



MEETING : STANDARDS COMMITTEE
VENUE : ROOM 27, WALLFIELDS, HERTFORD
DATE : FRIDAY 29 JUNE 2012
TIME : 10.00 AM

MEMBERS OF THE COMMITTEE

District Council Members:

Councillors A Burlton, M Carver, N Poulton and M Wood

Town Councils Representative:

Mrs E Woods

Parish Councils Representatives:

Mr J Jones
Mr C Marks

Independent Members:

Mr S Bouette
Mr D Farrell
Mr J Morpew
Mr T Vickers

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PERSONAL AND PREJUDICIAL INTERESTS

1. A Member with a personal interest in any business of the Council who attends a meeting of the Authority at which the business is considered must, with certain specified exemptions (see section 5 below), disclose to that meeting the existence and nature of that interest prior to the commencement of it being considered or when the interest becomes apparent.
2. Members should decide whether or not they have a personal interest in any matter under discussion at a meeting. If a Member decides they have a personal interest then they must also consider whether that personal interest is also prejudicial.
3. A personal interest is either an interest, as prescribed, that you must register under relevant regulations or it is an interest that is not registrable but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of the Council more than it would affect the majority of inhabitants of the ward(s) affected by the decision.
4. Members with personal interests, having declared the nature of that personal interest, can remain in the meeting, speak and vote on the matter unless the personal interest is also a prejudicial interest.
5. An exemption to declaring a personal interest applies when the interest arises solely from a Member's membership of or position of general control or management on:
 - any other body to which they have been appointed or nominated by the authority
 - any other body exercising functions of a public nature (e.g another local authority)

In these exceptional cases, provided a Member does not have a prejudicial interest, they only need to declare their interest if they speak. If a Member does not want to speak to the meeting, they may still vote on the matter without making a declaration.

6. A personal interest will also be a prejudicial interest in a matter if all of the following conditions are met:
 - the matter does not fall within one of the exempt categories of decisions
 - the matter affects your financial interests or relates to a licensing or regulatory matter
 - a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

7. Exempt categories of decisions are:
 - setting council tax
 - any ceremonial honour given to Members
 - an allowance, payment or indemnity for Members
 - statutory sick pay
 - school meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless it relates particularly to the school your child attends
 - housing; if you hold a tenancy or lease with the Council, as long as the matter does not relate to your particular tenancy or lease.

8. If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that interest and its nature as soon as the interest becomes apparent to you.

9. If you have declared a personal and prejudicial interest, you must leave the room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose. However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe proceedings.

AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

4. Minutes (Pages 7 - 10)

To confirm the Minutes of the meeting held on 19 April 2012.

5. Council determination on new standards regime (Pages 11 - 80)

6. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

7. Exclusion of the Press and Public

To move that under Section 100 (A) (4) of the Local Government Act 1972 the press and public be excluded from the meeting during the discussion of items 8 to 14 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7C of Part I of Schedule 12A of the said Act:

The deliberations of a Standards Committee...established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

It is for the Committee to determine whether or not these items should be considered in public and the report made available for public information. Until a decision is taken, please regard the report as confidential.

8. Complaint in respect of a District Councillor: reference EHDC/07/2011
9. Complaint in respect of a District Councillor: Reference EHDC/08/2011
10. Complaint in respect of a District Councillor: Reference EHDC/09/2011
11. Complaint in respect of a District Councillor: Reference EHDC/10/2011
12. Complaint in respect of a Parish Councillor: Reference HORM/02/2011
13. Assessment Sub-Committee decision: Reference HORM/01/2012
14. Complaint against a Parish Councillor: Reference HORM/03/2011
15. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

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MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE HELD IN THE
ROOM 27, WALLFIELDS, HERTFORD ON
THURSDAY 19 APRIL 2012, AT 7.00 PM

PRESENT:

District Council Members:

Councillors A Burlton and N Poulton.

Independent Members:

Mr S Bouette
Mr D Farrell
Mr J Morphew
Mr T Vickers (Chairman)

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Director of Neighbourhood Services
Martin Ibrahim	- Democratic Services Team Leader

779 APOLOGIES

Apologies for absence were submitted on behalf of Councillor M Wood, Mr J Jones, Mr C Marks and Mrs E Woods.

780 CHAIRMAN'S ANNOUNCEMENTS

The Chairman stated that in the absence of a Parish representative, the Committee could not consider any parish matters. The Monitoring Officer advised that the substantive item of business on the agenda would need to be a recommendation to Council.

781 MINUTES

In respect of Minutes 712 – 713 – Complaint in Respect of a Parish Councillor (Reference HORM/03/2011), it was noted that Mr C Marks had, in fact, as the complainer, declared a personal and prejudicial interest and had left the room whilst these matters were considered.

Arising from Minute 713 - Complaint in Respect of a Parish Councillor (Reference HORM/03/2011), the Committee noted that the letter of apology, as sanctioned by the Committee, had not yet been received. The Committee instructed the Monitoring Officer to ascertain from the Parish Clerk whether the letter had been received, and if not, to write to Councillor Kilby informing him that if the apology was not received within seven days, then the matter would be reported further to the Standards Committee.

RESOLVED – that (A) the Minutes of the meeting held on 14 March 2012, be approved as a correct record and signed by the Chairman, subject to the addition of Mr C Marks' declaration, as now detailed; and

(B) the Monitoring Officer be instructed to ascertain from the Parish Clerk whether the letter of apology had been received, and if not, to write to Councillor Kilby informing him that if the apology was not received within seven days, then the matter would be reported further to the Standards Committee.

782 LOCALISM ACT 2011

Further to the Committee's consideration of this matter at the previous meeting (Minute 710 refers), the Monitoring Officer submitted a report proposing a new standards regime on the basis of the comments made.

In respect of the proposed code of conduct, the Committee noted that, once approved, the Monitoring Officer would produce separate codes for the District Council and Town/Parish Councils. The Committee supported the draft code as detailed at Essential

Reference Paper ‘B’ of the report submitted, subject to the inclusion of a reference to gifts and hospitality.

In terms of the complaints procedure, as detailed at Essential Reference Paper ‘C’ of the report submitted, the Committee agreed this in outline, subject to a number of further amendments. The Monitoring Officer undertook to circulate an updated version to Members.

The Committee also considered the terms of reference for the proposed Standards Committee and Standards Sub-Committee, as detailed at Essential Reference Paper ‘D’ of the report submitted. The Committee supported these, subject to a number of amendments. The Monitoring Officer undertook to circulate updated versions to Members.

The Committee agreed that the Monitoring Officer be authorised to refer the code of conduct, the complaints process and the terms of reference for the Standards Committee and Standards Sub-Committee to the Council meeting on 16 May 2012, on the basis of the comments now detailed. The Committee also agreed to delegate authority for making typographical and non-material amendments to the Monitoring Officer in consultation with the Committee Chairman.

RECOMMENDED – that (A) the code of conduct, the complaints process and the terms of reference for the Standards Committee and Standards Sub-Committee, as now amended, be approved; and

(B) authority for making typographical and non-material amendments be delegated to the Monitoring Officer in consultation with the Committee Chairman.

The meeting closed at 9.00 pm

Chairman

Date

EAST HERTS COUNCIL

STANDARDS COMMITTEE – 29 JUNE 2012

REPORT BY HEAD OF DEMOCRATIC AND LEGAL SUPPORT SERVICES

COUNCIL DETERMINATION ON NEW STANDARDS REGIME

WARD(S) AFFECTED: All

Purpose/Summary of Report

- To review Council's determination regarding the establishment of a new member code of conduct regime with effect from 1 July 2012.

