

## STANDARDS COMMITTEE

**Venue:** Town Hall, Moorgate  
Street, Rotherham. S60  
2TH

**Date:** Thursday, 8 March 2012

**Time:** 2.00 p.m.

### A G E N D A

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Appointment of Vice-Chairman.
4. Minutes of the Previous Meeting held on 9th February, 2012 (herewith) (Pages 1 - 4)
5. Localism Act, 2011 (report herewith) (Pages 5 - 21)
6. ACSeS Draft Code of Conduct (report herewith) (Pages 22 - 28)
7. ACSeS Role Description of Independent Person (report herewith) (Pages 29 - 32)

**STANDARDS COMMITTEE**  
**9th February, 2012**

Present:- Councillor Middleton; Messrs. M. Andrew, I. Daines, P. Edler, D. Foster, N. Sykes, Mrs. A. Bingham, Dr. G. Musson, Ms. J. Porter and Councillors Mr. D. Bates, Mr. P. Blanksby and Mr. D. Rowley (Parish Councils' Representatives)

Apologies for absence were received from Councillors Gilding and Hughes.

**B19 ELECTION OF CHAIR**

Consideration was given to the election of Chairman in light of Mr. M. Andrew's decision to step down and nominations were sought.

Mrs. Angela Bingham was proposed and seconded as Chairman.

Resolved:- (1) That Mrs. Angela Bingham be appointed Chairman of this Committee.

(2) That Mr. M. Andrew be thanked for all his hard work on behalf of the Committee.

(Mrs. A. Bingham in the Chair)

**B20 MINUTES**

Resolved:- That the minutes of the meeting of the Committee held on 10<sup>th</sup> November, 2011 be approved as a correct record.

Reference was made to Minute No. B18 (Bribery Act 2010) where it was confirmed that the information had been presented to the Audit Committee and the Monitoring Officer and Internal Audit Manager were in the process of devising and implementing a joint programme of work to refresh and update Council documents and procedures.

It was also noted that there was no reference to officers' interests in the new Localism Act so there was little possibility of these being included in the Committee's Terms of Reference.

**B21 LOCALISM ACT, 2011**

Consideration was given to the report, which was circulated at the meeting, containing details of the changes to the standards regime in consequence of the enactment of Chapter 7 (Sections 26 - 37) of the Localism Act 2011 and the options for consideration by the Committee with a view to making recommendations to the Cabinet and the full Council.

The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes was proposed to be 1st April, 2012, but was now expected to be 1st July 2012.

The Act also repealed Section 55 of the Local Government Act 2000, which provided for the current statutory Standards Committee. There would be no requirement for a statutory Standards Committee, although the Council had opted to have a voluntary Committee as there would still be a need to deal with standards issues and case-work.

The new Standards Committee would be a normal committee of the Council, without the unique features which were conferred by the previous legislation. Details of the composition of the new Committee, the restrictions placed on the current independent members and the process for dealing with complaints against elected and appointment members of Parish Councils were outlined.

The Committee considered it appropriate to reflect on the changes and recommendations set out in the report and the Chairperson offered to collate any comments from the Committee and formulate these into a joint response for consideration at the next meeting of the Committee.

The Monitoring Officer, therefore, reported further on the report's content, drawing specific attention and providing more information on:-

- Membership of the new Standards Committee.
- Decision for Parish Councils whether to delegate their functions in relation to the standards of conduct for their members.
- Drafting of a Code of Conduct.
- Registration and disclosure of Members' interests.
- Preparation and maintenance of the Register of Members' interests.
- Disclosure of interests and withdrawal from meetings.
- Delegation arrangements to the Monitoring Officer.
- Investigation of complaints and actions arising.
- Operation of the new Standards Committee regime.
- Appointment by Council of at least one Independent Person.
- Sensitive issues and dispensations.
- Transitional arrangements.

In considering the information provided by the Monitoring Officer, the Committee asked a range of questions and passed comment on:-

- The possibility of Independent Members being co-opted onto the newly constituted Standards Committee.
- The possibility of recommending to Council they consider co-opting existing independent members onto the new Committee.
- Conflicts of interests for one Independent Person and the obligations under the new arrangements.
- Investigation of complaints and the confidence that matters would be dealt with appropriately.
- Contact to be made with Parish Councils with regards to the Code of Conduct and their registration of interests.

- Standards Committee delegation of powers.
- Management of complaints against Elected Members.
- Voting rights of Parish Council representatives.
- Preparation of the draft Code of Conduct.
- Methods of dealing with misconduct and complaints by members of Parish Councils.
- Dealing of complaints by the Monitoring Officer in consultation with the Independent Person.
- The restrictions placed on independent members becoming the Independent Person.
- Probability of vexatious complaints.
- Independent Persons' profiles.
- Transitional arrangements and consideration of conflicting views.
- Possible meeting between the Chairman of the Standards Committee and the Leader of the Council and Chief Executive.

