

## Swindon Borough Council

# Standards Committee

**Monday, 11 June 2012**

Committee Room 1, Civic Offices  
(Anticipated meeting room)

**At 4.00 p.m.**

### Councillors

Rex Barnett  
Mary Friend  
Richard Hurley  
*Doreen Dart (Deputy)*  
(Conservative)

Fay Howard  
Teresa Page  
(Labour)

David Wood  
(Liberal Democrat)

### Independent Members

Mr Keith Carby (Chair)  
Mr Trevor Davies (Vice-Chair)  
Mr Paul Morris  
Mr David Dawson

### Parish Representative

Mr Mike Compton, Parish Representative

Mr Gerry Eyles, Parish Representative

Mr Richard Hailstone, Parish Representative

**Committee Officer:** Sarah Lawrence (Telephone 01793 463603)  
email: [slawrence@swindon.gov.uk](mailto:slawrence@swindon.gov.uk)

Swindon Borough Council can be contacted at the Civic Offices, Euclid Street, Swindon, SN1 2JH (Telephone 01793 445500)

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## AGENDA

### PART 1 (PUBLIC ITEMS)

#### 1. Declarations of Interest

Members are requested at the start of the meeting to declare any known interests in any matter to be considered, and are reminded that any such interest should also be declared at the start of an item or during any discussion of the matter concerned.

#### 2. Minutes (Pages 1 - 4)

To receive the minutes of the meeting held on 26<sup>th</sup> March 2012.

#### 3. Public Question Time

*(See explanatory note below. Please phone the Committee Clerk whose name and number appears at the top of this agenda if you need further guidance.)*

**4. Apologies for Absence**

**5. Exempt Items - Exclusion of Press and Public**

Certain items are expected to include the consideration of exempt information and the Committee is, therefore, recommended to resolve "That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in the items listed below, on the grounds that they involve the likely disclosure of exempt information, as defined in the respective paragraph of Part 1 of Schedule 12A of the Act".

<u>Item No.</u>	<u>Paragraph No.</u>
<b>8</b>	<b>1 and 2</b>

**6. Annual Work Programme (DLDS-B) (Pages 5 - 8)**

**7. Localism Act 2011 - Standards Framework (DLDS-B) (Pages 9 - 82)**

**PART 2 (TO BE CONSIDERED WITHOUT THE PRESS AND PUBLIC PRESENT)**

**8. Ethical Compliance Report (Pages 83 - 86)**

1 June 2012 (being date of agenda despatch)

**Key:**

DLDS - Director of Law and Democratic Services

**Public Question Time** - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

**Access Arrangements** - The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Officer, whose name appears at the top of this agenda, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

**Standards Committee - Terms of Reference**

The Standards Committee has the following roles and functions in accordance with Article 9 of the Council's Constitution:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or the Standards Board for England, or which may arise under the 'local filtering' arrangements for complaints as to breaches of the Members Code of Conduct;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, from requests relating to interests set out in the Members Code of Conduct;
- (k) to also exercise (a) to (j) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) to grant and supervise exemptions in relation to those politically restricted posts for which it is responsible
- (m) ensure the Council's Customer Feedback Policy operates effectively in relation to standards of conduct and behaviour of staff and in particular
  - receive annual reports on its operation
  - receive regular monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
  - adjudicate upon all complaints which remain unresolved
  - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour
  - approve and publish an annual report upon the operation of the system;

- (n) report to the Council when it considers:-
  - standards of conduct and behaviour in a particular area need reviewing, and
  - the level of commitment necessary to resolve these difficulties should be greater;
- (o) approve the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (p) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (q) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (r) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

### STANDARDS COMMITTEE

MONDAY, 26 MARCH 2012

PRESENT:- Mr Keith Carby (Chair), Mr Trevor Davies (Vice-Chair), Mr Paul Morris, Mr Mike Compton, Mr Gerry Eyles, Mr Richard Hailstone, Councillor Sinead Darker, Councillor Fay Howard, Councillor Peter Stoddart and Councillor Kevin Small.

Apologies for absence were received from Mr David Dawson.

#### **21. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

#### **22. Minutes**

Resolved – That the minutes of the meeting held on 23<sup>rd</sup> January 2012, be confirmed and signed as a correct record.

#### **23. Public Question Time**

No public questions were received during the meeting.

#### **24. Exempt Items - Exclusion of Press and Public**

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred to in Agenda Item 8 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 27 refers).

#### **25. Question and Answer Session - Leader of the Council and Chief Executive**

The Leader of the Council, and the Chief Executive, attended the meeting to discuss the Council's approach to ethical governance, and their key priorities in relation to ensuring that high ethical standards are promoted and maintained within the Council.

The discussion included:

- An update on Stronger Together, the new Council management structure and way of working from 1 April 2012, and the context and reasons for these changes.

- The role for Town and Parish Councils under the Localism Act, and the need for close working with the Council, in particular in Localities.
- The context in which the Council was operating with regard to the economic climate, budget pressures and a heightened political environment, and the importance of the public understanding the different roles of officers and Councillors, and the democratic mandate held by Councillors.
- The continuing growth of social media, and the difficulties that presents for Councillors knowing how and when to engage, and ensuring that their contributions are compliant with the Media Guidelines for Councillors and the Member Code of Conduct.

The Committee noted that the Leader of the Council and the Chief Executive both considered that the Protocol of Member / Officer Relations was fit for purpose. In addition, the discussion on social media endorsed an earlier recommendation by the Committee that the new Members Code of Conduct, to be drafted when the Regulations under the Localism Act were published, should include specific reference to use of social media.

Resolved - That the Leader of the Council and the Chief Executive both be thanked for attending the Committee and answering the questions of the Committee.

## **26. Ethical Framework Update Report**

The Committee received a report from the Director of Law and Democratic Services (Monitoring Officer) providing an update on matters relating to the Ethical Framework.

The Committee received an update on the Localism Act 2011 and its implementation. The Director of Law and Democratic Services confirmed that the Corporate Governance Working Group had endorsed the proposals of this Committee, which included the continuation of a stand-alone Standards Committee to oversee the implementation of the Act with a non-voting role for Parish Councillors and Independent Member(s), and for the new Member Code of Conduct to be based broadly on the existing Code. The Committee agreed that it be recommended to Council that the membership of the current Independent Members should continue until the implementation of the new arrangements under the Localism Act 2011.

The Director of Law and Democratic Services advised as to the potential sanctions that could be available to the Committee for breaches of a new Member Code of Conduct.

It was noted that the Monitoring Officer was beginning the review of the Council's Codes and Protocols and would report back with recommendations to the next suitable meeting.

The Committee received and endorsed the proposed preparation process for the Council's Annual Governance Statement as set out in the report.

The Committee also received back an updated record of the ethical training being received by Parish Councillors and Clerks.

Resolved - 1) That the Ethical Framework Update be noted.

2) That it be recommended to Council that the memberships of all four existing Independent Members be extended for a further 12 months or until the statutory Standards Committee ceases to exist, whichever the earlier.

3) That the Monitoring Officer report back to the next suitable meeting of this Committee with the outcome of the review of the Council's Codes of Conduct.

## **27. Ethical Compliance Report**

The Committee considered an exempt report from the Director of Law and Democratic Services (Monitoring Officer) regarding the outcome of various ethical framework compliance matters, including the receipt and progress of Whistleblowing Complaints since the last meeting, a statistical summary of complaints received 2006/7 to date, and an update on the progress of complaints relating to breaches of the Protocol of Member/ Officer Relations and the Members Code of Conduct.

The Committee noted that the statistical summary of the Whistleblowing Cases showed the effectiveness of the scheme, resulting in a number of management actions, dismissals, or process changes, as a result of the complaints made over the 5 year period.

Resolved – 1) That the report be noted.

2) That the 'Procedure for Local Determination of Complaints' and the informal 'Practical Arrangements for the Hearing' established under the Members Code of Conduct be adapted for use in relation to complaints under the Protocol of Member / Officer Relations, and the Director of Law and Democratic Services be authorised to make appropriate amendments to the procedures.

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## Annual Work Programme

**Standards Committee**

**Date: 11<sup>th</sup> June 2012**

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Author: Director of Law and Democratic Services  
Wards: All  
Locality Affected: All  
Parishes Affected: All

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### **1. Purpose and Reasons**

- 1.1 To ask the Committee to agree its Work Programme for meetings in 2012/13.

### **2. Recommendations**

The Committee is recommended to:

- 2.1 Consider and agree its Work Programme for 2012/13.

### **3. Detail**

- 3.1 An outline work programme for the Committee for the rest of 2012/13 is attached at Appendix '1' for the Committee to discuss and agree its priorities for the year. This is based upon the anticipated work for the Committee during the year, but can be adapted in response to any other matters which arise.

### **4. Alternative Options**

- 4.1 There are no alternative options for this report. It is good to agree a work programme for the ensuing year, but this is a matter for the Committee to determine.

### **5. Implications, Diversity Impact Assessment and Risk Management**

Financial and Procurement Implications

- 5.1 There are no financial or procurement implications of this report.

Legal and Human Rights Implications

- 5.2 There are no specific legal or human rights implications of this report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other implications that have been identified as important for this report.

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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Annual Work Programme

**Standards Committee**

**Date: 11<sup>th</sup> June 2012**

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## Links to One Swindon, Plans and Policies

- 5.4 Monitoring of issues of probity in the Council underpins the Council's plans and policies and the delivery of One Swindon objectives.

## Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment has not been completed for this report, as it does not recommend a change in Council policy or service.

## Risk Management

- 5.6 A risk assessment has not been completed in relation this report, as it does as it does not recommend a change in Council policy or service.

