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Subject	Mole Valley District Council Member Code of Conduct and Arrangements for dealing with standards allegations under the Localism Act 2011
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RECOMMENDATIONS

If the Committee is minded to undertake a review of the Member Code of Conduct and the arrangements for dealing with standards allegations, it is recommended to establish a Working Group Committee comprising three Members in a ratio of 1:1:1, to be nominated by Group Leaders, and one Parish Councillor, to review the Code of Conduct and arrangements for dealing with standards allegations and to report back to this Committee on 16th January 2013.

The Council has the authority to determine the Recommendations

1. Background

- 1.1 The Member Code of Conduct and Arrangements for dealing with standards allegations was revised with effect from 1st July 2012 as a result of the Localism Act 2011.
- 1.2 The Code states that it will be reviewed initially one year after adoption, and thereafter at a period to be determined by the Council.
- 1.3 The first review was actually undertaken during the autumn of 2012 and the Council, at its meeting on 30th January 2013, then approved the revised Members' Code of Conduct and Arrangements for dealing with standards allegations under the Localism Act 2011 be approved. A copy of the currently approved arrangements is attached at Annex A and the Member Code of Conduct is appended to that document.
- 1.4 The Committee is therefore asked to consider if it wishes to undertake a further review of the Code of Conduct and Arrangements for dealing with standards allegations with a view to a report back to this Committee on 16th January and any subsequent recommendations being reported to the Council on 18th February 2014.

If the Committee is minded to undertake such a review it may wish to re-establish the Working Group which considered in the review in the autumn of 2012. That Working Group comprising three Members in a ratio of 1:1:1, with the Members being nominated by Group Leaders, and one Parish Councillor. be established to review the Code of Conduct and arrangements for dealing with standards allegations.

CORPORATE IMPLICATIONS

Monitoring Officer commentary – The Code of Conduct and arrangements for handling allegations have been prepared in accordance with the requirements of the Localism Act 2011.

S151 Officer commentary – Other than some very small meeting related expenses there are no financial implications in establishment the Working Group.

Risk Implications – None in establishing the Working Group. Regular review of these arrangements will help to satisfy the statutory duty to promote and maintain high standards of conduct by Members. Effective processes will help maintain strong ethical governance and safeguard the Council from damage to reputation.

Equalities Implications - The Council's Standards regime complies with equalities legislation.

Employment Issues - None in establishing the Working Group.

Sustainability Issues – None in establishing the Working Group.

Consultation – None.

BACKGROUND PAPERS

None.

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how someone may make a complaint that an elected or co-opted member of Mole Valley District Council (“the Council”) or any Parish Council within Mole Valley has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of any of the authorities or of a Committee or Sub-Committee of the authorities, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

The Council have arranged to appoint three Independent Persons (designated the Independent Person and the Reserve Independent Persons) one of whose views must be sought by the Monitoring Officer before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought at any other stage, or by a member against whom an allegation has been made (a member can obtain the contact details of the Independent Person(s) from the Monitoring Officer).

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix A to these arrangements and available for inspection on the Council’s website and on request from Reception at the Council Offices, Pippbrook, Dorking.

The Code of Conduct of any Parish Council within Mole Valley is available for inspection on their website or by arrangement with the Parish Clerk.

3 Making a complaint

If someone wishes to make a complaint, they should write to or email:–

The Monitoring Officer
Mole Valley District Council
Pippbrook
Reigate Road
Dorking
Surrey RH4 1SJ

Email: Legal@molevalley.gov.uk

The Monitoring Officer has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of member misconduct.

A complainant should provide us with their name and a contact address or email address, so that we can acknowledge receipt of their complaint and keep them informed of its progress. In normal circumstances the Member against whom the complaint has been made will be advised of the complaint and the person making the complaint. Only in very exceptional circumstances will the name or address of the complainant be kept confidential.

The Council does not investigate anonymous complaints unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it, and will keep the complainant informed of the progress of the complaint.

The complainant and Member are required to keep the issue of the complaint and any information gathered during an investigation confidential, unless and until the Complaints Sub-Committee has made a decision on the complaint.