<u>RECOMMENDATION - that:</u>

1.0 Background

1.1 Council, at its Annual Meeting held on 16 May 2012 considered options put forward by the Standards Committee and the Monitoring Officer for the implementation of the Localism Act as it relates to the new standards regime.

2.0 Report

2.1 Following deliberation, Council agreed that:

(A) a Standards Committee comprising 5 elected Members of the District Council, appointed proportionally, be established;

(B) the Leader of the Council be requested to nominate to the Standards Committee only one Member who is a Member of the Executive;

(C) the Local Government Association's "Template code and guidance note on conduct", as detailed at Essential Reference Paper 'C' of the report now submitted, be adopted;

(D) when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Leader of the Council, add to that draft Code, provisions which he considers to be appropriate for the registration and disclosure of interests other than Disclosable Pecuniary Interests;

(E) in respect of arrangements for dealing with complaints, the proposals set out in Essential Reference Paper 'E' of the report now submitted, be adopted;

(F) the Council join with other Authorities with a pool of Independent Persons;

(G) the Independent Persons be reimbursed for travel and subsistence expenses;

(H) the Monitoring Officer be requested to prepare and maintain a new register of Members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;

(I) the Monitoring Officer be requested to ensure that all Members are informed of their duty to register interests;

(J) the Monitoring Officer be requested to prepare and maintain new registers of Member' interests for each Parish Council and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act;

(K) the Monitoring Officer be requested to arrange to inform and train Parish Clerks plus one or two Members from each Parish/Town Council on the new registration arrangements;

(L) the Monitoring Officer be instructed to recommend to Council a Standing Order which equated to the current Code of Conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the while of consideration of any item of business in which he/she has a Disclosable Pecuniary Interest, except where he is permitted to remain as a result of the grant of a dispensation;

(M) the Monitoring Officer be instructed to recommend to

Council a Standing Order which equates to the current Code of Conduct requirement that where a decision is to be made by a single Member, the decision will be referred to the Executive if he/she has a Disclosable Pecuniary Interest, except where he is permitted to remain as a result of the grant of a dispensation;

(N) the power to grant dispensations be delegated:

(i) on Grounds set out in paragraphs 11.2 (a) and 11.2 (d) of the report now submitted, to the Monitoring Officer with an appeal to Standards Committee; and

(ii) on Grounds set out in paragraphs 11.2 (b), 11.2 (c), 11.2 (e) of the report now submitted, to the Standards Committee after consultation with the Independent Person.

2.2 **Appendix 1** attached comprises the documents considered by Council.

2.3 The Committee Chairman, Mr T Vickers, has requested that the (old) Standards Committee be given an opportunity to review the new standards regime arrangements.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None

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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATION/CONSULTATION

<p>Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i></p>	<p>People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</p> <ul style="list-style-type: none"> • Enhance our local community engagement by working together with our partners such as Parish and Town Councils, for the benefit of our communities. • Maintain our core services to a good standard and ensure high satisfaction with the council as measured through the biennial Residents Survey.
<p>Consultation:</p>	<p>None</p>
<p>Legal:</p>	<p>The Localism Act 2011 required Councils to consider a revised Standards regime.</p>
<p>Financial:</p>	<p>None</p>
<p>Human Resource:</p>	<p>None</p>
<p>Risk Management:</p>	<p>The Council needs to be able to demonstrate that it is dealing with standards issues effectively.</p>

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EAST HERTS COUNCIL

COUNCIL - 16 MAY 2012

REPORT BY THE MONITORING OFFICER

THE LOCALISM ACT 2011 – THE AMENDED STANDARDS REGIME

WARDS AFFECTED: NONE

Purpose/Summary of Report

- **To consider proposals for the implementation of the Localism Act as it relates to the new standards regime.**

RECOMMENDATIONS:

Standards Committee

- (a) **Issue 1- The Standards Committee Recommendation:** To create an Advisory Committee with independent Members with voting rights operating in the same way as the current Standards Committee but advising full Council. The Members of the existing Standards Committee would be appointed to the Committee.
- (b) **Alternative Recommendation:** That the Council establish a Standards Committee comprising 5 elected Members of the District Council, appointed proportionally;
- (c) That the Leader of the Council be requested to nominate to the Committee only one Member who is a Member of the Executive;

Code of Conduct

- (d) **Issue 2- The Standards Committee Recommendation:** The Standards Committee recommends the adoption of a code prepared by the Committee and contained in **Essential Reference Paper B**

- (e) **Alternative Recommendation:** Adopt the Local Government Association's "Template code and guidance note on conduct". (**Essential Reference Paper C**);
- (f) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Leader of the Council, add to that draft Code provisions which he considers to be appropriate for the registration and disclosure of interests other than DPs.

Arrangements for Dealing with complaints

- (g) **Issue 3-The Standards Committee recommendation:** Adopt the proposals set out in **Essential Reference Paper D**
- (h) **Alternative Recommendation:** Adopt the proposals set out in **Essential Reference Paper E**;

Independent Persons

- (i) **Issue 4-** The Council join with other authorities with a pool of Independent Persons;
- (j) That the Independent Persons be reimbursed for travel and subsistence expenses

Register of Members' Interests

- (k) **Issue 5-** That the Monitoring Officer prepare and maintain a new register of Members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- (l) That the Monitoring Officer ensure that all Members are informed of their duty to register interests;
- (m) That the Monitoring Officer prepare and maintain new registers of Members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and

Standing Orders

- (n) That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.
- (o) **Issue 6-** The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.
- (p) **Issue 7-** The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

Dispensations

- (q) **Issue 8-** That Council delegate the power to grant dispensations –
- (r) on Grounds set out in Paragraphs 11.2 (a) and 11.2 (d) of this report to the Monitoring Officer with an appeal to Standards Committee, and;
- (s) on Grounds 11.2 (b), 11.2 (c), 11.2 (e) to the Standards Committee, after consultation with the Independent Person.

1.0 **Background**

- 1.1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes is 1 July 2012.

2.0 Report

2.2 This report describes the changes and recommends the actions required for the Council to implement the new regime.

2.3 **Duty to promote and maintain high standards of conduct**

2.4 The authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members.

3.0 **Standards Committee**

3.1 The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will be no requirement for a Standards Committee. However, there will still be a need to deal with standards issues and case-work, so that it is likely to remain convenient to have a Standards Committee, it will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –

- (a) The composition of the Committee will be governed by proportionality, unless Council votes otherwise with no Member voting against. The present restriction to only one Member of the Executive on the Standards Committee will cease to apply;
- (b) The current co-opted independent Members will cease to hold office. The Act establishes for a new category of Independent Persons (see below) who must be consulted at various stages, but provides that the existing co-opted independent Members cannot serve as Independent Persons for 5 years. The new Independent Persons may be invited to attend meeting so the Standards Committee and could be co-opted onto the Committee;
- (c) The District Council will continue to have responsibility for dealing with standards complaints against elected and appointed Members of Parish Councils, but the current Parish Council representatives cease to hold office. It is recognised that the Council may not want to reconstitute a Standards Committee as such or add responsibilities to another Committee (e.g. the Audit Committee). However, there is still a need for a Member body to consider complaints where informal

resolution is unsuccessful or inappropriate. To avoid legal challenge and demonstrate the application of natural justice, a hearing following an investigation and report is necessary. It enables the subject Member to respond and an impartial decision to be taken. Without a committee all matters would have to be considered by full Council.

3.2 Issue 1 – The District Council needs to decide whether to set up a Standards Committee, and if so, how it is to be composed. If not, how Standards issues should be considered.

3.3 The Standards Committee recommendation

To create an Advisory Committee with independent Members with voting rights operating in the same way as the current Standards Committee but advising full Council (**Essential Reference Paper ‘F’**). The Members of the existing Standards Committee would be appointed to the Committee.