The Standards Committee felt obliged to support the Council in seeking the best possible outcome for the standards regime in the future and to raise concerns or highlight weaknesses which it was felt the Council should consider.

Resolved:- (1) That the matters be deferred and a further report be submitted to the next meeting of the Standards Committee scheduled to take place on Thursday, 8<sup>th</sup> March, 2012.

(2) That any comments be forwarded to the Mrs. Angela Bingham, Chairman, for inclusion in a revised report.

## **B22 INDEPENDENT PERSONS**

Consideration was given to the report, which was circulated at the meeting, which detailed how the current independent members of the Standards Committee would not be eligible to be appointed as "independent persons" by the Council under the new arrangements. They may, however, apply for appointment as independent persons at neighbouring Councils, providing they did not have relatives or close friends who were Members, Co-opted Members or Officers of the Council to which an application was made.

There must, therefore, be a five year break before being eligible for appointment as an Independent Person.

It was suggested that the contents of this report be looked into further and resubmitted for consideration at the next meeting.

Resolved:- That the position concerning "Independent Persons" under the Localism Act, 2011 be noted, and the report given further consideration at the next meeting of the Committee.

**B23**

**REGISTER OF MEMBERS' GIFTS AND HOSPITALITY**

Copies of the Registers of Members' Gifts and Hospitality, including that of the Leader of the Council and the Mayor, were circulated for the Standards Committee to inspect.

The Committee, in considering the detail, noted that some entries were not as full as they might be and suggested that the word "none" be used where appropriate rather than leaving entries blank.

Resolved:- That the detail in the Registers of Members' Gifts and Hospitality be noted.

<b>ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Standards Committee</b>
<b>2.</b>	<b>Date:</b>	<b>8<sup>th</sup> March, 2012</b>
<b>3.</b>	<b>Title:</b>	<b>Localism Act, 2011</b>
<b>4.</b>	<b>Directorate:</b>	<b>Resources' Directorate</b>

### **5. Summary**

This report contains details of the changes to the standards regime in consequence of the enactment of Chapter 7 (sections 26 – 37) of the Localism Act 2011; and the options for consideration by the Committee with a view to making recommendations to the Cabinet and the full Council.

### **6. Recommendations**

#### **Recommendation 1 –**

- a. **That the Standards Committee comprises 8 elected members of the Council, appointed proportionally;**
- b. **That the Leader of the Council be requested to consider whether to nominate to the Standards Committee one or more members who are members of the Cabinet;**
- c. **That the parish councils be invited:**
  - (I) **to indicate whether they wish to delegate their functions in relation to the standards of conduct of their members to the Council and adopt the Council's code of conduct, and if so**
  - (II) **to nominate a maximum of 3 parish councillors to be co-opted as voting members of the Committee; or**
  - (III) **to indicate whether they wish to make their own arrangements in relation to the standards of conduct of their members and the code of conduct in relation to their members, and if so**
  - (IV) **to nominate a maximum of 3 parish councillors to be co-opted as non-voting members of the Council's Standards Committee.**

**Recommendation 2 -**

- a. That the monitoring officer be instructed to prepare and present to the Standards Committee a draft code of conduct for recommending to the Cabinet for adoption by the full Council. That the draft code should –
  - (i) equate to paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its committees and sub-committees; and
  - (ii) require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests.
- b. That, when the Disclosable Pecuniary Interests Regulations are published, the monitoring officer, after consultation with the Chair of Standards Committee, add to that draft code provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.

**Recommendation 3A**

That the monitoring officer be instructed to prepare and submit to the Committee for recommending to the Cabinet for approval by the full Council “arrangements” as follows -

- a. that the monitoring officer be appointed as the proper officer to receive complaints of failure to comply with the code of conduct;
- b. that the monitoring officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation.
- c. that the monitoring officer be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to Standards Committee on the discharge of this function;
- d. where the investigation finds no evidence of failure to comply with the code of conduct, the monitoring officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;
- e. where the investigation finds evidence of a failure to comply with the code of conduct, the monitoring officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such local resolution is not appropriate or not possible, he/she is to report the

**investigation findings to a consideration and hearings panel of the Standards Committee for local hearing;**

- f. that Council delegate to consideration and hearings panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the code of conduct, such actions to include –**
- reporting its findings to Council, or to the parish council, for information;**
  - recommending to the full Council publication of the decision that the member had breached the code of conduct;**
  - recommending to the full Council formal censure of the member through an appropriate motion;**
  - recommending to full Council for recommendation to the member's group leader (or in the case of ungrouped members, recommend to full Council) that he/she be removed from any or all committees or sub-committees of the Council;**
  - recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;**
  - recommending to the full Council, or to the parish council, the removal of the member from all outside appointments to which he/she has been appointed or nominated by the Council or by the parish council;**
  - instructing the monitoring officer to, or recommending that the parish council, arrange training for the member;**

**Recommendation 3B**

**That a meeting be arranged between the Chair and Vice-Chair of Standards Committee and the group leaders for the Council and representatives of parish councils to discuss how the new system can best operate.**



## **7. Proposals and details**

### **Background**

#### **The Localism Act 2011**

The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The date for implementation of these changes was proposed to be 1<sup>st</sup> April 2012, but is now expected to be 1<sup>st</sup> July 2012.