4 Will a complaint be investigated?

The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. The Monitoring Officer may consult the Independent Person before taking this decision. If the Monitoring Officer is minded to decide that the complaint does not merit formal investigation he/she will consult the Chairman of the Standards Committee before making his/her decision. This decision will normally be taken within 10 working days of receipt of the complaint. Where the Monitoring Officer has taken a decision, he/she will inform the complainant and the member concerned of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to the complainant for such information, and may request information from the member against whom the complaint is directed. Where the complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of the complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation. Complainants are required to respond to requests for information within 10 working days and, unless there are specific reasons for non-compliance with this requirement which are acceptable to the Monitoring Officer, complaints will not be pursued.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member of the authority makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. The Monitoring

Officer will consult the Chairman of the Standards Committee and the Independent Person before making this decision.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

The Monitoring Officer may reject a complaint if, following consultation with the Chairman of the Standards Committee, it is considered by the Monitoring Officer to be vexatious, frivolous or politically motivated.

5 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be either an officer of another authority or an external investigator. The Investigating Officer will be asked to provide to the Member and the complainant, as soon as practicable, an indicative timescale for the investigation. The Investigating Officer will decide whether he/she needs to meet or speak to the complainant to understand the nature of the complaint and so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom the complaint has been made and provide him/her with a copy of the complaint, and ask the member to provide his/her explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview. In very exceptional cases, where it is appropriate to keep the complainant's identity confidential or where disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete the complainant's name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the member concerned, to give them both an opportunity to correct any inaccuracies relating to the evidence they have provided. Unless there is a specific reason for non-compliance which is acceptable to the Monitoring Officer, both the complainant and member are required to respond within 10 working days.

Having received and taken account of any comments that they may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

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

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will, after consulting the Independent Person and the Chairman of the Standards

Committee and taking into account their views, write to the complainant and to the member concerned and to the Parish Council, where the complaint relates to a Parish Councillor, notifying them that he/she is satisfied that no further action is required, and give them all a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

Should the Investigating Officer conclude after reconsideration of his/her report that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, after consulting the Independent Person and the Chairman of the Standards Committee, will write to all parties as set out above notifying them that no further action is required.

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

The Monitoring Officer will review the Investigating Officer's report and will then after consulting the Independent Person and the Chairman of the Standards Committee either send the matter for local hearing before the Sub-Committee or seek local resolution.

7.1 Local Resolution

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

7.2 Local Hearing

If the Monitoring Officer, following consultation with the Independent Person and the Chairman of the Standards Committee, considers that local resolution is not appropriate, or the complainant is not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to a Complaints Sub-Committee of the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chairman of the Sub-Committee may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers

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

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

8 What action can the Sub-Committee take where a member has failed to comply with the Code of Conduct?

The Standards Committee has delegated to the Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council or to the Parish Council for information;
- 8.3 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to or recommend that the Parish Council arrange training for the Member;
- 8.6 Remove or recommend to the Parish Council that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.7 Withdraw or recommend to the Parish Council that it withdraws facilities provided to the Member by the Council, such as website and/or email and Internet access; or
- 8.8 Exclude or recommend that the Parish Council exclude the Member from the Council's Offices or other premises, with the exception of meeting

rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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

9 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Sub-Committee, and send a copy to the complainant, to the member and (if applicable) to the Parish Council, make that decision notice and the Investigating Officer's report, suitably redacted, available for public inspection and report the decision to the next convenient meeting of the Council.

10 What is the Complaints Sub-Committee?

The Sub-Committee is a Sub-Committee of the Council's Standards Committee. The Independent Person is invited to attend all meetings of the Sub-Committee and his/her views are sought and taken into consideration before the Sub-Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Persons are persons who have applied for the post following advertisement of a vacancy for the post, and are appointed by a majority of all the Members of Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council; or
- 11.2 Is, or has been within the past 5 years, a member, co-opted member or officer of any Parish Council in Mole Valley; or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
 - (a) Spouse or civil partner;
 - (b) Living with the other person as husband and wife or as if they were civil partners;
 - (c) Grandparent of the other person;

- (d) A lineal descendent of a grandparent of the other person;
- (e) A parent, sibling or child of a person within paragraphs 11.3(a) or 11.3(b);
- (f) A spouse or civil partner of a person within paragraphs 11.3(c), 11.3(d) or 11.3(e); or
- (g) Living with a person within paragraphs 11.3(c), 11.3(d) or 11.3(e) as husband and wife or as if they were civil partners.

12. Revision of these arrangements

The Council may resolve to amend these arrangements.