3.3.1 Alternative Recommendation

- (a) That the Council establish a Standards Committee comprising 5 elected Members of the District Council, appointed proportionally (**Essential Reference Paper ‘G’**);
- (b) That the Leader of the Council be requested to nominate to the Committee only one Member who is a Member of the Executive;

3.4 The Code of Conduct

3.5 The current ten General Principles and Model Code of Conduct will be repealed, and Members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted Member’s conduct when acting in that capacity. The Council’s new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- (a) Selflessness
- (b) Integrity
- (c) Objectivity
- (d) Accountability

- (e) Openness
- (f) Honesty
- (g) Leadership

3.6 The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the registration and disclosure of “Disclosable Pecuniary Interests” (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority’s code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not yet possible to draft Code provisions which reflect the definition of DPIs which will appear in regulations, but it is possible to give an indicative view of what the Council might consider that it might be appropriate to include in the Code in respect of the totality of all interests, including DPIs, other pecuniary interests and non-pecuniary interests. Accordingly, it might be sensible at this stage to instruct the Monitoring Officer to prepare a draft Code which requires registration and disclosure for those interests which would today amount to personal and/or prejudicial interests, but only require withdrawal as required by the Act for DPIs.

3.7 The Act prohibits Members with a DPI from participating in authority business, and the Council can adopt a Standing Order requiring Members to withdraw from the meeting room.

3.8 The Council’s new Code of Conduct will have to deal with the following matters –

General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct. Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the Code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate. The options are:

- (a) to adopt the code recommended by the Standards Committee **(Essential Reference Paper B)**

- (b) Adopt the Local Government Association’s “Template code and guidance note on conduct”. **(Essential Reference Paper C)**

3.9 Issue 2 – The Council has to decide what it will include in its Code of Conduct

3.10.1 The Standards Committee recommendation

The Standards Committee recommends the adoption of a code prepared by the Committee and contained in **Essential Reference Paper B**

Alternative Recommendation

- (a) Adopt the Local Government Association’s “Template code and guidance note on conduct”. **(Essential Reference Paper C)**
- (b) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Leader of the Council, add to that draft Code provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.

4.0 Dealing with Misconduct Complaints

4.1 “Arrangements”

4.1.1 The Act requires that the Council adopt “arrangements” for dealing with complaints of breach of Code of Conduct both by District Council Members and by Parish Council Members, and such complaints can only be dealt with in accordance with such “arrangements”. So the “arrangements” must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a Member who is found to have failed to comply with the relevant Code of Conduct.

4.1.2 The advantage is that the Act repeals the requirements for separate Referrals, Review and hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. As the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

4.2 Decision whether to investigate a complaint

4.2.1 In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. It is sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where he feels that it would be inappropriate for him to take a decision on it, for example where he has previously advised the Member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. If this function is delegated to the Monitoring Officer, it is right that he should be accountable for its discharge. For this purpose, it would be appropriate that he make a quarterly report to Standards Committee, which would enable him to report on the number and nature of complaints received and draw to the Committee's attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs.

4.3 "No Breach of Code" finding on investigation

4.3.1 Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to the Standards Committee and the Sub-Committee take the decision to take no further action. In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to Standards Committee if he feels appropriate. It would be appropriate if copies of all investigation reports were provided to the Independent Person to enable him to get an overview of current issues and pressures, and that the Monitoring Officer provide a summary report of each such investigation to Standards Committee for information.

4.4 "Breach of Code" finding on investigation

4.4.1 Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a local hearing. However, it is suggested that at this stage it would only be appropriate for the

Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to summary report for information to the Standards Committee.

- 4.4.2 In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (in practice a Hearings Panel constituted as a Sub-Committee of Standards Committee) to hold a hearing at which the Member against whom the complaint has been made can respond to the investigation report, and the Hearing Panel can determine whether the Member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.
- 4.5 Action in response to a Hearing finding of failure to comply with Code
- 4.5.1 The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on Members. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the Member is limited and must be directed to securing the continuing ability of the authority to continue to discharge its functions effectively. In practice, this might include the following –
- i. A formal letter to the Councillor found to have breached the code;
 - ii. Formal censure by motion;
 - iii. Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
 - iv. Press release or other appropriate publicity
- 4.6 Appeals
- 4.6.1 There is no requirement to put in place any appeals mechanism against such decisions. 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.
- 5.0 **Issue 3 – The Council has to decide what “arrangements” it will adopt for dealing with standards complaints and for taking action where a Member is found to have failed to comply with the Code of Conduct.**

The Standards Committee recommendation

Adopt the proposals set out in **Essential Reference Paper D**

Alternative Recommendation

Adopt the proposals set out in **Essential Reference Paper E.**

6.0 Independent Person(s)

6.1 The “arrangements” adopted by Council must include provision for the appointment by Council of at least one Independent Person.

6.2 “Independence”

6.2.1 The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all Members of the District Council (not just of those present and voting).

6.2.2 A person is considered not to be “independent” if –

- (a) he is, or has been within the last 5 years, an elected or co-opted Member or an officer of the District Council or of any of the Parish Councils within its area;
- (b) he is, or has been within the last 5 years, an elected or co-opted Member of any Committee or Sub-Committee of the District Council or of any of the Parish Councils within its area (which would preclude any of the current co-opted independent Members of Standards Committee from being appointed as an Independent Person); or
- (c) he is a relative or close friend of a current elected or co-opted Member or officer of the District Council or any Parish Council within its area, or of any elected or co-opted Member of any Committee or Sub-Committee of such Council.

6.2.3 For this purpose, “relative” comprises –

- (a) the candidate’s spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate’s grandparent;

- (d) any person who is a lineal descendent of the candidate's grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

6.3 Functions of the Independent Person

6.3.1 The functions of the Independent Person(s) are –

- (a) They must be consulted by the authority before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- (b) They may be consulted by the authority in respect of a standards complaint at any other stage; and
- (c) They may be consulted by a Member or co-opted Member of the District Council or of a Parish Council against whom a complaint has been made.

6.3.2 This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the Member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

6.4 How many Independent Persons?

6.4.1 The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated.

6.5 Remuneration

- 6.5.1 As the Independent Person is not a Member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of Members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.
- 6.5.2 In comparison to the current Chairman of Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee but not to be a formal Member of the Committee. He/she will need to be available to be consulted by Members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of dispensations.

6.6 Issue 4 – How many Independent Persons are required?

6.6.1 Recommendation

- (a) the Council join with other authorities with a pool of Independent Persons
- (b) That the Independent Persons be reimbursed for travel and subsistence expenses

7.0 The Register of Members' Interests

7.1 The register of Members' interests

7.2 The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for maintaining the register for Parish Councils, which also have to be open for inspection at the District Council offices and on the District Council's website.

7.3 At present it is not known what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current prejudicial interests. The intention was to simplify the registration

requirement, but in fact the Act extends the requirement for registration to cover not just the Member's own interests, but also those of the Member's spouse or civil partner, or someone living with the Member in a similar capacity.