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

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

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

#### **Standards Committee**

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will not be a requirement for a statutory standards committee, although the Council has opted to have a voluntary committee as there will still be a need to deal with standards issues and case-work. The new Standards Committee will be a normal committee of Council, without the unique features which were conferred by the previous legislation. As a result –

- the composition of the Committee will be governed by proportionality, unless Council votes otherwise with no member voting against. The present restriction that only one member of the executive can sit on the Standards Committee will cease to apply;
- the current co-opted independent members will cease to hold office. The Act establishes a new category of Independent Persons (see below) who must be consulted at various stages, but provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years. The new Independent Persons may be invited to attend meetings of the Standards Committee, but are unlikely to be co-opted onto the Committee;
- the Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of parish councils, but the current parish council representatives will cease to hold office. The Council can choose whether it wants to continue to involve parish council representatives and, if so, how many parish council representatives it wants. The choice is between establishing a standards committee as a committee of the Council, with co-opted but non-voting parish council representatives (which could then only make recommendations in respect of parish council members), or establishing a standards committee as a joint committee with the parish councils within the borough (or as many of them as wish to participate) and having a set number of parish council representatives as voting members of the committee (which could then take operative decisions in respect of members of parish councils, where the parish council had delegated such powers to such a joint standards committee).

**Issue 1 – The composition of the Standards Committee.**

**Recommendation 1 –**

- a. **That the Standards Committee comprises 8 elected members of the Council, appointed proportionally;**
- b. **That the Leader of the Council be requested to consider whether to nominate to the Standards Committee one or more members who are members of the Cabinet;**
- d. **That the parish councils be invited:**
  - (I) **to indicate whether they wish to delegate their functions in relation to the standards of conduct of their members to the Council and adopt the Council’s code of conduct, and if so**
  - (II) **to nominate a maximum of 3 parish councillors to be co-opted as voting members of the Committee; or**
  - (III) **to indicate whether they wish to make their own arrangements in relation to the standards of conduct of their members and the code of conduct in relation to their members, and if so**
  - (IV) **to nominate a maximum of 3 parish councillors to be co-opted as non-voting members of the Council’s Standards Committee.**

**The Code of Conduct**

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

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

The Council has discretion as to what it includes within its new code of conduct, provided that it is consistent with the seven principles. However, regulations to be made under the Act will require the registration and disclosure of “Disclosable Pecuniary Interests” (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require an authority’s code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not possible yet to draft code provisions which reflect the definition of DPIs which will appear in regulations, but it is possible to give an indicative view of what the Council might consider that it might be appropriate to include in the code in respect of the totality of all interests, including DPIs, other pecuniary interests and non-pecuniary interests. Accordingly, it might

be worthwhile at this stage in instructing the monitoring officer to prepare a draft code which requires registration and disclosure of those interests which would today amount to personal and/or prejudicial interests, but only require withdrawal as required by the Act for DPIs.

The Act prohibits members with a DPI from participating in council business, and the Council can adopt a standing order requiring members to withdraw from the meeting room.

So the Council's new code of conduct will have to deal with the following matters –

- general conduct rules, to give effect to the seven principles. This corresponds broadly with paragraphs 3 to 7 of the current Code of Conduct. In practise, the easiest course of action would be simply to re-adopt paragraphs 3 to 7 of the existing Code of Conduct. The Council can amend its code of conduct subsequently if the need arises; and
- registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that the code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPIs, it is difficult to suggest what additional disclosure would be appropriate.

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

### **Recommendation 2 -**

- a. **That the monitoring officer be instructed to prepare and present to the Standards Committee a draft code of conduct for recommending to the Cabinet for adoption by the full Council. That the draft code should –**
  - (iii) **equate to paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its committees and sub-committees; and**
  - (iv) **require registration and disclosure of interests which would today constitute personal and/or prejudicial interests, but only require withdrawal as required by the Act in relation to Disclosable Pecuniary Interests.**
- b. **That, when the Disclosable Pecuniary Interests Regulations are published, the monitoring officer, after consultation with the Chair of Standards Committee, add to that draft code provisions which he considers to be appropriate for the registration and disclosure of interests other than DPIs.**

## **Dealing with Misconduct Complaints**

### **“Arrangements”**

The Act requires that the Council adopts “arrangements” for dealing with complaints of breach of code of conduct both by members of the Council and by parish council members. Complaints can only be dealt with in accordance with such “arrangements”. Therefore the “arrangements” must set out in some detail the process for dealing with complaints of

misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant code of conduct.

