

E-Mail: [CommitteeServices@horsham.gov.uk](mailto:CommitteeServices@horsham.gov.uk)

Direct Line: 01403 215465

To contact the Monitoring  
Officer E-Mail: [standards@horsham.gov.uk](mailto:standards@horsham.gov.uk)

Direct Line: 01403 215478

## **Standards Committee**

**Wednesday 12<sup>th</sup> December 2012 at 2.00p.m.**  
**COUNCIL CHAMBER, PARK NORTH, NORTH STREET, HORSHAM**

**Councillors:** Brian Donnelly (Chairman)  
David Coldwell (Vice-Chairman)  
Andrew Baldwin  
Leonard Crosbie  
Sheila Matthews

Claire Vickers  
Tricia Youtan

**Co-opted advisory members:**

Mary Jagger  
Paul Byford  
Valerie Court  
Isabel Glenister

Independent person  
Independent person  
Parish Council representative  
Parish Council Representative

*You are summoned to the meeting to transact the following business*

**TOM CROWLEY**  
Chief Executive

## **AGENDA**

- |   | <b>Page<br/>No.</b> |
|---|---------------------|
| 1. Apologies for absence.   |                     |
| 2. To approve as correct the minutes of the meeting of the Committee held on 19 <sup>th</sup> September 2012      | <b>1</b>            |
| 3. To receive any declarations of interest from Members of the Committee  |                     |
| 4. To receive the minutes of the:   |                     |
| - Local Review Sub-Committee held on 8 <sup>th</sup> August 2012  | <b>2</b>            |
| - Local Review Sub-Committee held on 20 <sup>th</sup> September 2012  | <b>5</b>            |
| - Local Assessment Sub-Committee held on 17 <sup>th</sup> October 2012  | <b>9</b>            |
| 5. To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer |                     |

- |  |           |
|--|-----------|
| 6. To note the list of Standards Committee Reports and Documents available for inspection  | <b>13</b> |
| 7. To receive the report of the Monitoring Officer on the Ethical Framework Update – December 2012   | <b>15</b> |
| 8. Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances |           |

**STANDARDS COMMITTEE**  
**19<sup>th</sup> September 2012**

Present: Councillors: Brian Donnelly (Chairman), David Coldwell (Vice-Chairman), Leonard Crosbie, Sheila Matthews

Apologies: Councillors: Andrew Baldwin, Claire Vickers, Tricia Youtan

**Co-opted advisory members**

Present: Parish Council representatives: Val Court, Isabel Glenister  
Independent persons: Paul Byford, Mary Jagger

SC/9 **MINUTES**

The minutes of the meeting of the Committee held on 24<sup>th</sup> July 2012 were approved as a correct record and signed by the Chairman.

SC/10 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/11 **ANNOUNCEMENTS**

The Monitoring Officer reported that following receipt of an allegation of breach of the code of conduct in relation to a Parish Councillor, the Local Assessment Sub-Committee had met on 27<sup>th</sup> June and resolved that other action in the form of training on the code of conduct be undertaken by the Parish Councillor. On 22<sup>nd</sup> August Paul Byford and the Monitoring Officer had met the Parish Councillor concerned and provided training on the code of conduct and the new standards requirements under the Localism Act. The case was now closed.

SC/12 **URGENT ITEMS**

There were no urgent matters to be considered.

*The meeting finished at 2.05pm having commenced at 2.00pm.*

**CHAIRMAN**

**STANDARDS COMMITTEE**  
**LOCAL REVIEW SUB-COMMITTEE**  
**8<sup>TH</sup> AUGUST 2012**

Present: Councillors: Leonard Crosbie, Claire Vickers, Tricia Youtan

LR/1     **ELECTION OF CHAIRMAN**

RESOLVED

That Councillor Leonard Crosbie be appointed  
Chairman of the Sub-Committee for the purposes of  
this meeting.

LR/2     **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LR/3     **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED

That under Section 100A of the Local Government Act 1972 as  
amended the press and public be excluded from the meeting for the  
following items of business on the grounds that they involve the likely  
disclosure of exempt information as defined in Part I of Schedule 12A  
of the Local Government Act 1972 by virtue of the paragraph  
specified against the items and in all the circumstances of the case  
the public interest in maintaining the exemption outweighs the public  
interest in disclosing the information.

LR/4     **REVIEW UNDER CHAPTER 7 OF THE LOCALISM ACT 2011 AND THE  
ARRANGEMENTS ADOPTED BY THE DISTRICT COUNCIL UNDER  
THE LOCALISM ACT 2011 SECTION 28(6) IN RELATION TO  
ALLEGATIONS MADE THAT CERTAIN PARISH COUNCILLORS HAD  
FAILED TO COMPLY WITH THE PARISH COUNCIL'S CODE OF  
MEMBERS' CONDUCT**

On 6 June 2012 an allegation was made under the Local Government Act 2000 section 57A(1) in relation to certain parish councillors. The matter had been assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and the Standards (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England.

On 27 June 2012 a decision was made under section 57(A)(2) of the Local Government Act 2000 that no action should be taken in respect of this allegation.

LR/4     Review under Chapter 7 of the Localism Act 2011 and the arrangements adopted by the District Council under the Localism Act 2011 section 28(6) in relation to allegations made that certain parish councillors had failed to comply with the Parish Council's Code of Members' Conduct (cont.)

On 8 July 2012 the complainant had made a request under Part 7 of the Localism Act 2011 and the Council's Arrangements for dealing with Code of Conduct complaints that this decision be reviewed.

The review which was requested was independent of the original decision and the members of the original Local Assessment Sub-Committee took no part in the review of the decision.

On 8 August 2012 the Local Review Sub-Committee met to review the decision made by the Local Assessment Sub-Committee. The views of the Independent Person and the parish representative were considered.

Members were reminded that the purpose of the Local Review Sub-Committee was to:

- (i) determine whether the Local Assessment Sub-Committee decision in relation to each of the named Councillors was a reasonable one; and if not whether the decision should be overturned and what action should be taken;
- (ii) determine, if the decision was not unreasonable, whether there was new evidence which suggested the allegations should be referred to the Local Assessment Sub-Committee as a new complaint.

The Deputy Monitoring officer reminded Members that the original allegations had first been considered by the Local Assessment Sub-Committee just three days prior to the commencement of new Standards arrangements under the Localism Act 2011.

Whilst the original complaints had been assessed under Part 3 of the Local Government Act 2000 and the 2008 Regulations, the Review Sub-Committee had convened and operated under the new arrangements adopted by the Council under the Localism Act 2011 and *Localism Act 2011 (Commencement No 6 and Transitional, Savings and Transitory Provisions) Order 2012 (the "Order")* which came into force on 1 July 2012.

Members expressed a preliminary view that the Local Assessment Sub-Committee's original decision had been reasonable, having regard to the information provided with the original complaint, and had been reached in accordance with the relevant procedures. Members considered that the new information in relation to one particular Parish Councillor should be referred to a new Local Assessment Sub-Committee for consideration.

LR/4      Review under Chapter 7 of the Localism Act 2011 and the arrangements adopted by the District Council under the Localism Act 2011 section 28(6) in relation to allegations made that certain parish councillors had failed to comply with the Parish Council's Code of Members' Conduct (cont.)

However, Members required legal advice as to whether the Local Review Sub-Committee had the jurisdiction to review the decision by the Local Assessment Sub-Committee under the transitional arrangements.

## **RESOLVED**

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding councillors that:

Legal advice be sought as to whether the Sub-Committee had the jurisdiction under the transitional arrangements in the *Localism Act 2011 (Commencement No 6 and Transitional, Savings and Transitory Provisions) Order 2012* to review a decision taken by the Local Assessment Sub-Committee under the previous standards regime, and the Local Assessment Sub-Committee to re-convene once the legal advice had been received.

## **REASONS FOR DECISION**

1. Neither the Localism Act 2011 nor the *Localism Act 2011 (Commencement No 6 and Transitional, Savings and Transitory Provisions) Order 2012* confirmed under which arrangements a review of a complaint (received after 1 July 2012) should be processed.

*The meeting finished at 11.55 am having commenced at 10.00am*

CHAIRMAN

**STANDARDS COMMITTEE**  
**LOCAL REVIEW SUB-COMMITTEE**  
**20<sup>TH</sup> SEPTEMBER 2012**

Present: Councillors: Leonard Crosbie , Claire Vickers, Tricia Youtan

LR/1     **ELECTION OF CHAIRMAN**

RESOLVED

That Councillor Leonard Crosbie be appointed  
Chairman of the Sub-Committee for the purposes of  
this meeting.