## **6. Consultees**

- 6.1 The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## **7. Background Papers**

- 7.1 None

## **8. Appendices**

- 8.1 Appendix 1 – Draft Work Programme for 2012/13

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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

**Standards Committee**  
**Work Programme for 2012 / 2013**

The following work programme is proposed:

<b>Meeting</b>	<b><u>Agenda Item</u></b>
11 June 2012	<ul style="list-style-type: none"> <li>• Update on Localism Act and Recommendations for Standards Framework and Code of Conduct</li> </ul>
Date to be identified	<ul style="list-style-type: none"> <li>• Standards Training for new members of the Committee (including Training DVD)</li> </ul>
15 October 2012	<ul style="list-style-type: none"> <li>• Consider Standards Annual Report for 2011/12</li> <li>• Consideration of any recommended updates to Codes and Protocols</li> <li>• Update to the Council's Ethical Audit Self-Assessment</li> </ul>
29 January 2013	<ul style="list-style-type: none"> <li>• Update on Parish Councillor Training</li> <li>• Review of the working of the Revised Code of Conduct</li> <li>• Question and Answer Session with Leader and Chief Executive on Ethical Governance Arrangements</li> </ul>
18 March 2013	<ul style="list-style-type: none"> <li>• Consideration of Annual Governance Statement process</li> </ul>
Regular Items:	<ul style="list-style-type: none"> <li>• Ethical Update Report</li> <li>• Monitor complaints under the Council's Anti-Fraud and Corruption Strategy and Whistleblowing Policy.</li> <li>• Receive updates on complaints against Councillors.</li> <li>• Receive updates on continuing close work with Parish Councils on Ethical Framework Issues.</li> <li>• Facilitate training as required for Officers, Councillors and Parish Councillors in respect of ethical framework issues.</li> </ul>
Other reports and Meetings as required:	<ul style="list-style-type: none"> <li>• Consideration of Code of Conduct Complaints.</li> <li>• Requests for dispensations .</li> <li>• Urgent ethical and probity issues as they arise.</li> <li>• Responding to Government Guidance, Regulations and Consultations as issued.</li> </ul>

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## Localism Act 2011 – Standards Framework

Standards Committee

Date: 11<sup>th</sup> June 2012

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**Author:** Director of Law and Democratic Services

Wards: All

Locality Affected: All

Parishes Affected: All

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### 1. Purpose and Reasons

- 1.1 To recommend the adoption of a new Members Code of Conduct and procedure for investigating and hearing complaints to come into operation when the statutory Standards Framework ceases to have effect under the Regulations to the Localism Act.

### 2. Recommendations

The Committee is asked to recommend to Council that:

- 2.1 The revised Members Code of Conduct set out at Appendix '4' be adopted, to come into operation on 1<sup>st</sup> July 2012 or when the current statutory Standards Framework ceases to have effect under Regulations to be made under the Localism Act 2011, whichever is the later,
- 2.2 The Director of Law and Democratic Services be authorised to make any further technical amendments to the Code which may be necessary as a result of any statutory requirements introduced following the adoption of the revised Code.
- 2.3 The arrangements for consideration, investigation and hearing of complaints under the revised Members Code of Conduct be adopted as set out below:
- The Code of Conduct Complaint Form (Appendix '5')
  - Procedure for dealing with Complaints (Appendix '6')
- 2.4 The current statutory Standards Committee be dissolved on 30<sup>th</sup> June 2012, and a new Standards Committee be appointed with effect from 1<sup>st</sup> July 2012.
- 2.5 Article 9 of the Council's Constitution be amended as set out in Appendix '8' and that Standards Committee be authorised to grant dispensations under section 33 of the Localism Act 2011.
- 2.6 Council appoints at least one Independent Person to that statutory role at its meeting on 20<sup>th</sup> June 2012, with each Independent Person to hold office from 1<sup>st</sup> July 2012 until the date of the Annual Council meeting in 2013 (17<sup>th</sup> May 2013), with an option to extend for a further period until the date of the Annual Council meeting in 2014, subject to the agreement of the Council and the Independent Person.
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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Localism Act 2011 – Standards Framework

**Standards Committee**

**Date: 11<sup>th</sup> June 2012**

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- 2.7 It be noted that Standing Orders were amended at Annual Council on 18<sup>th</sup> May 2012 to require those declaring personal and prejudicial, or disclosable pecuniary interests, to declare that interest and leave the room during the discussion of the relevant item unless a dispensation to stay has been obtained.
- 2.8 The Director of Law and Democratic Services be authorised to amend Part 4 of the Council's Constitution (Access to Information Procedure Rule) Section 10, 'Meaning of Exempt Information', by deleting paragraphs 8, 9 and 10 and amending other wording accordingly.
- 2.9 The Director of Law and Democratic Services be requested to provide appropriate training for Borough Councillors on the revised Code.
- 2.10 The Director of Law and Democratic Services Officer be authorised to amend the Council's Constitution to take into account any further amendments required as a result of the Localism Act 2011 and its associated regulations.

## **3. Detail**

- 3.1 The Localism Act 2011 was enacted on 15<sup>th</sup> November 2011. The Committee has received reports to previous meetings setting out the changes brought about by the Act to the standards framework, and the detailed requirements which were still to be clarified through the Regulations.
- 3.2 These Regulations are still awaited from the Government. The main issues to be defined by Regulations are what will constitute disclosable pecuniary interests, and the date on which the statutory standards framework will cease. On 30<sup>th</sup> May 2012, the Association of Council Secretaries and Solicitors (ACSeS) circulated the draft Disclosable Pecuniary Interest Regulations and the draft Transitional Regulations which had been issued by the Department of Communities and Local Government (CLG) on which ACSeS has been asked to comment. Comments have been submitted and the Regulations are expected to be issued shortly. A copy of the draft Regulations and are attached at Appendix '1'. The Government has indicated the commencement date for the new statutory framework will be 1<sup>st</sup> July 2012 and, therefore, it is recommended that all the necessary arrangements are put in place prior to 1<sup>st</sup> July 2012.

### Revised Members Code of Conduct

- 3.3 Members will know that there is a statutory requirement to continue to have a member Code of Conduct. There is, however, no prescribed Code provided that the revised Code is consistent with the 7 principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those principles are not defined in any more detail.
- 3.4 The Local Government Association issued a template Code on 11<sup>th</sup> April 2012, which is a short outcome-focused document, and is attached at Appendix '2' for

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# Localism Act 2011 – Standards Framework

Standards Committee

Date: 11<sup>th</sup> June 2012

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information. However, the principles are set out such a high level that there is concern that it would be difficult for Members to demonstrate compliance with the Code in the event of a complaint that, for example, members have not shown 'Objectivity' or 'Integrity' in their dealings with residents or in the decision-making process. There is no cross reference between the template Code and the Guidance to clarify which of the 7 Principles encompass 'valuing my colleagues and staff', and 'always treating people with respect', and what 'dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially' actually requires members to do differently. Does it, for example, introduce a new requirement to respond to correspondence?

- 3.5 The Department of Communities and Local Government (CLG) issued illustrative text for potential Codes of Conduct, which is attached at Appendix '3'. This sets out a number of principles, but is also high level.
- 3.6 The National Association of Local Councils (NALC) has subsequently issued a suggested Code to Parish Councils, which they can choose to adopt. The Council has not yet received a copy of this document.
- 3.7 The Monitoring Officer has consulted with the Corporate Governance Working Group, and the Parish and Town Council Clerks Forum on the potential content of a revised Code of Conduct for Members and Parish Councillors. Each has supported the Standards Committee's preference for the current Code to form the basis of the revised Code of Conduct, subject to the inclusion of the definition of disclosable pecuniary interests.
- 3.8 The Corporate Governance Working Party supported this on 13<sup>th</sup> March 2012, and this was confirmed by Council on 29<sup>th</sup> March 2012 when it was resolved that:
  - A politically balanced stand-alone Standards Committee be appointed to oversee the ethical framework, with one or more parish representatives co-opted to it, to maintain a transparent process for the public.
  - The Monitoring Officer continue the process for the appointment of one or more Independent Persons directly, and consult the Group Leaders on the process for appointment and remuneration, noting that this Review Working Group would support the appointment of two Independent Persons and a level of remuneration based on the Special Responsibility Allowance currently payable to the post of an independent Co-opted member of the Standards Committee (£1,062.71p).
  - The Cabinet and Council notes that the Corporate Governance Review Working Group supports the Standards Committee's preference for the current Code of Conduct to form the basis for the new Code of Conduct for Swindon wherever possible, but be updated to :
    - Include the new definition of Disclosable Pecuniary Interests when defined by the Regulations.

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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Localism Act 2011 – Standards Framework

Standards Committee

Date: 11<sup>th</sup> June 2012

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- Exclude the need to declare interests where such a declaration is unnecessary, such as where the interest solely relates to being a Council-appointed representative, and is not prejudicial.
    - To reflect and re-enforce the conduct of Councillors required in relation to the use of social media, which was included in the last update to the Media Guidelines for Councillors.
  - The Council introduces in its Standing Orders a requirement for Councillors who have a Disclosable Pecuniary Interest to not only abstain from voting, but also to leave the meeting during the discussion of such a matter.
  - The Monitoring Officer be requested to develop a streamlined version of the procedure for dealing with Member Officer Protocol Complaints which can then be used as the basis for processing Code of Conduct complaints, taking account the requirements of the Localism Act 2011, and subject to any additional requirements arising from the Regulations when issued.
- 3.9 A draft revised Members Code of Conduct is attached at Appendix '4'. The detail of disclosable pecuniary interests is based on the draft Regulations. It is recommended that the draft Code be adopted, and that the Director of Law and Democratic Services be authorised to amend the Code as necessary prior to implementation should the final Regulations differ from the draft regulations.

## Process for Receiving and Determining Complaints

- 3.10 The Localism Act requires the Authority to make “arrangements” for dealing with complaints of breaches of the Code of Conduct by members.
- 3.11 It is recommended that the arrangements to be adopted for receiving and determining complaints be a modified version of that used to consider complaints under the Protocol of Member / Officer Relations.
- 3.12 It is recommended that the Monitoring Officer, in consultation with a panel of at least three Members or Co-opted Members of the Committee and if appropriate, an Independent Person, review the complaint to carry out an initial assessment of whether it should proceed, if it should be investigated, or if other action is appropriate.
- 3.13 It is recommended that the Committee approves the following suite of documents in relation to the processing of Complaints:
- The Code of Conduct Complaint Form (Appendix '5')
  - Arrangements for dealing with Member Code of Conduct Complaints (Appendix '6')
- 3.14 The Act gives no statutory right of appeal against a decision on a Code of Conduct complaint, and so the appropriate route of challenge will be through the courts by way of judicial review.

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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).



