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## Standards Committee

Wednesday 19<sup>th</sup> June 2013 at 10.00am.

**COUNCIL CHAMBER, PARK NORTH, NORTH STREET, HORSHAM**

**Councillors:** Andrew Baldwin  
Philip Circus  
David Coldwell  
Brian Donnelly

Sheila Matthews  
Godfrey Newman  
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

- |   | Page<br>No. |
|---|-------------|
| 1. Election of Chairman   |             |
| 2. Apologies for absence  |             |
| 3. Appointment of Vice-Chairman   |             |
| 4. To approve the time of meetings of the Committee for the ensuing year  |             |
| 5. To approve as correct the minutes of the meeting of the Committee held on 20 <sup>th</sup> March 2013          | 1           |
| 6. To receive any declarations of interest from Members of the Committee  |             |
| 7. To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer |             |

8. To note the list of Standards Committee Reports and Documents available for inspection **5**
9. To receive the following report of the Monitoring Officer:
  - (a) Ethical Framework Update **9**
10. 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**  
**20<sup>th</sup> March 2013**

Present: Councillors: Brian Donnelly (Chairman), David Coldwell (Vice Chairman), Andrew Baldwin, Leonard Crosbie, Claire Vickers, Tricia Youtan

**Co-opted advisory members**

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

Apologies: Councillors: Sheila Matthews  
Independent persons: Paul Byford

SC/20 **MINUTES**

The minutes of the meeting of the Committee held on 12<sup>th</sup> December 2012 were approved as a correct record and signed by the Chairman.

SC/21 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/22 **ANNOUNCEMENTS**

There were no announcements.

SC/19 **MINUTES OF THE MEETING OF SUB-COMMITTEE**

The minutes of the Local Review Sub-Committee held on 30<sup>th</sup> January 2013 were received.

SC/20 **URGENT ITEMS**

There were no urgent matters to be considered.

SC/21 **STANDARDS COMMITTEE REPORTS AND DOCUMENTS AVAILABLE FOR INSPECTION**

The list was noted.

SC/22 **ETHICAL FRAMEWORK UPDATE**

The Monitoring Officer presented the report on developments in the ethical framework that affected the role and activities of Councillors and the Council's business, including:

- **Training and awareness**: The authority had now subscribed to an interactive website, Standards Exchange.

SC/22 Ethical Framework Update (Cont.)

- Local assessment, review, other action, investigations and determinations: Since the Ethical Framework Update on 12 December 2012, the Local Review Sub-Committee had met once to review one Local Assessment Sub-Committee decision and had upheld the decision it had made. Members noted the summary of cases and were concerned that the information supplied was unhelpful. It was requested that more detailed information that would not compromise the anonymity of individuals should be supplied in future.
- Parish Clerks' Meetings: The Monitoring Officer had attended the Society of Local Council Clerks' meeting on 15 January 2013 and provided an update on the new Standards regime, in particular regarding the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (the "Regulations").
- Disclosable Pecuniary Interests and the Code of Members' Conduct: The Monitoring Officer advised that an interpretation of the Regulations had been provided by Brandon Lewis MP Parliamentary under Secretary of State for Communities and Local Government. The Monitoring Officer explained that Brandon Lewis MP indicated his view that the definition of a Disclosable Pecuniary Interest ("DPI") should be interpreted narrowly. He considered that a member would only have a DPI if the matter under discussion related directly to that interest and not where the interest was merely affected by the matter under discussion. It was noted that this placed greater importance upon this Council's local Members' Code of Conduct regarding Personal and Prejudicial Interests.
- Register of Interests: Members noted that a majority of Parish Councillors had completed the relevant forms but that some were still outstanding.
- Committee on Standards in Public Life: The report of the Committee on Standards in Public Life, published January 2013, updated the wording of the Nolan Principles, making them more robust.
- Changes to LGO Complaints Procedure: Members were referred to the next item on the agenda.
- Standards cases and LGO case summaries: Case summaries were provided.
- Local Standards regime – Annual Review: Members had requested that the local standards regime be reviewed a year after its adoption. Concern was expressed regarding sufficiency of numbers of elected and advisory members on the committee. Other issues to be included in the review would include the need for a right of appeal for complainants, new guidance on DPIS, the revised Nolan Principles and further delegation of decision making.
  
- Members agreed that the review of the local standards regime should commence after the next Standards Committee on 19 June 2013 following appointment of members to the Standards Committee by Council.

SC/22 Ethical Framework Update (Cont.)

- Freedom of Information: The number of requests for the period 01 September 2012 to 28 February 2013 totalled 228, compared with 271 for the period 1 September 2011 to 28 February 2012.
- Performance management
- Data Protection Act 1998: The Information Commissioner has not alerted the Council to any complaints that the Council has breached the Data Protection Act 1998.
- Regulation of Investigatory Powers Act 2000: Changes to the legal framework had come into force in November 2012.
- Work Programme update
- Forthcoming County Council Elections – Publicity Advice: Members were advised that the pre-election period would commence on 25 March 2013 and conclude on 2 May 2013 (poling day). Members noted the advice of the Monitoring Officer regarding publicity during this period.

SC/23 **LOCAL GOVERNMENT OMBUDSMAN UPDATE 2012 - 2013**

The Monitoring Officer reported on the developments, number and nature of complaints about the Council made to the Local Government Ombudsman (LGO), including figures for the 2012-2013 reporting year.

In the past 12 months since 01 March 2012, eleven complaints had been referred to the LGO. This compared with 13 in the previous reporting period.

Of the eleven complaints:

- Two complaints had been deemed premature as they had not been processed through the Council's corporate complaints procedure;
- Five complaints were referred for investigation, three of which were ongoing at the time of the report and two complaints had been determined as having no evidence of administrative fault by the Council; and
- Four complaints were considered by the LGO but the LGO decided not to pursue an investigation.

The LGO had formed a provisional view that the Council pay £100 compensation to one complainant, and concluded that the Council should reiterate its offer of compensation of £600 to another complainant.

The Monitoring Officer reported that significant changes to the structure at the LGO were implemented on a phased basis since October 2012 and all changes should be introduced in April 2013.

Under the changes, the LGO intends to make decisions within 20 working days of receipt of complaints. The Council would therefore have to respond to complaints within a shorter timescale. In complex cases, the Council may seek an extension to respond, which is normally agreed.

SC/23 Local Government Ombudsman Update 2012 - 2013 (Cont.)