- 7.4 The provisions of the Act in respect of the Code of Conduct require an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.
- 7.5 The Monitoring Officer is required by the Act to set up and maintain registers of interest for each Parish Council, available for inspection at the District Council offices and on the District Council's website and, where the Parish Council has a website, provide the Parish Council with the information required to enable the Parish Council to put the current register on its own website.
- 7.6 Registration on election or co-option
- 7.7 Each elected or co-opted Member must register all DPIs within 28 days of becoming a Member. Failure to register is made a criminal offence, but would not prevent the Member from acting as a Member.
- 7.8 In so far as the Code of Conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the Code of Conduct.
- 7.9 There is no continuing requirement for a Member to keep the register up to date, except on re-election or re-appointment, but it is likely that Members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register.
- 7.10 The preparation and operation of the register, not just for this authority but also for each Parish Council, is likely to be a considerable administrative task, especially where different Parish Councils adopt different Code requirements for registration and disclosure in respect of interests other than DPIs. There is no provision for the District Council to recover any costs from Parish Councils.
- 7.11 **Issue 5 – Preparation of the Registers**

7.11.1 Recommendation

- (a) That the Monitoring Officer prepare and maintain a new register of Members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- (b) That the Monitoring Officer ensure that all Members are informed of their duty to register interests;
- (c) That the Monitoring Officer prepare and maintain new registers of Members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and
- (d) That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.

8.0 Disclosure of Interests and Withdrawal from Meetings

8.1 As set out above, DPIs are broadly equivalent to prejudicial interests, but with important differences.

- (a) The duty to disclose and withdraw arises whenever a Member attends any meeting of Council, a Committee or Sub-committee, or of the Executive or a Executive committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the Member would be absent from that part of the meeting where the matter in question is under consideration.
- (b) Where these conditions are met, the Member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the Member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a "pending notification"). So, Members of the public attending the meeting will in future need to read the register of Members' interests, as registered interests will no longer be disclosed at the meeting.

- (c) Where the Member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.

8.1.1 If a Member has a DPI in any matter, he/she must not –

- (a) Participate in any discussion of the matter at the meeting. The Act does not define “discussion”, but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct; or
- (b) Participate in any vote on the matter,
 - (i) unless he/she has obtained a dispensation allowing him/her to speak and/or vote.
- (c) Failure to comply with the requirements becomes a criminal offence, rather than leading to sanctions;
- (d) The Council’s Code of Conduct must make “appropriate” provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of Code of Conduct but not a criminal offence.
- (e) The requirement to withdraw from the meeting room can be covered by Standing Orders, which would apply not just to Council, Committees and Sub-Committees, but can apply also to Executive and Executive Committee meetings, so that failure to comply would be neither a criminal offence nor a breach of Code of Conduct, although the meeting could vote to exclude the Member.

8.2 Issue 6 – What Standing Order should the Council adopt in respect of withdrawal from meetings for interests?

8.2.1 Recommendation

The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

9.0 Disclosure and Withdrawal in respect of matters to be determined by a Single Member

- (a) Matters can be decided by a single Member acting alone where the Member is an Executive Member acting under Portfolio powers, or where the Member is a Ward Councillor and the Council chose to delegate powers to Ward Councillors.
- (b) The Act provides that, when a Member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –
- (c) Unless the DPI is already entered in the register of Members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and
- (d) He/she must take no action in respect of that matter other than to refer it another person or body to take the decision.
- (e) Standing Orders can then provide for the exclusion of the Member from any meeting while any discussion or vote takes place on the matter.
- (f) Note that the Act here effectively removes the rights of a Member with a prejudicial interest to make representations as a Member of the public under Paragraph 12(2) of the current Code of Conduct

9.1 Issue 7 – In what circumstances should Standing Orders exclude single Members from attending meetings while the matter in which they have a DPI is being discussed or voted upon?

9.1.1 Recommendation

The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

10.0 Sensitive Interests

- 10.1 The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests.
- 10.2 So, where a Member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of Members' interests would lead to the Member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest".
- 10.3 If the Monitoring Officer agrees, the Member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of Members' interests.

11.0 Dispensations

- 11.1 The provisions on dispensations are significantly changed by the Localism Act. At present, a Member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –
- (a) That at least half of the Members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realised how many Members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and
 - (b) That so many Members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter (this ground would require that the Members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).
- 11.2 In future, a dispensation will be able to be granted in the following circumstances
- (a) That so many Members of the decision-making body have DPIs in a matter that it would "impede the transaction of the business". In practice this means that the decision-making body would be inquorate as a result;

- (b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so changed as to alter the outcome of any vote on the matter. This assumes that Members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
- (c) That the authority considers that the dispensation is in the interests of persons living in the authority's area;
- (d) That, without a dispensation, no Member of the Executive would be able to participate on this matter (so, the assumption is that, where the Executive would be inquorate as a result, the matter can then be dealt with by an individual Executive Member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
- (e) That the authority considers that it is otherwise appropriate to grant a dispensation.

11.3 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.

11.4 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds 11.2 (a) and 11.2 (d) are relatively objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to the Standards Committee, thus enabling dispensations to be granted "at the door of the meeting". Grounds 11.2 (b), 11.2 (c) and 11.2 (e) are rather more subjective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

11.1 Issue 8 – What arrangements would be appropriate for granting dispensations?

11.1.1 Recommendation

That Council delegate the power to grant dispensations –

- (a) on Grounds set out in Paragraphs 11.2 (a) and 11.2 (d) of this report to the Monitoring Officer with an appeal to Standards Committee, and
- (b) on Grounds 11.2 (b), 11.2 (c), 11.2 (e) to the Standards Committee, after consultation with the Independent Person.

12.0 Transitional Arrangements

12.1 Regulations under the Localism Act will provide for –

- (a) transfer of Standards for England cases to local authorities following the abolition of Standards for England;
- (b) a transitional period for the determination of any outstanding complaints under the current Code of Conduct.
- (c) removal of the power of suspension from the start of the transitional period; and
- (d) removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

13.0 Implications/Consultations

13.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper ‘A’**.

Background Papers

None

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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATION

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	People This priority focuses on enhancing the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable. <ul style="list-style-type: none">• Enhance our local community engagement by working together with our partners such as Parish and Town Councils, for the benefit of our communities. • Maintain our core services to a good standard and ensure high satisfaction with the council as measured through the biennial Residents Survey. “
Consultation:	None
Legal:	The legal implications are set out in the report.
Financial:	None
Human Resource:	None
Risk Management:	The Council is required to implement the Localism Act in respect of the new standards regime. The Council is under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted Members.

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ESSENTIAL REFERENCE PAPER 'B'

[DRAFT EHDC] MEMBERS' CODE OF CONDUCT

Introduction

1. The Localism Act 2011 requires councils to promote and maintain high standards of conduct. Each council must have a Code of Conduct. As a member of this Council, you are accountable to it for compliance with this Code when you act, or claim to act, or might reasonably be thought to be acting, in your role as a member. Your role as a member includes any additional council duties or offices undertaken by you. The accountability does not extend to your conduct in private life.
2. The Act requires the Code to be consistent with the principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.
3. The Code is in two parts. The first deals with general provisions and obligations. The second relates to the Act's requirements regarding members' interests other than pecuniary interests and pecuniary interests. This categorisation replaces the earlier personal interests and personal and prejudicial interests. Failures to register or to declare pecuniary interests or otherwise to fail to observe the related provisions of the Act are now potentially criminal offences. Some obligations in the first part of the Code also relate to potentially unlawful conduct. The Code aims both to warn against conduct that might make you or the Council itself liable in law, and also to signal the unacceptability of breaches that do occur but are below the threshold for legal action.
4. Members cannot be required, as a condition of office, to be bound by the Code, but you will be deemed to have read the Code and to be aware that the Council is required to provide for complaints alleging breaches of the Code to be determined, after any necessary investigation. The procedures for making a complaint and for the subsequent handling of a complaint are published on the EHDC website and are available from the EHDC Offices.