# Localism Act 2011 – Standards Framework

**Standards Committee**

**Date: 11<sup>th</sup> June 2012**

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## Appointment of Independent Person(s)

- 3.15 The arrangements adopted by the Authority for dealing with complaints of breaches of the Code by members must include provision for the appointment of at least one Independent Person (IP). As previously agreed, the Monitoring Officer has issued the advertisement for an Independent Person(s). A copy of the Recruitment Pack is attached at Appendix '7', which sets out the role for the Independent Person. It is the intention to appoint two independent persons, if possible, in order that one can either be consulted generally or formally be asked for views before a decision is made on an allegation that has been investigated, and the other can be available to advise the member or co-opted member concerned without an actual or perceived conflict of interest arising.
- 3.16 The draft Regulations have indicated that current and former members of standards committee (including co-opted members) can be appointed as an independent person as long as they cease to be a member prior to 1<sup>st</sup> July 2012. Accordingly, as it is the intention to dissolve the current Standards Committee on 30<sup>th</sup> June, applications have been invited from existing lay members of the Standards Committee as well as from members of the public.
- 3.17 Following the same process as applied to the appointment of lay members of the Standards Committee, the Monitoring Officer will be circulating to the Group Leaders the applications for comment. A short list will then be drawn up and interviews held. The Monitoring Officer will then recommend the appointment of at least one Independent Person to the Special Council on 20<sup>th</sup> June 2012. It is suggested that the appointment not be held for an indeterminate duration and it is recommended that the Independent Person(s) be appointed to hold the appointment for an initial period from 1<sup>st</sup> July 2012 until 17<sup>th</sup> May 2013, with an option to extend for a further period until the date of Annual Council in 2014, subject to the agreement of the Council and the Independent Person.

## Standards Committee

- 3.18 The Act repeals the statutory duty on the Authority to appoint a Standards Committee. However, there will still be a need to deal with standards issues and case-work, in addition to the other functions which the Authority has delegated to the current committee (e.g. to monitor officer codes and protocols, and policies on anti-fraud and whistle-blowing, etc).
- 3.19 It was previously recommended by the Committee that a stand-alone Standards Committee should be retained for at least the first year of the operation of the new Code to fulfil this role. The Standards Committee will be a normal Committee of the Authority. This means that its membership would normally be governed by the rules on political proportionality unless Council has agreed otherwise. At the meeting of Annual Council on 18<sup>th</sup> May 2012 it was agreed that the political balance rules would not apply to the current Standards Committee in

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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Localism Act 2011 – Standards Framework

## Standards Committee

Date: 11<sup>th</sup> June 2012

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order that each political group could be represented. If Council are minded to continue that practice in relation to the new Standards Committee, it is recommended that the number of Councillors on Standards Committee be retained at 6 (3 Conservative, 2 Labour, 1 Liberal Democrat) in order that it does not become unwieldy when co-opted members are taken into account.

- 3.20 It is not possible to have voting Lay or Parish Councillor representatives on the Committee. However, it is recommended that up to two Independent Members (Lay Members), and up to two Parish Council Representatives are retained on the Committee as co-opted non-voting members. This proposal to retain non-voting representation was supported by the Corporate Governance Working Party on 13<sup>th</sup> March 2012, and confirmed by Council on 29<sup>th</sup> March 2012,
- 3.21 Article 9 of the Council's Constitution will need to be amended as attached at Appendix '8'. It is asked that the Committee recommend this to Special Council on 20<sup>th</sup> June.

### Register of Members and Co-opted Members' interests

- 3.22 The Localism Act requires the Disclosable Pecuniary Interests of members and co-opted members (and their spouses, civil partners or persons living with them in a similar capacity) to be registered. The Authority's Monitoring Officer must maintain a register of these interests and a register for all Parish Councillor interests in its area. The registers must be available for inspection and must be on the Authority's website. Parish Councils will also be required to publish their own registers of interests and publish them to their website if they have one.
- 3.23 Each member or co-opted member must register all Disclosable Pecuniary Interests (DPIs) within 28 days of becoming a member. Failure to register will be a criminal offence.
- 3.24 As it is proposed that this Authority's Code also include the declaration of other pecuniary or non-pecuniary interests (i.e. in addition to the statutory Disclosable Pecuniary Interests) it would seem logical that there should be a requirement that these too be declared and registered. It is recommended that the Register also retain the requirement for Member to record Gifts and Hospitality received. This would be in accordance with the Corporate Governance Review Working Group's preference for the current Code of Conduct to form the basis for the new Code of Conduct for Swindon wherever possible,
- 3.25 It is anticipated that requirement to register will begin at the point a new standards regime comes into effect. However, compiling a register cannot begin until regulations have been made defining the Disclosable Pecuniary Interests. The draft Regulations are included in Appendix '1'.
- 3.26 The provisions of the Localism Act on sensitive interests largely replicate those currently in force. Where a Member is concerned that disclosure of the detail of

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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# Localism Act 2011 – Standards Framework

Standards Committee

Date: 11<sup>th</sup> June 2012

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an interest (either a Disclosable Pecuniary Interest or any other interest which he/she is 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".

- 3.27 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 detail of the interest can be excluded from the published version of the Register of Members' interests.
- 3.28 The Localism Act stipulates that a member with a Disclosable Pecuniary Interest cannot participate in any discussion at a meeting and cannot vote; but it does not require the member to withdraw. To protect a member from the perception that his/her presence at a meeting might influence the discussion, Standing Orders were amended in the Constitution 2012/13 approved at Annual Council on 18<sup>th</sup> May 2012 in line with the current Code, to require Members who have declared a personal and prejudicial or disclosable pecuniary interest to declare at the meeting and to leave the room during the discussion of the relevant item.
- 3.29 Finally, so far as dispensations are concerned, it is suggested that the power to grant dispensations in relation to pecuniary interests be exercised by the Standards Committee. If there needs to be further delegation to an officer then this can be the subject of a further report.

## Updates to the Constitution and Review of other Codes and Protocols

- 3.30 It is recommended that The Director of Law and Democratic Services Officer be authorised to amend the Council's Constitution to take into account any further amendments required as a result of the Localism Act 2011 and its associated regulations.
- 3.31 Updated versions of the Council's Code and Protocols have been approved as part of the New Constitution at Annual Council on 18<sup>th</sup> May 2012. The Monitoring Officer will carry out a further consultation on the Council's Codes and Protocols, and report back with any recommended changes to the next suitable meeting. However, any changes which are solely related to the Localism Act 2011 and its regulations can be made under the above delegated power if agreed.

## **4. Alternative Options**

- 4.1 Any alternative options are set out in the body of the report.

# Localism Act 2011 – Standards Framework

Standards Committee

Date: 11<sup>th</sup> June 2012

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## 5. Implications, Diversity Impact Assessment and Risk Management

### Financial and Procurement Implications

- 5.1 The cost of investigating any Code of Conduct complaints referred by to the Monitoring Officer for investigation is met from the External Audit Fees budget. The Council seeks to keep these costs to a minimum and achieve value for money.

### Legal and Human Rights Implications

- 5.2 The legal and human rights implications, where applicable, are set out in the body of the report.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other implications that have been identified as important for this report.

### Links to One Swindon, Objectives, Plans and Policies

- 5.4 Monitoring of issues of probity in the Council underpins the Council's plans and policies and the delivery of One Swindon objectives.

### Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment has not been completed for this report, as the new approach to dealing with Code of Complaints does not vary significantly to the previous procedure, and variations are in line with the requirements of the Localism Act.

### Risk Management

- 5.6 A risk assessment has not been completed in relation this report, as it does as it does not recommend a significant change in Council policy or service. Arrangements for meeting the requirements of the Localism Act and monitoring probity of the Council will ensure that good governance is maintained and protect the reputation of the organisation.

## 6. Consultees

- 6.1 The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

## 7. Background Papers

- 7.1 None

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Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk).

# **Localism Act 2011 – Standards Framework**

**Standards Committee**

**Date: 11<sup>th</sup> June 2012**

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## **8. Appendices**

- 8.1 Appendix 1 – Draft Pecuniary Interest Regulations and The Localism Act 2011 and the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 ('the Commencement Order')
- 8.2 Appendix 2 - LGA Template Code
- 8.3 Appendix 3 – CLG Illustrative text for a Member Code of Conduct
- 8.4 Appendix 4 – Revised Members Code of Conduct
- 8.5 Appendix 5 - Code of Conduct Complaint Form
- 8.6 Appendix 6 - Arrangements for dealing with Member Code of Conduct Complaints
- 8.7 Appendix 7 – Independent Person Advertisement and Recruitment Pack
- 8.8 Appendix 8 – Updated Article 9 of the Council's Constitution

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STATUTORY INSTRUMENTS

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2012 No.

## LOCAL GOVERNMENT, ENGLAND

The Relevant Authorities (Disclosable Pecuniary Interests)  
Regulations 2012

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - - - 1st July 2012

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011(a), makes the following Regulations.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

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

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

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

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

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

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

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

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

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(a) 2011 c.20.

(b) 2000 c. 8.

### Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of section 30(3) of the Localism Act 2011 are the interests specified in the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Date \_\_\_\_\_  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

## SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

(a) 1992 c. 52.



## Securities

Any beneficial interest in securities of a body where—

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

(b) either—

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

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

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a local authority and certain other authorities, on taking office, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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**2012 No. (C. )**

**HOUSING, ENGLAND AND WALES**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**LONDON GOVERNMENT**

**The Localism Act 2011 (Commencement No. 6 and Transitional,  
Savings and Transitory Provisions) Order 2012**

*Made* - - - -

*2012*

The Secretary of State, in exercise of the powers conferred by section 240(2) and (7) of the Localism Act 2011<sup>(a)</sup>, makes the following Order:

**Citation and interpretation**

**1.**—(1) This Order may be cited as the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.

(2) In this Order—

“the Act” means the Localism Act 2011;

“the 2000 Act” means the Local Government Act 2000<sup>(b)</sup>; and

“police authority” means a police authority (in England or in Wales) established under section 3 of the Police Act 1996<sup>(c)</sup>.