Members noted that if the Council fails to respond within the revised deadline the LGO could determine the complaint without input from the Council and so the Council should respond in a timely manner.

Other changes included:

The LGO would no longer refer premature complaints to the Council. Instead, the LGO will inform complainants that they should direct their complaints to the Council, except where the complainant is vulnerable or otherwise cannot reasonably be expected to progress the matter alone.

The LGO would no longer carry out follow-up checks with the complainants or the Council to see whether the complaint has been satisfactorily resolved.

The Monitoring Officer advised that it was unknown if the LGO would issue an Annual Review letter for 2012-2013. If the LGO does issue the Annual Review letter, it would provide a draft Annual Review letter for comment. Should the LGO later publish an Annual Review letter, it would be circulated to the Standards Committee.

RESOLVED

That the contents of the report be noted.

REASONS

- i) To ensure that the Committee has the necessary information to ensure that complaints can be made to the Council with ease and complaints are dealt with appropriately.
- ii) To assist with establishing learning lessons so that the Council can improve its performance in the provision of its services.

*The meeting finished at 11.40am having commenced at 10.00am.*

CHAIRMAN

## LIST OF STANDARDS COMMITTEE REPORTS AND DOCUMENTS – July 2012 to June 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
19.06.13	Ethical Framework Update
25.09.13	Ethical framework update Local Government Ombudsman update
04.12.13	Ethical framework update Code of Conduct review report
19.3.14	Ethical framework update Local Government Ombudsman update Chairman's annual report

### 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_of_Conduct_for_Members_of_[N]_Council.doc">http://www.acses.org.uk/doc/filename/1663/Intro_and_Guide_to_Codes_of_Conduct_for_Members_of_[N]_Council.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	06.03.2013	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	
SCD 20	Standards Committee Work Programme	06.03.13	HDC	
SCD 21	LGO Case Schedule 1 March 2012 to 1March 2013	06.03.13	HDC	
SCD 22	LGO Case Summaries	06.03.13	LGO	<a href="http://www.lgo.org.uk/news/2013/feb/ombudsman-says-york-council-misled-elderly-woman-roof-works/">http://www.lgo.org.uk/news/2013/feb/ombudsman-says-york-council-misled-elderly-woman-roof-works/</a> <a href="http://www.lgo.org.uk/news/2013/feb/ombudsman-criticises-bolton-council-failure-protect-neighbour-development/">http://www.lgo.org.uk/news/2013/feb/ombudsman-criticises-bolton-council-failure-protect-neighbour-development/</a> <a href="http://www.lgo.org.uk/news/2013/jan/ombudsman-criticises-kettering-council-family-housing-error/">http://www.lgo.org.uk/news/2013/jan/ombudsman-criticises-kettering-council-family-housing-error/</a>
SCD 23	National Standards Case Summaries	06.03.13	Various council websites	<a href="http://www.norfolk.gov.uk/view/stand010213item6pdf">http://www.norfolk.gov.uk/view/stand010213item6pdf</a>
SCD 24	DCLG Letter Brandon Lewis	27.12.12	DCLG	<a href="https://www.gov.uk/government/publications/council-tax-freeze-2013-to-2014">https://www.gov.uk/government/publications/council-tax-freeze-2013-to-2014</a>
SCD 25	DCLG Letter Brandon Lewis	05.02.13	DCLG	<a href="http://localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=13128:standards-rules-of-the-local-authority-road&amp;catid=59:governance-a-risk-articles">http://localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=13128:standards-rules-of-the-local-authority-road&amp;catid=59:governance-a-risk-articles</a>
SCD 26	Paul Hoey Article on Disclosable Pecuniary Interests	19.02.13	Local Government Lawyer	<a href="http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=13301:disclosable-pecuniary-interests--what-did-the-government-intend-to-capture&amp;catid=63:planning-articles">http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&amp;view=article&amp;id=13301:disclosable-pecuniary-interests--what-did-the-government-intend-to-capture&amp;catid=63:planning-articles</a>
SCD 27	Committee on Standards in Public Life 14 <sup>th</sup> Report	Jan 13		<a href="http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf">http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf</a>
SCD 28	Publicity Guidance for Councillors for County Council Elections	20.03.13	HDC	<a href="https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity">https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity</a> <a href="http://www.horsham.gov.uk/files/Part_5G_Issue_22(1).pdf">http://www.horsham.gov.uk/files/Part_5G_Issue_22(1).pdf</a>
SCD29	Declaring Interests Flowchart – Questions for Members	May 2013	HDC	
SCD30	Local Assessments, Reviews and Determinations – July 2012 onwards (updated with non-personal data)	May 2013	HDC	
SCD31	Schedule of Local Assessment Sub-Committee Membership to May 2013	May 2013	HDC	

SCD32	The Committee on Standards in Public Life Annual Plan for 2013-2014	April 2013	Committee on Standards in Public Life	<a href="http://www.public-standards.gov.uk/wp-content/uploads/2013/04/Annual-plan-13-144.pdf">http://www.public-standards.gov.uk/wp-content/uploads/2013/04/Annual-plan-13-144.pdf</a>
SCD33	The Code of Recommended Practice on Local Authority Publicity	March 2011	Department for Communities and Local Government	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf</a>
SCD34	Secretary of State for DCLG: Councillors and Lobbying: Letter	12.03.2013	Department for Communities and Local Government	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/140313/130312_Letter_to_Hilary_Benn.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/140313/130312_Letter_to_Hilary_Benn.pdf</a>
SCD35	CPS' guidance on 'Misconduct in Public Office'	May 2013	Crown Prosecution Service	<a href="http://www.cps.gov.uk/legal/l_to_o/misconduct_in_public_office/">http://www.cps.gov.uk/legal/l_to_o/misconduct_in_public_office/</a>
SCD36	<i>Cosford and others v R</i> (2013)		Case decision: [2013] EWCA Crim 466	<a href="http://www.bailii.org/ew/cases/EWCA/Crim/2013/466.html">http://www.bailii.org/ew/cases/EWCA/Crim/2013/466.html</a>
SCD37	Probity in planning for councillors and officers	April 2013	Local Government Association	<a href="http://www.pas.gov.uk/pas/aio/3529687">http://www.pas.gov.uk/pas/aio/3529687</a>
SCD38	Local Government Ombudsman Case Summaries March 2013 – June 2013	June 2013	HDC	
SCD39	Standards case summaries March 2013 – June 2013	June 2013	HDC	
SCD40	Work Programme	June 2013	HDC	
SCD41	Predetermination, bias and advice from Monitoring Officers – letter from Brandon Lewis MP	May 2013	Department for Communities and Local Government	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200496/Letter-Predetermination-March2013.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200496/Letter-Predetermination-March2013.pdf</a>