LR/2     **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LR/3     **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED

That under Section 100A of the Local Government Act 1972 as  
amended the press and public be excluded from the meeting for the  
following items of business on the grounds that they involve the likely  
disclosure of exempt information as defined in Part I of Schedule 12A  
of the Local Government Act 1972 by virtue of the paragraph  
specified against the items and in all the circumstances of the case  
the public interest in maintaining the exemption outweighs the public  
interest in disclosing the information.

LR/4     **REVIEW UNDER CHAPTER 7 OF THE LOCALISM ACT 2011 AND THE  
ARRANGEMENTS ADOPTED BY THE DISTRICT COUNCIL UNDER  
THE LOCALISM ACT 2011 SECTION 28(6) IN RELATION TO  
ALLEGATIONS MADE THAT CERTAIN PARISH COUNCILLORS HAD  
FAILED TO COMPLY WITH THE PARISH COUNCIL'S CODE OF  
MEMBERS' CONDUCT**

On 6 June 2012 an allegation was made under the Local Government Act 2000 section 57A(1) in relation to certain parish councillors. The matter had been assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and the Standards (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England.

On 27 June 2012 a decision was made under section 57(A)(2) of the Local Government Act 2000 that no action should be taken in respect of this allegation.

On 8 July 2012 the complainant had made a request under Part 7 of the Localism Act 2011 and the Council's Arrangements for dealing with Code of Conduct complaints that this decision be reviewed.

The review which was requested was independent of the original decision and the members of the original Local Assessment Sub-committee took no part in the review of the decision.

On 8 August 2012 the Local Review Sub-Committee met to review the decision made by the Local Assessment Sub-Committee. The matter was deferred for further legal advice.

The Local Review Sub-Committee met again to review the decision made by the Local Assessment Sub-Committee and carefully considered the further legal advice provided and the new information submitted by the complainant. The views of the Independent Person and the parish representative were also considered.

The Deputy Monitoring officer reminded Members that the original allegations had first been considered by the Local Assessment Sub-Committee just three days prior to the commencement of new Standards arrangements under the Localism Act 2011.

Whilst the original complaints had been assessed under Part 3 of the Local Government Act 2000 and the 2008 Regulations, the Review Sub-Committee had convened and operated under the new arrangements adopted by the Council under the Localism Act 2011 and *Localism Act 2011 (Commencement No 6 and Transitional, Savings and Transitory Provisions) Order 2012 (the "Order")* which came into force on 1 July 2012.

Due to the uncertainty about the transitional arrangements under the Order, legal advice had been sought to ascertain the extent of the Local Review Sub-Committee's jurisdiction to review the decision by the Local Assessment Sub-Committee under the transitional arrangements.

Members noted the legal advice that the review should be dealt with under its new standards Arrangements and therefore the Council had adopted the correct approach in referring the matter to Members for review.

Members were reminded that the purpose of the Local Review Sub Committee was to:

- (i) determine whether the Local Assessment Sub-Committee decision in relation to each of the named Councillors was a reasonable one; and if not whether the decision should be overturned and what action should be taken;



- (ii) determine, if the decision was not unreasonable, whether there was new evidence which suggested the allegations should be referred to the Local Assessment Sub-Committee as a new complaint.

It was noted that one councillor had resigned as a Parish Councillor.

### **RESOLVED**

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding councillors that:

- (i) the decision of the Local Assessment Sub-Committee that no further action be taken on the allegation against thirteen parish councillors be upheld;
- (ii) the new information submitted by the complainant in relation to one parish councillor be referred to the Local Assessment Sub-Committee for assessment.

### **REASONS FOR DECISION**

1. In reviewing the complaint, the Local Review Sub-Committee considered whether the original decision by the Local Assessment Sub-Committee was unreasonable in law. This would be if the decision were flawed because of the irregular way in which the Local Assessment Sub-Committee processed the allegation, or because the Local Assessment Sub-Committee made an irrational judgment on the reported facts.

2. The Local Review Sub-Committee also considered whether the new information submitted materially altered the original decision.

3. In all the circumstances the Local Review Sub-Committee considered that the decision made by the Local Assessment Sub-Committee in relation to the original papers as presented by the complainant in respect of all Parish Councillors was reasonable and was reached in accordance with the relevant procedures. However, the Local Review Sub-Committee considered that the review request contained new information which was specifically directed at one particular Parish Councillor which should be referred to the Local Assessment Sub-Committee as a new allegation.

*The meeting finished at 10.22 am having commenced at 10.10am*

CHAIRMAN

**STANDARDS COMMITTEE**  
**LOCAL ASSESSMENT SUB-COMMITTEE**  
**17<sup>TH</sup> OCTOBER 2012**

Present: Councillor Andrew Baldwin, Councillor David Coldwell, Councillor Brian Donnelly

LA/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Andrew Baldwin be appointed Chairman of the Sub-Committee for the purposes of this meeting.

LA/2 **DECLARATIONS OF INTEREST**

There were no declarations of interest. Brian Donnelly and David Coldwell however wished it to be recorded that they were also members of the District Council Development Control South Committee but did not consider their views on or indeed the merits (or otherwise) of any particular planning application as relevant to the allegation before the Sub-Committee. The allegation related solely to the alleged conduct of a Parish Councillor whilst conducting Parish business. David Coldwell also wished it to be recorded that he was acquainted with the Member complained about as a Parish Councillor but did not consider this to be in any way a close association or friendship.

LA/3 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED

That under Section 100A of the Local Government Act 1972 as amended the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972 by virtue of the paragraph specified against the items and in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

LA/4 **TO CONDUCT AN ASSESSMENT UNDER THE LOCALISM ACT 2011 CHAPTER 7 AND THE 'ARRANGEMENTS' WHICH THE COUNCIL HAS PUT IN PLACE FOR THE ASSESSMENT OF SUCH COMPLAINTS UNDER S 28(6) OF THE ACT IN RELATION TO THE ALLEGED CONDUCT OF A PARISH COUNCILLOR**

The Local Assessment Sub-Committee assessed a complaint by way of an allegation that a Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct (the Code).

On 27 June 2012 an allegation had been made by the complainant in respect of members of a Parish Council. The matter had been assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and the Standards (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England. A decision had been made under Section 57(A)(2) of the Local Government Act 2000 that no action should be taken as the facts that had been presented had not related to the ethical behaviour of individual councillors.

On 8 July 2012 the complainant had made a request under Part 7 of the Localism Act 2011 and the Council's Arrangements for dealing with Code of Conduct complaints that this decision be reviewed. On 20 September 2012 the Local Review Sub-Committee had considered that the review request contained new information which was specifically directed at one particular Parish Councillor.

The complaint had therefore been referred to the Local Assessment Sub-Committee as a new allegation.

Members agreed that the Parish Councillor had been acting within his official capacity on the occasions alleged by the complaint.

Members considered the allegation that the Councillor had brought his office as a Councillor into disrepute in the light of the new material which had been submitted as part of the review request.

Members considered the opinion of the Independent Person appointed by the Council under the Localism Act s28(7), and considered the opinion of a Parish Representative co-opted by the Council to advise on Parish matters.

Members did not consider on the evidence as submitted that there was a prima facie breach of the Code.

## **RESOLVED**

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors that no further action should be taken on the allegation. This was because the subject matter of the allegation either did not appear to disclose a failure to comply with the Parish Council Members' Code of Conduct or was not within the jurisdiction of the Local Assessment Sub-Committee.

## REASONS FOR THE DECISION

- (i) For there to be a justiciable case before the Local Assessment Sub-Committee the allegation, if proven, must be sufficient to amount to breach of the Council's Code of Members' Conduct. The complainant alleges that the member has breached paragraph 5 of the Parish Council Code of Conduct.

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

The misconduct alleged must be sufficient to be reasonably regarded as having the effect of damaging the reputation of the member's office or authority.

The Committee concluded that a reasonable and objective observer would not regard the Parish Councillor's alleged behaviour as bringing the member's office or authority into disrepute or would reasonably be regarded as doing so.