**Provisions coming into force in relation to England and Wales on the day after the day on which this Order is made**

**2.** The following provisions of the Act (so far as they are not yet in force) come into force in relation to England and Wales on the day after the day on which this Order is made—

- (a) section 27, except paragraph (k) of subsection (6), so far as it enables a relevant authority to adopt a code of conduct which will take effect on or after 1st July 2012;
- (b) section 28 so far as it enables a relevant authority to make arrangements under which allegations can be investigated on or after 1st July 2012;
- (c) section 29 so far as it enables a monitoring officer of a relevant authority to prepare a register of interests which will take effect on or after 1st July 2012;

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<sup>(a)</sup> 2011 c. 20.

<sup>(b)</sup> 2000 c. 22.

<sup>(c)</sup> 1996 c. 16. Section 3 is repealed by the Police Reform and Social Responsibility Act 2011 (c. 13) from a date to be appointed.

- (d) section 31(10) so far as it enables a relevant authority to make standing orders that will take effect on or after 1st July 2012;
- (e) section 33 so far as it enables a relevant authority to grant a dispensation which will take effect on or after 1st July 2012;
- (f) section 35;
- (g) section 153;
- (h) Part 31 of Schedule 25 and section 237 so far as relating to that Part.

#### **Provisions coming into force in relation to England and Wales on 18th June 2012**

**3.** Sections 145 to 147 of the Act (so far as they are not yet in force) come into force in relation to England and Wales on 18th June 2012.

#### **Provisions coming into force in relation to England and Wales on 27th June 2012**

**4.** Sections 81 to 85 of the Act (so far as they are not yet in force) come into force in relation to England and Wales on 27th June 2012.

#### **Provisions coming into force in relation to England and Wales on 1st July 2012**

**5.** Subject to articles 6 and 7, the following provisions of the Act (so far as they are not yet in force) come into force in relation to England and Wales on 1st July 2012—

- (a) section 26 and Schedule 4 except insofar as the repeals and amendments made by that Schedule apply in relation to a police authority;
- (b) section 27 except paragraph (k) of subsection (6);
- (c) sections 28 to 34; and
- (d) Part 5 of Schedule 25 and section 237 so far as relating to that Part except insofar as the repeals set out in that Part apply in relation to a police authority.

#### **Transitional, transitory and savings provisions**

**6.** The following transitional, transitory and savings provisions have effect.

#### **Transitional etc provisions: standards**

**7.—(1)** Notwithstanding section 28(8)(b) of the Act, a person may be appointed by a relevant authority as the independent person under section 28(7) of the Act, if that person—

- (a) is not a member or co-opted member of the standards committee of the relevant authority on 1st July 2012; but
- (b) has held such a post at any time during the 5 years ending on 30th June 2012.

**(2)** Paragraph (1) only applies in relation to appointments made before 1st July 2013.

**(3)** Notwithstanding article 5, the provisions of the 2000 Act, and any regulations made under them, which are repealed or amended by sections 26 and 237 of, and Schedule 4 and Part 5 of Schedule 25 to, the Act continue to have effect for the purposes of—

- (a) the bringing of an appeal under regulation 21 of the Standards Committee (England) Regulations 2008<sup>(a)</sup>;
- (b) proceedings before the First-tier Tribunal on a referral under section 64(3)(b) or 65(4) or on an appeal under regulation 21 of the Standards Committee (England) Regulations 2008; or

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<sup>(a)</sup> S.I. 2008/1085. Relevant amendments were made by S.I. 2012/22.

(c) legal proceedings associated with proceedings on a referral or an appeal, where proceedings were commenced before 1st July 2012 or relate to a decision by a standards committee made before 1st July 2012.

(4) Notwithstanding the amendment of sections 49(6) and 83 of the 2000 Act by Schedule 4 to the Act, those sections shall continue to have effect in their un-amended form for the purposes of the definition of “relevant authority” in sections 92 and 101 of the 2000 Act.

Signed by authority of the Secretary of State for Communities and Local Government

*Name*  
Parliamentary Under Secretary of State

Date Department for Communities and Local Government

### EXPLANATORY NOTE

*(This note is not part of the Order)*

Article 2 of this Order brings into force, on the day after the day on which the Order is made, in relation to England and Wales, the following provisions relating to standards for the purposes of certain preparatory work: sections 27, 28, 29, 31(10), 33 and 35 of the Localism Act 2011. It also brings into force on the same day, so far as not yet in force, section 153 (social housing: relationship between schemes and strategies) and Part 31 of Schedule 25 (repeals relating to London (housing and regeneration)).

Article 3 brings into force on the 18th June 2012, so far as they are not already in force, in relation to England and Wales, sections 145 to 147 (allocation).

Article 4 brings into force on 27th June 2012, in relation to England and Wales, sections 81 to 85 (community right to challenge).

Article 5 brings into force on 1st July 2012, in relation to England and Wales, the remaining sections of Chapter 7 of Part 1 of the Act and Schedule 4 (standards) except provisions relating to police authorities.

Articles 6 and 7 makes transitional, savings and transitory provision.

### NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 partially as to England and Wales	18th February 2012	2012/411
Section 1(7) and Schedule 4 as to England and Wales	4th April 2012	2012/1008
Sections 2 to 7 as to England	18th February 2012	2012/411
Section 8(2) partially as to England and Wales	3rd December 2011	2011/2896
Section 8 (so far as not yet in force) as to England and Wales	18th February 2012	2012/411
Sections 9 and 10 partially as to England and Wales	18th February 2012	2012/411
Sections 11 to 14 as to England and Wales	18th February 2012	2012/411
Section 15 as to England and Wales	3rd December 2011	2011/2896
Section 16 to 18 as to England and Wales	15th January 2012	2012/57
Section 19 as to England and Wales	3rd December 2011	2011/2896
Section 20 partially as to England and Wales	3rd December 2011	2011/2896
Section 20 as to England and Wales so far as	15th January 2012	2012/57

not yet in force		
Chapter 4 of Part 1 as to England and Wales, so far as not yet in force	15th January 2012	2012/57
Section 21 and Schedule 2 partially as to England and Wales	3rd December 2011	2011/2896
Section 21 and Schedule 2 partially as to England and Wales	15th January 2012	2012/57
Section 21 and Schedule 2 partially as to England and Wales	9th March 2012	2012/628
Section 22 and Schedule 3 partially as to England and Wales	15th January 2012	2012/57
Section 22 and Schedule 3 partially as to England and Wales	9th March 2012	2012/628
Sections 21 and 22 and Schedules 2 and 3 as to England and Wales so far as not yet in force	4th May 2012	2012/1008
Section 24 as to England and Wales	15th January 2012	2012/57
Section 26 and Schedule 4 partially as to England and Wales	31 January 2012	2012/57
Section 26 and Schedule 4 partially as to England and Wales	1st April 2012	2012/628
Section 30 partially as to England and Wales	31st January 2012	2012/57
Section 36 partially as to England and Wales	15th January 2012	2012/57
Section 46 as to England	1st April 2012	2012/628
Sections 48 to 57 as to England, Wales, Scotland and Northern Ireland	31st May 2012	2012/1008
Section 68 as to England	15th January 2012	2012/57
Section 69(8) as to England	3rd December 2011	2011/2896
Section 69(1) to (7) partially as to England	15th January 2012	2011/57
Section 69 as to England so far as not yet in force	1st April 2012	2012/628
Section 70 as to England and Wales	15th January 2012	2012/57
Sections 72 to 79 and Schedules 5 to 7 as to England and Wales	3rd December 2011	2011/2896
Section 115 as to England and Wales	15th January 2012	2012/57
Sections 116 and 121 and Schedules 10 to 12 partially as to England and Wales	15th January 2012	2012/57
Sections 116 and 121 and Schedules 9 to 12 partially as to England and Wales	6th April 2012	2012/628
Section 123 as to England and Wales	6th April 2012	2012/628
Section 124(2) partially as to England and Wales	15th January 2012	2012/57
Section 124 as to England and Wales so far as not yet in force	6th April 2012	2012/628
Sections 125 to 127 as to England and Wales	6th April 2012	2012/628
Section 128(2) and Schedule 13 partially as to England, Wales and Scotland	15th January 2012	2012/57
Section 128 and Schedule 13 as to England, Wales and Scotland so far as not yet in force	1st April 2012	2012/628
Section 129 partially as to England, Wales and Scotland	15th January 2012	2012/57
Section 129 as to England, Wales and Scotland so far as not yet in force	1st April 2012	2012/628
Sections 130 to 137 as to England, Wales and Scotland	1st April 2012	2012/628

Section 138(5) partially as to England, Wales and Scotland	15th January 2012	2012/57
Section 138 as to England, Wales and Scotland so far as not yet in force	1st April 2012	2012/628
Sections 139 to 141 as to England, Wales and Scotland	1st April 2012	2012/628
Section 142(3) partially as to England, Wales and Scotland	15th January 2012	2012/57
Section 142 as to England, Wales and Scotland so far as not yet in force	1st April 2012	2012/628
Section 145 partially as to England and Wales	15th January 2012	2012/57
Sections 146 and 147(2)(3)(4) and (5) partially as to England and Wales	15th January 2012	2012/57
Sections 147(1) and (6) partially as to England and Wales	15th January 2012	2012/57
Section 150 partially as to England and Wales	15th January 2012	2012/57
Section 150 partially as to England and Wales	15th January 2013	2012/1008
Sections 151 and 152 as to England and Wales	15th January 2012	2012/57
Section 153 partially as to England and Wales	15th January 2012	2012/57
Section 154 partially as to England and Wales	15th January 2012	2012/57
Sections 154 to 157 as to England and Wales so far as not yet in force	1st April 2012	2012/628
Section 158 partially as to England and Wales	15th January 2012	2012/57
Section 158 to 161 as to England and Wales so far as not yet in force	1st April 2012	2012/628
Schedule 14 as to England and Wales	1st April 2012	2012/1008
Section 162 partially as to England and Wales	1st April 2012	2012/628
Sections 163 and 164	1st April 2012	2012/628
Section 165 partially as to England and Wales	15th January 2012	2012/57
Section 165 as to England and Wales	1st April 2012	2012/628
Section 166 as to England and Wales	1st April 2012	2012/628
Section 176 as to England and Wales	15th January 2012	2012/57
Section 178 and Schedule 16 partially as to England and Wales	15th January 2012	2012/57
Sections 178 and 179 and Schedules 16 and 17 as to England and Wales so far as not yet in force	1st April 2012	2012/628
Section 184 as to England and Wales	6th April 2012	2012/628
Section 185 as to England and Wales	1st April 2012	2012/628
Section 186 partially as to England and Wales	15th January 2012	2012/57
Section 186 as to England and Wales so far as not yet in force	1st April 2012	2012/628
Section 187(1) and (2) as to England and Wales	15th January 2012	2012/57
Section 187(3) and (4) partially as to England	15th January 2012	2012/57

