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Standards Committee

Wednesday 19th March 2014 at 10.00am.

COMMITTEE ROOM ONE, PARK NORTH, NORTH STREET, HORSHAM

Councillors: Brian Donnelly (Chairman) Sheila Matthews
David Coldwell (Vice-Chairman) Godfrey Newman
Andrew Baldwin Tricia Youtan
Philip Circus

Co-opted advisory members:
Mary Jagger Independent person
Paul Byford Independent person
Valerie Court Parish Council representative
Isabel Glenister Parish Council Representative

You are summoned to the meeting to transact the following business

TOM CROWLEY
Chief Executive

AGENDA

	Page No.
1. Apologies for absence	
2. To approve as correct the minutes of the meeting of the Committee held on 4 th December 2013	1
3. To receive any declarations of interest from Members of the Committee	
4. To receive the minutes of the meetings of the Local Assessment Sub-Committee held on:	
• 4 th December 2013	7
• 12 th February 2014	15
5. To receive the minutes of the meeting of the Local Review Sub-Committee held on 12 th February 2014	19
6. To receive the minutes of the meeting of the Dispensation Sub-Committee held on 15 th January 2014	25

7. To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer
8. To consider any Independent Person report
9. To consider any Parish Representative report
10. To note the list of Standards Committee Reports and Documents available for inspection **29**
11. To receive the following reports of the Monitoring Officer:
 - (a) Ethical Framework Update **37**
 - (b) Ombudsman Update **71**
 - (c) Standards Regime Review **83**
12. 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

4th December 2013

Present: Councillors: David Coldwell (Vice-Chairman), Andrew Baldwin,
Philip Circus, Sheila Matthews

Co-opted advisory members

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

Also present: Councillor Christian Mitchell

Apologies: Councillors: Brian Donnelly (Chairman), Godfrey Newman,
Tricia Youtan

SC/19 **MINUTES**

The minutes of the meeting of the Committee held on 25th September 2013 were approved as a correct record and signed by the Chairman.

SC/20 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/21 **MINUTES OF THE MEETING OF SUB-COMMITTEE**

The minutes of the Local Assessment Sub-Committee held on 6th November 2013 were received.

SC/22 **ANNOUNCEMENTS**

There were no announcements.

SC/23 **INDEPENDENT PERSON REPORT**

There was no report.

SC/24 **PARISH REPRESENTATIVE REPORT**

There was no report.

SC/25 **STANDARDS COMMITTEE REPORTS AND DOCUMENTS AVAILABLE FOR INSPECTION**

The list was noted.

SC/26 **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 Council had subscribed to the Standards Exchange interactive website which gave access to latest news on Standards issues, including case studies and best practice. All Members of the Committee had been trained on the Code of Members' Conduct and the Council's arrangements for assessing complaints.
- Local assessment, review, other action, investigations and determinations: The list was noted. Since the last Committee meeting on 25th September, the Local Assessment Sub-Committee had met once to consider two cases. An appeal in relation to one of them would be considered in January 2014.
- Parish Clerks' Meetings: The Monitoring Officer had attended the Society of Local Council Clerks' meeting on 1 October and clerks were advised about the current review of the local standards regime. Parish Clerks were also provided with legal advice by the Monitoring Officer on a regular basis.
- Parish Related Matters: In September 2013 the government had published proposed changes to make it easier to create new Parish Councils. These included: reducing the number of petition signatures required from 10% of the local population to 7.5%; reducing the amount of time for the local authority to determine such applications to a maximum of one year; and making it easier for community groups who have created Neighbourhood Plans to start the process.

The government intended to amend the procedures for Parish polls, which were covered by old legislation that needed updating. It was reported that a Parish poll had taken place in Steyning on 27th November. Whilst the District Council organises any poll, the cost is borne by the Parish Council. Members discussed the potential use of Parish polls and the implications of the proposal and noted that further details would be reported to the Committee when released.