- (ii) The evidence which had been presented by the complainant, additional to that which had been considered by the Local Assessment Sub-Committee on 27 June 2012, did not provide sufficient evidence to amount to a breach of the Council's Code of Member's Conduct.
- (iii) The Sub-Committee could find nothing in the Code of Conduct which placed additional responsibilities upon a Chairman to actively investigate an alleged interest by a fellow councillor or indeed to prevent him taking part. The declaration of interests must be a personal responsibility under the Code for the individual member concerned.
- (iv) The Local Assessment Sub-Committee has no jurisdiction over the parish council in their corporate role. The Sub-Committee is not able to look at complaints about the way a parish council has or has not done something. Such matters should be raised directly with the Clerk of the Parish Council and taken through the Parish Council Complaints' Procedure.

Any disagreement between the complainant and the Parish Council regarding decisions made by the Parish Council are matters for the electorate and not something about which the Sub-Committee has any jurisdiction.

- (v) The Local Assessment Sub-Committee has no jurisdiction in connection with matters which would be dealt with by the Local Planning Authority and the relevant planning committee in the usual way.

*The meeting finished at 4.00pm having commenced at 3.00pm*

CHAIRMAN

## LIST OF STANDARDS COMMITTEE REPORTS AND DOCUMENTS – July 2012 to April 2013

The following reports and documents are available for inspection by arrangements with the Monitoring Officer and her staff.

The most up-to-date version of the list is available via the following link:

<http://www.horsham.gov.uk/council/10255.aspx>

### PART A - REPORTS

Date of report	Subject of report
Future Reports	
14.12.12	Ethical Framework Update
20.03.13	Ethical Framework Update
20.03.13	Local Government Ombudsman Update

### PART B – DOCUMENTS

	Description	Date	Publisher	Internet Links
SCD1	Comments from ACSeS: Draft Disclosable Pecuniary Interests Regulations	30.05.2012	ACSeS	
SCD2	Ombudsman Complaints 2012/13 Reporting Year to 29 February 2013	27.06.2012	HDC	
SCD3	The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012	08.06.2012	Parliament	<a href="http://www.legislation.gov.uk/uksi/2012/1463/contents/made">http://www.legislation.gov.uk/uksi/2012/1463/contents/made</a>
SCD4	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012	08.06.2012	Parliament	<a href="http://www.legislation.gov.uk/uksi/2012/1464/contents/made">http://www.legislation.gov.uk/uksi/2012/1464/contents/made</a>
SCD5	The Local Elections (Declaration of Acceptance of Office) Order 2012	15.06.2012	Parliament	<a href="http://www.legislation.gov.uk/uksi/2012/1500/contents/made">http://www.legislation.gov.uk/uksi/2012/1500/contents/made</a>
SCD6	Can You See What it is Yet?	15.06.2012	LGL	<a href="http://localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=10692:can-you-see-what-it-is-yet&amp;catid=181:editors-blog">http://localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=10692:can-you-see-what-it-is-yet&amp;catid=181:editors-blog</a>

SCD7	Advice from Jonathan Goolden on Standards Transitional Arrangements	22.06.2012	ACSeS	<a href="http://www.acses.org.uk/doc/filename/1652/Advice_from_Jonathan_Goolden_on_the_Standards_Transitional_Arrangements.doc">http://www.acses.org.uk/doc/filename/1652/Advice_from_Jonathan_Goolden_on_the_Standards_Transitional_Arrangements.doc</a>
SCD8	The Art of Complaining	22.06.2012	LGL	<a href="http://localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=10753%3Athe-art-of-complaining&amp;catid=181%3Aeditors-blog&amp;Itemid=27">http://localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=10753%3Athe-art-of-complaining&amp;catid=181%3Aeditors-blog&amp;Itemid=27</a>
SCD9	Code of Conduct Complaints Flowchart	01.07.2012	HDC	
SCD10	Introduction and Guide to the Code of Conduct for Members of [N] Council	11.07.2012	ACSeS	<a href="http://www.acses.org.uk/doc/filename/1663/Intro_and_Guide_to_Codes.doc">http://www.acses.org.uk/doc/filename/1663/Intro_and_Guide_to_Codes.doc</a>
SCD11	Protocol between Nottinghamshire Monitoring Officers and Nottinghamshire Police	01.07.2012	ACSeS	<a href="http://www.acses.org.uk/doc/filename/1684/Protocol_Between_Notts_MOs_Notts_Police_-_July_2012.doc">http://www.acses.org.uk/doc/filename/1684/Protocol_Between_Notts_MOs_Notts_Police_-_July_2012.doc</a>
SCD12	Openness and Transparency on Personal Interests	01.08.2012	DCLG	<a href="http://www.communities.gov.uk/documents/localgovernment/pdf/2193362.pdf">http://www.communities.gov.uk/documents/localgovernment/pdf/2193362.pdf</a>
SCD13	Hampshire County Council Brief to Counsel – Disclosure of Pecuniary Interests	19.10.2012	ACSeS	<a href="http://www.acses.org.uk/doc/filename/1699/Brief_to_Counsel_-_Phillip_Coppel_HF000003712585_.doc">http://www.acses.org.uk/doc/filename/1699/Brief_to_Counsel_-_Phillip_Coppel_HF000003712585_.doc</a>
SCD14	Hampshire County Council Opinion of Philip Coppel QC – Disclosure of Pecuniary Interests	19.10.2012	ACSeS	<a href="http://www.acses.org.uk/doc/filename/1700/SCAN-bbk4wcskg_HF000003749708_.pdf">http://www.acses.org.uk/doc/filename/1700/SCAN-bbk4wcskg_HF000003749708_.pdf</a>
SCD15	The Localism Act 2011 - Disclosable Pecuniary Interests And Co-Opted Members – Simon Bird Qc	26.10.2012	ACSeS	<a href="http://www.acses.org.uk/doc/filename/1703/The_Localism_Act_2011_-_Disclosable_Pecuniary_Interests_and_Co-opted_Member.doc">http://www.acses.org.uk/doc/filename/1703/The_Localism_Act_2011_-_Disclosable_Pecuniary_Interests_and_Co-opted_Member.doc</a>
SCD16	Making It Easier To Set Up New Town And Parish Councils – Discussion Paper	31.10.2012	DCLG	<a href="http://www.communities.gov.uk/documents/localgovernment/pdf/2246057.pdf">http://www.communities.gov.uk/documents/localgovernment/pdf/2246057.pdf</a>
SCD17	Local Assessments, Reviews and Determinations – July 2012 onwards	13.11.2012	HDC	
SCD18	Local Government Ombudsman Case Summaries	12.12.2012	HDC	
SCD19	Schedule of Local Assessment Sub-Committee Membership to May 2013	12.12.2012	HDC	



# Report to Standards Committee

12 December 2012

By the Monitoring Officer

## INFORMATION REPORT

Not exempt



### Ethical Framework Update – December 2012

## Executive Summary

This report is to:

- (i) inform Members of the Council and all those who may be interested about developments in the ethical framework which affect the role and activities of Councillors and the Council's business.

In particular this report gives details on the following matters:

- [Training and awareness](#)
- [Local assessment, review, other action, investigations and determinations](#)
- [Parish Clerks' Meeting](#)
- [Minor Revisions to the Code of Members' Conduct](#)
- [Register of Interests](#)
- [Changes to LGO Complaints Procedure](#)
- [LGO case summaries](#)
- [Localism Act: Constitution update](#)
- [Protocol between Nottinghamshire Monitoring Officers and Police](#)
- [Making it easier to set up town and parish councils](#)
- [Freedom of Information requests](#)
- [Performance management](#)
- [Data Protection Act 1998](#)
- [Regulation of Investigatory Powers Act 2000](#)
- [Work Programme update](#)

- (ii) make recommendations that Council revise the Code of Members' Conduct to enable all members to take part in decisions regarding the setting of Council Tax and other defined matters in which they may have a Disclosable Pecuniary Interest.

## Recommendations

The Committee is recommended:

- (i) to note the matters set out in the report; and
- (ii) to recommend that Council make the following addition to the Code of Members' Conduct:

“15(2) You may participate in any business of your authority that relates to the functions of your authority in respect of:

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

### **Reasons for Recommendations**

- (i) to ensure that the Committee, the Members of the Council and others to whom the report is circulated are kept up to date with developments in the ethical framework;
- (ii) to promote and maintain high standards of conduct amongst members.

### **Background Papers:** Standards Committee Documents:

SC350

SCD11

SCD16

SCD17

SCD18

SCD19

**Consultation:** CMT

**Wards affected:** All

**Contact:** Sandra Herbert  
Monitoring Officer  
Ext. 5482

## **BACKGROUND INFORMATION**

### **1 Introduction**

#### **The purpose of this report**

##### **1.1 The purpose of this report is**

- (i) to update Members and all those who may be affected by or have an interest in the ethical framework about developments in the ethical framework since the preparation of the last report in March 2012; and
- (ii) to make recommendations regarding a revision to the Code of Members' Conduct.