The advantage is that the Act repeals the requirements for separate assessment, review and consideration and hearing panels referrals. The Council can establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or monitoring officer special powers to deal with complaints, the Council will need to delegate appropriate powers to the Standards Committee and to the monitoring officer.

## **Decision whether to investigate a complaint**

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

## **"No Breach of Code" finding on investigation**

Copies of all investigation reports could be provided to the Independent Person to enable him/her to get an overview of current issues and pressures.

## **"Breach of Code" finding on investigation**

Where a formal investigation finds evidence of failure to comply with the code of conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a consideration and hearing. Sometimes the investigation report can cause a member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action.

In all other cases, where the formal investigation finds evidence of a failure to comply with the code of conduct, it would be necessary for the Standards Committee (in practice a consideration and hearings panel constituted as a sub-committee of the Standards Committee) to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the consideration and hearing panel can determine whether the member did fail to comply with the code of conduct and what action, if any, is appropriate as a result.

## **Action in response to a consideration and hearing panel finding of failure to comply with the code of conduct**

The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology to members. So,

where a failure to comply with the code of conduct is found, the range of actions which the Council can take in respect of the member is limited and must be directed to securing the continuing ability of the Council to continue to discharge its functions effectively, rather than “punishing” the member concerned. In practice, this might include the following –

- reporting its findings to Council or to the parish council for information;
- recommending to the member’s group leader (or in the case of ungrouped members, recommend to Council or to committees) that he/she be removed from any or all committees or sub-committees of the Council;
- recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- instructing the monitoring officer to, or recommending that the parish council, arrange training for the member;
- removing, or recommending 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;
- withdrawing, or recommending to the Parish Council that it withdraws, facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- excluding, or recommending 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.

There is a particular difficulty in respect of parish councils, as the Localism Act gives the Standards Committee no power to do any more in respect of a member of a parish council than make a recommendation to the parish council on action to be taken in respect of the member. Parish councils will be under no obligation to accept any such recommendation. The only way round this would be to constitute the Standards Committee and consideration and hearing panels as a joint committee and joint sub-committees with the parish councils, and seek the delegation of powers from parish council to the consideration and hearing panels, so that they can effectively take decisions on action on behalf of the particular parish council.

### **Appeals**

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

**Issue 3 – The Council has to decide what “arrangements” it will adopt for dealing with standards complaints and for taking action where a member is found to have failed to comply with the code of conduct.**

### **Recommendation 3A**

**That the monitoring officer be instructed to prepare and submit to the Committee for recommending to the Cabinet for approval by the full Council “arrangements” as follows -**

- a. that the monitoring officer be appointed as the proper officer to receive complaints of failure to comply with the code of conduct;**
- b. that the monitoring officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation.**
- c. that the monitoring officer be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he be given discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to Standards Committee on the discharge of this function;**
- d. where the investigation finds no evidence of failure to comply with the code of conduct, the monitoring officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;**
- e. where the investigation finds evidence of a failure to comply with the code of conduct, the monitoring officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such local resolution is not appropriate or not possible, he/she is to report the investigation findings to a consideration and hearings panel of the Standards Committee for local hearing;**
- f. that Council delegate to consideration and hearings panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the code of conduct, such actions to include –**
  - reporting its findings to Council, or to the parish council, for information;**
  - recommending to the full Council publication of the decision that the member had breached the code of conduct;**
  - recommending to the full Council formal censure of the member through an appropriate motion;**
  - recommending to full Council for recommendation to the member’s group leader (or in the case of ungrouped members, recommend to full Council) that he/she be removed from any or all committees or sub-committees of the Council;**

- **recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;**
- **recommending to the full Council, or to the parish council, the removal of the member from all outside appointments to which he/she has been appointed or nominated by the Council or by the parish council;**
- **instructing the monitoring officer to, or recommending that the parish council, arrange training for the member;**

### **Recommendation 3B**

**That a meeting be arranged between the Chair and Vice-Chair of Standards Committee and the group leaders for the Council and representatives of parish councils to discuss how the new system can best operate.**

### **Independent Person(s)**

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

### **“Independence”**

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

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

- he/she is, or has been within the last 5 years, an elected or co-opted member or an officer of the Council or of any of the parish councils within its area;
- he/she is, or has been within the last 5 years, an elected or co-opted member of any committee or sub-committee of the Council or of any of the parish councils within its area (which would preclude any of the current co-opted independent members of the Committee from being appointed as an Independent Person); or
- he/she is a relative or close friend of a current elected or co-opted member or officer of the Council or any parish council within its area, or of any elected or co-opted member of any committee or sub-committee of the Council or parish council.