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

13. Appeals

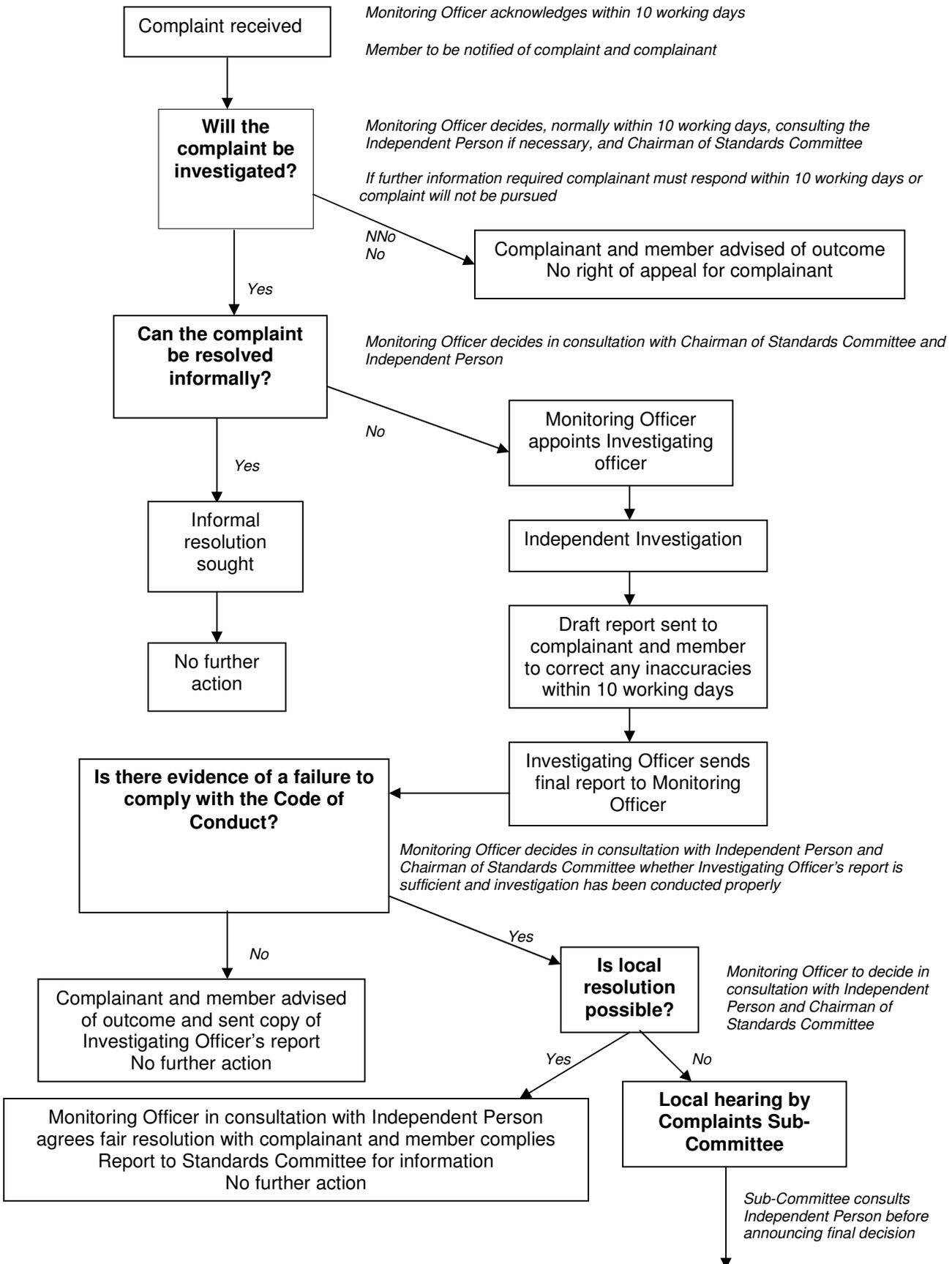
There is no right of appeal for the complainant or for the member against a decision of the Monitoring Officer or of the Sub-Committee.

If a complainant feels that the authority has failed to deal with their complaint properly, they may make a complaint to the Local Government Ombudsman.

14. Annual Report

The Monitoring Officer shall submit an annual report to the first meeting of the Standards Committee in the new Municipal Year setting out details of all complaints received, including those where no breach was found.