#### **Background/Actions taken to date**

##### **1.2 Members regularly receive reports on developments in the ethical framework and this report continues that approach. Members of this Committee should be aware of the following helpful websites:**

##### **1.3 - Standards for England:**

[www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk)

Although Standards for England has now been closed down, archived contents, including guidance documents, are still available on the Standards for England website.

- Local Government Ombudsman:

[www.lgo.org.uk](http://www.lgo.org.uk)

- Department for Communities and Local Government:

<http://www.communities.gov.uk/>

### **2 Statutory and Policy Background**

#### **Statutory background**

##### **2.1 The statutory background is to be found in the Localism Act 2011, Part 1 Chapter 6 and Chapter 7 and Regulations made there under.**

#### **Relevant Government policy**

##### **2.2 The relevant Government policies so far as the ethical framework is concerned are contained in Department for Communities and Local Government Guidance 'Openness and Transparency on Personal Interests: A Guide for Councillors' and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.**

#### **Relevant Council policy**

##### **2.3 The Council's policy is set out in its Constitution and through the activities of this Committee and Council.**

### **3 Details**

#### **Training and Awareness**

- 3.1 On 29 May 2012 the Monitoring Officer made a presentation to the Horsham Association of Local Councils on the new standards regime.
- 3.2 On 19 September, a training session was held at Horsham District Council in relation to the new standards regime and Code of Members' Conduct. The training provider was Network Idea and the training was delivered by Maria Memoli. The training was offered to all District and Parish Councillors, Parish Clerks and all members of the Standards Committee. A few Parish Councillors and Clerks attended, in addition to thirteen District Councillors and several officers who work on standards matters. Further training on the new standards regime will be provided in the new year when it is hoped there will be a greater attendance by parish councillors.
- 3.3 Mary Jagger, Independent Person, attended an Independent Persons Workshop on 27 September 2012, run by Hoey Ainscough. The speakers included Paul Hoey, a former strategy director with Standards for England and Jonathan Goolden, a solicitor and former monitoring officer and clerk to a police authority, who serves as Independent Person for two Lincolnshire Councils. A brief introduction to the new standards framework was given, followed by discussions on the role of the Independent Person.
- 3.4 Hoey Ainscough Associates' interactive website, the Standards Exchange, is now live. For £300 a year, an authority can get two subscriptions. A subscription gives you access to the latest news on standards issues, including cases and best practice from other authorities, access to help and support, a dedicated chat room where you can discuss your issues with other authorities and a regular standards bulletin. Subject to adequate budgetary provision it is proposed to subscribe to this standards website.

#### **Local assessment, review, other action, investigations and determinations (SCD17)**

- 3.5 Attached as Appendix 2 is the schedule of all assessment, review, other action, investigation and determination decisions since 1 July 2012.

#### **Local Assessment**

- 3.6 Since the last Ethical Framework Update was presented to this Committee in March 2012, the Local Assessment Sub-Committee has met three times to consider eighteen cases.
- 3.7 The first two meetings were held under the previous standards regime. One case was considered at the first meeting, and the Sub-Committee resolved to take other action in the form of training. Sixteen cases were considered at the second meeting; the Sub-Committee resolved to take further action in the form of training in relation

to two of the complaints, which related to the same subject member, and no further action in relation to the other fourteen complaints.

- 3.8 The Local Assessment Sub-Committee has met once under the new standards regime to consider one complaint, which was referred from a Local Review Sub-Committee meeting to be considered by a new Local Assessment Sub-Committee due to the complainant providing additional information. The Sub-Committee resolved to take no further action on the complaint.

### **Local Review**

- 3.9 Since the date of the last Ethical Framework Update, the Local Review Sub-Committee has met once to review fourteen Local Assessment decisions (the fourteen cases referred to in paragraph 3.7 above). The Sub-Committee upheld the original decision of the Local Assessment Sub-Committee in relation to thirteen of the complaints; in relation to one of the complaints, the Sub-Committee considered that the original decision made by the Local Assessment Sub-Committee had been reasonable; however, the Sub-Committee considered that the additional information provided amounted to a new allegation which they referred to a fresh Local Assessment Sub-Committee meeting for consideration.
- 3.10 A new review request has been received in relation to the Local Assessment Sub-Committee decision in paragraph 3.8 above.

### **Other Action directed**

- 3.11 Since the date of the last Ethical Framework Update three cases (two of which involved the same subject member) have been referred for Other Action in the form of training. The Monitoring Officer and respective Chairmen of the Local Assessment Sub-Committees which ordered the Other Action conducted training sessions with the first subject member on 21 May 2012 and the second subject member on 22 August 2012.

### **Local Investigations**

- 3.12 Since the date of the last Ethical Framework Update no Local Investigations have been carried out.

### **Local Determinations**

- 3.13 Since the date of the last Ethical Framework Update no Local Determinations have been carried out.
- 3.14 Attached at Appendix 3 for completeness is schedule of forthcoming Local Assessment Sub-Committee dates and Sub-Committee membership (SCD19). Reserves have also been identified for each meeting.

### **Parish Clerks' Meeting**

- 3.15 The Monitoring Officer attended the Society of Local Council Clerks' meeting on 29 June 2012 at Southwater Parish Council. A general update was provided on the new standards regime as set out in the Localism Act 2011 Chapter 7 and in

particular the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. An update was also provided to the Standards Committee and full Council meetings on 27 June 2012. Clerks expressed concern at the lateness of the issue of regulations regarding the new Disclosable Pecuniary Interest requirements bearing in mind a commencement date of 1 July 2012.

### **Minor revisions to the Code of Members' Conduct**

- 3.16 There has been recent discussion on Members' ability to take part in matters concerning the setting of council tax under the Local Government Finance Act 1992 and the need for a dispensation. Where a member owns property in the District this would be a new style Disclosable Pecuniary Interest. Paragraph 10 of the Code of Members' Conduct ('the Code') adopted by Horsham District Council in July 2012 contains blanket provisions which provide that if Members take part in decisions relating to a number of matters, including setting allowances, ceremonial honours and council tax and precept matters, this will not constitute a prejudicial interest. These provisions prevent the need for members to obtain dispensations in relation to decisions on such matters.
- 3.17 The Monitoring Officer recommends the insertion of the following sub-paragraph into paragraph 15 of the Code which will provide similar provision in relation to Disclosable Pecuniary Interests:  
*"15(2) You may participate in any business of your authority that relates to the functions of your authority in respect of:*  
*(f) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;*  
*(g) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education or are a parent governor of a school, unless it relates particularly to the school which the child attends;*  
*(h) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;*  
*(i) an allowance, payment or indemnity given to members;*  
*(j) any ceremonial honour given to members; and*  
*(k) setting council tax or a precept under the Local Government Finance Act 1992".*
- 3.18 The incorporation of this provision will effectively act as a dispensation for all members within the body of the Code in relation to the matters set out in (a) to (f). It has been recommended to the Parish Councils that they make the same revision, to avoid any issues when setting the parish precept. This formal revision to the Code will need to be approved by Council.

### **Register of Interests**

- 3.19 The new Register of Interests forms were sent out to District and Parish Councillors at the beginning of July 2012. The format of the forms has been amended to allow for the disclosure of
- 3.20 All District Councillors have completed and returned their Register of Interest forms, which are available on their individual councillor pages on the Horsham District Council website.  
<http://www.horsham.gov.uk/council/members/1632.aspx>

- 3.21 Parish Councils with websites have uploaded their councillors' Register of Interest forms to their websites; these can be accessed via links on the District Council website. The Register of Interest forms for Parish Councils without websites have been uploaded to the District Council website.  
<http://www.horsham.gov.uk/council/15041.aspx>

### **Changes to Local Government Ombudsman Complaints Procedure**

- 3.22 The Local Government Ombudsman ('LGO') has made changes to its complaints procedure. The LGO's new procedure is a 'robust intake and assessment process'. The changes took effect from 29 October 2012.
- 3.23 At the 'intake' phase, the LGO will no longer refer premature complaints (complaints which have not yet fully been through the Council's corporate complaints procedure) to local authorities. Complainants will be advised that their complaints are premature and that they need to complain to the authority concerned themselves, unless the complainant is vulnerable or otherwise cannot reasonably be expected to progress the matter on their own. Follow-up checks with the complainants or the council to see whether the matter has been satisfactorily resolved will no longer be carried out.
- 3.24 The 'assessment' phase is a new stage of the process designed to enable sound and justified decision making at the earliest possible point, sifting out more serious cases and passing these rapidly on to the investigation teams. The performance standard will be to make these decisions within 20 working days of receipt of the complaints. This new 'assessment' phase is being tested in the LGO's London office from 29 October 2012 and will be fully introduced across all offices from 1 April 2013.