Part 1

General provisions and obligations

5. When you represent the Council on another body, you should, as a member of that body, comply, in the conduct of that authority's business, with any necessary provisions of that body's code of conduct; but you should also comply with this Council's Code of Conduct, except if and to

- the extent that it conflicts with any over-riding lawful obligations of that other body. Such conflicts are improbable, but, if any arise the guidance of this Council's Monitoring Officer should be sought.
6. By leadership and example, you should assist the Council in its duty to promote and maintain high standards of conduct. To that end you must—
 - (a) aim to uphold the law and not do, or connive with or at others in doing, anything unlawful;
 - (b) comply with the Council's standing orders and with any relevant guidance that may be issued from time to time, including codes and protocols;
 - (c) at no time, in your role as a member and in the performance of your Council duties, conduct yourself in a manner that might reasonably be regarded as bringing, or being likely to bring, into disrepute you yourself, in your office of member, or the Council.
 7. You should aim to promote equality and must treat others with respect and with due regard for them and to their rights as individuals. In particular, you must not—
 - (a) in any way discriminate, or show prejudice, on grounds of sex or sexual orientation, or of nationality, race, creed, disability or age. Nor should you do anything that might cause the Council itself to liable under any of the provisions of the Equality Act 2010;
 - (b) bully, harass or treat any person or persons in a manner that might be felt to be oppressive;
 - (c) intimidate or attempt to intimidate any person who is or might be (i) a complainant that any member has breached the Council's Code of Conduct, or (ii) a witness or potential source of other material evidence regarding such an allegation, or (iii) in any other way involved in any investigation or proceedings in relation to an allegation of misconduct;
 - (d) do anything that compromises or might compromise the impartiality, integrity and objectivity of those who work for, or on behalf of, the Council.
 8. You must not disclose information, whether given to you or coming to your notice in any other way, that is confidential or that you ought reasonably to be aware is of a confidential nature, unless—

- (a) you have the consent of a person who has the authority to give such consent; or
 - (b) disclosure is required by law; or
 - (c) the disclosure is necessarily made to a third party for the purpose of obtaining professional advice and provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is reasonable, in the public interest, and made in good faith and in compliance with the Council's policies or protocols on whistle-blowing and confidential information. For protection by the Public Interest Disclosure Act 1988, you must first have raised your concerns through the appropriate internal machinery, as set out in the Council's Disclosure Code.
9. You must not impede or prevent someone else from gaining access to information to which he or she is entitled by law.
10. You must not use, or attempt to use, your position to gain financial or other material benefits for yourself, your family, or your friends.
11. You must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
12. When using, or authorising or agreeing to others' use, of the resources of your authority, you must—
- (a) act in accordance with the Council's reasonable requirements and so far as possible ensure that the Council uses its resources prudently and in accordance with the law;
 - (b) ensure that the Council's resources are not used improperly for political purposes (including party political purposes).
13. When reaching decisions on any matter you must—
- (a) exercise independent judgement and act solely in the public interest;
 - (b) remember that a Council decision might be open to challenge on grounds of predetermination if a member (or members) involved in the decision had, or might reasonably have been thought by a disinterested observer to have had, a closed mind at the time the decision was taken. To avoid predetermination, if beforehand you have expressed a strong view on the matter for decision or indicated how you were minded to vote, you should keep an open

mind and have regard for all the facts, advice from officers and others' views, and ideally demonstrate that open-mindedness in discussion at the meeting;

- (c) heed any relevant professional advice from the Council's Chief Executive, Chief Finance Officer or Monitoring Officer.
14. As a holder of public office, you are accountable to the public and you should—
- (a) aim to be open about decisions and actions that involve you;
 - (b) be less open only when the law or confidentiality requires or if in the wider public interest;
 - (c) make clear, in any communications with members of the public and especially with representatives of the media, whether you are expressing personal views or speaking in any way on behalf of the Council;
 - (d) have regard to the Council's Code of Publicity, in particular if you initiate the communication by, for example, writing a letter to a newspaper.}

Part 2

[To be inserted when/if regulations are issued.]

ESSENTIAL REFERENCE PAPER 'C'

Code of Conduct

As a member or co-opted member of East Hertfordshire 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.

The Act further provides for registration and disclosure of interests and in East Hertfordshire District Council this will be done as follows: *[to be completed when the regulations are made]*

As a Member of East Hertfordshire 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 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.

ESSENTIAL REFERENCE PAPER 'D'

Complaints Procedure

1.0 Context

- 1.1 These "Arrangements" set out, as required by law, how to make a complaint that an elected or co-opted Member of this authority (or of a Town or Parish council within its area) has failed to comply with the Councillors' Code of Conduct, and describe how the Authority will deal with such complaints.
- 1.3 Such arrangements must provide for the Authority to appoint at least one "Independent Person", whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Member (or a Member or co-opted Member of a Town or Parish council) against whom an allegation has been made.

2.0 The Code of Conduct

- 2.1 The Council has adopted, again as required by law, a Code of Conduct for Councillors, which is available on the Authority's website and on request from Reception at the Council Offices.
- 2.2 Each Town or Parish Council is also required to adopt a Code of Conduct. Most of the councils of towns and parishes in East Herts have adopted a Model Code that differs only in detail from that adopted by the District Council. The Model Code, together with a list of those local councils that have adopted it, is on the Authority's website and is available from the Council Offices. Otherwise, potential complainants should either look on any website operated by the Town or Parish Council concerned or ask the Town or Parish Clerk to allow sight of the Town or Parish Council's Code of Conduct.

3.0 Making a complaint

- 3.1 In order to provide all the information necessary to process a complaint, a complainant should complete and send in the complaint form, which can be downloaded from the Council's website and is available on request from the Reception at the Council Offices. It can also be obtained by

writing or telephoning the Council's Deputy Monitoring Officer (Jeff Hughes) at:

East Herts Council Offices, Wallfields, Pegs Lane, Hertford SG13 8EQ (Tel: 01279 655261)

The form is accompanied with detailed advice on how to fill it in. If the complainant wants his or her name kept in confidence, the form provides for that to be requested. The Monitoring Officer, who is a senior officer of the Authority with responsibility for administering the system in respect of complaints of Member misconduct, will consider the request and, if granted, the complainant's name will not be disclosed, without prior consent, to the Member who is the subject of the complaint (the "subject Member") or to anyone not directly involved in the processing of the complaint. If the complainant has serious concerns, on grounds, for example, of victimisation or intimidation, the Council has a 'whistle-blowing' procedure that offers a high degree of confidentiality [REFERENCE].

- 3.2 The Authority does not normally pursue anonymous complaints unless clear factual evidence is provided of a breach of the Code of Conduct.
- 3.3 The Monitoring Officer will acknowledge receipt of a complaint within 2 working days of receiving it, and will keep the complainant informed of the progress of the complaint.
- 3.4 The Complaints Procedure Flowchart is annexed at Appendix 1.

4.0 Will your complaint be investigated?

- 4.1 The Monitoring Officer will review every complaint received, to establish that the matter is within the jurisdiction of the Standards Committee. If a complaint appears to disclose criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies. If, for any other reason, the complaint is not appropriate to be dealt with by the Council's Standards Committee, it will be directed into whichever procedure is available, if there is one, and the complainant will be told.
- 4.2 The subject Member will normally receive details of the complaint, including the name of the complainant (unless the Monitoring Officer has agreed not to disclose the complainant's name). The subject Member will be given the opportunity to respond to the complaint. In exceptional

cases, where disclosure of details of the complaint to the Member might prejudice the investigation of the complaint, because, for example, evidence might be destroyed, the Monitoring Officer may delay notifying the Member until the investigation has progressed sufficiently. The complaint, together with any response from the subject Member, will be considered in accordance with the Assessment Criteria annexed at Appendix 2. The Standards Sub-Committee will make a recommendation as to whether the complaint should be summarily dismissed, or, if there appears to be evidence of a significant breach of the Code, referred to the Monitoring Officer with a recommendation for formal investigation or for other specified action. Where the Sub-Committee requires additional information in order to make a recommendation, the Monitoring Officer may refer back to the complainant or to the subject Member for such information.