For this purpose, “relative” comprises –

- the candidate’s spouse or civil partner;
- any person with whom the candidate is living as if they are spouses or civil partners;
- the candidate’s grandparent;
- any person who is a lineal descendent of the candidate’s grandparent;
- a parent, brother, sister or child of anyone in the first or second bullet point;
- the spouse or civil partner of anyone in the third, fourth or fifth bullet points; or

- any person living with a person in the fourth, fifth or sixth bullet points as if they were spouse or civil partner to that person.

## Functions of the Independent Person

The functions of the Independent Person(s) are –

- he/she must be consulted by the Council before it makes a finding as to whether a member has failed to comply with the code of conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- he/she may be consulted by the Council in respect of a standards complaint at any other stage; and
- he/she may be consulted by a member or co-opted member of the Council or of a parish council against whom a complaint has been made.

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

## How many Independent Persons?

The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person, provided that a couple of reserve candidates are retained and can be activated at short notice, without the need for re-advertisement, in the event that the Independent Person is no longer able to discharge the function.

## Remuneration

As the Independent Person is not a member of the Council or of its committees or sub-committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

In comparison to the current Chair of Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee and consideration and hearings panels, but not to be a formal member of the Committee or panel (he/she could be co-opted as a non-voting member but cannot chair as the Chair must exercise a second or casting vote). He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of



dispensations. However, it would be appropriate to undertake a proper review of the function before setting the remuneration.

#### **Issue 4 – How many Independent Persons are required?**

##### **Recommendation 4 –**

- a. **that the monitoring officer, in consultation with the Chair of Standards Committee, and with the advice of the Assistant Chief Executive – Human Resources be authorised to set the initial allowances and expenses for the Independent Person and any reserve Independent Persons, and this function subsequently be delegated to the Standards Committee;**
- b. **that the monitoring officer advertise a vacancy of the appointment of 1 Independent Person and 2 reserve Independent Persons;**
- c. **that a Committee comprising the Chair and three other members of Standards Committee be set up to short-list and interview candidates, and to make a recommendation to Council for appointment.**

#### **The Register of Members' Interests**

##### **The register of members' interests**

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "disclosable pecuniary interests" (DPIs). The monitoring officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The monitoring officer is also responsible for maintaining the register for parish councils, which also have to be open for inspection at the Council's offices and on the Council's website.

At present we do not know what DPIs will comprise, but they are likely to be broadly equivalent to the current prejudicial interests. The intention was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.

The provisions of the Act in respect of the code of conduct require the Council's Code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

The monitoring officer is required by the Act to set up and maintain registers of interest for each parish council, available for inspection at the Council's offices and on the Council's website and, where the parish council has a website, provide the parish council with the information required to enable the parish council to put the current register on its own website.

##### **Registration on election or co-option**

Each elected or co-opted member must register all DPIs within 28 days of becoming a member. Failure to register is made a criminal offence, but would not prevent the member from acting as a member.

In so far as the code of conduct which the Council adopts requires registration of other interests, failure to do so would not be a criminal offence, but merely a failure to comply with the code of conduct.

There is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, but it is likely that members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given, the monitoring officer has to ensure that they are entered into the register.

The preparation and operation of the register, not just for the Council but also for each parish council, is likely to be a considerable administrative task, especially where different parish councils adopt different code requirements for registration and disclosure in respect of interests other than DPIs. There is no provision for the Council to recover any costs from parish councils.

### **Issue 5 – Preparation of the Registers**

#### **Recommendation 5 –**

- a. that the monitoring officer prepare and maintain a new register of members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;**
- b. that the monitoring officer ensure that all members are informed of their duty to register interests;**
- c. that the monitoring officer prepare and maintain new registers of members' interests for each parish council to comply with the Act and any code of conduct adopted by each parish council and ensure that it is available for inspection as required by the Act; and**
- d. that the monitoring officer arrange to inform and train parish clerks on the new registration arrangements.**

### **1 Disclosure of Interests and Withdrawal from Meetings**

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

The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.

Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the monitoring officer to register it (a "pending notification"). So, members of the public attending the meeting will in future need to read the register of members' interests, as registered interests will no longer be disclosed at the meeting.

Where the member does make a disclosure of a DPI, he/she must then notify it to the monitoring officer within the next 28 days, so that it can go on the register of interests.

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

- participate in any discussion of the matter at the meeting. The Act does not define “discussion”, but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model code of conduct; or
- participate in any vote on the matter,

unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

Failure to comply with the requirements (paragraphs 8.2, 8.3 or 8.4 of this report) becomes a criminal offence, rather than leading to sanctions.

The Council’s Code of Conduct must make “appropriate” provisions for disclosure and withdrawal for interests other than DPIs, but failure to comply with these requirements would be a breach of the Code of Conduct but not a criminal offence.