- Register of Interests: The updated guidance which had been issued by the DCLG in September 2013 was noted.

All District Councillors had completed their Register of Interests update forms. Three Parish Councils had yet to upload full registers onto their own, or the Council's, website. It was noted that failure to disclose the information could be subject to criminal sanction.

- Local Standards regime – Review one year on: The review of the local standards regime had commenced and the working group had met for the second time on 23 October 2013. The group had discussed the number of elected and advisory members; the need for a right of appeal; new guidance of DPLs; revised Nolan Principles; and further delegation of

SC/26 Ethical Framework Update (Cont.)

decision making. The arrangements of other local authorities were being gathered through an on-line questionnaire to all Monitoring Officers in West and East Sussex and Surrey. Horsham District Councillors had also been asked for their comments.

The working group would meet again on 15th January 2014 with a view to putting recommendations forward to the next meeting of the Standards Committee on 19th March.

- Probity in Planning: In April 2013 the LGA had published a new Probity in Planning guide reflecting changes in the Localism Act 2011 to help Councillors involved in planning to understand their roles and responsibilities.

Members requested that all Councillors should receive training on the guidance within 'Probity in Planning'.

The need for clear guidance regarding speaking at meetings, for both Members and the public, was also discussed.

- Committee on Standards in Public Life:

The CSPL had reported that lobbying remained a significant risk to ethical standards and had published a report on the subject in November 2013 and was reviewing how best to apply the Nolan Principles to lobbying. The CSPL had identified 15 recommendations in its report 'Strengthening Transparency Around Lobbying', which Members noted.

The CSPL's fifth Biennial Survey tracking public attitudes towards standards of conduct in public life had commenced in September. The key changes in overall perceptions over the last ten years were noted.

- Transparency Bill: The government would be publishing amendments to the 'Transparency of Lobbying, Third Party Campaigning and Trade Union Administration Bill' to address misunderstandings regarding third party campaigning. It was also intended to make the legislation clearer, whilst maintaining the reforms to electoral law.
- Publicity guidance: A further update of the revised Code of Recommended Practice on Local Authority Publicity would be provided at the next Standards Committee meeting. The Local Audit and Accountability Bill, which was in its second reading in the House of Commons, would increase the power of the Publicity Code and would include new legislation on Parish polls, publicity and filming Council meetings.
- Filming of Public Meetings: The Department for Communities and Local Government (DCLG) had published guidance to help the public know when they can attend meetings and encourage transparency. On 22 August the Communities Secretary had stated that new guidance would also be published to formally allow planning appeal hearings to be 'filmed, tweeted and reported'.

SC/26 Ethical Framework Update (Cont.)

The Local Audit and Accountability Bill would contain new requirements to permit filming and tweeting in local authority meetings. A new District Council protocol for filming at Council and Committee meetings was currently being prepared and would be considered by the Council in due course. Members discussed the principle of filming and recording meetings and the importance of transparency.

LGO case summaries and Standards cases: Three LGO case summaries were provided. In October 2013 the LGO had published a report on the use of bed and breakfast accommodation by Councils for homeless families and young people. The LGO had also recently issued two fact sheets regarding the effectiveness of publicity given to planning applications, and the consideration of Section 106 agreements.

Three Standards case summaries were provided. In particular, Members noted one case where the High Court had granted leave to apply for judicial review to challenge the compatibility of the new local government standards regime with Convention rights, on the grounds that the standards committee was not independent or impartial and politically neutral.

- Performance Management: The quarterly report of complaints had been submitted to the Finance & Performance Working Group in November 2013. For the period 1 July to 30 September 2013 there had been 31 complaints and nine compliments, with a further 51 complaints and five compliments recorded for Operational Services. The figures for the previous quarter had been 53 complaints, with a further 67 recorded for Operational Services, and a total of 35 compliments. It was noted that charging for Green Waste had been introduced during the previous quarter.
- Freedom of Information: The number of requests for the period 1 April to 30 September 2013 totalled 280. Of these requests, 77% had been responded to within the statutory 20 working days, which was below the 85% target set by the ICO. An internal audit was being carried out, with support from Crawley Borough Council's FOI team, with a view to improving response times within some departments.