- 4.3 In appropriate cases, there may be a decision to attempt to resolve the complaint informally, without the need for a formal investigation. Such informal resolution might, for example, involve the Member accepting that his/her conduct was unacceptable and offering an apology, or the Sub-Committee might recommend other remedial action by the Authority, such as the issue of a caution by the Monitoring Officer. Where the Member or the Authority makes a reasonable offer of informal resolution, but the complainant is not willing to accept the offer, the Sub-Committee will take account of this in deciding whether the complaint merits further investigation. If the subject Member refuses to co-operate with the attempt at informal resolution, the complaint may be referred for formal investigation and a further complaint of a breach of the Code may also be considered.
- 4.4 Unless the complaint is complicated, the expectation is that the assessment will be completed and the recommendation notice issued within 28 days of receipt of the complaint.

5.0 How is a formal investigation conducted?

- 5.1 The Council has adopted a procedure for the formal investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.
- 5.2 If the Standards Committee decides that a complaint merits formal investigation, the Monitoring Officer will normally appoint an "Investigating Officer", who may be another senior officer of the Authority, an officer of

- another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to the complainant to understand the nature of the complaint, to gain a fuller understanding of events and to identify what documents needs to seen and who needs to be interviewed.
- 5.3 The Investigating Officer will normally contact the subject Member (who will already have a copy of the complaint), and ask the Member to provide his/her explanation of events, and to help further identify what documents may be material and who needs to be interviewed.
- 5.4 At the end of his/her investigation, the Investigating Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to the complainant and to the Member concerned, to give the protagonists an opportunity to identify anything in that draft report which they disagree with or which they consider requires more consideration.
- 5.5 Having received and taken account of any comments on the draft Investigation Report, the Investigating Officer will send his/her final report to the Monitoring Officer.
- 5.6 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.
- 6.0 What happens to the Investigating Officer’s Final Report, once cleared by the Monitoring Officer?**
- 6.1 The Monitoring Officer will submit the Investigation Report to the Sub-Committee which may either dismiss the complaint summarily if the investigation concludes there is inadequate evidence of a breach of the Code or may conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to recommend any action in respect of the Member.
- 6.2 The Council has agreed a procedure for hearing complaints, which is attached as Appendix 4 to these arrangements.
- 6.3 At the hearing, which will normally be held in public, the Investigating Officer or the Monitoring Officer will present the investigation report, call any necessary witnesses and make representations to substantiate the report's conclusions. For this purpose, the Investigating Officer or

Monitoring Officer may ask the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

- 6.4 The Sub-Committee may then conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to recommend in respect of the matter.

7.0 What action can the Standards Sub-Committee recommend where a Member has failed to comply with the Code of Conduct?

- 7.1 The Sub-Committee may make recommendations to take such actions in respect of an individual Member as are within the Council's power and may be appropriate to promote and maintain high standards of conduct. Accordingly the Sub-Committee may recommend:-
- 7.2
- i. A formal letter to the Councillor found to have breached the code;
 - ii. Formal censure by motion;
 - iii. Removal by the authority of the Member from Committee(s) and other bodies, subject to statutory and constitutional requirements;
 - iv. Press release or other appropriate publicity
- 7.3 The Sub-Committee may also consider systemic issues relevant to the case, such as a need for training or the issuing of guidance.

8.0 What happens at the end of the hearing?

- 8.1 At the end of the hearing, the Chairman will state the recommendation of the Standards Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to recommend.
- 8.2 As soon as reasonably practicable thereafter, the Monitoring Officer will, if the subject Member's authority is the District Council, prepare a report to

Council which will consider the recommendations and make a decision. The Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Council, and send a copy to you, to the Member and to the Town or Parish Council, making that decision notice available for public inspection.

- 8.3 If the subject Member's authority is a Town or Parish Council, the Monitoring Officer will send the report to the clerk of that Council and the clerk will submit the report for the Council's consideration and report back to the Monitoring Officer that Council's decisions.

9.0 Who are the Standards Sub-Committee?

- 9.1 It is a Sub-Committee normally comprising External Members, that is, persons appointed by the Council to the Standards Committee with no political allegiances or other involvement in or with the Authority or with any Town or Parish council in the District.
- 9.2 If the Councillor complained about is a Member of a Town or Parish Council a District Councillor who is a member of the Standards Committee will be invited to attend the Sub-Committee. If the Councillor complained about is a Member of the District Council, a Town or Parish Councillor who is a member of the Standards Committee will be invited to attend the Sub-Committee.

10.0 Who is the Independent Person?

- 10.1 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. He or she is required by law to have no recent involvement with the Council or with any town or parish council either personally or by being related to a member or officer. In addition to the role of the Independent member in the arrangements set out above, he or she will also act as Assessor to the Council and advise on any recommendation or advice to Council from the Standards Committee.

11.0 Revision of these arrangements

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

12.0 Appeals

- 12.1 There is no right of appeal for the complainant or for the Member against a decision of the Monitoring Officer or of the Sub-Committee.
- 12.2 A complainant who considers that the Authority has failed to deal with his or her complaint properly can make a complaint to the Local Government Ombudsman.

Appendix 1

Complaints Procedure Flowchart

APPENDIX 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for formal investigation

1. The complaint is not considered sufficiently serious to warrant investigation or there is simply no case to answer;
2. It appears that the matter is not within the Standards Committee's jurisdiction, since for example, it relates to the Councillor's private life or is about dissatisfaction with a Council decision;
3. There is insufficient information available for a referral; or
4. The complaint has not been received within 1 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
5. Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

APPENDIX 3

STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Appendix 4

Complaints Standards Sub-Committee Procedure

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ESSENTIAL REFERENCE PAPER 'E'

Complaints Procedure

1.0 Context

- 1.1 These “Arrangements” set out how you may make a complaint that an elected or co-opted Member of this authority (or of a Town or Parish council within its area) has failed to comply with the Councillors’ Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 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 Town or Parish council within the authority’s area), or of a Committee or Sub-Committee of the authority, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such arrangements must provide for the authority to appoint at least 1 Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a Member (or a Member or co-opted Member of a Town or Parish council) against whom an allegation has been made.

2.0 The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the authority’s website and on request from Reception at the Council Offices.
- 2.2 Each Town and Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should inspect any website operated by the Town or Parish Council and request the Town or Parish Clerk to allow you to inspect the Town or Parish Council’s Code of Conduct.

3.0 Making a complaint

- 3.1 If you wish to make a complaint, please write or email to:

The Deputy Monitoring Officer - Jeff Hughes
East Herts Council
Council Offices
Wallfields
Pegs Lane
Hertford
SG13 8EQ

Tel: 01279 655261

- 3.2 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.
- 3.3 In order to ensure that the Council has 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 from the Reception at the Council Offices.
- 3.4 Please provide the Council with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form. The Monitoring Officer will consider your request and if granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.
- 3.5 The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.
- 3.7 The Complaints Procedure Flowchart is annexed at Appendix 1 for your assistance
- 4.0 Will your complaint be investigated?**
- 4.1 The Monitoring Officer will review every complaint received and, may consult with the Independent Person before referring it to the Standards Sub-Committee

- 4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the Assessment Criteria annexed at Appendix 2. The Standards Sub-Committee will make a recommendation as to whether the complaint should be investigated. Where the Sub-Committee requires additional information in order to come to a decision, the Monitoring Officer may come back to you for such information, and may request information from the Member against whom your complaint is directed. Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Town or Parish Council before submitting it to the Sub-Committee.
- 4.3 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Sub-Committee will take account of this in deciding whether the complaint merits further investigation.
- 4.4 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 or other regulatory agencies.