# Report to Standards Committee

19 June 2013

By the Monitoring Officer

## INFORMATION REPORT

Not exempt



Horsham  
District  
Council

Ethical Framework Update: June 2013

## Executive Summary

This report is to:

- (i) Inform and update Members of the Council about recent 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' meetings;
  - Register of Interests;
  - Committee on Standards in Public Life;
  - Publicity Guidance;
  - Councillors and Lobbying;
  - Probity in Planning Guidance;
  - LGO case summaries and Standards cases;
  - Local Standards regime – Annual Review;
  - Performance management;
  - Freedom of Information;
  - Data Protection Act 1998;
  - Regulation of Investigatory Powers Act 2000;
  - Work programme update.

## Recommendations

The Committee is recommended:

- (i) To note the matters set out in the report.

## 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:

- SCD 29
- SCD 30
- SCD 31
- SCD 32
- SCD 33
- SCD 34
- SCD 35
- SCD 36
- SCD 37
- SCD 38
- SCD 39
- SCD 40
- SCD 41

**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 to inform and update Members of the Council of recent developments in the ethical framework, since the preparation of the last report in March 2013.

#### **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:

- Department for Communities and Local Government:  
<http://www.communities.gov.uk/>
- Local Government Ombudsman:  
[www.lgo.org.uk](http://www.lgo.org.uk)

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

#### **Statutory background**

- 2.1 The statutory background can be found in the Localism Act 2011, Part 1 Chapters 6 and Chapter 7 and the 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 The authority has subscribed to the Hoey Ainscough Associates' interactive website, the Standards Exchange, which allows 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 and a regular standards bulletin. Learning from this resource will be provided to this Committee.

- 3.2 On 03 June 2013, the Monitoring Officer provided induction training for Councillor Clarke (Cowfold, Shermanbury and West Grinstead) and Councillor Diana Van Der Klugt (Chantry: Amberley, Parham, Storrington & Sullington and Washington), elected following the recent by-election on 02 May 2013. Training was provided on the Code of Members' Conduct, Register of Interests and the Constitution. The training was provided as part of a 'welcome session' for new Members and included an introduction to Horsham from the Chief Executive and an introduction to Corporate Finance by the Director of Corporate Resources.
- 3.3 A flowchart has been created to assist Members with declaring interests. The flowchart sets out various questions for Members to ask themselves when considering whether they have a new style Disclosable Pecuniary Interest or a Personal/Prejudicial interests. It is proposed that laminated copies be made available at Committee meetings to assist Members. A copy is attached as Appendix 3 (SCD29).

#### **Local assessment, review, other action, investigations and determinations (SCD30)**

- 3.4 Attached as Appendix 2 is the schedule of all assessment, review, other action, investigation and determination decisions since 01 July 2012.

#### **Local Assessment**

- 3.5 Since the last Ethical Framework Update was presented to this Committee, the Local Assessment Sub-Committee has not met.

#### **Local Review**

- 3.6 Since the date of the last Ethical Framework Update was presented to this Committee, the Local Review Sub-Committee has not met.

#### **Other Action directed**

- 3.7 Since the date of the last Ethical Framework Update was presented to this Committee, no cases have been referred to the Monitoring Officer for Other Action.

#### **Local Investigations**

- 3.8 Since the date of the last Ethical Framework Update was presented to this Committee, no Local Investigations have been carried out.

#### **Local Determinations**

- 3.9 Since the date of the last Ethical Framework Update was presented to this Committee, no Local Determinations have been carried out.

- 3.10 Attached at Appendix 4 is a schedule of forthcoming Local Assessment Sub-Committee dates. Members are asked to consider the proposed Sub-Committee membership and reserves for those meetings [SCD31].

### **Parish Clerks' Meeting**

- 3.11 The Monitoring Officer attended the Society of Local Council Clerks' meeting on 30 April at Southwater Parish Council. A general update was provided by the Monitoring Officer on the new guidance regarding the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A new 'Disclosable Pecuniary Interests flowchart' (appendix 3) was also presented to the Parish Clerks and has since been circulated for their use at meetings. An update was also provided that the District Council shall be reviewing the current Standards Arrangements in or around Autumn 2013, including a review of the current Register of Members Interest forms. A review of outstanding Register of Members Interest forms at parish level was also provided.

### **Register of Interests**

- 3.12 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 was then amended to allow for the disclosure of the new style Disclosable Pecuniary Interests.
- 3.13 The format of the Register of Interests has recently been further amended in light of the updated DCLG guidance on 'Openness and transparency on personal interests: a guide for Councillors'. This version of the guidance was published in March 2013, and states expressly that there is no requirement for a Councillor to differentiate their own disclosable pecuniary interests which relate to them personally and those that relate to a spouse or civil partner, a person with whom a Councillor is living as husband or wife, or a person with whom a Councillor is living as if civil partners.
- 3.14 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>. Annual update forms were circulated to all Members at the Annual meeting in May 2013, many of which record new and revised interests. The update forms have also been uploaded and are available to view.
- 3.15 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>
- 3.16 To date, six parish councils have yet to upload or send to the Monitoring Officer completed copies of their Registers of Interest forms.