Complaints handling flow chart



Possible outcomes:

No failure to comply with the Code of Conduct

- complaint dismissed

Failure to comply with the Code of Conduct

- publication of findings
- report to Council
- recommendation to Group Leader/Leader of the Council re removal from Committees/Portfolio responsibilities
- training
- removal from outside bodies (*timescale to be determined by Sub-Committee*)
- withdrawal of facilities (*timescale to be determined by Sub-Committee*)
- exclusion from Council's offices (*timescale to be determined by Sub-Committee*)

**Formal decision notice prepared by Monitoring Officer in consultation with
Chairman of Sub-Committee
Sent to complainant and member
Decision notice and Investigating Officer's redacted report published**

**No right of appeal for
complainant or member**

Decision reported to Council

Members' Code of Conduct

1. Introduction and Interpretation

- 1.1 This Code applies to you as a Member of Mole Valley District Council ("the Council") when you act in your role as a Member*.
- 1.2 This Code is based on, and is consistent with, the principles of public life set out in Section 28 of the Localism Act 2011: -

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

- 1.3 These principles define the standards that Members should uphold, and serve as a reminder of the purpose of the Code of Conduct. The principles can be defined as follows:

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

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

Objectivity: Members should take 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 cooperate 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 the Council, and should be prepared to give reasons for those actions.

Honesty: Members should not place themselves in situations where their honesty may be questioned.

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.

- 1.4 It is your responsibility to comply with the provisions of this Code.

- 1.5 In this Code –

“meeting” means any meeting of

- (a) the Council;
- (b) the Executive;
- (c) any of the Council's or the Executive's committees, sub-committees, joint committees, working groups or panels.

*"Member" includes a co-opted member.

2. General Obligations

- 2.1 **Do** treat others with respect. In particular, you should promote equality by not discriminating unlawfully against any person, and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. You should also respect the impartiality and integrity of the Council's statutory officers and its other employees.
- 2.2 **Do not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members or the principles contained in Section 28 of the Localism Act 2011 (see paragraphs 1.2 and 1.3 above).
- 2.3 **Do not** 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 legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) you have consulted the Monitoring Officer and if you wish taken other independent legal advice prior to its release, to confirm that the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the Council.
- 2.4 **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- 2.5 **Do 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.
- 2.6. When using or authorising the use by others of the resources of the Council:
 - (1) **Do** act in accordance with the Council's reasonable requirements and policies;
 - (2) **Do** ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (3) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

3 Gifts and Hospitality

- 3.1 **Do** exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.
- 3.2 **Do not** accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- 3.3 **Do** register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

4 Registration of Interests

- 4.1 **Do** notify the Monitoring Officer of your disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration, within 28 days of being elected or appointed to office.
- 4.2 **DO** notify the Monitoring Officer of any change in your disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration, within 28 days of the change taking effect.
- 4.3 **Do** notify the Monitoring Officer of any disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration, not already registered within 28 days of your re-election or re-appointment to office.
- 4.4 **Do** be aware that disclosable pecuniary interests include not only your interests but also the interests of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner, so far as you are aware of the interests of that person.
- 4.5 **Do** be aware that the Council has decided that it is appropriate for you to register and disclose non-pecuniary interests that arise from your membership of, or your occupation of a position of general control or management in, the following bodies:
- (i) bodies to which you have been appointed or nominated by the Council;
 - (ii) bodies exercising functions of a public nature;
 - (iii) bodies directed to charitable purposes;
 - (iv) bodies one of whose principal purposes includes the influence of public opinion or policy.

Note: "Disclosable pecuniary interests" means interests defined as such in regulations made by the Secretary of State.

5 Disclosure of Interests and Participation

- 5.1 **Do** disclose to a meeting at which you are present any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for registration.
- 5.2 **Do** notify the Monitoring Officer of any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for registration, not already registered that is disclosed to a meeting under paragraph 5 (1) above within 28 days of the disclosure.

5.3 **Do not** participate in any discussion, or vote, where you have a disclosable pecuniary interest in a matter. **Do** withdraw from the meeting during the consideration of the matter.

6. **Predetermination**

6.1 Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Member.

6.2 However, **do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

6.3 When making a decision, **do** consider the matter with an open mind and on the facts before the meeting at which the decision is to be made.

7. **Review**

7.1 The Code will be reviewed initially one year after adoption, and thereafter at a period to be determined by the Council.