5.0 How is the investigation conducted?

- 5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix 3 to these arrangements.
- 5.2 If the Council decides that a complaint merits further investigation, the Council may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer or Monitoring 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 needs to seen, and who needs to be interviewed.
- 5.3 The Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see

and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and from the papers given to the member, or delay notifying the Member until the investigation has progressed sufficiently.

5.4 At the end of his/her investigation, the Investigating Officer or Monitoring Officer will produce a draft report (“the Investigation 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.

5.5 Having received and taken account of any comments which you may make on the draft Investigation Report. Where an Investigating Officer has been appointed the Investigating Officer will send his/her final report to the Monitoring Officer.

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

6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and, if he 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 Town or Parish Council, where your complaint relates to a Parish Councillor, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigation Final Report. The Monitoring Officer will then report to the Standards Sub-Committee which will make a recommendation based on the report.

6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

7.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer’s report and will then either send the

matter for a hearing before the Standards Sub-Committee and in consultation with the Independent Person seek an informal resolution.

7.1.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you may consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Town or Parish Council for information, but will take no further action.

7.1.2 Hearing

If the Monitoring Officer considers that informal resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Sub-Committee which may conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for hearing complaints, which is attached as Appendix 4 to these arrangements.

At the hearing, the Investigating Officer or the Monitoring 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 or Monitoring Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, 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 dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should recommend as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the Member an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to recommend in respect of the matter.

8.0 What action can the Standards Sub-Committee recommend where a Member has failed to comply with the Code of Conduct?

8.1 The Sub-Committee may make recommendations to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may recommend:-

- 8.2 i. A formal letter to the Councillor found to have breached the code;
- ii. Formal censure by motion;
- iii. Removal by the authority of the Member from Committee(s) subject to statutory and constitutional requirements;
- iv. Press release or other appropriate publicity;

8.3 The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9.0 What happens at the end of the hearing?

9.1 At the end of the hearing, the Chairman will state the recommendation of the Standards Sub-Committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to recommend.

9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a report to Council which will consider the recommendations. Council will consider the recommendations and make a decision. The Monitoring Officer will prepare a formal decision notice in consultation with the Chairman of the Council, and send a copy to you, to the Member and to the Town or Parish Council, making that decision notice available for public inspection.

10.0 Who are the Standards Sub-Committee?

- 10.1 It is a Sub-Committee comprising Independent Members.
- 10.2 If the Councillor complained about is a member of a Town or Parish Council a Town or Parish Councillor who is a member of the Standards Committee will also be invited to attend the Sub-Committee.
- 10.3 The Independent Person is invited to attend all meetings of the Sub-Committee and their views are sought and taken into consideration before the Sub-Committee 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.

11.0 Who is the Independent Person?

- 11.1 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.
- 11.2 A person cannot be "independent" if he/she:
 - 11.2.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
 - 11.2.2 *(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*
 - 11.2.3 Is a relative or close friend, of a person within paragraph 11.2.1 or 11.2.2 above. For this purpose, a "relative" means:
 - 11.2.3.1 Spouse or civil partner;
 - 11.2.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.2.3.3 Grandparent of the other person;
 - 11.2.3.4 A lineal descendent of a grandparent of the other person;
 - 11.2.3.5 A parent, sibling or child of a person within paragraphs 11.2.3.1 or 11.2.3.2; or

- 11.2.3.6 A spouse or civil partner of a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5; or
- 11.2.3.7 Living with a person within paragraphs 11.2.3.3, 11.2.3.4 or 11.2.3.5 as husband and wife or as if they were civil partners.

12.0 Revision of these arrangements

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

13.0 Appeals

- 13.1 There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Sub-Committee.
- 13.2 If you feel that the authority has failed to deal with your complaint properly, you can make a complaint to the Local Government Ombudsman.

Appendix 1
Complaints Procedure Flowchart

APPENDIX 2

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

Complaints which would not normally be referred for investigation

1. The complaint is not considered sufficiently serious to warrant investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complaint appears to be politically motivated; or
4. It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
5. it is about someone who is no longer a Councillor
5. There is insufficient information available for a referral; or
6. The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances e.g. allegation of bullying, harassment etc.
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Council; or
9. It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
10. Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction

APPENDIX 3
STANDARDS COMPLAINTS INVESTIGATION PROCEDURE

Appendix 4

Complaints Standards Sub-Committee Procedure

ESSENTIAL REFERENCE PAPER 'F'

Terms of Reference for the Standards Committee and Standards Sub-Committee

STANDARDS COMMITTEE	
<p>Appointed by:</p> <p>The Council, in accordance with the provisions of S101 & S102 Local Government Act 1972 and Regulations made thereunder.</p> <p>Appointment of a Standards Committee shall be by full Council</p>	<p>Number of Members:</p> <p>4 elected Members appointed proportionally (of whom not more than 1 Member may be a Member of the Executive)</p> <p>1 Town Councillor and 2 Parish Councillors to be co-opted as voting members</p> <p>4 Co-Opted independent Members ("External Members")</p>
<p>Chairman and Vice-Chairman appointed by:</p> <ol style="list-style-type: none"> 1. The Chairman will be elected by the Committee and shall be an External Member. 2. There will be one Vice-Chairman, who shall be elected by the Committee and shall be an External Member 3. The Vice-Chairman shall deputise for the Chairman in the latter's absence. 4. In the absence of both the Chairman and Vice-Chairman the Committee shall elect an External Member as Chairman 	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>Substitutes are not permitted for the Standards Committee.</p> <p>Frequency:</p> <p>At least quarterly or otherwise as required.</p> <p>Venue:</p> <p>As set out in the approved Calendar of Meetings.</p>

<p>Independent Person:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p>	<p>The Independent Person:</p> <p>The Independent Person be invited to attend the meetings of the Standards Committee and its Sub-Committees as an observer.</p>
<p>Quorum:</p>	<p>At least 1 Member from each of the three above categories of memberships of the Committee</p>

Terms of Reference

The Standards Committee will have the following roles and functions as an advisory committee:

- (a) Advising and assisting the Authority in the promotion and maintenance of high standards of conduct by Members of the Authority;
- (b) Advising and assisting Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendation to those Councils on improving standards or actions following a finding of a failure by a Town or Parish Councillor to comply with the Code of Conduct
- (c) to progress complaints on behalf of a Town or Parish Council
- (d) advising the Authority and the Town and Parish Councils on the adoption or revision of the Members' Code of Conduct;
- (e) to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Authority's assessment criteria
- (f) receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct;
- (g) assisting Councillors to observe the Members' Code of Conduct;
- (h) advising the Authority upon the contents of and requirements for codes/protocols/other guidance and procedures relating to standards of conduct within the Authority
- (i) maintaining oversight of the Authority's arrangements for dealing with complaints
- (j) informing the relevant council(s) of issues arising from the determination of Code of Conduct complaints.
- (k) Appointment of a Sub-Committee to carry out assessments and to conduct hearings
- (l) Appointment of ad hoc and informal Sub-Committees for any other purpose

germane to the Committee's terms of reference.

SUB-COMMITTEE for the purposes of assessing complaints and conducting hearings

Appointed :

The Sub-Committee is convened ad hoc from the membership of the parent Committee, with regard to the importance both of convening meetings with as little delay as is practicable and of giving as many members as possible experience of casework.**Membership:**

All available external members of the Standards Committee subject to a minimum of 2 being present;

for assessments/hearings relating to a member of the Authority: any 1 available town/parish member of the Committee;

for assessments/hearings relating to a member of a town/parish council: any 1 available member from the Authority.