### **Committee on Standards in Public Life**

- 3.17 On 02 May 2013, David Prince CBE was appointed as the Interim Chair of the Committee on Standards in Public Life (the 'CSPL') until the new permanent Chair is appointed.
- 3.18 In April 2013, the CSPL published its Annual Plan for 2013-2014. This publication followed the CSPL's fourteenth report, published in January 2013 and the CSPL's Strategic Plan for 2012-2015 that was published in October 2012.
- 3.19 The CSPL's Strategic Plan for 2012-2015 identified five objectives:
- 3.19.1 Where appropriate, undertake balanced, comprehensive inquiries to develop evidence-based, practical recommendations which will help maintain or improve ethical standards across public services;
  - 3.19.2 Undertake robust and effective research to provide useful information about public perceptions of ethical standards across public services;
  - 3.19.3 Make informed contributions to public debates about ethical standards;
  - 3.19.4 Be alert, identifying developments and respond promptly to emerging ethical risks, engage with a wide range of stakeholders to develop the ethical standards agenda; and
  - 3.19.5 Improve the way it works, evolving so that it continues to be an effective, efficient organisation delivering value for money.
- 3.20 The CSPL will continue to monitor, report and make recommendations on all issues relating to standards in public life, and in doing so, as set out in its Annual Plan, it will:
- 3.20.1 Set up a series of seminars to focus on Lobbying, new methods of delivering public services and addressing the ethical issues affecting new forms of education provision and Clinical Commissioning Groups;
  - 3.20.2 Disseminate the results from the fifth biennial survey on the CSPL;
  - 3.20.3 Publish its annual report for 2013-2014 by September 2013;
  - 3.20.4 Undertake some work, potentially with other relevant bodies, on the ethical induction process for new and existing MPs; and
  - 3.20.5 Throughout 2013-2014, continue to monitor the implementation of the new local government standards regime through analysis of media reports and issues of principle brought directly to its attention by members of councils and the Public.
- 3.21 The CSPL's Annual Plan retained the originally formulated seven principles of public life, but set out the new reformulated descriptions of these principles.
- 3.22 As part of Horsham District Council's annual review of its Standards Arrangements, consideration will need to be given as to whether or not the Code of Members' Conduct should be revised to reflect the updated descriptions. The revisions are also relevant to the employee code of conduct and all contract documentation involving the delivery of public services.
- 3.23 A copy of the report [**SCD 32**] can be accessed by following the attached link:

<http://www.public-standards.gov.uk/wp-content/uploads/2013/04/Annual-plan-13-144.pdf>

### **Publicity guidance (SCD33)**

- 3.24 In March 2011, following consultation, a revised Code of Recommended Practice on Local Authority Publicity (the 'Code'). The Code was initially under the Local Government Act 1986.
- 3.25 Members will be aware that the Code of Members' Conduct currently provides that a member must have regard to any applicable Local Authority Code of Publicity under the Local Government Act 1986.
- 3.26 The Code applies to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newssheets and maintenance of websites, including hosting material which is created by third parties. The Code also established seven principles, that local authorities should:
- 3.26.1 Be lawful;
  - 3.26.2 Cost-effective;
  - 3.26.3 Objective;
  - 3.26.4 Even-handed;
  - 3.26.5 Appropriate;
  - 3.26.6 Have regard to equality and diversity; and
  - 3.26.7 Be issued with care during periods of heightened sensitivity.
- 3.27 On 08 April 2013, the Secretary of State announced his intention to legislate council publicity rules, as whilst all local authorities are to comply with the Code, there were concerns that rogue authorities flouted the rules and abused taxpayers' money by publishing 'political propoganda'.
- 3.28 The Secretary of State set up an open consultation on its proposal to protect the independent Press from unfair competition, by introducing legislation that would give the Secretary of State powers to make directions requiring local authorities to comply with some or all of the Code of Recommended Practice on Local Authority Publicity's recommendations. It is proposed that a direction could apply to a single named authority, to a number of named authorities, to all authorities in a particular class, or to all authorities to which the Code applies.
- 3.29 According to the DCLG's Protecting the independent press from unfair competition consultation document, it was envisaged that prior to issuing a direction, the Secretary of State would give notice to the authority or authorities in question of his intention to issue a direction. This would give the authorities an opportunity to take any action deemed necessary to prepare for a direction, or make representations to the Secretary of State for why a direction should not be issued.
- 3.30 A direction from the Secretary of State will be in writing, and it may, but need not, specify a time for compliance and/or the steps that the authority should take to ensure compliance with the Code's recommendations. Once issued, any enforcement of any continued failure by an authority to comply with recommendations would be through any interested party obtaining a court order. In addition, a direction can also be withdrawn by the Secretary of State.
- 3.31 The Department for Communities and Local Government's Structural Reform Plan stated that it will 'give greater force to the Code of Recommended Practice on Local Authority Publicity by putting compliance with the Code on a statutory basis'. The

Code of Recommended Practice on Local Authority Publicity (the 'Code') can be accessed on the link below:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5670/1878324.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf)

- 3.32 The new Publicity Code includes specific guidance about the frequency, content and appearance of local authority newspapers, including recommending that principal local authorities limit the publication of any newspaper to once a quarter and parish and town councils limit their newsletters to once a month.
- 3.33 The new Code also represented a major reshaping of the earlier Code on Publicity and grouped the guidance under the seven principles, as set out in paragraph 3.25. The consultation on the new Code closed on 06 May 2013, and a further update on this new Code shall be provided to the next Standards Committee.

### **Councillors and Lobbying**

3.34 In March 2013, the Secretary of State for DCLG wrote a letter regarding Councillors conduct and lobbying. The letter refers to reports published by the *Daily Telegraph* that some Councillors were receiving payment to lobby their own Council, particularly in respect of Planning matters. The letter was also in response to Labour's Hilary Benn urging the Secretary of State for DCLG ban Councillors from making money from the planning system in their local areas.

3.35 The Secretary of State for DCLG states that it is unacceptable for councillors to receive any form of payment to lobby their own council. Referring to the councils' own local codes of conduct, the Secretary of State states 'such behaviour is a clear breach of the Nolan Principles (embedded in the Localism Act)'. In addition, the letter refers to the Bribery Act 2010, and warns that councilors could face criminal sanctions under both the Localism Act and the Bribery Act 2010. This letter referred to The Crown Prosecution Service's guidance on Misconduct in Public Office.

3.36 A copy of the letter from the Secretary of State (SCD34) can be located at:

<https://www.gov.uk/government/publications/councillors-and-lobbying>

3.37 'Misconduct in Public Office' is an offence that is confined to those who are public office holders and is committed when the office holder acts or fails to act in a way that constitutes a breach of the duties of that office. The offence carries a maximum sentence of life imprisonment.

3.38 The offence is, in essence, one of abuse of the power or responsibilities that the office held. The offence is committed when:

- 3.38.1 A public officer acting as such;
- 3.38.2 Wilfully neglect to perform his duty and/or wilfully misconducts himself;
- 3.38.3 To such a degree as to amount to an abuse of the public's trust in the office holder;
- 3.38.4 Without reasonable excuse or justification.