Datasets: It was noted that any datasets that were published as a result of Freedom of Information requests were required to be updated and made available to the public, 'unless the Council is satisfied that it is not appropriate to do so'. Officers responsible for their department's details within the publication scheme had been advised of the need to update relevant sections of the Council's website.

- Data Protection Act 1998: The Information Commissioner had not alerted the Council to any complaints that the Council had breached the Data Protection Act 1998. In order to reduce the risk of breaches of the Act, improvements have been made by the Data Protection Officer, including information on good practice and changes to the use of remote access.

SC/26 Ethical Framework Update (Cont.)

- Members' Notification with the ICO: Changes to the way data protection registration fees could be paid to allow for the Council to make a single payment on behalf of all Councillors were noted. Parish Councillors were exempted from the additional data protection notification requirement. The Data Protection Officer had notified Members of these changes.
- Regulation of Investigatory Powers Act 2000: Changes to the legal framework restricting the use of RIPA had come into force in November 2012 and the Council's revised RIPA Corporate Policy and Procedure had been adopted by the Council in June 2013. Training would be provided to RIPA officers in due course to ensure the Council complies with the new legislation.
- Work Programme update: Members noted the updated Work Programme.

RESOLVED

That the contents of the report be noted.

REASONS

- 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.

The meeting finished at 11.00 having commenced at 10.00am.

CHAIRMAN

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STANDARDS COMMITTEE
LOCAL ASSESSMENT SUB-COMMITTEE
4 DECEMBER 2013

Present: Councillors: Philip Circus, David Coldwell, Sheila Matthews

LA/1 **ELECTION OF CHAIRMAN**

RESOLVED

That David Coldwell be appointed Chairman of the Sub-Committee for the purposes of this meeting.

LA/2 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

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 DISTRICT COUNCILLOR
(CASE REFERENCE CES 94)

The Local Assessment Sub-Committee assessed a complaint that a District Councillor had failed to comply with the Council's Code of Members' Conduct ("the Code").

On 15 October 2013 an allegation against the Councillor had been made under section 28 (6) Localism Act 2011 in accordance with the Council's procedure for complaints against Members.

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 District Councillor (Case Reference CES 94) (Cont.)

It was alleged that:

A District Councillor breached paragraph 3(1), paragraph 3(2)(b), paragraph 3(2)(c), paragraph 3(2)(d), paragraph 5, paragraph 6(a) and paragraph 6(b) of the Council's Code of Members' Conduct:

3(1) *'You must treat others with respect.'*

3(2)(b) *'You must not bully any person.'*

3(2)(c) *'You must not 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.'*

3(2)(d) *'You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.'*

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

6(a) *'You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.'*

6(b) *'You 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).'*

It was also alleged that the Councillor was in breach of the principles of public life in particular selflessness, integrity, objectivity, accountability, openness and honesty.

Members considered the opinion of the Independent Person appointed by the Council under the Localism Act 2011, section 28(7).

Members of the Sub-Committee noted that the Council's complaints procedure required that complaints be made within 28 days of the alleged incident unless considered reasonable to exercise discretion.

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 District Councillor (Case Reference CES 94) (Cont.)

Members of the Sub-Committee considered whether there was sufficient evidence to give reasonable justification for the delay in the submission of the complaint that would warrant taking action now.

Members of the Sub-Committee agreed that the Councillor had been acting within their official capacity on the occasion alleged by the complaint.

Members of the Sub-Committee considered whether, on the evidence as submitted, there had been a potential 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, the Local Assessment Sub-Committee decided that no further action should be taken. This was because:

- (1) the allegation had not been made within 28 days of the alleged incident; and/or
- (2) the allegation did not appear to disclose a potential failure by the Member to comply with the Code of Members Conduct when acting in that capacity; or
- (3) no evidence of a potential breach of the Code of Members Conduct had been provided.