The requirement to withdraw from the meeting room can be covered by standing orders, which would apply not just to meetings of the full Council, committees and sub-committees, but can apply also to Cabinet and Cabinet member meetings, so that failure to comply would be neither a criminal offence nor a breach of the Code of Conduct, although the meeting could vote to exclude the member.

### **Issue 6 – What standing order should the Council adopt in respect of withdrawal from meetings for interests?**

**Recommendation 6 – The monitoring officer be instructed to recommend to Council a standing order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.**

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

Matters can be decided by a single member acting alone where the member is a Cabinet member acting under delegated powers, or where the member is a ward councillor and the Council chose to delegate powers to ward councillors.

The Act provides that, when a member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –

- unless the DPI is already entered in the register of members’ interests or is subject to a “pending notification”, he/she has 28 days to notify the monitoring officer that he/she has such a DPI; and
- he/she must take no action in respect of that matter other than to refer it to another person or body to take the decision.

Standing orders can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter.

Note that the Act here effectively removes the rights of a member with a prejudicial interest to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct.

**Issue 7 – In what circumstances should standing orders exclude single members from attending meetings while the matter in which they have a DPI is being discussed or voted upon?**

**Recommendation 7 – The monitoring officer be instructed to recommend to Council a standing order which equates to the current Code of conduct requirement that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation.**

### **Sensitive Interests**

The Act effectively re-enacts the existing Code of Conduct provisions on sensitive interests.

So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the monitoring officer to agree that the interest is a "sensitive interest".

If the monitoring officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the monitoring officer can exclude the detail of the interest from the published version of the register of members' interests.

### **Dispensations**

The provisions on dispensations are significantly changed by the Localism Act.

At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –

- that at least half of the members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realised how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and
- that so many members of one political party have prejudicial interests in the matter that it would upset the result of the vote on the matter (this ground would require that the members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).

In future, a dispensation will be able to be granted in the following circumstances –

- that so many members of the decision-making body have DPs in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
- that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
- that the authority considers that the dispensation is in the interests of persons living in the Council’s area;
- that, without a dispensation, no member of the Cabinet would be able to participate in this matter (so, the assumption is that, where the Cabinet would be inquorate as a result, the matter can then be dealt with by an individual Cabinet member. It will be necessary to make provision in the scheme of delegations from the Leader to cover this, admittedly unlikely, eventuality); or
- that the authority considers that it is otherwise appropriate to grant a dispensation.

Any grant of a dispensation must specify the dispensation period, which can be up to a maximum of 4 years.

The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a sub-committee, or to the monitoring officer. Grounds 11.3.1 and 11.3.4 are pretty objective, so it may be appropriate to delegate dispensations on these grounds to the monitoring officer, with an appeal to the Standards Committee, thus enabling dispensations to be granted “at the door of the meeting”. Grounds 11.3.2, 11.3.3 and 11.2.5 are rather more objective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

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

**Recommendation 8 – That Council delegate the power to grant dispensations –**

- a. on grounds set out in paragraphs 11.3.1 and 11.3.4 of this report to the monitoring officer with an appeal to Standards Committee; and**
- b. on grounds 11.3.2, 11.3.3 and 11.3.5 of this report to the Standards Committee, after consultation with the Independent Person.**

**Transitional Arrangements**

Regulations under the Localism Act will provide for –

- a. transfer of Standards for England cases to local authorities following the abolition of Standards for England;
- b. a transitional period for the determination of any outstanding complaints under the current code of conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;
- c. removal of the power of suspension from the start of the transitional period; and
- d. removal of the right of appeal to the First-tier Tribunal from the start of the transitional period.

## **8. Finance**

There will be some costs associated with the transition from the current arrangement to the new arrangements including the costs of advertising and appointing Independent Persons.

## **9 Risks and Uncertainties**

It is expected that the new arrangements will take effect from 1 July 2012. Consequently, in order to comply with the Council's obligations under the 2011 Act, it will be necessary to have a code of conduct and the democratic machinery in place to avoid breach of the Act.

## **10 Policy and Performance Agenda Implications**

Having a standards committee and code of conduct for members and co-opted members supports the objective of being an effective council and is a component of good governance.

## **11 Background Papers and Consultation**

Localism Act 2011

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**ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS**

<b>1. Meeting:</b>	Standards Committee
<b>2. Date:</b>	8 March 2012
<b>3. Title:</b>	ACSeS Draft Code of Conduct
<b>4. Directorate:</b>	Resources' Directorate

**5. Summary**

The second draft version of the ACSeS model code of conduct is appended for members' consideration.

**6. Recommendations**

**IT IS RECOMMENDED** that consideration be given as to whether the draft ACSeS model code of conduct should form the basis of the Council's code of conduct.