3.39 The CPS' guidance draws on various key cases to establish the elements of the crime. A copy of the CPS' guidance (SCD35) can be found at:

[http://www.cps.gov.uk/legal/l\\_to\\_o/misconduct\\_in\\_public\\_office/](http://www.cps.gov.uk/legal/l_to_o/misconduct_in_public_office/)

3.40 The offence is a common law offence, which requires case law to be interpreted to establish if the offence elements are met. The recent case of *Cosford and others v R* (2013) (SCD36) highlighted the difficulties with establishing the element of 'in a public office', and drew on both historical case law and recent case law authorities to determine whether the appellants in that case, were indeed 'in a public office' so as to engage the offence. A copy of this case can be located at:

<http://www.bailii.org/ew/cases/EWCA/Crim/2013/466.html>

3.41 The Law Commission intends to now revisit the ambit of the offence of misconduct in public office, commencing work in early 2014 with a consultation in the following year. Further updates shall be provided to the Committee.

### **Probity in Planning**

3.42 In April 2013, the Local Government Association published a guide reflecting the changes in the Localism Act 2011, to help Councillors understand their roles and responsibilities and avoid 'probity' difficulties. The guide has been written for officers and councillors involved in planning.

3.43 The guide includes a flowchart for Councillors to assess whether they hold a Disclosable Pecuniary Interest, which is specific to Planning Committee only. A copy of the guide (SCD37) can be located at:

<http://www.pas.gov.uk/pas/aio/3529687>

3.44 The guide clarifies how Councillors can be involved in planning discussions on plan making and on applications, on behalf of their communities in a fair, impartial and transparent manner.

3.45 The guide refers to requirement for local Codes, the Nolan Principles, the Register of Interests and disclosure of interests. The guide also discusses Predisposition, predetermination and bias, lobbying and the Planning process generally.

### **Predetermination, bias and advice**

3.46 In May 2013 Brandon Lewis MP published a letter to Councillor David Burbage, Leader of Royal Borough of Windsor and Maidenhead. In this letter, Brandon Lewis refers to section 25 Localism Act 2011, which clarifies that a councillor is not to be regarded as being unable to act fairly or without bias if they participate in a decision on a matter simply because they have previously expressed a view or campaigned on it.

3.47 Specifically, section 25 (2) Localism Act 2011 states "a decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or

would or might take, in relation to a matter, and (b) the matter was relevant to the decision.”

- 3.48 The effect is that councillors may campaign and represent their constituents – and then speak and vote on those issues – without fear of breaking the rules on pre-determination. The letter reiterates that the perception of bias or risk of bias is dependent on individual circumstances but the flexibilities and freedoms laid in section 25 Localism Act may apply.
- 3.49 This letter confirms the position that there is a distinction between predisposition and predetermination and section 25 restates the common law position which existed before the Act that predisposition is acceptable and predetermination is not acceptable – that Councillors should not have a closed mind when they make a decision, as decisions taken by those with pre-determined views are vulnerable to successful legal challenge. A copy of this letter (SCD41) can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200496/Letter-Predetermination-March2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200496/Letter-Predetermination-March2013.pdf)

### **Local Government Ombudsman ('LGO') Case Summaries March 2013 – June 2013 (SCD38)**

- 3.50 A copy of LGO case summary for March 2013 to June 2013 is attached as Appendix 5.

### **Standards case summaries March 2013 – June 2013 (SCD 39)**

- 3.51 Since abolition of Standards for England and the jurisdiction of the Adjudication Panel in relation to appeals, it is no longer possible to learn from case summaries decisions and in particular sanctions concerning code of conduct complaints to assist with a consistent approach. As members are aware all matters, save for criminal matters, are now dealt with locally under varying local codes and often in private hearings. However, a brief summary of some notable cases which have been published is attached as *Appendix 6* to assist with members learning.

### **Local standards regime – annual review**

- 3.52 As members will recall, Council requested that the local standards regime adopted in July 2012 be reviewed one year on from its adoption. It is proposed to formulate a small working group of members to bring forward proposals. Volunteers/nominations for such a group would be appreciated. All areas will be considered under the review. Matters which have currently been brought to my attention include sufficient numbers of elected and advisory members, the need for a right of appeal, new 'guidance' on DPIs, revised Nolan Principles and further delegation of decision making. Members should advise as to areas to be considered under the review.

### **Performance Management**

- 3.49 The annual report regarding complaints was submitted to the Finance and Performance Working Group on 15 May 2013. For the period 01 April 2012 to 31 March 2013, the Complaints and Information Officer was notified of 157 complaints

and 69 compliments (excluding those regarding Operational Services which are recorded separately). For the year 1 April 2011 to 31 March 2012 the Complaints and Information Officer was notified of 92 complaints and 148 compliments (excluding refuse & recycling).

### **Freedom of Information**

- 3.50 The annual report on requests made to the Council under the Freedom of Information Act was submitted to the Finance & Performance Working Group on 15 May 2013. For the year 1 April 2012 to 31 March 2013 the Council received 523 requests for information (excluding contaminated land requests and local land charge and personal search requests). This compares to 574 for 2011/12. The reduction in numbers is attributed to the fact that Council no longer records requests for information from Personal Search Companies as requests made under the Act.
- 3.51 Of these requests, where the identity of the requestor is known the majority of requests have been received from companies or organisations, followed by those from private individuals.
- 3.52 This year the Council has carried out 6 internal reviews of decisions to withhold information. Of these only 1 decision was amended, with partial information being disclosed.
- 3.53 An updated Publication Scheme is being drafted in line with requirements of the Information Commissioner's Office.

### **Data Protection Act 1998**

- 3.54 The Information Commissioner has not alerted the Council to any complaints that the Council has breached the Data Protection Act 1998. This position has remained the same since the last Ethical Update Report. The Information Commissioner is able to issue monetary penalties for data security breaches and has done so to 19 local authorities (the total sum being £1,885,000). In order to reduce the risk of breaches of the Data Protection Act 1998, the Council's Data Protection Officer continues to work on improving data protection compliance across the Council. Where necessary, the Council shall continue to notify the Information Commissioner of any potential data security breaches by the Council as required to do so.

### **Regulation of Investigatory Powers Act 2000**

- 3.53 The Regulation of Investigatory Powers Act 2000 ("RIPA") regulates the use of covert surveillance and the accessing of communications data.
- 3.54 On 01 November 2012, the legal framework for RIPA changed significantly. In effect, these changes restrict the Council's use of RIPA, in that:
- The Council's Authorised Officers will need to complete an internal RIPA authorisation process and then seek judicial approval of that internal authorisation. The changes in legislation now mean that an internal RIPA authorisation is not effective until judicial approval has been sought via the Magistrates' Court;

- The use of RIPA is only to be authorised and approved where the surveillance is necessary and proportionate;
- 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;
- Restrictions continue in respect of accessing Communications Data or using Covert Human Intelligence Sources.