and Wales		
Section 187 as to England and Wales so far as not yet in force	1st April 2012	2012/628
Section 188 as to England and Wales	3rd May 2012	2012/1008
Section 189 as to England and Wales	1st April 2012	2012/628
Section 190 as to England and Wales	15th January 2012	2012/57
Section 191 partially as to England and Wales and	15th January 2012	2012/57
Section 191 as to England and Wales so far as not yet in force	31st March 2012	2012/628
Section 192 as to England and Wales	3rd May 2012	2012/1008
Sections 193 and 194 as to England and Wales	15th January 2012	2012/57
Section 195 partially and Schedule 19 as to England and Wales	15th January 2012	2012/57
Section 195 and Schedule 19 as to England and Wales so far as not yet in force	1st April 2012	2012/628
Section 195 and Schedule 20 as to England and Wales so far as not yet in force	31st March 2012	2012/628
Section 197 partially as to England and Wales	15th January 2012	2012/57
Sections 223 and 224 as to England and Wales	15th January 2012	2012/57
Section 225 and Schedule 23 as to England and Wales	3rd May 2012	2012/1008
Sections 226 to 229 as to England and Wales	3rd May 2012	2012/1008
Section 230 as to England and Wales	15th January 2012	2012/57
Section 231 as to England and Wales	3rd May 2012	2012/1008
Section 232 as to England and Wales	6th April 2012	2012/628
Section 233 and Schedule 24 as to England and Wales	30th March 2012	2012/628
Section 237 and Part 4 of Schedule 25 partially and Parts 11 to 13 and 25 of Schedule 25, as to England and Wales	15th January 2012	2012/57
Section 237 partially and Part 9 of Schedule 25 as to England	15th January 2012	2012/57
Section 237 and Part 5 of Schedule 25 partially as to England and Wales	31 January 2012	2012/57
Section 237 partially and Part 2 partially and Part 3 as to England and Wales	18th February 2012	2012/411
Section 237 partially and Part 4 of Schedule 25 as to England and Wales	9th March 2012	2012/628
Section 237 partially and Part 32 of Schedule 25 as to England and Wales	31st March 2012	2012/628
Section 237 partially and Parts 7 and 10 of Schedule 25 as to England	1st April 2012	2012/628
Section 237 partially and Parts 20 and 21 of Schedule 25 as to England, Wales and Scotland	1st April 2012	2012/628
Section 237 partially and Parts 26 and 27 and 31 (partially) of Schedule 25 as to England and Wales	1st April 2012	2012/628
Section 237 partially and Parts 18, 19, 30 and 34 of Schedule 25 as to England and Wales	6th April 2012	2012/628
Section 237 partially and Part 1 of Schedule	4th April 2012	2012/1008



25 as to England and Wales		
Section 237 partially and Part 33 of Schedule	3rd May 2012	2012/1008
25 as to England and Wales		
Section 237 partially and Part 4 of Schedule	4th May 2012	2012/1008
25 as to England and Wales		

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## Local Government Association

## Template Code of Conduct

As a member or co-opted member of *[X authority]* 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 *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my conduct will in particular address the statutory principles of the code of conduct by:

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

**Department of Communities and Local Government (CLG) – April 2012**

**Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

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

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

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

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

**MEMBERS CODE OF CONDUCT**

**July 2012**

### **Section 28 Localism Act 2011**

**This Code of Conduct is, when viewed as a whole, consistent with the following principles set out in the Localism Act 2011**

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

***The former General Principles of Public Life expanded on the above as follows:***

***Selflessness*** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

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

***Objectivity*** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

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

***Openness*** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

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



# Swindon Borough Council

## MEMBERS CODE OF CONDUCT

### Part 1 – General Provisions

#### Introduction and interpretation

1. (1) This Code applies to **you** as a member of Swindon Borough Council (“the authority”).
- (2) This Code complies with section 28 of the Localism Act 2011 and is consistent with the principles set out in that section and which are listed in the table at the front of this Code.
- (3) It is your responsibility to comply with the provisions of this Code.

In this Code—

“meeting” means any meeting of—

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

“member” refers to members and co-opted members of the authority..

#### Scope

2. (1) This Code sets out the conduct that is expected of you as a member of the authority when you are acting in that capacity
- (2) Where you act as a representative of your authority—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

#### General obligations

3. (1) You must treat others with respect.
- (2) You must not—
  - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be—
    - (i) a complainant,

- (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,
- in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not —

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

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
  - (i) act in accordance with your authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- 7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
  - (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,
 where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2 - Interests

### Personal interests

8. (1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
    - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
    - (ix) any land in your authority's area in which you have a beneficial interest;
    - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
    - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
  - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision;
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any

- firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which solely relates to a body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority, you need only disclose to the meeting the existence and nature of that interest if that interest is prejudicial.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a disclosable pecuniary interest which is a sensitive interest by virtue of paragraph 15, you must disclose not the sensitive interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **Prejudicial interest generally**

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

- (c) relates to the functions of your authority in respect of—
  - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (iv) any ceremonial honour given to members; and
  - (v) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also

allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## Part 3 - Registration of Members' Interests

### Registration or Disclosure of members' interests

13. (1) Subject to paragraph 15, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests, maintained under section 29 of the Localism Act 2011, details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer, together with any disclosable pecuniary interest which you or your spouse or civil partner (or person with whom you are living as spouse or civil partner) may have.
- (2) Failure to register or disclose any disclosable pecuniary interest in accordance with section 30(1) or 31(2), (3) or (7) of the Localism Act 2011, or participating in any discussion or vote in contravention of section 31(4) of the Localism Act 2011, or taking any steps in contravention of section 31(8) of the Localism Act 2011, is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a member for a period not exceeding 5 years.
- (3) Subject to paragraph 15, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

### Disclosable Pecuniary Interest

14. (1) A disclosable pecuniary interest is as defined in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

### Sensitive interest

15. (1) Where you consider that you have a sensitive interest (whether or not a disclosable pecuniary interest), and your authority's monitoring officer agrees, if the interest is entered in the authority's register, copies of the register that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the member has an interest the details of which are withheld under section 32 (2) of the Localism Act 2011).
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer a sensitive interest, notify your authority's monitoring officer asking that the interest be included in your authority's register of members' interests.
- (3) In this Code, "sensitive interest" means an interest, the nature of which is such that you and your authority's monitoring officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

**Swindon Borough Council**

**COMPLAINT FORM  
CODE OF CONDUCT FOR MEMBERS**

*Please read 'Arrangements for dealing with Member Code of Conduct Complaints' before completing this form*

**To: The Monitoring Officer, Swindon Borough Council, Civic Offices,  
Euclid Street, Swindon, SN1 2JH**

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**A. Your details**

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1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Contact telephone:</b>	
<b>Email address:</b>	
<b>Signature:</b>	
<b>Date of complaint:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- Monitoring Officer of the Borough Council
- Members of a Standards Panel (Initial Assessment)
- Independent Person
- the Parish Clerk (if applicable)

A brief summary of your complaint may also be shared, by the Monitoring Officer with the Member(s) you are complaining against. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.





6. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

It is also important that you provide all the evidence you wish to have taken into account in any decision as to whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If the allegation(s) being made occurred over 28 days of the alleged behaviour or conduct, clearly explain why the complaint was not made during that period of time.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

(Continue on separate sheet(s), as necessary)

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**C. Confidentiality of complainant and the complaint details**

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**Only complete this next section if you are requesting that your identity is kept confidential**

7. In the interests of fairness and in compliance with the rules of natural justice, we believe members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him / her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example: -
- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
  - may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Standards Sub-Committee (Initial Assessment) will consider the request alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

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

**(Continue on separate sheet(s), as necessary)**

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**D. Remedy sought**

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8. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

**(Continue on separate sheet(s), as necessary)**

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**E. Additional information**

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- 9. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.
- 10. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
- 11. If you need any support in completing this form, please contact the Monitoring Officer (contact details are set out below) as soon as possible.

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**F. Process from here**

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- 12. The detailed process is set out in 'Arrangements for dealing with Member Code of Conduct Complaints'.

Please complete this form and send it to:

Stephen Taylor, The Monitoring Officer, Swindon Borough Council, Civic Offices, Euclid Street, Swindon, SN1 2 JH  
Tel: 01793 463612  
Fax: 01793 463366  
[staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk)



**SWINDON**  
BOROUGH COUNCIL

## Equalities Monitoring Form

Swindon Borough Council has a Corporate Equalities Strategy, which outlines our commitment to providing high quality, appropriate services which meets the needs of the local population. We aim to ensure that no one is discriminated against in the way they access or receive our services.

As part of that commitment, we are monitoring what we do and would be extremely grateful, if you could complete this questionnaire.

The information you provide will be used to improve service delivery and may be shared with other colleagues in the council for the purpose of monitoring our equalities policies and procedures.

Please place a tick in the boxes where applicable:

**Are You?** Male ☐ Female ☐

**Please indicate your current age band:**

Up to 19 ☐ 20-29 ☐ 30-39 ☐ 40-49 ☐ 50-59 ☐ 60-69 ☐ Over 70 ☐

**How would you describe your ethnic origin?**

**White**

- ☐ British
- ☐ Irish
- ☐ Polish
- ☐ Italian
- ☐ Any other White background

**Black or Black British**

- ☐ Caribbean
- ☐ African
- ☐ Any other Black background

**Chinese or other Ethnic Group**

- ☐ Chinese
- ☐ Any other ethnic group

**Mixed**

- ☐ White & Black Caribbean
- ☐ White & Black African
- ☐ White & Asian
- ☐ Any other Mixed Background

**Asian or Asian British**

- ☐ Indian
- ☐ Pakistani
- ☐ Bangladeshi
- ☐ Any other Asian background

**Do you consider yourself to have a disability?** Yes ☐ No ☐

If yes, please tick the appropriate box:

- |  |   |
|--|---|
| <input type="checkbox"/> Dyslexia                              | <input type="checkbox"/> Blind / Partially Sighted      |
| <input type="checkbox"/> Deaf / Hearing Impaired               | <input type="checkbox"/> Mental Health Difficulties     |
| <input type="checkbox"/> Wheelchair User / Mobility Impairment | <input type="checkbox"/> Unseen e.g. Diabetes, Epilepsy |
| <input type="checkbox"/> Other, please state: .....            |   |

If you require assistance in completing this form or require a copy of this form in another format please contact Customer Services on 01793 463725.