Chairman appointed by:

The Chairman shall be elected by the Sub-Committee at each meeting.

Political Proportionality:

No

Substitutes:

None.

Frequency:

As and when required.

Venue:

To be determined by the Monitoring Officer.

Quorum:

At least 3 Members

Independent Person:

Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011

The Independent Person:

The Independent Person to be invited to attend the meetings of the Standards Sub-Committee

Terms of Reference

To assess, or to conduct a Hearing into, an allegation that a Member or Co-opted Member has breached the Code of Conduct adopted by the council of which he or she is a member.

Following an Assessment, to make one of the following recommendations to the Monitoring Officer:

- (a) That no further action be taken
- (b) That specified action be taken to attempt informal resolution of the complaint
- (c) That the complaint be formally investigated.

Following a Hearing, to make one of the following recommendations to the subject Member's council :

- (d) That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing
- (e) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing
- (f) That the Member has failed to comply with the Code of Conduct and that a sanction and/or an informal resolution be imposed.

The Sub-Committee may recommend any action or combination of actions available to the Council, or recommend any informal resolution or combination of informal resolutions as are available by law or policy.

After the Hearing the Sub-Committee shall, as soon as reasonably practicable, provide written recommendations and the reasons for its recommendations.

ESSENTIAL REFERENCE PAPER 'G'

Terms of Reference for Standards Committee

STANDARDS/GOVERNANCE COMMITTEE	
<p>Appointed by:</p> <p>The Council, in accordance with the provisions of S101 & S102 Local Government Act 1972 and Regulations made thereunder.</p> <p>Appointment of a Standards Committee shall be by full Council</p>	<p>Number of Members:</p> <p>5 elected Members appointed proportionally (of whom 1 Member may be a member of the Executive nominated by the Leader of the Council)</p>
<p>Chairman and Vice-Chairman appointed by:</p> <ol style="list-style-type: none"> 1. The Chairman will be elected by the Committee. 2. There will be one Vice-Chairman, who shall be elected by the Committee 3. The Vice-Chairman shall deputise for the Chairman in his or her absence. 	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>Substitutes are permitted for the Standards Committee.</p> <p>Frequency:</p> <p>At least quarterly.</p> <p>Venue:</p> <p>As set out in the approved Calendar of Meetings.</p>
<p>Independent Person:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p>	<p>The Independent Person:</p> <p>The Independent Person be invited to attend the meetings of the Standards Committee</p>
<p>Quorum:</p>	<p>At least 3 voting Members of the Committee</p>

Terms of Reference

The Standards Committee will have the following roles and functions:

- (1) promoting and maintaining high standards of conduct by Members and Co-Opted Members of the authority;
- (2) Advising and assisting Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendation to Town and Parish Councils on improving standards or actions following a finding of a failure by a Town or Parish Councillor to comply with the Code of Conduct
- (3) to progress complaints on behalf of Town and Parish Councils
- (4) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (5) to receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the authority assessment criteria
- (6) receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct;
- (7) arranging to train Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
- (8) assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
- (9) hearing and determining complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
- (10) advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to standards of conduct throughout the Council
- (11) maintaining oversight of the Council's arrangements for dealing with complaints
- (12) informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.
- (13) Appointment of Sub-Committee

SUB-COMMITTEE	
<p>Appointed by:</p> <p>The Council, for the purposes of section 28(6 and (7) of the Localism Act 2011</p>	<p>Number of Elected Members:</p> <p>3 Members appointed from Members of the Standards Committee.</p>
<p>Chair and Vice-Chair appointed by:</p> <p>The Chair shall be elected by the Sub-Committee at each meeting.</p>	<p>Political Proportionality:</p> <p>Rules of political proportionality apply.</p> <p>Substitutes:</p> <p>None.</p> <p>Frequency:</p> <p>As and when required.</p> <p>Venue:</p> <p>To be determined by the Monitoring Officer.</p>
<p>Quorum:</p>	<p>At least 3 voting Members</p>
<p>Independent Person:</p> <p>Appointment approved by full Council in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011</p>	<p>The Independent Person:</p> <p>The Independent Person to attend the meetings of the Standards Committee dealing with hearings into allegations of misconduct</p>
<p>Terms of Reference</p> <p>To conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Authority's Code of Conduct.</p> <p>Following a Hearing, make one of the following findings:</p> <ul style="list-style-type: none"> (a) That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing (b) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing (c) That the Member has failed to comply with the Code of Conduct and that a 	

sanction and/or an informal resolution should be imposed

The Sub-Committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to the Council by law or policy.

After making a finding the Sub-Committee shall, as soon as reasonably practicable provide written notice of its findings and the reasons for its decision to the Member and complainant.

ITEM 20A – LOCALISM ACT 2011

REVISED RECOMMENDATIONS

RECOMMENDATIONS

Standards Committee

- (a) **Issue 1- The Standards Committee Recommendations:** To create an Advisory Committee with independent Members with voting rights operating in the same way as the current Standards Committee but advising full Council. The Members of the existing Standards Committee would be appointed to the Committee
- (b) **Alternative Recommendation:** That the Council establish a Standards Committee comprising 5 elected Members of the District Council, appointed proportionally;
- (c) That the Leader of the Council be requested to nominate to the Committee only one Members who is a Member of the Executive;

Code of Conduct

- (d) **Issue 2- The Standards Committee Recommendation:** The Standards Committee recommends the adoption of code prepared by the Committee and contained in **Essential Reference Paper B**
- (e) **Alternative Recommendation:** Adopt the Local Government Association's "Template code and guidance note on conduct". **(Essential Reference Paper C)**
- (f) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Leader of the Council, add to that draft Code provisions which he considers to be appropriate for the registration and disclosure of interests other than Disclosure Pecuniary

Interests.

Arrangements for Dealing with Complaints

- (g) **Issue 3- The Standards Committee recommendation:** Adopt the proposals set out in **Essential Reference Paper D**
- (h) **Alternative Recommendation:** Adopt the Proposals set out in **Essential Reference Paper E;**

Independent Persons

- (i) **Issue 4-** The Council join with other authorities with a pool of Independent Persons;
- (j) That the Independent Persons be reimbursed for travel and subsistence expenses

Register of Members' Interests

- (k) **Issue 5-** That the Monitoring Officer prepare and maintain a new register of Members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- (l) That the Monitoring Officer ensure that all Members are informed of their duty to register interests.
- (m) That the Monitoring Officer prepare and maintain new registers of Member' interests for each Parish Council and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and
- (n) That the Monitoring Officer arrange to inform and train Parish Clerks on the new registration arrangements.

Standing Orders

- (o) **Issue 6-** The Monitoring Officer be instructed to recommend to

Council a Standing Order which equated to the current Code of Conduct requirement that a Member must from the meeting room, including from the public gallery, during the while of consideration of any item of business in which he/she has a Disclosure Pecuniary Interest, except where he is permitted to remain as a result of the grant of a dispensation.

- (p) **Issue 7-** The Monitoring Officer be instructed to recommend to Council a Standing Order which equates to the current Code of Conduct requirement that where a decision is to be made by a single Member the decision will be referred to the Executive if he/she has a Disclosable Pecuniary Interest, except where he is permitted to remain as a result of the grant of a dispensation.

Dispensations

- (q) Issue 8- That Council delegate the power to grant dispensations-
- (r) On Grounds set out in Paragraphs 11.2 (a) and 11.2 (d) of this report to the Monitoring Officer with an appeal to Standards Committee, and;
- (s) On Grounds 11.2 (b), 11.2 (c), 11.2 (e) to the Standards Committee after consultation with the Independent Person.

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