3.55 Following a review of the Council’s RIPA Corporate Policy and Procedure document, it was presented to Scrutiny and Overview on 13 May 2013. Upon considering the report and the amendments, Scrutiny and overview recommended Council to adopt the revised RIPA Corporate Policy and Procedure Document in order to comply with the legislative changes to RIPA.

3.56 Training shall be provided to the RIPA Officers in due course to ensure that the Council complies with the new RIPA legislation.

3.57 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 (SCD 40)**

3.58 Members will recall at the meeting in January 2012 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 live document and Members are asked to consider any update or amendment required for 2013/2014. A copy is attached at Appendix 7.

## **4 Next Steps**

4.1 The Committee is asked to note the matters contained in this report.

## **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

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached Yes/No</p>	<p>Failure to keep Members up to date with developments in the ethical framework would lead to a diminution of ethical standards amongst Members.</p> <p>No.</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>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.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>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.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p> <p>Equalities Impact Assessment attached Yes/No/Not relevant</p>	<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> <p>No.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>Where possible electronic means of communication are used.</p>

## Appendix 2

### Local Assessment and Local Review of Complaints from 1 July 2012 (SCD30)

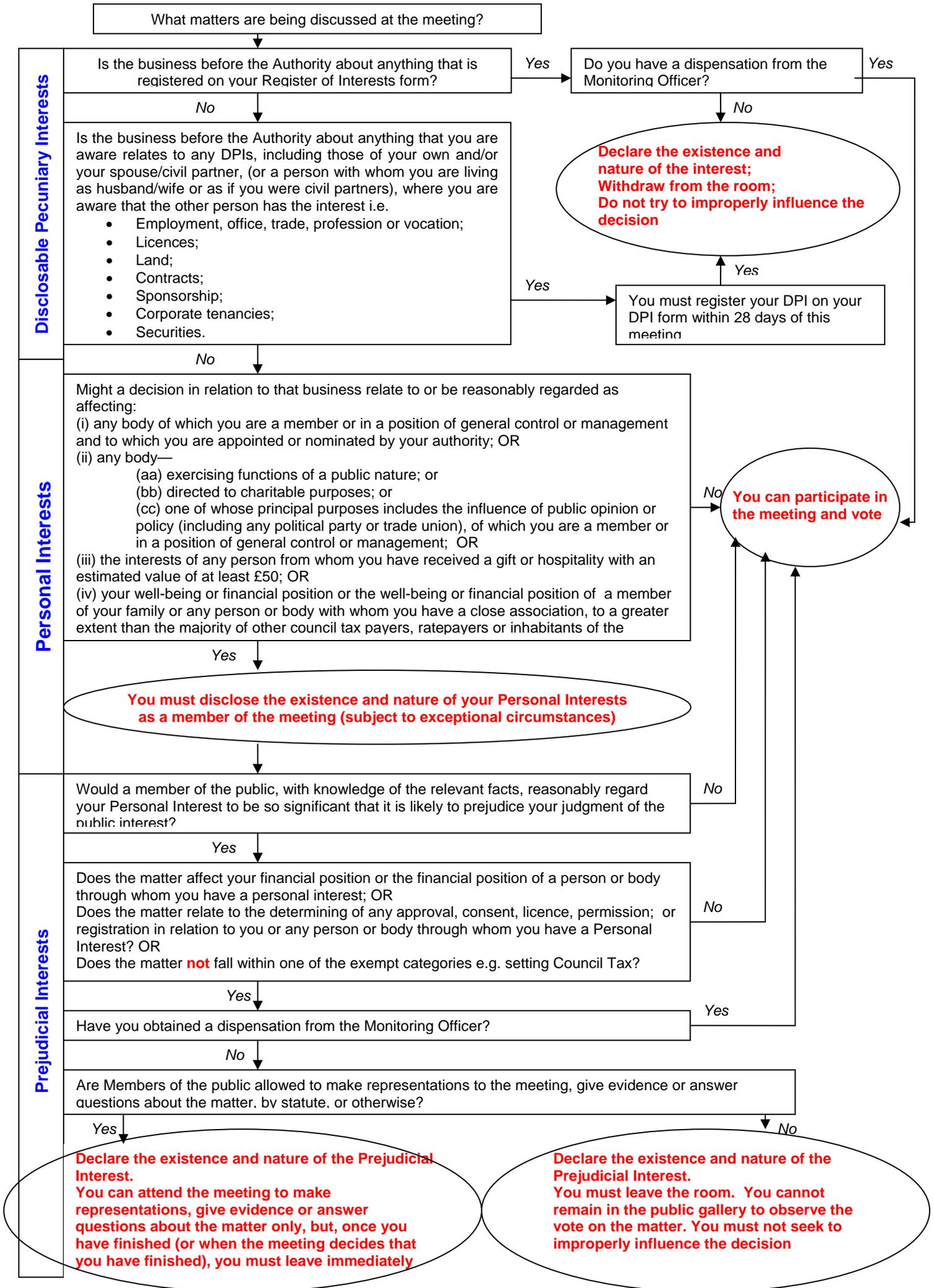
File ref	District or Parish Council	Decision Date	Complainant	Date complaint received	Nature of complaint (Personal data removed)	Working days (receipt of complaint to assessment)	Decision	Review Requested
CES89	Parish	17.10.12	Public	20.09.12	Bringing the Parish Council into disrepute: (i) Allowing a Parish Councillor with an alleged personal interest to partake in a public meeting; (ii) Failing to make a written allegation about the conduct of the Parish Councillor with the alleged Personal interest, in speaking at a public meeting; and (iii) Allowing the publication of 'misinformation' on the Council's website and being party to a misleading planning application.	19	No further action.	Y
CES90	Parish	13.11.12	Public	19.10.12	Breach of confidentiality: Parish Councillor used a shared personal email account with their Partner – allowing Parish business to be sent to the personal email account	17	Local resolution.	N/A

File ref	Review of	District or Parish Council	Decision Date	Complainant	Nature of complaint (Personal data removed)	Date received	Working days	Decision
<b>CESR9</b>	CES74	Parish	20.09.12	Public	Bringing the Parish Council into disrepute by:  (i) Allowing a Parish Councillor with an alleged personal interest to partake in a public meeting;  (ii) Failing to make a written allegation about the conduct of the Parish Councillor with the alleged Personal interest, in speaking at a public meeting; and  (iii) Allowing the publication of	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		08.07.12	53	Refer to new Local Assessment Sub-Committee
<b>CESR11</b>	CES76	Parish	20.09.12	Public		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		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		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		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		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		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		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	'misinformation' on the Council's website and being party to a misleading planning application.	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		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR20</b>	CES85	Parish	20.09.12	Public		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		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		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
<b>CESR23</b>	CES89	Parish	30.01.13	Public		17.11.12	53	No Further Action

\*Decisions CESR9-22 relate to Local Assessment Sub-Committee decisions CES74-87, which do not appear on this chart since they were decided before 01 July 2012, under the old standards regime.