I agree for the information I have provided to be used by Swindon Borough Council to monitor Equalities with the Council.

Print Name

Signature

Date

I know that I can contact Customer Services at any time if I wish this information to be removed from the Council's records.

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## **SWINDON BOROUGH COUNCIL**

### **Arrangements for dealing with Member Code of Conduct Complaints**

#### **1. Introduction**

- 1.1 This procedure applies when a complaint is received that a Member, Co-opted Member or Parish Member has or may have failed to comply with the Code of Conduct for Members.
- 1.2 The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Respondent.”
- 1.3 No Member or Officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

#### **2. Making a Complaint**

- 2.1 A complaint must be made in writing by post or email to: –  
  
Mr Stephen Taylor, Monitoring Officer,  
Swindon Borough Council, Civic Offices  
Euclid Street, Swindon, SN1 2 JH  
Tel: 01793 463012  
Fax: 01793 463366  
email: [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk)
- 2.2 The standard complaint form should be used, which can be obtained from the Monitoring Officer or can be downloaded on the Council's website, in order that all required information is included.
- 2.3 The Monitoring Officer will normally acknowledge receipt of the complaint within 5 working days of receiving it and, at the same time, write to the Respondent (and in the case of a complaint about a Town / Parish Councillor to the Clerk of the Town / Parish Council as well) with a summary of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer).
- 2.4 The Respondent may, within 5 working days of receipt of details of the complaint unless otherwise agreed with the Monitoring Officer, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint will be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued his Initial Assessment.

#### **3. Initial Assessment Decision**

- 3.1 The Monitoring Officer will review the complaint and, after consultation with a Panel of any three members or co-opted members of the

Standards Committee, and the Independent Person if appropriate, take a decision (an Initial Assessment Decision) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint and will normally be sent in writing to the Complainant and the Respondent within 5 working days of the decision being made.

3.2 The decision process to be followed by the Monitoring Officer and Panel is summarised in the flowchart attached at Annex 'A'.

3.3 If the complaint fails one or more of the following tests, it will be rejected:

- The complaint is against one or more named Members or co-opted Members of the Council or a Town / Parish Council within the Borough.
- The Respondent was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.
- The complaint, if proven, would be a breach of the Code of Conduct under which the Respondent was operating at the time of the alleged misconduct.

3.4 If appropriate, the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, for other action, dealt with informally, or rejected:

- Sufficiency of Information – Is there sufficient information or evidence provided with the allegation? If it is clear that substantiating evidence may be available, but has not been provided, the Monitoring Officer may ask for that additional evidence, but the onus is on the complainant to ensure all relevant information is included.
- Seriousness of the Complaint – Is the complaint Trivial, vexatious, malicious, politically motivated or 'tit for tat'? Are the resources / cost involved in investigating and determining the complaint wholly disproportionate to the allegations?
- Duplication – Is the complaint substantially similar allegation has previously been made by the Complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority?

If a single event gives rise to similar complaints from a number of different complainants, wherever possible these complaints will be considered at the same meeting of the Monitoring Officer and Standards Panel, but will be determined individually.

- Length of Time – Did the events or behaviour to which the complaint relates take place more than 6 months old? Does the time lapse involved mean that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time



means there would be little benefit or point in taking action now? Such allegations are only likely to be considered in exceptional circumstances, such as where the conduct relates to a pattern of behaviour which has recently been repeated.

- Public Interest - Would the public interest or any public benefit be served in referring the complaint for investigation or other action? For example, it may be not in the public interest which the member has died, resigned or is seriously ill. Similarly, if the member has offered an apology or other remedial action. If it is clear that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error, and the matter would not warrant a more serious sanction.
- Anonymous- Is it anonymous? Such complaints will not normally be entertained unless there is additional documentary evidence to support the complaint and it is sufficiently serious to consider.
- Other Action – Whether the complaint can be dealt with best by informal resolution, including training or conciliation.
- Wider Application – Does the complaint have wider applications, such as suggesting a wider problem throughout the Authority or Town / Parish Council?

#### **4. Additional Information**

- 4.1 The Monitoring Officer may require additional information to come to a decision and may request information from the Respondent. Where the complaint relates to a Town / Parish Councillor, the Monitoring Officer may also inform the Clerk of the Town / Parish Council of the complaint and seek the views of the Clerk of the Town / Parish Council before deciding whether the complaint merits formal investigation or other action.
- 4.2 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Respondent accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Respondent or the authority (in appropriate cases) make a reasonable offer of local resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

#### **5. Criminal Conduct**

- 5.1 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authorities.

## **6. Confidentiality**

- 6.1 If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Complaint Initial Assessment stage.
- 6.2 Unless the Standards Committee otherwise agrees, the Respondent will be given a summary of the complaint but will not normally be told the identity of the Complainant at the Initial Assessment stage. The identity may subsequently be released in the event of an investigation, however, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
- 6.3 If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they may offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed.

## **7. Investigation**

- 7.1 The Monitoring Officer will appoint an Investigating Officer where a complaint merits formal investigation. The Investigating Officer may be a Council officer, an officer of another Council, or an external investigator.
- 7.2 The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost-effective use of Council resources and shall be interpreted in line with these principles.
- 7.3 The Investigating Officer will ensure that the Respondent receives a copy of the complaint subject to the Monitoring Officer's decision on Confidentiality.
- 7.4 At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Respondent for comments, which should normally be submitted within 5 working days of receipt of the draft report. The Investigating Officer will take such comments into account, before issuing the final report to the Monitoring Officer.

## **8. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct**

- 8.1 The Monitoring Officer in consultation with a Panel of 3 Standards Committee Members or Co-opted Members and an Independent Person, will review the Investigating Officer's report. If they are satisfied that the Investigating Officer's report is satisfactory, will make a Confirmation

Decision to confirm the finding of no failure to comply with the Code of Conduct.

8.2 The Monitoring Officer will write to the Complainant and the Respondent (and to the Clerk of the Parish Council, where the complaint relates to a Parish Councillor), with a copy of the Confirmation Decision and the Investigating Officer's final report.

8.3 If the Monitoring Officer and consultation Panel are not satisfied that the investigation has been conducted satisfactorily, the Investigating Officer may be asked to reconsider their report and conclusion.

**9. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct**

9.1 The Monitoring Officer will review the Investigating Officer's report and will then either convene a Hearing by a Hearings Panel of the Standards Committee or, after consulting the Independent Person and if appropriate a panel of 3 members or co-opted members of the Standards Committee, seek a Local Resolution.

**10. Local Resolution**

10.1 If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, s/he will consult with the Independent Person and the Complainant and seek to agree a fair resolution. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action.

10.2 If the Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Town / Parish Council (if appropriate) for information, but will take no further action. If the Complainant or the Respondent refuses Local Resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a Local Hearing without further reference to the Complainant or the Respondent.

**11. Hearing**

11.1 Where, in the opinion of the Monitoring Officer, Local Resolution is not appropriate or the Complainant and/or Respondent refuse to co-operate in any Local Resolution, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will 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.

**12. Pre-Hearing Procedure**

12.1 Prior to the convening of a Hearing Panel the Monitoring Officer will issue the forms annexed to these Arrangements (Annex B) to the Complainant and Respondent for completion by them to facilitate the pre-hearing

process and the preparation for the Hearing. The Monitoring Officer will then ask the Investigating officer to comment on the responses. The Hearing Panel will then be convened to consider the responses, and any comment from the Investigating Officer, and finalise the arrangements for the Hearing.

### **13. Constitution of the Hearings Panel**

- 13.1 The Hearings Panel is a Sub-Committee of the Council's Standards Committee. This will comprise at least 5 Members of the Standards Committee. This will normally include at least 1 of the Lay Members co-opted to the Standards Committee, and where the complaint is about a Parish Member, the Hearings Panel will normally include at least 1 of the Parish Members co-opted to the Standards Committee. The co-opted members will sit as assessors without a vote.
- 13.2 The Independent Person may be invited to attend all meetings of the Hearings Panel and his or her views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Respondent'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.

### **14. The Hearing**

- 14.1 The Hearing will be conducted in accordance with the 'Practical Arrangements for the hearing of the Standards Committee' attached as Annex C.

### **15. Right to Representation**

- 15.1 The Complainant and the Respondent may be represented or accompanied during the hearing by a solicitor, barrister, or (with the permission of the Panel) another person.
- 15.2 The Complainant and Respondent should meet their own costs of such representation, unless the Council has otherwise agreed.

### **16. Legal Advice**

- 16.1 The Panel may take legal advice from its Legal Advisor at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the Panel should be shared with the Complainant and the Respondent, and the Investigator, if they are present at the hearing.