### **Local Government Ombudsman ('LGO') Case Summaries March to December 2012 (SCD18)**

- 3.25 A copy of LGO case summary for March to December 2012 is attached as Appendix

### **Localism Act: Constitution Update**

- 3.26 On 27 June 2012 Council approved the final tranche of the new standards regime. Changes have now been made to the Constitution to reflect the changes to the standards regime. These changes have been uploaded to the online Constitution on the Council's website. The new Code of Conduct and Dispensation Scheme have been inserted into Part 5A and revisions have been made to the Monitoring Officer Protocol in Part 5C, the membership and functions of the Standards Committee in Part 2 and the Standards Committee Terms of Reference in Part 3C. The Council's new Arrangements for dealing with Code of Conduct complaints are now available on the Council's website together with revised guidance and complaint forms:  
<http://www.horsham.gov.uk/council/12363.aspx>

## **Protocol between Nottinghamshire Monitoring Officers and Nottinghamshire Police (SCD11)**

- 3.27 Nottinghamshire Monitoring Officers and Police have created a protocol to govern the relationship between them when dealing with the reporting of potential criminal offences arising from the failure to register or declare Disclosable Pecuniary Interests or from speaking and voting where a Member has a Disclosable Pecuniary Interest and has not first sought a dispensation. A copy is attached to this report for information as Appendix 6.

## **Making it easier to set up town and parish councils (SCD16)**

- 3.28 The government wishes to make it easier to set up new town and parish councils. The Department for Communities and Local Government ('DCLG') has published a discussion paper presenting a range of proposals to help achieve this aim. Three main options are discussed: amending existing guidance; changing the law; and making it easier for neighbourhood forums to start the process for creating a new parish council.
- 3.29 The DCLG is seeking views from anyone with an interest in the subject by 9 January 2013, including those involved in campaigns to create new town and parish councils, existing town and parish councils, and associations of local councils. The discussion paper can be accessed via the following link:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/9360/2246057.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9360/2246057.pdf)

## **Freedom of Information**

- 3.30 For the six month period 1 April to 30 September 2012 the Council received 290 (excluding contaminated land information requests) requests for information, compared to 258 requests made during the period 1 April to 30 September 2011.
- 3.31 Of those requests received between April and September 2012 78% were responded to within the statutory twenty working days. Public authorities or government departments which have failed to respond to more than 85% of requests for information within the statutory 20 working days have been monitored for a 3 month period by the Information Commissioner's enforcement team. Authorities which have failed to improve their response times have been required to sign undertakings to publicly formalise their commitment to openness and compliance with the legislation.
- 3.32 The report by the House of Commons' Post Legislative Scrutiny Committee into the Freedom of Information Act 2000 concluded that the Act is meeting its principal objectives in regard to transparency and democracy and did not recommend any major changes to the Act.
- 3.33 Further information about the Council's obligations under the Freedom of Information Act can be accessed via the council's website at:  
<http://www.horsham.gov.uk/council/7914.aspx>



- 3.34 In addition information the Council has released under the Freedom of Information Act from 2008 onwards can be accessed at <http://www.horshamfoi.org.uk/disclosureLogYear.asp>. The information posted here shows the nature of the request and the response provided by the Council.

### **Performance Management**

- 3.35 The Complaints and Information Officer submitted a report to the Finance & Performance Working Group meeting on 14 November to report on details of complaints, compliments and suggestions to the Council from 1 July to 30 September 2012. During that period the Council received 101 Complaints, 0 suggestions and 66 compliments. This compares to 94 complaints, 1 suggestion and 19 compliments for the previous three month period. The full report on Compliments, Comments and Complaints can be read on the Council's website <http://www.horsham.gov.uk/council/3144.aspx>.

### **Data Protection Act 1998**

- 3.36 The Information Commissioner has not alerted us to any breaches of the Data Protection Act since the last Ethical Update Report. Fines totalling £485,000 have been served on four public authorities for failure to ensure personal data is kept secure. The largest single fine of £250,000 being given to the Scottish Borders Council whose former employee's pension records were found in an overflowing paper recycling bank in a supermarket car park.

### **Regulation of Investigatory Powers Act 2000 (RIPA)**

- 3.37 The Regulation of Investigatory Powers Act regulates the use of covert surveillance and the interception of communications.
- 3.38 On 01 November 2012, the legal framework for RIPA changed significantly. In effect, these changes restrict the Council's use of RIPA, in that:

3.38.1 The Council's Authorised Officers shall continue to authorise RIPA but such internal authorisation is not effective until judicial approval has been sought via the Magistrates' Court for access to Communications Data, the use of Directed Surveillance and the use of Covert Human Intelligence Sources;

3.38.2 In respect of Directed Surveillance, a new "crime threshold" has been introduced to ensure that the offence under investigation carries a custodial sentence of six months or more or the offence relates to the sale of alcohol to children, allowing the sale of alcohol to children, persistently selling alcohol to children, or the sale of tobacco etc. to persons under eighteen;

3.38.3 Restrictions continue in respect of accessing Communications Data or using Covert Human Intelligence Sources;

3.38.4 New Home Office Guidance has been issued which the Council must have reference to when considering its use of RIPA;

- 3.39 The Council has a RIPA policy and procedure in place, which is currently under review following these legislative changes. Compliance with RIPA and the relevant Codes of Practice continues to be assessed by the Office of Surveillance Commissioners.
- 3.40 Training shall be provided to the RIPA Officers in due course to ensure that the Council complies with the new RIPA legislation.
- 3.41 The Council reports to the Business Working Group on a quarterly basis, and for the previous two years, the Council has not authorised any use of RIPA.

#### **Work Programme update (SC350)**

- 3.42 Members will recall at the meeting in January 2011 that the Committee agreed a programme of forthcoming work to be put before the Committee. The Work Programme incorporates the key responsibilities of the Standards Committee. This is a living document and Members are asked to consider any update or amendment required for 2012/13. A copy is attached at Appendix 7.

### **4 Next Steps**

- 4.1 The Committee is asked to note the matters contained in this report and to make recommendations to Council regarding a minor revision to the Members' Code of Conduct. A copy is attached at Appendix 4.

### **5 Outcome of Consultations**

- 5.1 Corporate Management Team were consulted on this report.

### **6 Other Courses of Action Considered but Rejected**

- 6.1 Not applicable.

### **7 Staffing Consequences**

- 7.1 There are no specific staffing consequences flowing from this report.

### **8 Financial Consequences**

- 8.1 There are no specific financial consequences flowing from this report.

### **9 Other Consequences of the Proposed Action**

- 9.1 Other consequences of the proposed action are set out in Appendix 1.

## Appendix 1

### Consequences of the Proposed Action

What are the risks associated with the proposal?	Failure to keep Members up to date with developments in the ethical framework would lead to a diminution of ethical standards amongst Members.
Risk Assessment attached Yes/No	No.
How will the proposal help to reduce Crime and Disorder?	Creating the right climate for decision-making and ensuring adequate probity measures are in place will ensure that the Council's duty to seek to reduce crime and disorder is properly taken into account.
How will the proposal help to promote Human Rights?	There is a positive obligation on the Council under the Human Rights Act 1998 to have regard for human rights. The Convention rights are scheduled in the Act. The creation of the right climate for decision-making and adequate probity measures will ensure that human rights are regarded and in some cases enhanced.
What is the impact of the proposal on Equality and Diversity?	<p>The current code of conduct includes the expectation of respect for others defined in the General Principles as:</p> <p>“Members 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”.</p> <p>In addition there is a general obligation in the code in which members undertake “Not to do anything which may cause your authority to breach any of the equality enactments.</p>
Equalities Impact Assessment attached Yes/No/Not relevant	No.
How will the proposal help to promote Sustainability?	Where possible electronic means of communication are used.