**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF Appendix 3 SCD29**



## DISCLOSABLE PECUNIARY INTERESTS

*The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012* (the 'Regulations'), in relation to disclosable pecuniary interests require you to notify the Monitoring Officer of any 'disclosable pecuniary interests'.

These provisions are enforced by criminal sanction, and so Members must comply with the Regulations.

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:

- (i) Employment, office, trade, profession or vocation;
- (ii) Sponsorship;
- (iii) Contracts;
- (iv) Land;
- (v) Licences;
- (vi) Corporate tenancies; and
- (vii) Securities.

### Non participation in case of disclosable pecuniary interest

A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You may not participate in any discussion of the matter at the meeting;
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.

**Note:** In addition, the Code requires you to leave the room where the meeting is held while any discussion or voting takes place.

B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him in the discharge of the function, the executive member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware. The member must not take any steps or further steps in the matter.

### Dispensations

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

### Offences

It is a criminal offence to fail to notify the monitoring officer of any disclosable pecuniary interests (DPs). This requirement arises in each of the following circumstances:

- (a) before the end of 28 days beginning with the day on which you become a member or co-opted member of the authority (*s30(1) Localism Act 2011*);
- (b) where the DPI is not entered in the authority's register and is not the subject of a pending notification, but is disclosed at a meeting of the authority (or any committee, sub-committee, joint committee or joint sub-committee) as required by s31(2) of the Localism Act, within 28 days beginning with the date of the disclosure (*s31(3) Localism Act 2011*);
- (c) where the DPI is not entered in the authority's register and is not the subject of a pending notification, within 28 days beginning with the date when you become aware that you have a DPI in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the authority (*s31(7) Localism Act 2011*).

It is also a criminal offence to knowingly provide information that is false or misleading (or being reckless as to whether the information is true and not misleading)

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

Appendix 4

Schedule of Standards Committee Sub-Committee Membership 2013-2014

SCD 31

	PANEL				RESERVES		
Dates 2013							
19 June	DC	AB	GN		PC	BD	SM
17 July	DC	BD	SM		GN	TY	AB
14 August	GN	TY	AB		DC	BD	SM
25 September	DC	PC	SM		BD	GN	TY
16 October	TY	GN	AB		SM	DC	PC
06 November	BD	PC	SM		GN	AB	DC
04 December	TY	GN	DC		PC	BD	SM
Dates 2014							
8 January	PC	BD	SM		GN	TY	AB
12 February	GN	TY	AB		DC	SM	BD
19 March	DC	SM	BD		PC	GN	TY
16 April	PC	GN	AB		TY	DC	SM
14 May	BD	SM	TY		GN	AB	DC
11 June	GN	AB	DC		PC	BD	SM
09 July	PC	BD	SM		GN	TY	AB

## Appendix 5

### Ombudsman Case Update March 2013 to June 2013 [SCD38]

#### **Walsall Metropolitan Borough Council:**

The Ombudsman found failings in the way Walsall Council handled a planning application for a tyre and exhaust centre.

The Ombudsman also criticised the speed at which the council acted to rectify unauthorised development on some of its own land, as well as posing whether some members of the planning committee should be involved in future decisions on the scheme.

In August 2010, Walsall Council approved a planning application for repair and minor alteration works to an existing garage site next to the complainants' homes. The way the planning process was handled triggered a complaint to the Ombudsman from some local residents.

Acting on the complaint, the Ombudsman decided that the planning application had been incorrectly treated. It should have been considered for a new-build development rather than as being for the renovation of an existing building, which led to a decision being made based on wrong planning policy assumptions.

In addition, an area of public open space to the rear of the site that was owned by the council had been developed as part of the works without authorisation. In 2012 Council members had two opportunities to approve enforcement action against the developer, and in the view of the Ombudsman on both occasions it failed to properly consider the case for action.

The Ombudsman found maladministration causing injustice and a remedy was agreed. The Ombudsman recommended that the council apologise to the complainants, pay financial compensation of £1,500 to both, and consider whether a number of councillors should take part in any future decision making on the scheme in order to restore the complainants' faith in the planning process.

To remedy the situation, the council has advised the developers to submit a new planning application for the scheme and has enforced it to restore a piece of land at the rear of the site, which it had developed without approval, to its former state.

<http://www.lgo.org.uk/complaint-outcomes/planning/planning-archive-2012-13/walsall-metropolitan-borough-council-10-008-980-am/>

#### **London Borough of Redbridge:**

Redbridge Council was asked to review the way its bailiffs operate, following an investigation by the Local Government Ombudsman.

The decision came after a complaint that a person's car was clamped without prior notice by bailiffs acting on behalf of the council. The Ombudsman also decided in her report that the council was unreasonable in its handling of the initial complaint it received from the car owner.

In the Redbridge Council case, the complainant was found to have committed a parking offence via the council's CCTV system. Because the complainant changed address the following day, they didn't receive any parking contravention notices.

Some time later, bailiffs located the complainant's car via number plate recognition software and clamped the vehicle, despite them being aware that the addresses on the warrant and the car's registration were different. The complainant was charged £741 for releasing the car.

Once discovering that the address on the warrant was different to the complainant's current one, the bailiffs should have released the vehicle without charge and returned the warrant to the council for further action.

In addition, the Ombudsman decided that the council was dismissive of the complaint lodged to it. It initially insisted the complainant was at fault for not notifying the DVLA of their new address when they had in fact done so, and it quoted outdated legislation as justification for refusal to refund the bailiff charges.