### **17. Action the Hearings Panel may take where a Member has failed to comply with the Code of Conduct**

- 17.1 Where a Hearings Panel find that a Member has failed to comply with the Code of Conduct, the Hearings Panel may impose any one or a combination of the following sanctions:-
- censure the Respondent;

- request the Respondent to submit a written apology in a form specified by the Panel;
- request the Respondent to undertake such training as the Panel may specify;
- request that the Respondent participates in such conciliation as the Panel may specify;
- report to the relevant Council on the outcome of the hearing with an appropriate recommendation;
- advise the Leader of the Council and/or Leader of the Political Group to which the person belongs, of the outcome of the hearing in order that they can consider what appropriate disciplinary or other action should be taken, taking into account any relevant case law, which could include:
  - Formal letter of censure from them;
  - Formal censure of members e.g. through a motion at Council or Committee of the Council;
  - Securing the removal of a member from cabinet / committees;
  - Issuing a press release setting out the outcome of the hearing;
  - The withdrawal of facilities
- such other sanction as may be permitted under the law

## **18. Revision of these arrangements**

- 18.1 The Monitoring Officer may amend or depart from these arrangements where s/he considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

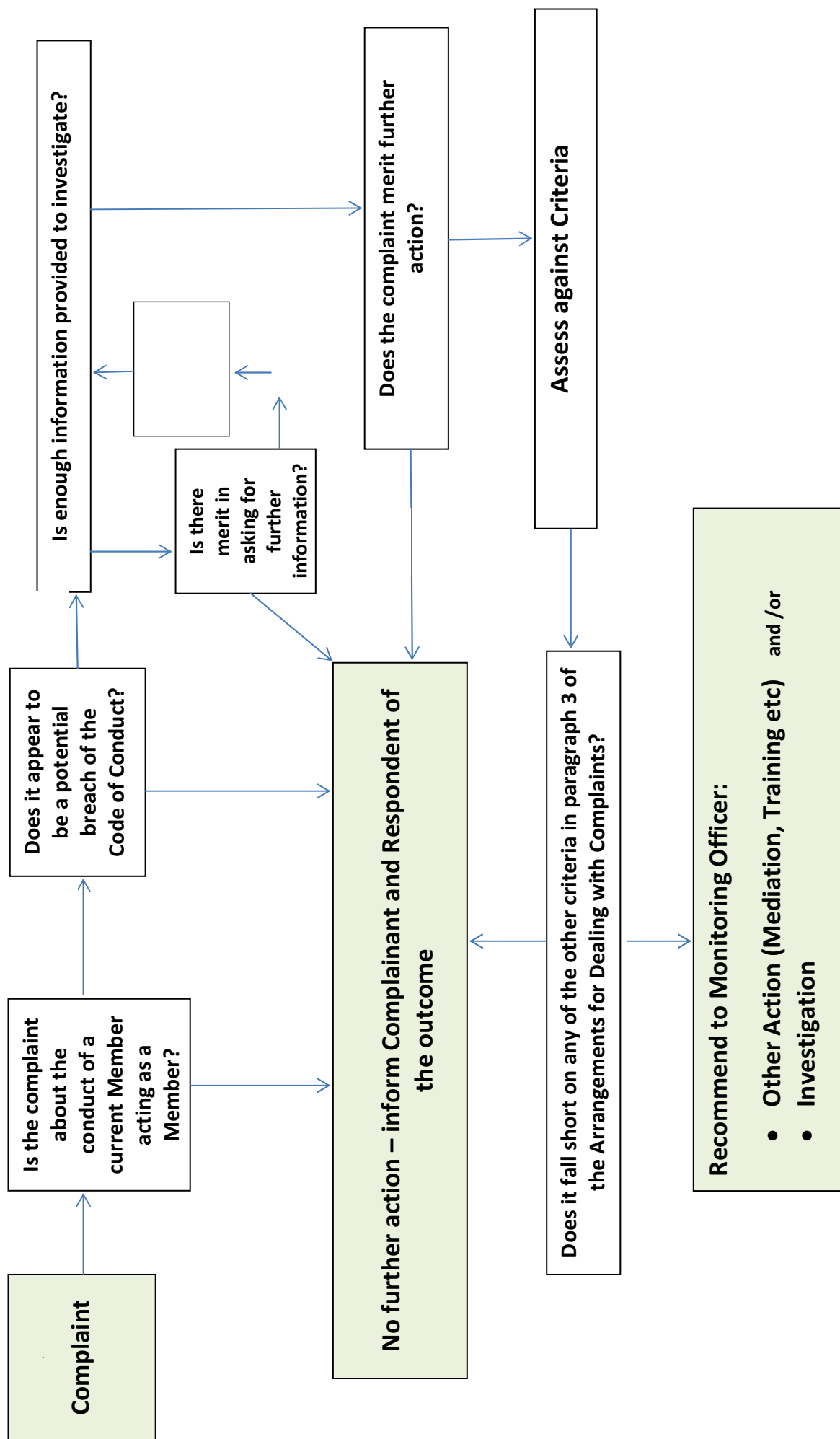
## **19. Appeals**

- 19.1 There is no right of appeal available against a decision on a Code of Conduct complaint, except through the courts by way of judicial challenge

May 2012

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# Initial Assessment Complaint Handling Chart



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**FORM A**    *Please enter the number of any paragraph where you disagree with the findings of fact in the Investigating Officer's report, and give your reasons and your suggested alternative.*

**Response of Complainant / Respondent to the evidence set out in the Investigator's report**

Paragraph number from the report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Please attach separate sheets if necessary.

FORM B

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Other evidence relevant to the allegation

Paragraph number	Details of the evidence
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

FORM C

*Please set out below, using the numbered paragraphs, any factors that the Hearings Panel should take into account if it finds that the Respondent is in breach of the Code.*

**Representations to be taken into account if the Respondent is found to have failed to comply with the Code**  
Please note that no such finding has yet been made.

Paragraph number	Factors for the Hearings Panel to take into account when deciding on sanctions
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

**FORM D****Arrangements for the Hearings Panel**

Please tick the relevant boxes

<b>1</b> The proposed date for the Hearings Panel is given in the accompanying letter. Are you planning to go to the hearing?  If 'No', please explain why.	<b>YES</b> <input type="checkbox"/>  <b>NO</b> <input type="checkbox"/>	<b>Reason:</b> ..... ..... ..... .....
<b>2</b> Are you going to present your own case?	<b>YES</b> <input type="checkbox"/>  <b>NO</b> <input type="checkbox"/>	
<b>3</b> If you are not presenting your own case, will a representative present it for you?  If 'Yes', please state the name of your representative.	<b>YES</b> <input type="checkbox"/>  <b>NO</b> <input type="checkbox"/>	<b>Name:</b> ..... ..... ..... .....
<b>4</b> Is your representative a practising solicitor or barrister?  If 'Yes', please give his or her legal qualifications. Then go to question 6.  If 'No', please go to question 5.	<b>YES</b> <input type="checkbox"/>  <b>NO</b> <input type="checkbox"/>	<b>Qualifications:</b> ..... ..... ..... .....
<b>5</b> Does your representative have any connection with the case?  If 'Yes', please give details	<b>YES</b> <input type="checkbox"/>  <b>NO</b> <input type="checkbox"/>	<b>Details:</b> ..... ..... ..... .....

<p><b>6</b> Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p><b>YES</b></p> <p><input type="checkbox"/></p> <p><b>NO</b></p> <p><input type="checkbox"/></p>	
<p><b>7</b> Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)?</p> <p>If 'Yes', please give details.</p>	<p><b>YES</b></p> <p><input type="checkbox"/></p> <p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>Details:</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>8</b> Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)?</p> <p>If 'Yes', please give details.</p>	<p><b>YES</b></p> <p><input type="checkbox"/></p> <p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>Details:</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>9</b> Do you want any part of the Hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p><b>YES</b></p> <p><input type="checkbox"/></p> <p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>Reasons:</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>10</b> Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p><b>YES</b></p> <p><input type="checkbox"/></p> <p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>Reasons:</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

Please attach separate sheets if necessary.

**FORM E****Details of proposed witnesses to be called**

<b>Name of witness or witnesses</b>	<b>1</b>	..... .....
	<b>2</b>	..... .....
	<b>3</b>	..... ..... .....
<p><b>WITNESS 1</b></p> <p><b>A</b> Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p> <p><b>B</b> Will the witness give evidence about what action the Standards Committee should take if it finds that there has been a breach of the Code?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p><b>YES</b>  <input type="checkbox"/></p> <p><b>NO</b>  <input type="checkbox"/></p> <p><b>YES</b>  <input type="checkbox"/></p> <p><b>NO</b>  <input type="checkbox"/></p>	<p><b>Outline of evidence:</b></p> <p>.....  .....  .....</p> <p><b>Outline of evidence:</b></p> <p>.....  .....  .....</p>

**FORM F****Checklist for the pre-hearing process summary**

After the Hearings Panel has received responses from the Councillor about whom the allegation has been made (Respondent) and from the Investigating Officer, the Monitoring Officer will prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:-

- the name of the authority;
- the name of the respondent;
- the name of the person who made the original complaint (unless there are good reasons to keep his or her identity confidential);
- case reference number of the Council;
- the name of the Standards Committee Member who will chair the Hearings Panel;
- the name of the Monitoring Officer;
- the name of the Investigating Officer who referred the matter;
- the name of the clerk of the hearing or other administrative officer;
- the date, time and place of the hearing;
- a summary of the allegation;
- the relevant section or sections of the Code;
- the findings of fact in the Investigating Officer's report that are agreed;
- the findings of fact in the Investigating Officer's report that are not agreed;
- whether or not the respondent or the Investigating Officer will attend or be represented;
- the names of any witnesses who will be asked to give evidence; and
- an outline of the proposed procedure for the hearing.

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## **Practical Arrangements for a Hearings Panel of the Standards Committee**

Consideration of complaint of a breach of the Members Code of Conduct

### **Interpretation:**

**“Respondent”** means the person who is the subject of the allegation(s) being considered by a Hearings Panel of the Standards Committee, unless stated otherwise. It also includes the Member’s nominated representative

**“Investigator”** means the Investigating Officer, and includes his or her nominated representative

1. The elected Chairman will introduce all those present and explain how the Hearings Panel is going to run the hearing

### ***Making Findings of Fact***

2. The Investigator will present his case in the presence of the Respondent and may call witnesses to support the relevant findings of fact in the report.
3. The Respondent will have the opportunity to ask questions of any witnesses he or she may call
4. The Hearings Panel may ask questions of the Investigator and witnesses
5. The Respondent will present his or her case in the presence of the Investigator and call such witnesses as he or she wishes to support his or her version of the facts
6. The Investigator will have the opportunity to ask questions of the Respondent and his or her witnesses
7. The Hearings Panel may ask questions of the Respondent and his or her witnesses
8. The Hearings Panel will then retire to consider the representations and evidence in private
9. Upon the Hearings Panel’s return, the Chairman will announce the Hearings Panel’s findings of fact

***Post Finding of Fact Procedure 1 - based on the facts found has there been a breach of the Code.***

10. The Respondent will be invited to give relevant reasons why the Hearings Panel should not decide that he or she has breached the Code
11. The Hearings Panel will consider any verbal or written representations from the Investigator
12. The Hearings Panel may, at any time, question anyone involved on any point they raise in their representations
13. The Respondent will be invited to make any final relevant points.
14. The Hearings Panel will then retire to consider the representations
15. Upon the Hearings Panel's return, the Chairman will announce the Hearings Panel's decision as to whether or not the Respondent has breached the Code

***Post Finding of Fact procedure 2 – recommendations and/or penalty***

16. If the Hearings Panel decide that the Respondent **has not** breached the Code, then it can move on to consider whether it should make any recommendations to the Town / Parish / Borough Council, Leader of the Council or Group Leader as appropriate. The Hearings Panel will at this stage consider any further verbal or written representations from the Investigator on whether or not the Hearings Panel should make any recommendations to the relevant authority, with a view to promoting high standards of conduct among members.
17. If the Hearings Panel decide that the Respondent **has** breached the Code, then it will consider any verbal or written representations from the Investigator and the Respondent as to:
  - Whether or not the Hearings Panel should impose a sanction or penalty; and
  - What form any sanction or penalty should take (see Paragraph 17 of the Arrangements for dealing with Member Code of Conduct Complaints lists available sanctions)
18. The Hearings Panel may question the Investigator and Respondent, and take legal advice if appropriate.
19. The Hearings Panel will then retire to consider whether or not to impose a sanction or penalty on the Respondent, and if so, what the penalty should be. *(Appended is a list of considerations for a Panel before deciding on a Sanction)*
20. The Hearings Panel will return and the Chairman will announce the Hearings Panel's decision.