## **7. Proposals and details**

The statutory model code of conduct adopted by the Council will be repealed following the bringing into force of section 27 (duty to promote and maintain high standards of conduct) of the Localism Act 2012. Section 27 (2) requires the Council to adopt a code of conduct for this purpose. The section is expected to come into force on 1 July 2012.

The latest draft ACSeS (see Appendix 1) broadly follows the statutory model, although some provisions have not been included and the order has been rearranged. The monitoring officer considers that there is merit in adopting paragraphs 1 – 7 of the statutory code, with any necessary modifications, as members and co-opted members are familiar with this format.

The ACSeS model requires a member or co-opted member to declare any personal interest (save for sensitive personal interests) during the meeting. In contradistinction the 2012 Act only requires a member with a disclosable personal interest (DPI) to disclose it during the meeting if the DPI has not been registered or the member has not sent off a request to the monitoring officer to register it (a “pending notification”). The ACSeS model therefore goes beyond what the legislation will require.

A member with a DPI may be required to withdraw from a meeting where the Council’s Standing Orders provide for his or her exclusion from the meeting while the item is discussed or voted upon.

It is worth noting that although a member is not required to disclose a DPI in the above circumstances, a member commits a criminal offence if without reasonable excuse the member takes part in the discussion of an item of business in which he or she has a DPI or votes on the item.

There is no legal impediment to the Council requiring members and co-opted members to declare personal interests (including DPIs) during a meeting, say through a provision in standing orders, but this raises the question of the appropriate sanction (if any) for breach given that the sanction for breach of a DPI is prescribed by law.

## **8. Finance**

There will be some costs associated with the transition from the current arrangements to the new arrangements.

## **9 Risks and Uncertainties**

It is expected that the new arrangements will take effect from 1 July 2012. Consequently, in order to comply with the Council’s obligations under the 2011 Act, it will be necessary to have a code of conduct and the democratic machinery in place to avoid breach of the Act.



## **10 Policy and Performance Agenda Implications**

Having a standards committee and code of conduct for members and co-opted members supports the objective of being an effective council and is a component of good governance.

## **11 Background Papers and Consultation**

Localism Act 2011

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## APPENDIX 1

### **A 1<sup>st</sup> Draft Code of Conduct for Members of Newcastle upon Tyne City Council**

The Council of the City of Newcastle upon Tyne (“the Council”) has adopted the following code which has effect from 1 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

This means the code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Council but is not one of its elected members

The code is intended to be consistent with the following seven principles, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

#### **General Conduct**

1. You must treat others with respect.
2. You must not bully any person and you must not intimidate or attempt to intimidate any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct and which is listed in the annex to this Code.
7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council’s reasonable

requirements and must ensure they are not used improperly for political purposes (including party political purposes).

8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - (a) You have the consent of a person authorised to give it; or
  - (b) You are required by law to do so; or
  - (c) 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
  - (d) The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Council.
10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

### **Registration of Interests**

11. Subject to paragraph 13, you must register in the Council's Register of Members Interests information about your personal interests. In this code of conduct 'your personal interests' means:
  - (a) any 'Disclosable Pecuniary Interest' (as defined by any statutory provision in force from time to time) which you know about and which is held by
    - you, or
    - your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners; and
  - (b) Any other interests held by you as set out in paragraph 12,

You must register information about your personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Council; and
  - any change taking place in your personal interests.
12. The following are personal interests for the purposes of paragraph 11(b):

- (a) Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Council;
  - (b) Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) 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);
  - (c) Any business which you are involved in carrying on;
  - (d) Any partnership of which you are a partner;
  - (e) Any employer for whom you work;
  - (f) Any contract for goods, services or works between the Council and you or any firm of which you are a partner or any company of which you are a remunerated director or in which you hold shares with a value exceeding £25,000 or 1% of its issued share capital;
  - (g) Any person (other than the Council) who has made a payment to you in connection with you carrying out your duties as a Council Member;
  - (h) Any land in the Council's area in which you have a beneficial interest or a licence to occupy;
  - (i) Any land owned by the Council of which you are the tenant or licensee;
  - (j) Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £25 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.
13. Where you think that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

### **Declaration of Interests**

14. Where you attend a meeting of the Council, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that any of your personal interests are relevant to an item of business which is being considered, then unless the interest is one which has been noted under paragraph 13, you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.
15. Where you attend a meeting of the Council, or one of its Committees or Sub-Committees, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 16 to a greater extent than most inhabitants of the area affected by the decision, then you must disclose to that meeting the existence and nature

of that interest at the start of that item of business, or when the interest becomes apparent, if later.

16. The persons referred to in paragraph 15 are:
  - (a) a member of your family;
  - (b) any person with whom you have a close association;
  - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.
17. You must comply with any standing order adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.