The Ombudsman recommended that the council refund the bailiff charges, professional advice and court fees encountered by the complainant, as well as £150 in recognition of the time and trouble taken pursuing the complaint.

The Council was also asked to report back within two months on what procedures it would put in place to ensure this type of injustice did not happen again.

<http://www.lgo.org.uk/complaint-outcomes/transport-and-highways/transport-highways-archive-2010-to-date/london-borough-redbridge-12-005-084/>

### **Birmingham City Council:**

The Local Government Ombudsman published a report about a complaint regarding Birmingham City Council's handling of its mental health assessment processes.

The complaint is from a social care provider who claimed that the actions of the council led to delays in carrying out, and inconsistent results from, assessments for adults who were thought to have mental health issues.

The complainant had been providing care for a number of these people while they waited for assessments to be carried out and the funding to be provided for the services.

The Ombudsman found Maladministration leading to Injustice. The Ombudsman's report upheld the complaint and recommended that the council pay the company £10,000 compensation for the time and trouble taken to pursue the complaint.

<http://www.lgo.org.uk/complaint-outcomes/adult-social-care/adult-social-care-archive-2012-13/birmingham-city-council-08-017-525/>

## **Appendix 6**

### **Standards Cases Update March 2013 to June 2013 (SCD39)**

#### **Elmbridge Borough Council**

The Audit and Standards Hearings Panel of Elmbridge Borough Council considered an external investigator's report into the conduct of Councillor David Archer. A complaint had arisen out of Councillor Archer's reported comments to Daily Telegraph undercover reporters. The Panel heard from the investigator and from Councillor Archer.

It was alleged that Councillor David Archer was secretly filmed talking about his involvement in deciding planning applications and his outside work as a planning consultant.

The Panel found that Councillor Archer had breached the Member Code of Conduct in two respects: (1) failure to treat others with respect contrary to paragraph 2(1) of the Code; and (2) conducting himself in a manner contrary to the duty to maintain high standards of conduct (paragraph 2(2) of the Code). The Panel found no breach of paragraph 2(5) of the Code (using his position as a Member improperly to secure for himself an advantage).

#### **The Panel decided on the following actions:**

- (1) Censuring Councillor Archer for his conduct;
- (2) Accepting the apology offered by Councillor Archer to be communicated to all Members
- (3) Recommending to Councillor Archer's Group Leader that he be removed from the Planning Committee and its Area Sub-Committees, and not acting as substitute in respect of those bodies, during the continuance of his existing business arrangements.

**24 April 2013:** <http://www.elmbridge.gov.uk/news/news.htm?mode=10&pk=4744>

**APPENDIX 7**

**STANDARDS COMMITTEE WORK PROGRAMME 2013/2014 (SCD 40)**

<b>No</b>	<b>Activity</b>	<b>Who is responsible</b>	<b>Completion</b>	<b>Notes</b>	<b>Legislative Root</b>
1	Undertake Local Assessment of Complaints and reviews (where required)	MO to advise Standards Committee Sub-Committee	Ongoing	Effective July 2012. See also Local Arrangements adopted by the Council.	Localism Act 2011.
2	Undertake investigations and Local determination hearings as necessary	MO to advise Standards Committee Sub-Committee	Ongoing	Effective July 2012. See also Local Arrangements adopted by the Council.	Localism Act 2011.
3	Consider dispensation requests	MO/Standards Committee	As received	Scheme of dispensations in Constitution.	Localism Act 2011.
4	Prepare annual report for presentation to full Council	Chairman	Annually	At end of municipal year.	Good practice.
5	Promotion of the role and work of the Standards Committee	Chairman/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 Persons and Parish Representatives.</p> <p>Liaison with Parish Councils by regular attendance at Parish Clerks' quarterly meetings and the distribution of SC agenda and reports.</p>	Localism Act 2011.

No	Activity	Who is responsible	Completion	Notes	Legislative Root
				Investigate other ways of raising profile of role and work of SC.	
6	Attendance at Council and other meetings	Chairman/Vice Chairman Standards Committee	As timetabled	Chairman to 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.	Local Government Act 2000.
7	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.	Localism Act 2011. Good practice.
8	Liaison Chief Executive and MO on standards issues	CE/MO	Monthly 121 and as required	From February 2010	Good practice.
9	Standards Training	Chairman and MO	New Code July 2012.	MO to organise training throughout the year, to include awareness training for Parish Councils.  Dedicated training on Local Assessment, Local Determination and Hearings for the Standards Committee.  Awareness training of the Code of Conduct for Members and Management Team of HDC to form a part of Member Development Programme.  Use of on-line resources, DVDs etc. as training aide. Attendance at external training events as required.	Localism Act 2011. HDC Corporate Learning and Development Plan.

No	Activity	Who is responsible	Completion	Notes	Legislative Root
10	Review of Register of Interests	MO	Annual	<p>To ensure that Members of HDC and Parish Councils review the content of their Register of Interests at least once annually.</p> <p>To ensure that updated ROI are available online at HDC website for HDC members and at parish council website for parish members.</p>	Localism Act 2011 and local Code of Conduct.
11	Consider regular Ethical Framework update reports	MO/Standards Committee	Quarterly	<p>To ensure that the Standards Committee Members are kept up to date with issues of ethics and governance.</p> <p>Provide access to reports for all HDC members through Members Bulletin on website.</p> <p>Distribute to Parishes with the Standards Committee agenda.</p>	Localism Act 2011.
12	Consider regular Ombudsman update reports	MO/Standards Committee	Six monthly	<p>To ensure that the Committee has the 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>	Local Government Act 2000. Local Government Ombudsman good practice.

<b>No</b>	<b>Activity</b>	<b>Who is responsible</b>	<b>Completion</b>	<b>Notes</b>	<b>Legislative Root</b>
13	Consider regular reports on numbers of Local Assessment, review, Other Action (to include outcome of Other Action directed), investigation and determination cases undertaken	MO	Quarterly		Local Arrangements.
14	Consider regular Parish Representative reports	Parish Representative advisory members of SC	Quarterly		Good Practice.
15	Preparation and revision of Work Programme and Forward reports	MO/Standards Committee	Annually		Good Practice.
16	Response to consultations	MO/Standards Committee	As required	To ensure the Committee has ability to comment and influence the evolving standards framework.	
17	Review of new standards regime under Localism Act 2011	Chairman/Standards Committee/MO	Autumn 2013	To enable the Committee to help shape the development of the new regime.	Localism Act 2011