## Appendix 2

Local Assessment of Complaints from 1 July 2012

SCD17

File ref	District or Parish Council	Decision Date	Complainant	Date complaint received	Working days (receipt of complaint to assessment)	Decision	Review Requested
CES89	Parish	17.10.12	Public: Paul Campbell	20.09.12	19	No further action.	Y
CES90	Parish	13.11.12	Public: Susan Acton	19.10.12	17	Local resolution.	N/A

## Local Review of Local Assessment Decisions from 1 July 2012

File ref	Review of	District or Parish Council	Decision Date	Complainant	Date rcd	Working days	Decision
<b>CESR9</b>	CES74	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR10</b>	CES75	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	Refer to new Local Assessment Sub-Committee
<b>CESR11</b>	CES76	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR12</b>	CES77	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR13</b>	CES78	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR14</b>	CES79	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR15</b>	CES80	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR16</b>	CES81	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR17</b>	CES82	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR18</b>	CES83	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR19</b>	CES84	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.

File ref	Review of	District or Parish Council	Decision Date	Complainant	Date rcd	Working days	Decision
<b>CESR20</b>	CES85	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR21</b>	CES86	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR22</b>	CES87	Parish	20.09.12	Public: Paul Campbell	08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.

\*Decisions CESR9-22 relate to Local Assessment Sub-Committee decisions CES74-87, which do not appear on this chart since they were decided before 1 July 2012, under the old standards regime.

## APPENDIX 3

Schedule of Standards Committee Sub-Committee Membership 2012-13

SCD19

	PANEL				RESERVES		
Dates							
2012							
12 December	TY	AB	DC		LC	BD	SM
2013							
16 January	LC	BD	SM		CV	TY	AB
13 February	CV	TY	AB		DC	LC	BD
20 March	DC	LC	BD		SM	CV	TY
17 April	SM	CV	AB		TY	DC	LC
15 May	BD	SM	CV		TY	AB	DC

# APPENDIX 4

## PART 5A



## HORSHAM DISTRICT COUNCIL

### CODE OF MEMBERS' CONDUCT

#### Part 1

#### General provisions

#### Introduction and interpretation

This Code of Members' Conduct ('Code') is made under section 27(2) of the Localism Act 2011 and was adopted by Horsham District Council on 1 July 2012.

- 1(1) This Code applies to you as a member of Horsham District Council.
- 1(2) You should read this Code together with the general principles of public life referred to in section 28(1) of the Localism Act 2011 and set out in Part 5 of this Code.
- 1(3) It is your personal responsibility to comply with the provisions of this Code.
- 1(4) In this Code—
  - 'meeting' means any meeting of—
    - (a) the authority;
    - (b) the executive of the authority;
    - (c) any of the authority's committees, or its executive's committees, sub-committees, joint committees, joint sub-committees or area committees;
    - (d) members formal or informal meetings with other members and/or with officers relating to the business of the authority.
  - 'member' includes a co-opted member and an appointed member;
  - 'register of member's interests' means the authority's register of member's pecuniary and other interests established and maintained by the authority's monitoring officer under section 29 of the Localism Act 2011;
  - 'the authority' or 'your authority' means Horsham District Council.
- 1(5) If you need guidance on any aspect of this code you should seek it from your authority's monitoring officer or deputy monitoring officer.



## Scope

- 2(1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you—
- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,
- and references to your official capacity are construed accordingly.
- 2(2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- 2(3) Where you act as a representative of your authority—
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and in so far as it conflicts with any other lawful obligations to which that other body may be subject.
- 2(4) It is a criminal offence, without reasonable excuse, (a) to fail to notify the authority's monitoring officer of a disclosable pecuniary interest (as defined in paragraph 13(1) of this Code, (b) to fail to disclose such an interest at a meeting (where it is not registered or notified), (c) to fail to notify the monitoring officer of such an interest that is not on the register that you have disclosed at a meeting, (d) to take part in discussions or votes at meetings with such an interest, or (e) to take a decision where you have a disclosable pecuniary interest. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's monitoring officer.
- 2(5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code the authority has the right to have regard to this failure in deciding (a) whether to take action and (b) what action to take in relation to you.

## General obligations

- 3(1) You must treat others with respect.
- 3(2) You must not—
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in the Equality Act 2010);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be—
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings,

- in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4 You must not—

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

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

*\* means the member should consult the Chief Executive (Head of the Paid Service), Director of Corporate Resources (Chief Finance Officer) or the Monitoring Officer before taking a decision on whether or not to disclose confidential information.*

6 You—

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

7(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

- (a) your authority's chief finance officer; or

(b) your authority's monitoring officer,  
where that officer is acting pursuant to his or her statutory duties.

7(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **Part 2**

### **Personal and Prejudicial Interests**

#### **Personal interests**

8(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),  
of which you are a member or in a position of general control or management;

(iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

#### **OR**

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

8(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

## **Disclosure of Personal interests**

- 9(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority described in paragraph 8 above and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(iii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9(5) Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 9(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- 9(7) In this paragraph 'executive decision' is to be construed in accordance with any regulations made by the Secretary of State under part 1A chapter 2 sections 9C -9GC of the Local Government Act 2000 (as inserted by the Localism Act section 21 and schedule 2).

## **Prejudicial interests generally**

- 10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 10(2) You do not have a prejudicial interest in any business of the authority where that business—

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
  - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

10(3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 10(2)(b) shall include the amendment, modification, or variation of any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.

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

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

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

- 12(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
  - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
  - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

12(2) Where you have a prejudicial interest in any business of your authority, which is not a Disclosable Pecuniary Interest as described in paragraph 13 of this Code and defined in section 30 of the Localism Act 2011, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **Part 3**

#### **Disclosable Pecuniary Interests**

##### **Disclosable Pecuniary Interests**

- 13(1) Subject to sub-paragraphs (2) and (3) you have a Disclosable Pecuniary Interest in any business of your authority (as defined by section 30 of the Localism Act 2011) in relation to you or your partner where it relates to or is likely to affect any of the matters within the descriptions set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464.
- 13(2) In sub-paragraph (1) your partner means:
  - (a) your spouse or civil partner;
  - (b) a person with whom you are living as husband and wife; or
  - (c) a person with whom you are living as if you were civil partners.
- 13(3) In sub-paragraph (2) any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.
- 13(4) A list of the descriptions of Disclosable Pecuniary Interests referred to in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464 is set out in Part 6 of this Code.
- 13(5) There are criminal offences in relation to action you may take or fail to take concerning Disclosable Pecuniary Interests which are outlined in paragraph 2(4) of this Code and more particularly defined in section 34 of the Localism Act 2011.

## Disclosure of Disclosable Pecuniary Interests

- 14(1) Subject to sub-paragraph (2) where you have a Disclosable Pecuniary Interest in any business of your authority and you attend a meeting of your authority at which the business is considered you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent.
- 14(2) Where you have a Disclosable Pecuniary Interest in any business of your authority you need only disclose to the meeting the existence and nature of the interest if the interest is not already registered on your register of member's interests.
- 14(3) If the Disclosable Pecuniary Interest is not already on your register of member's interests or the subject of a pending notification to the monitoring officer and is disclosed to the meeting you must notify the monitoring officer of the interest within 28 days of disclosure to the meeting.

## Effect of Disclosable Pecuniary Interests on participation

- 15(1) Where you have a Disclosable Pecuniary Interest in any business of your authority:
- (a) you must not participate or participate further in any discussions of the matter at a meeting; or
  - (b) participate in any vote or further vote taken on the matter at the meeting; and
  - (c) must withdraw from the room or chamber where the meeting considering the matter is being held;
- unless you have received a dispensation from the monitoring officer or the standards committee.
- 15(2) You may participate in any business of your authority that relates to the functions of your authority in respect of:
- (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (d) an allowance, payment or indemnity given to members;
  - (e) any ceremonial honour given to members; and
  - (f) setting council tax or a precept under the Local Government Finance Act 1992.

## **Part 4**

### **Registration of Members' Interests**

#### **Registration of members' interests**

- 16(1) Subject to paragraph 17, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 29 of the Localism Act 2011) details of (i) your personal interests where they fall within a category mentioned in paragraph 8(1)(a) and (ii) your Disclosable Pecuniary Interests where they fall within a category in paragraph 13, by providing written notification to your authority's monitoring officer.
- 16(2) Subject to paragraph 17, you must, within 28 days of becoming aware of any new personal interest or Disclosable Pecuniary Interest or change to any personal interest or Disclosable Pecuniary Interest registered under paragraph (1), register details of that new personal interest or Disclosable Pecuniary Interest or change by providing written notification to your authority's monitoring officer.
- 16(3) You must within 28 days (beginning with the date of the disclosure at the meeting) provide written notification to your authority's monitoring officer of any Disclosable Pecuniary Interests disclosed at a meeting which is not already on the register or subject to a pending notification.
- 16(4) Any interests notified to the authority's monitoring officer will be included on the register of member's interests.
- 16(5) A copy of the register of member's interests will be available for public inspection and will be published on the authority's website.