REASON

- (i) The Council's complaints procedure requires that complaints are made within 28 days of the alleged incident. The incident giving rise to the allegation is alleged to have taken place on 25 July 2013. The complainant did not contact the Council regarding his concerns until his letter dated 8 September (signed on 16 September and received by the Council on 18 September 2013). The formal complaint form was received by the Council on 15 October 2013 in which the complainant states he first complained on 17 September 2013. His first complaint was therefore made some 53 days after the alleged incident.

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 District Councillor (Case Reference CES 94) (Cont.)

- (ii) The sub-committee accept that time bars should not be enforced rigidly against a complainant where justice requires that the time be extended and the complainant heard. The sub-committee accepts it may be reasonable to exercise discretion in certain circumstances.
- (iii) The sub-committee took the view that it was not until receipt of a letter dated 13 August 2013 that the complainant had notice of the matters about which his complaint is based, due to information supplied to him in that letter.
- (iv) It was assumed by the sub-committee that the complainant had received the letter of 13 August no later than 16 August, as the complainant had written a further letter to the correspondent on 16 August.
- (v) The sub-committee would therefore have expected the complaint to have been made within 28 days of receipt of the letter dated 13 August. The complaint is therefore considered to be out of time.
- (vi) To avoid any potential injustice to the complainant the sub-committee went on to consider the merits of the complaint in any event.
- (vii) The Councillor was acting in their official capacity at the time when the alleged breach of the Code occurred.
- (viii) For there to be a justiciable case before the Local Assessment Sub-committee, the allegation, if proven, must be sufficient to amount to a breach of the Council's Code of Members' Conduct. No investigation was undertaken.
- (ix) The sub-committee were not satisfied that the alleged conduct could amount to a potential breach of paragraph 3(1) 'You must treat others with respect'.

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 District Councillor (Case Reference CES 94) (Cont.)

The conduct complained of would usually be directed at a particular individual or individuals. The expression of an idea or an argument would not be covered by this paragraph whilst comments made which are aimed at an individual or their personal characteristics would be.

The Councillor appears to have acted in good faith and had not intended to treat the Complainant, other councillors, the press or the public with disrespect.

- (x) No evidence of a potential breach of paragraph 3 (2) (b), 'You must not bully any person', was submitted by the complainant.

There is no definition of bullying in the code of conduct. However, case law suggests bullying is characterised by offensive, intimidating, malicious, insulting or humiliating behaviour by an individual or group of individuals, based on abuse or misuse of power or authority, which attempts to undermine an individual or group. Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature. The test is an objective one.

- (xi) No evidence of a potential breach of paragraph 3 (2) (c) regarding intimidation was submitted by the complainant.

- (xii) The sub-committee were not satisfied that the conduct as alleged by the complainant could amount to a potential breach of paragraph 3(2) (d), 'You must not do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of your authority'.

This paragraph is directed at any activity that seeks to put pressure on officers to carry out their duties in a way that is biased or partisan.

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 District Councillor (Case Reference CES 94) (Cont.)

- (xiii) The sub-committee did not consider that a reasonable and objective observer would regard the Councillor's actions to have been in breach of paragraph 5 of the Code, 'You must not conduct yourself in a manner which could reasonably be regarded as bring your office or authority into disrepute'.

Paragraph 5 is a reminder to members that their conduct is subject to greater scrutiny than that which applies to other individuals. Members must always remember that their actions may have an adverse impact on their office or the authority they serve.

The Oxford English Dictionary defines disrepute as "a lack of good reputation or respectability; discredit". Actions which diminish public confidence in either a member's office or their authority or which harms the reputation of the authority will bring that office or authority into disrepute.