### **Annex to Code of Conduct**

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

[Insert here names of any relevant Protocols]

<b>ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	Standards Committee
<b>2.</b>	<b>Date:</b>	8 March 2012
<b>3.</b>	<b>Title:</b>	Role Description of Independent Person
<b>4.</b>	<b>Directorate:</b>	Resources Directorate

### **5. Summary**

ACSeS has drawn up a description of the role of the independent person (see Appendix 1), who is to be appointed by the Council to advise the Standards Committee in relation to allegations that a member or co-opted member has breached the Council's code of conduct.

It is suggested that there are at least two independent persons appointed by the Council to deal with conflicts of interest.

### **6. Recommendations**

**IT IS RECOMMENDED THAT members' note ACSeS' interpretation of the role of the independent person.**

## **7. Proposals and details**

### **Background**

Please see paragraph 5.

## **8. Finance**

There will be some relatively low costs involved in the recruitment of independent persons

## **9 Risks and Uncertainties**

It is expected that the new arrangements will take effect from 1 July 2012. Consequently, in order to comply with the Council's obligations under the 2011 Act, it will be necessary to have appointed the requisite number of independent persons before then.

## **10 Policy and Performance Agenda Implications**

Having a standards committee and code of conduct for members and co-opted members supports the objective of being an effective council and is a component of good governance.

## **11 Background Papers and Consultation**

Localism Act 2012

ACSeS paper

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## APPENDIX 1

### **Role Description for Independent Persons appointed by Newcastle City Council for Standards of Conduct Issues affecting Council and Parish Council Members**

1. The City Council is to appoint two individuals to carry out the role of “Independent Person” which is a new role created under Section 28(7) of the Localism Act 2011. The Council has a duty under that Act to promote and maintain high standards of conduct for its elected and co-opted members. The Council has delegated these responsibilities to its Standards Committee comprising five (*or seven*) elected members of the Council.
1. The statutory role of the Independent Person arises where the Council has received an allegation that one of its members (or a member of one of the parish councils in the city) has breached the Council’s Code of Conduct for Members (or the relevant parish council’s code of conduct).

In those circumstances:

- (a) if the Council decides to investigate the allegation, the Council **must** consult the Independent Person, and take their views into account, before making a decision on that allegation; and
  - (b) the Council **may** seek the views of the Independent Person about any other aspect of the allegation, whether or not it decides to investigate; and
  - (c) the member of the Council (or Parish Council) who is the subject of the allegation **may** also seek the views of the Independent Person at any time.
3. In practice when the Council receives a written allegation of a breach of the Code of Conduct, its Monitoring Officer will decide whether the complaint merits formal investigation or should be dealt with in some other way. If the Monitoring Officer considers it appropriate, s/he may well consult the Independent Person at that stage, and will take into account any view the Independent Person may have before deciding how to proceed.
  4. When a complaint has been investigated, the Independent Person will receive a copy of the investigation report from the Council and asked for his or her view on it and any views s/he may have upon how the Council should determine the allegation. These views will then be taken into account in the final decision making process. The final decision may be made by the Monitoring Officer where the investigation has concluded that there has been no breach of the Code, but otherwise is likely to be made by the Standards Committee after a hearing.
  5. The views of the Independent Person may be sought by the Council at other stages in the process, for instance by the Monitoring Officer to assist in deciding how an allegation should be dealt with or resolved.
  6. It is envisaged the views of the Independent Person will usually be sought by the Council (through its Monitoring Officer) in writing, either by letter or e mail, and that



the response of the Independent Person will usually be conveyed in the same way. On occasions however advice may be sought by telephone or at a meeting.

Any Independent Person is likely to be expected to attend any hearing which is held by the Standards Committee to decide whether there has been a breach of the code of conduct. If it is decided at that hearing that there has been a breach, the Independent Person will be asked for his or her view as to what action, if any, should be taken as a result.

7. As part of the statutory role, Independent Person will also be available for consultation by any Council (and Parish Council) member who is the subject of an alleged breach of the Code of Conduct. Such consultation may be sought at any time during the process and may be carried out by telephone, written correspondence (e mail or letter) or at a meeting (including at a final hearing before the Standards Committee).

(This advisory role to an individual Council member will only arise where the member is subject to an alleged breach of the relevant code of conduct. An Independent Person will not be expected – and should decline - to give advice to Council or Parish Council members in any other circumstances. Where such advice is required, Council members will be expected to seek it from the Monitoring Officer, or some other appropriate Council officer).

8. In addition to this statutory role, the Independent Person may from time to time be asked by the Standards Committee or the Council's Monitoring Officer for his or her views about other aspects of its work, for instance the suitability of the Council's Code of Conduct or the procedures which the Committee adopts for the handling of any allegations of member misconduct. The Independent Person may be invited to attend meetings of the Standards Committee for this purpose.

9. An Independent Person will be encouraged to acquire some understanding of the work of the Council and how it operates. Support will be provided by the Council's Monitoring Officer, who will arrange any necessary training and the provision of such information which is considered necessary to enable the Independent Person to perform the role properly.