#### **Sensitive information**

- 17(1) Where you consider that the information relating to any of your interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 16.
- 17(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.



- 17(3) In this Code, 'sensitive information' means information whose availability for inspection by the public could lead to you or a person connected with you being subject to violence or intimidation.
- 17(4) The published register may state you have a personal or disclosable pecuniary interest details of which have been withheld under section 32(2) of the Localism Act 2011.

## **Part 5**

### **THE GENERAL PRINCIPLES OF PUBLIC LIFE**

The general principles governing your conduct under section 28(1) of the Localism Act 2001 are set out below:

#### *Selflessness*

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

#### *Integrity*

- 2 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*

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

#### *Accountability*

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

#### *Openness*

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

#### *Honesty*

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

#### *Leadership*

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

## Part 6

### **The categories of Disclosable Pecuniary Interest under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464.**

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

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

place of business or land in the area of the relevant authority; and  
(b) either—

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

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

These descriptions on interests are subject to the following definitions:

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

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

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

## EXPLANATORY NOTE

(This note is not part of the Code)

The code of members’ conduct sets out the conduct which is expected of members and co-opted members of the authority.

**Paragraph 1** of the Code provides that the Code applies to any member of the authority and that it is the personal responsibility of each member to comply with the Code.

**Paragraph 2** of the Code provides that the Code applies whenever a member is acting in his or her official capacity. Additionally, where a member is acting as a representative of his or her

authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations. There are also criminal offences in relation to the disclosure of pecuniary interests which are outlined in paragraph 2.

**Paragraph 3** of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimidate persons involved in code of conduct cases.

**Paragraph 4** of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

**Paragraph 5** of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

**Paragraph 6** of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

**Paragraph 7** of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

**Paragraph 8** of the Code provides a list of matters which constitute a personal interest.

**Paragraph 9** of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

**Paragraph 10** of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

**Paragraph 11** of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

**Paragraph 12** of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

**Paragraph 13** of the Code provides details of matters which constitute a disclosable pecuniary interest. Further definition is provided in Part 6 of this Code.

**Paragraph 14** of the Code provides that generally a member with a disclosable pecuniary interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered. Exceptions apply where the interest is already registered.

**Paragraph 15** of the Code provides that a member with a disclosable pecuniary interest must not participate in any discussion or participate in any vote on the matter and must withdraw from the meeting considering the matter.

**Paragraph 16** of the Code provides that a member must notify the monitoring officer of his or her personal interests and disclosable pecuniary interests and any change to those interests must also be notified. Separate notification is required to the monitoring officer where a disclosable pecuniary interest is disclosed at a meeting which is not already on the register or subject to a pending notification.

**Paragraph 17** of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public could lead to the member or a person connected with the member being subject to violence or intimidation.

## APPENDIX 5

### Local Government Ombudsman Case Summaries March to December 2012

#### ***London Borough of Hounslow***

The complainant had to leave his father's home where he was living because of domestic violence. Although he approached the Council and told them that he was homeless, suffered with depression and had a history of self-harming, the Council did not take a homelessness application from him. The Council said this was because he was not in "priority need" but the Ombudsman pointed out that this was irrelevant to whether he was homeless. The complainant applied a second time; this time the Council took the application from him but took nine months to make a decision, the final decision being taken almost a year after he had originally applied.

The Council provided temporary bed and breakfast accommodation, but the complainant said that he was not sleeping because of loud music and shouting from his neighbours. The Council did not properly respond to the complainant's concerns about his temporary accommodation. Later, after it conducted an assessment, the Council's Home Treatment Team found that the accommodation was adversely affecting the man's mental health.

When the complainant had been in the bed and breakfast for six months, the Council failed to review whether this remained appropriate. It also failed to keep him updated with the progress of his application. The complainant remained in bed and breakfast accommodation for around five months longer than would otherwise have been the case.

The Ombudsman found maladministration causing injustice. The Council accepted the Ombudsman's recommendations to pay the complainant £500, plus a further £250 to recognise his uncertainty and his unnecessary time and trouble; and to review its procedures (the Council undertook a review and implemented a pilot merger of its Homeless Prevention and Homelessness Assessment Teams).

<http://www.lgo.org.uk/complaint-outcomes/housing/housing-archive-2012-13/london-borough-hounslow-11-008-191/>

#### ***City of York Council***

A family of four, including two daughters, applied for housing on the ground they were homeless. The Council offered them a property with two bedrooms, but one of them was too small by law for the children. The Council insisted that the family accept the property anyway, and then failed to give them adequate priority on the housing register to enable them to move to a bigger property within a reasonable period of time. The Ombudsman found that the Council should be aware of the law and carry out basic checks to ensure the properties it lets comply with its statutory obligations.

Even when this matter was brought to the attention of the Council by the complainant (the father), his MP and the Ombudsman's office, the Council still insisted it had acted within the law, thus prolonging the family's unsuitable housing conditions for a further six months.

The Ombudsman recommended the Council raise the family's priority level to the highest to ensure they were rehoused as quickly as possible. The Council also agreed to the Ombudsman's recommendations to pay the complainant £2,000 compensation for the significant distress, frustration, time and trouble because of having to live in unsuitable accommodation for two years longer than necessary; and to review its guidance to housing officers on its duties under overcrowding legislation and government guidance, and arrange training for housing officers to ensure their knowledge and practice is up to date.

<http://www.lgo.org.uk/complaint-outcomes/housing/housing-archive-2012-13/city-york-council-11-018-683/>

### ***Dudley Metropolitan Borough Council***

The Council took over a year to appoint consultants to advise on an application from a foundry for a permit to operate under new regulations, over a further year to decide formally to grant the permit, and nearly a year more for the consultants to complete drafting the conditions that needed to be applied before the permit was issued. During this period the Council took no action to control the noise and smell nuisance on the site, such as issuing abatement notices or taking enforcement action. The delegated procedure for taking the decision about the permit lacked transparency, causing local residents to lose an opportunity to make their concerns known in public to a committee of local councillors. There was a period of consultation and the final permit was issued in May 2010. The foundry could not operate within the terms of the conditions on the permit, and activity at the site ceased on 31 December 2010.

The Ombudsman found maladministration causing injustice. The Council agreed to implement the Ombudsman's recommendations that it should pay £250 to each of the 27 households identified as most affected, and £250 to the man who complained on the residents' behalf.

<http://www.lgo.org.uk/complaint-outcomes/environmental-health/environment-waste-archive-2005-to-date/dudley-metropolitan-borough-council-10-010-095/>

### ***Blaby District Council***

The Ombudsman's investigation found that the Council failed to exercise proper control over the actions of its bailiffs sent to collect council tax arrears from the complainant and the fees it charged. The bailiffs had charged eight visit fees (because the complainant had arrears for eight years - eight accounts) on two occasions for one visit by one bailiff. The Council also failed to properly investigate the complainant's concerns until she complained to the Ombudsman, including a serious allegation that four bailiffs tried to break into her property and obtained money from her partner by clamping and taking occupation of a car that was not his. This caused the complainant stress and anxiety, and she had to take significant time and trouble in pursuing her complaints with the Council and the bailiffs.

Once the Ombudsman became involved the Council reduced the fees charged by £630.50; carried out DVLA checks on the vehicles, which showed they did not belong either to the complainant or her partner, and removed the remaining levies and fees; and negotiated a new contract with its bailiffs only allowing one fee to be charged for one visit, even where multiple accounts are involved.

The Ombudsman found maladministration causing injustice and the Council agreed to pay £300 to the complainant for the distress and inconvenience she was caused, which it offset against the outstanding council tax arrears. Councils should ensure that the bailiffs who act on its behalf comply with the relevant regulations and that debtors are charged only sums which are properly due.

<http://www.lgo.org.uk/complaint-outcomes/local-taxation/local-taxation-archive-2005-to-date/blaby-district-council-11-007-684/>

### ***Norwich City Council***

A man bought a semidetached property in Norwich. The adjoining property, owned by the Council had structural problems and the Council decided to demolish it and sell the site. The complainant was concerned about the impact on his property of the proposed demolition; he and his solicitor made representations to the Council and negotiations took place. He offered to purchase the plot once the demolition had been carried out.