It is not necessary to show that a member's actions have diminished public confidence or harmed the reputation of an authority. The test is whether or not a member's conduct "could reasonably be regarded" as having these effects. The misconduct alleged however, must be sufficient to be reasonably regarded as having the effect of damaging the reputation of the member's office or authority.

Examples associated with a breach of paragraph 5 of the Code often cover situations where members have put their private interests above the public, members have defied well established rules of the authority for private gain or where a member engages in conduct (usually of a criminal nature) which directly and significantly undermines the authority's reputation as a good employer or responsible service provider.

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 District Councillor (Case Reference CES 94) (Cont.)

It is the Complainant's belief that the actions of the Councillor have brought their office and authority into disrepute. The test to be applied is an objective one and does not rest on any one individual's perception. There will often be a range of opinions that a reasonable person could have towards the conduct complained of. A member will have failed to comply with the Code if his or her conduct 'could reasonably be regarded' by a reasonable and objective observer as bringing that member's office or authority into disrepute.

- (xiv) The sub-committee did not consider there was a potential for a breach of paragraph 6(a) 'A member must not use or attempt to use their position as a member improperly to confer on or secure for themselves or any other person an advantage or a disadvantage'.

The facts as presented do not suggest the Councillor has in any way used their public position for private purposes.

The term 'improperly' is not defined in the Code of Conduct. The underlying principle is that members are elected to public office to serve the public interest. Member's conduct would be improper if they were to use their public position to further private interests to the detriment of the public interest.

- (xv) The sub-committee did not consider there was a potential for a breach of paragraph 6(b) 'A member must when using or authorizing the use by others of the resources of the council (i) act in accordance with the council's reasonable requirements; (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)'. The facts as presented do not suggest a potential for a breach of council protocols on the use of resources or that such resources were used improperly for political purposes.

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 District Councillor (Case Reference CES 94) (Cont.)

Resources include services and facilities as well as the financial resources of the council and will include land, equipment, computers, materials and the time, skills and assistance of any officer employed by the council or working on its behalf. The object of paragraph 6 (b) is to prevent elected members improperly using resources provided or maintained at public expense which they had access to by reason of being an elected member.

- (xvi) Consideration was given to the Standards for England Case Review 2010 (reissued 2011).
- (xvii) The sub-committee has no jurisdiction in relation to the conduct of Council officers.
- (xviii) The Localism Act 2011 requires the District Council Code to be consistent with the seven principles of public life. However, whilst these principles underpin the Code, they cannot be relied upon as separate components of a complaint.
- (xix) The decision reached is a proportionate response to the allegations.
- (xx) The Independent Person appointed by the Council under the Localism Act s 28(7) has been consulted and agrees that this is an appropriate course.

The meeting finished at 12.07pm having commenced at 11.10am

CHAIRMAN

STANDARDS COMMITTEE
LOCAL ASSESSMENT SUB-COMMITTEE
12 FEBRUARY 2014

Present: Councillors: Andrew Baldwin, Philip Circus, Godfrey Newman

LA/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Godfrey Newman be appointed Chairman of the Sub-Committee for the purposes of this meeting.

LA/2 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

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 (CASE REFERENCE CES 97)**

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

On 11 December 2013 three allegations against the Councillor had been made under section 28 (6) Localism Act 2011.

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 (Case Reference CES 97) (Cont.)

It was alleged that:

First allocation: The Parish Councillor had breached paragraph 3(1), paragraph 3(2)(d), paragraph 5 and paragraph 6(a) of the Parish Council's Code of Members' Conduct; and was in breach of the Nolan general principles of good conduct relating to selflessness, integrity, openness and leadership.

Second allegation: The Parish Councillor had breached paragraph 5 of the Parish Council's Code of Members' Conduct and was in breach of the Nolan general principle of good conduct relating to accountability.

Third allegation: The Parish Councillor had breached paragraph 4 and paragraph 5 of the Parish Council's Code of Members' Conduct and was in breach of the Nolan general principle of good conduct relating to honesty.

