.

However you do not have to answer these questions if you do not want to.

What is your age:

- | | |
|-----------------------------------|--------------------------------------|
| <input type="checkbox"/> Under 18 | <input type="checkbox"/> 45 to 54 |
| <input type="checkbox"/> 19 to 24 | <input type="checkbox"/> 55 to 64 |
| <input type="checkbox"/> 25 to 34 | <input type="checkbox"/> 65 or older |
| <input type="checkbox"/> 35 to 44 | |

Are you:

- | | |
|-------------------------------|---------------------------------|
| <input type="checkbox"/> Male | <input type="checkbox"/> Female |
|-------------------------------|---------------------------------|

Do you consider yourself as having a disability or longstanding illness - longstanding means anything that has troubled you over a period of time or that is likely to affect you over a period of time:

- | | |
|------------------------------|-----------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|------------------------------|-----------------------------|

If yes, what type of disability do you have:

- | | |
|---|---|
| <input type="checkbox"/> Affecting mobility | <input type="checkbox"/> Affecting your mental health |
| <input type="checkbox"/> Affecting hearing | <input type="checkbox"/> Learning disability |
| <input type="checkbox"/> Affecting vision | <input type="checkbox"/> Other |

If 'other' please state:

Do you have difficulty in accessing any of West Berkshire Council's services because of your disability:

- | | |
|------------------------------|-----------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|------------------------------|-----------------------------|

Would you describe yourself as:

- | | |
|---|-------------------------------------|
| <input type="checkbox"/> White British | <input type="checkbox"/> Mixed Race |
| <input type="checkbox"/> White Other | <input type="checkbox"/> Chinese |
| <input type="checkbox"/> Black or Black British | <input type="checkbox"/> Other |
| <input type="checkbox"/> Asian or Asian British | |

If 'other' please state:



4. Please provide us with the name(s) of the Councillor(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

5. Please explain in detail what the Councillor has done that you believe breaches the Code of Conduct. You also need to state which areas of the Code of Conduct you believe the Councillor has breached. It is important that you attached any supporting information to this form.



6. Confidentiality

In the interests of fairness and natural justice and in accordance with the Localism Act 2011, we believe Councillors who are complained about have a right to know who has made the complaint. As part of the process the Councillor who has been complained about **will be** informed about who has complained about them and the nature of that complaint/ We are unlikely to withhold your identity or the details of your complaint unless you have good reason (see Guidance Notes).

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:



Guidance notes on making a complaint about a Councillor's conduct

Please read these guidance notes carefully before making a complaint about a Councillor's conduct.

The Councillor's Code of Conduct is in Section 13.4 of Part 14 of the Council's [Constitution](#).

What happens to my contact details?

We will not usually release your address and contact details unless it is necessary in order to deal with your complaint.

Who will be told that I have made a complaint?

Once a complaint about a Councillor is received by the Monitoring Officer this information may be disclosed to the Independent Person. The Independent Person is someone appointed by the Council to assist with decisions involving complaints about Councillors. The independent Person is someone who in the last five years has not been an elected or co-opted member or officer of the Council or of any Parish Council's within West Berkshire. Nor can they be a relative or close friend of the current elected or co-opted members or officers of the Council or any Parish Council in West Berkshire.

If the Monitoring Officer considers that a breach may have occurred and decides that the Advisory Panel need to consider the complaint they will also be informed. The Advisory Panel is made up of eight members (two members of the administration, two members of the Opposition, two Parish and two Independent members and be chaired by an independent member) . They will make recommendations to the Standards Committee.

If the matter relates to a Parish Council the Parish Council will be informed if it is decided that a breach has occurred.. The parish Council will be required to refer to the complaint in the minutes of a meeting..

If the complaint related to a District Councillor the Group Leader may need to be informed if it is decided that a breach has occurred.

If the complaint related to a failure to declare a disclosable pecuniary interest Thames Valley Police may have to be informed.

What happens if I want my details to remain confidential?

Your name and the nature of your complaint will also be disclosed to the person you have complained about. unless you are able to provide the Monitoring officer with reasons why this should not happen. These would include:

- You have reasonable grounds for believing that you will be at risk of physical harm from, or that you may be victimised or harassed by the Councillor (s)against whom you are submitting the complaint (or from or by a person associated with the Councillor(s)),



- You are an officer of the authority or work closely with the Councillor(s) and are concerned about the impact it could have on your working relationship or you are afraid you may lose your job;
- there a medical risk to your health if your identity is revealed (it would assist your case if you were able to provide medical information to support this assertion)
- you have reasonable grounds to believe that you may receive less favourable treatment from the Council because of the identity and/or seniority of the Councillor(s) against whom you are complaining, whether in terms of any existing Council service provision or any tender/contract that you may have or are about to submit to the Council; or that
- other exceptional circumstances exist that justify the granting of confidentiality?

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

What information will they be given?

The Councillor you are complaining about will be given your name unless you have asked for this to be kept confidential and the nature of your complaint. They will then be given the opportunity to comment on the complaint that you have submitted.

Why do you feel the Councillor has breached the Code of Conduct?

Please explain in this section what the Councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one Councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer and any Committee or Panel that considers your complaint (this can include any witness statements).. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted your, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details (or possibly a written statement from them) if possible.



- You should provide any relevant background information (such as emails, minutes of meetings, newspaper articles, letters etc_.

What happens when I submit my complaint?

You will receive an acknowledgement within 5 working days of receipt and an initial assessment will be carried out by the Monitoring Officer within 20 working days.

Who can I contact if I need help making a complaint?

If you need help making a complaint or have any questions please contact the Monitoring Officer. Complaints must be submitted in writing (including via email) However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please contact Moira Fraser on 01635 519045 or email: mfraser@westberks.gov.uk.

By post: Monitoring Officer
 Legal Services
 West Berkshire Council
 Council Offices
 Market Street
 Newbury RG14 5LD

By email: dholling@westberks.gov.uk

By phone: (01635) 519425



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