However, after the Council checked with the Council's solicitor, the Council stated that it could not proceed with the demolition as it would not be able to demonstrate 'best value'. Instead it decided that the property should be auctioned as it stood. The Ombudsman found that, when the Council decided to approve the demolition of the property and sell the site, it had not given proper consideration to whether this would demonstrate best value.

The complainant said he had been caused considerable anxiety and had incurred solicitors' and professional survey fees in the region of £6,000. The Ombudsman could not be certain that, if the Council had reached its decision properly, the complainant would have avoided all of his costs, but the key reason for incurring them was concern from the Council advising him it would be demolishing the adjoining property. Members of the public should be able to rely on the advice and information given by the Council, particularly in cases with potentially substantial consequences.

The Ombudsman found maladministration causing injustice and recommended the Council to pay the complainant £3,000 – half of the professional fees he incurred, plus £1,000 for his time and trouble in pursuing the complaint.

<http://www.lgo.org.uk/complaint-outcomes/other-categories/other-categories-archive-2012-13/norwich-city-council-10-008-447/>



## **Protocol between Nottinghamshire Monitoring Officers and Nottinghamshire Police**

**Purpose** – to agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from speaking and voting where a Member has a disclosable pecuniary interest and has not first sought a dispensation

- 1) In the event that the Monitoring Officer receives a complaint regarding a potential DPI offence they will make immediate contact with the Police through the nominated single point of contact currently Andy Baguley ([andy.baguley@nottinghamshire.pnn.police.uk](mailto:andy.baguley@nottinghamshire.pnn.police.uk)) telephone: 0115 9670999 extension 8171340
- 2) Similarly if the Police receive a complaint from a member of the public they will inform the relevant Monitoring Officer of the receipt of that complaint (each Authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time).
- 3) Nottinghamshire Police will register the complaint and will advise the relevant Monitoring Officer if they wish to be involved at this stage. This will normally follow an initial assessment of the complaint by the Monitoring Officer and/or the relevant Standards Committee and their being satisfied that there is prima facie evidence that a criminal offence may have been committed. In undertaking an initial assessment as to whether there is prima facie evidence of a criminal offence the relevant Monitoring Officer may conduct an interview with the complainant but will not approach the Member who is the subject of the complaint until the Police have been advised of the matter and have indicated how they wish to proceed. In the event of a complaint being received directly by the Police rather than through the relevant Monitoring Officer, the Police will conduct an initial assessment of the complaint but may approach the relevant Monitoring Officers for background information on the complaint.
- 4) If the Police decide not to prosecute in the public interest they will normally pass the relevant evidence to the relevant Monitoring Officer so that the question of whether a Code of Conduct breach is to be pursued can be considered. To facilitate this, the Nottinghamshire Monitoring Officers and the Police will enter into a data sharing agreement. In the event that the relevant District Council decides to pursue the matter further in terms of a Code of Conduct breach, they will inform the Police of their decision.

## APPENDIX 7

### STANDARDS COMMITTEE WORK PROGRAMME 2011/12

No	Activity	Who is responsible	Completion	Notes	Legislative Root
1	Undertake Local Assessment of Complaints and reviews (where required)	MO to advise Standards Committee Sub-Committee	Ongoing	Regulations effective May 2008	Standards Committee (England) Regulations 2008.
2	Undertake investigations and Local determination hearings as necessary	MO to advise Standards Committee Sub-Committee	Ongoing	Regulations effective May 2008	Standards Committee (England) Regulations 2008.
3	Consider dispensation requests	Standards Committee	As received	2009 Regulations.	Standards Committee (Further Provisions) (England) Regulations 2009.
4	To consider applications from employees for an exemption from political restriction	Standards Committee	As received	The Local Government and Public Involvement in Health Act 2007 imposed new duties in relation to politically restricted posts	The Local Government and Public Involvement in Health Act 2007 and Local Government and Housing Act 1989 (as amended by s.30 Local Democracy Economic Development Act 2009)

				under the Local Government and Housing Act 1989 on Standards committees.	
5	Prepare annual report for presentation to full Council	Chairman/MO	Annually	Oral reports Dec 2008, Dec 2009. Written and oral reports April 2011.	Local Government Act 2000. Standards for England Good Practice.
6	Promotion of the role and work of the Standards Committee	Standards Committee and MO	Ongoing	<p>Promote the work of the SC internally through the Members Bulletin and 'Grapevine'.</p> <p>SC to pursue programme of awareness raising within the Community.</p> <p>Promote the work of the SC through the Horsham District Council Magazine and use of the Council website to include biography pages for Independent Members and</p>	Local Government Act 2000. Standards Committee terms of reference. HDC Constitution. Standards for England Good Practice.

				<p>Parish Members of SC.</p> <p>Liaison with Parish Councils by regular attendance at Parish Clerks' quarterly meetings and the distribution of SC agenda and reports.</p> <p>Investigate other ways of raising profile of role and work of SC.</p>	
7	Encourage membership of Assoc. of Independent Members of Standards Committees in England (AIMSce)	Independent Members of SC	Quarterly	<p>Horsham to host AIMSce meeting March 2010</p> <p>Chairman to chair and MO to provide training on Other Action</p>	Standards for England Good Practice.
8	Consider regular reports from AIMSce members of SC	AIMSce members of SC	Quarterly		Good practice.
9	Attendance	Chairman	As	Chairman to	Local Government Act 2000.

	at Council and other meetings	Standards Committee members	timetabled	regularly attend Council meetings to present minutes of the Standards Committee and to present Annual Report.  Standards Committee members to attend other meetings as required.	Standards for England Good Practice.
10	Liaison Chief Executive , Leader of Council, Leader of Opposition, Chairman of Standards on standards issues	Chairman and Monitoring Officer	Six monthly	From April 2010. To include annual attendance of Chief Executive at Standards Committee meetings and as required.	Local Government Act 2000. Standards for England Good Practice
11	Liaison Chief Executive and MO on standards issues	CE/MO	Monthly 121 and as required	From February 2010	Good practice.
12	Standards Training	Chairman and MO	Ongoing  New Code expected 2010	MO to organise training throughout the year, to include Awareness training	Local Government Act 2000. HDC Corporate Learning and Development Plan.

				<p>for Parish Councils,</p> <p>Dedicated training on Local Assessment, Local Determination and Hearings for the Standards Committee.</p> <p>Awareness training of the Code of Conduct for Members and Management Team of HDC to form a part of Member Development Programme.</p> <p>Use of SfE resources, DVD, as training aide</p> <p>Attendance at Standards Board Annual Assembly.</p>	
13	Review of Register of Interests	MO	Annual	To ensure that Members of HDC and Parish Councils review the content of their Register of Interests at least	Local Government Act 2000.

				once annually.  To ensure that updated ROI are available online at HDC website for HDC members.	
14	Complete quarterly statistical returns and Annual return for Standards for England	MO	As timetabled	Statistical returns on complaints to be completed quarterly.  Annual return to be completed in June.	Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007.
15	Consider regular Ethical Framework update reports	MO/Standards Committee	Quarterly	To ensure that the Standards Committee Members are kept up to date with issues of ethics and governance.  Provide access to reports for all HDC members through Members Bulletin on website.  Distribute to Parishes with the Standards Committee agenda.	Local Government Act 2000.
16	Consider regular	MO/Standards Committee	Six monthly	To ensure that the Committee has the	Local Government Act 2000. Local Government Ombudsman good

	Ombudsman update reports			<p>necessary information to ensure that complaints can be easily made to the Council and properly responded to.</p> <p>To assist with learning lessons and improving performance following complaints made to the Local Government Ombudsman about the Council.</p> <p>To feed this information into the Performance Management Working Group report on Complaints, Compliments and Suggestions.</p>	practice.
17	Consider regular reports on numbers of Local	MO	Quarterly		Standards Committee (England) Regulations 2008.



	Assessment, review, Other Action (to include outcome of Other Action directed), investigation and determination cases undertaken				
18	Consider regular Parish Council Member reports	Parish Council Members of SC	Quarterly		Good Practice.
19	Undertake Probity audit	MO/Standards Committee	Biennially. Last report Jan 2007.	To ensure the Committee has an adequate and up to date basis upon which to further develop the ethical framework.	
20	Preparation and revision of Work Programme and Forward reports	MO/Standards Committee	Annually		Standards for England Good Practice.
21	Response to consultations	MO/Standards Committee	As required	To ensure the Committee has ability to comment	

				and influence the evolving standards framework.	
22	Proposals for new standards regime under Localism Act 2011	MO/Standards Committee	June 2012	To enable the Committee to help shape the future regime.	Localism Act 2011