3(1) *'You must treat others with respect.'*

3(2)(d) *'You must not 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 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.'*

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

6(a) *'You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.'*

Members considered the views of both the Independent Person appointed by the Council and the Parish Representative co-opted by the Council under S28(7) of the Localism Act 2011.

Members of the Sub-Committee noted that the Council's complaints procedure required that complaints be made within 28 days of the alleged incident unless considered reasonable to exercise discretion.

Members of the Sub-Committee considered whether there was sufficient evidence to give reasonable justification for the delay in the submission of the complaint that would warrant taking action now.

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 (Case Reference CES 97) (Cont.)

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, the Local Assessment Sub-Committee decided that no further action should be taken. This was because the allegation had not been made within 28 days of the alleged incident and the Sub-Committee did not consider there was reasonable justification for the delay in submission of the complaint to warrant taking action now.

REASON

- (i) The Council's complaints procedure requires that complaints are made within 28 days of the alleged incident.
- (ii) It is not clear whether or not the Parish Council were aware of the concerns regarding the Councillor prior to the completion of the investigation report which is dated 17 October 2013. Nevertheless, the Sub-Committee noted that the report was presented to the Parish Council on 17 October 2013 but was not referred to the Standards Committee by way of complaint until 17 December 2013, outside of the 28 day time period.
- (iii) The Sub-Committee accept that time bars should not be enforced rigidly against a complainant where justice requires that the time be extended and the complainant heard. The Sub-Committee accepts it may be reasonable to exercise discretion in certain circumstances.
- (iv) In particular, it was noted that a Parish Council meeting convened to consider the complaint had not taken place until 11 December 2013.

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 (Case Reference CES 97) (Cont.)

- (v) Nevertheless, the Sub-Committee do not consider this is sufficient justification for assessing the complaint out of time because:
- the information relating to the complaint had been presented to the complainant on 17 October 2013;
 - the further away an investigation takes place from the events to be investigated the more difficult it may be to establish the material facts with reasonable confidence. The incidents giving rise to the allegations are alleged to have taken place at various times between June and September 2013. The Sub-Committee considered in view of the passage of time it may not be possible to establish the material facts with reasonable confidence after such a delay;
 - the Sub-Committee did not consider it would be in the public interest to assess the complaint now.
 - The complaint was therefore considered to be out of time.
- (vi) The decision reached is a proportionate response to the allegations.
- (vii) The Independent Person appointed by the Council under the Localism Act section 28(7) had been consulted and agreed that this was an appropriate course.

The meeting finished at 11.50am having commenced at 11.00am

CHAIRMAN

STANDARDS COMMITTEE
LOCAL REVIEW SUB-COMMITTEE
12 FEBRUARY 2014

Present: Councillors: Andrew Baldwin, Philip Circus, Godfrey Newman

LR/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Councillor Godfrey Newman 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 A CERTAIN PARISH COUNCILLOR HAD FAILED TO COMPLY
WITH THE PARISH COUNCIL'S CODE OF MEMBERS' CONDUCT (CESR/24)**

On 27 June 2012 an allegation was made under section 57A(1) of the Local Government Act 2000 and was processed in accordance with the Council's procedure for complaints against Members. The complaint was assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008/1085 having regard to the guidance of the Standards for England.

On 27 June 2012, the Local Assessment Sub-Committee resolved to refer the matter to the Monitoring Officer to provide Code of Conduct training for the councillor, particularly in relation to interests.

On 06 November 2013, the Local Assessment Sub-Committee considered a complaint raised by the complainant regarding the Councillor. The two new

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 a certain Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct (CESR/24) (Cont.)

allegations also referred to the complaints that were originally considered by Local Assessment Sub-Committee on 27 June 2012.

On 06 November 2013, a decision was made under the Localism Act 2011 Chapter 7 by the Local Assessment Sub-Committee that no action should be taken in respect of the complaint.