***Post hearing procedure***

21. A written decision will be issued as soon as practicable following the end of the hearing, which will include full reasons for its decision.

***Appeal***

22. A Respondent who is the subject of a Standards Hearings Panel finding has no right of appeal other than by judicial challenge

## Considerations for the Panel when applying sanctions

When deciding on a penalty or sanction, the Hearings Panel should ensure that it is reasonable and proportionate to the Respondent's behaviour. Before deciding what penalty or sanction would be appropriate, the Hearings Panel should consider the following questions, along with any other relevant circumstances:

- What was the Respondent's intention? Did he or she know that they were failing to follow the Code?
- Did the Respondent get advice from officers before the incident? Was that advice acted on or ignored in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- What was the result of failing to follow the Code?
- What were the potential results of the failure to follow the Code?
- How serious was the incident?
- Does the Respondent accept he or she was at fault?
- Did the Respondent apologise to the relevant people?
- Has the Respondent previously been warned or reprimanded for similar misconduct?
- Has the Respondent failed to follow the Code before?
- Is the Respondent likely to do the same thing again?
- How will the sanction or Penalty be carried out? For example, who will provide the training or mediation?
- Are there any resource or funding implications?

The Panel may find the following examples of mitigating or aggravating factors to be useful in assessing an appropriate sanction in relation to a breach of the Code of Conduct:

*Examples, but not an exhaustive list of mitigating factors, are:*

- An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- A member's previous record of good service.
- Substantiated evidence that the member's actions have been affected by ill-health.
- Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.
- Compliance with the Code since the events giving rise to the determination.
- Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

*Examples, but again not an exhaustive list, of aggravating factors are:*

- Dishonesty.
- Continuing to deny the facts despite clear contrary evidence.
- Seeking unfairly to blame other people
- Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

**RECRUITMENT PACK FOR  
APPOINTMENT OF  
INDEPENDENT PERSON**

SWINDON BOROUGH COUNCIL –  
APPOINTMENT OF INDEPENDENT PERSON

Swindon Borough Council ('the Council') is required under section 27 of the Localism Act 2011 to appoint at least one Independent Person to assist the Council in promoting and maintaining high standards of conduct by borough councillors and co-opted members of the Council, and by Town/Parish Councillors of Town/Parish Councils within the Borough.

In particular, the views of the Independent Person are to be sought and taken into account by the Council before it makes its decision, on an allegation that it has decided to investigate, as to whether a borough councillor or town/parish councillor has breached the Councillors Code of Conduct. The Independent Person's views may also be sought by the person complained against. For that reason, it is the intention of the Council to appoint 2 Independent Persons. The Independent Person(s) may also be consulted by the council on other 'standards of conduct' matters.

An allowance (currently £1,062.71 a year, but subject to review) and travel and subsistence costs are available for the Independent Person(s). In addition to being called upon to give a view on matters which have been investigated, it is possible that the Independent Person(s) may be invited to attend meetings of the Council's Standards Committee which meets at least four times a year.

To obtain further details and an application form please contact Stephen Taylor, Director of Law and Democratic Services, either on 01793 463012 or by email to [staylor@swindon.gov.uk](mailto:staylor@swindon.gov.uk) or by writing to him at Swindon Borough Council, Civic Offices, Euclid Street, Swindon, SN1 2JH.

Applications should be received by noon on 8th June 2012. Interviews are provisionally scheduled for 14th June 2012.

## APPOINTMENT OF INDEPENDENT PERSON –

### BACKGROUND INFORMATION

Under the provisions of the Localism Act 2011 the way that Swindon Borough Council will deal with conduct complaints about its elected and co-opted members, and town and parish councillors in its area, is changing.

The statutory regulatory framework will be abolished and the Borough Council will be responsible for deciding how to deal with standards issues at a local level, including adopting its own local code and determining what arrangements it will adopt to deal with complaints.

The Act provides that the Council must appoint at least one Independent Person to assist in discharging these responsibilities. Full details of the role and responsibilities of the Independent Person are included in this Recruitment Pack.

The new arrangements are intended to come into effect on 1<sup>st</sup> July 2012 and the Council intends to agree what its new arrangements will be not later than the Council meeting that has provisionally been arranged on 20<sup>th</sup> June. The Council will also confirm the appointment of the Independent Person(s) at this meeting.

## INDEPENDENT PERSON - SELECTION CRITERIA

### SKILLS AND COMPETENCIES

The Independent Person will have:

- a keen interest in standards in public life.
- a wish to serve the local community and uphold local democracy.
- the ability to be objective, independent and impartial.
- sound decision making skills in relation to what can be complex issues
- leadership qualities, particularly in respect of exercising sound judgement.
- a demonstrable interest in local issues.
- an awareness of the importance of ethical behaviours.

The Independent Person will:

- be a person in whose impartiality and integrity the public can have confidence.
- understand and comply with confidentiality requirements.
- be a good communicator.

Desirable but not essential additional criteria are:

- working knowledge/experience of local government or other public service and/or of large complex organisations and awareness of and sensitivity to the political process.
- knowledge and understanding of judicial/quasi-judicial or complaints processes.

You should demonstrate in your application how you meet the above criteria as this will assist the short-listing process.

Means of assessment will be by application form and by interview.

### Eligibility for Appointment

A person cannot be appointed as an Independent Person if:

- He or she is, or has been during the past five years, a Member, co-opted member, or Officer of Swindon Borough Council or of any Town or Parish Council within the borough
- He or she is related to, or a close friend of, any Member, co-opted member, or Officer of Swindon Borough Council or of any Town or Parish Council within the borough's area

However, subject to transitional arrangements it is possible that this will not prevent existing independent members of the Council's Standards Committee from being eligible to apply for the role.



ROLE OF INDEPENDENT PERSON –  
SWINDON BOROUGH COUNCIL

ROLE DESCRIPTION

Responsible to:      The Council

Liaison with:        Monitoring Officer, members of the Standards Committee, officers and members of the Borough Council and Town and Parish Councillors within the borough.

1. To assist the Council in promoting high standards of conduct by elected and co-opted members of Swindon Borough Council and town and parish councillors in the borough and in particular to uphold the Code of Conduct adopted by the Council and the seven principles of public office, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To be consulted by the Council through the Monitoring Officer and/or the Standards Committee before it makes a decision on an investigated allegation and to be available to attend meetings of the Hearing Panel of the Standards Committee for this purpose.
3. To be available for consultation by the Monitoring Officer and/or the Standards Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
4. To be available for consultation by any elected member and co-opted member, including town and parish councillors, who is the subject of a standards complaint.
5. To develop a sound understanding of the ethical framework as it operates within Swindon Borough Council and its town and parish councils.
6. To participate in training events to develop skills, knowledge and experience and in networks developed for Independent Persons operating outside the Borough Council's area.
7. To attend training events organised and promoted by the Council's Standards Committee.
8. To attend meetings of Standards Committee if appropriate.

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## Article 9 – The Standards Committee

### 9.01 Composition

- (a) **Membership.** The Standards Committee will be composed of (at least)
- six Councillors (who may not be the Mayor, the Leader of the Council or the Leader of any other political group on the Council or a Cabinet Member);
  - up to two co-opted members who are not councillors or officers of the Council, and have not been so during the previous 5 years, and are not a close relative or friend of a councillor or officer of the Council (lay members).
  - up to two people who are members of any parish council wholly or mainly in the Council's area (to be nominated by the parish councils within the Borough) who are not also members of the Borough Council (parish members).
- (b) **Lay and Parish Members.** - Lay and parish members will not be entitled to vote at meetings;
- (c) **Quorum.** A quorum shall be three members

### 9.02 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommending training on any aspect of conduct and behaviour for Councillors, and officers, where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).

- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or which may arise under consideration of complaints as to breaches of the Members Code of Conduct or the Protocol for Member / Officer Relations or any Code or Protocol applying to Members and Co-opted Members;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, arising from requests relating to interests set out in the Members Code of Conduct and/or under section 33 of the Localism Act 2011;
- (k) exercising (a) to (i) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) ensuring the Council's Customer Feedback Policy operates effectively in relation to standards of conduct and behaviour of staff and in particular the Standards Committee may
  - receive an annual report on its operation
  - receive monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
  - adjudicate upon all complaints which remain unresolved
  - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour;
- (m) reporting to the Council when it considers:-
  - standards of conduct and behaviour in a particular area need reviewing, and
  - the level of commitment necessary to resolve these difficulties should be greater;
- (n) approving the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (o) recommending to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (p) reporting to the Council, should it deem it necessary, on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (q) approving procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

### 9.03 **Advice and Procedure**

The Council's Monitoring Officer or his/her nominee will act as Clerk to the Committee.

The Committee will adopt such procedures as it considers necessary to discharge its role and appoint such sub-committees or Panels as it thinks fit, including a Hearings Panel as required.

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## Agenda Item 8

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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