On 24 November the complainant had requested that the Local Review Sub-Committee review the decision to take no further action. The complainant had also submitted new information for the Local Review Sub-Committee to consider.

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.

Members noted the background to the case, including the complainant's reference to the previous complaint considered by the Local Assessment Sub-Committee on 27 June 2012.

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 the named Parish Councillor was unreasonable in law; and if so whether the decision should be overturned and what action should be taken;
- (ii) Determine, if the Local Assessment Sub-Committee's 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.

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 the Parish Councillor be upheld;

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 a certain Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct (CESR/24) (Cont.)

- (ii) the new information submitted by the complainant at the time of the review was not materially different from that originally assessed, and therefore no further action need be taken.

REASONS FOR DECISION

- 01 In reviewing the complaint the Local Review Sub-Committee has considered whether the original decision 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 judgement on the reported facts.
- 02 The Local Review Sub-Committee also considered the views of the Independent Person and the Parish Representative.
- 03 The Local Review Sub-Committee considered all of the complainant's comments, as submitted in his statement to support the request for a review and resolved that the Local Assessment Sub-Committee's Decision Notice:
- Shows that each allegation was considered in a clear and concise manner;
 - Was detailed so as to show evidence that the Local Assessment Sub-Committee dealt with the allegations separately and in depth;
 - Demonstrates that the Local Assessment Sub-Committee considered the seriousness of the complaint in order to assess whether the complaint should be time-barred;
 - Demonstrates that the Local Assessment Sub-Committee considered the severity of the allegations and determined that the complainant could have referred any serious concerns to the Police;
 - Set out detailed reasons for not taking any action on the complaint;

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 a certain Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct (CESR/24) (Cont.)

- Established that the Local Assessment Sub-Committee decision for taking no further action on the complaints was reasonably made and a proportionate response to the allegations; and
 - Shows that the Local Assessment Sub-Committee's decision was reasonably reached in all of the circumstances.
- 04 The Local Review Sub-Committee considered that the original decision was reasonable and was reached in accordance with its procedures.
- 05 The Local Review Sub-Committee also considered the complainant's new information and whether the new information submitted was materially different to that originally assessed by the Local Assessment Sub-Committee.
- 06 The Local Review Sub-Committee determined that the new information provided by the complainant was not materially different to that originally assessed by the Local Assessment Sub-Committee so as to alter the Local Assessment Sub-Committee decision.
- 07 The Local Review Sub-Committee resolved that the original decision was reasonable and was reached in accordance with the procedures and that the new material did not materially alter the original decision made. It has been decided to uphold the decision not to take any action on the complaint.
- 08 The Independent Person co-opted by the Council under the Localism Act s 28(7) has been consulted and agreed that this is an appropriate course.
- 09 The parish representative co-opted by the Council to advise it on parish matters has been consulted and agreed that this is an appropriate course.

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 a certain Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct (CESR/24) (Cont.)

- 10 In all the circumstances, the Local Review Sub-Committee resolved to uphold the decision not to take any action on the complaint, as it considered that the decision made by the Local Assessment Sub-Committee in relation to the papers as presented by the complainant:
 - (i) was reasonable and was reached in accordance with the relevant procedures; and
 - (ii) the new material did not materially alter the original decision made.

The meeting finished at 10.58 am having commenced at 10.05

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STANDARDS COMMITTEE
DISPENSATION SUB-COMMITTEE
15 JANUARY 2014

Present: Councillors: David Coldwell, Brian Donnelly, Sheila Matthews

Also Present: Mary Jagger (Independent Person)

D/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Brian Donnelly be appointed Chairman of the Sub-Committee for the purposes of this meeting.

D/2 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

D/3 **TO CONSIDER A REQUEST FOR A DISPENSATION MADE UNDER SECTION 33 OF THE LOCALISM ACT 2011 FROM DISTRICT COUNCILLOR PETER BURGESS (CASE REFERENCE CED/3)**

The Monitoring officer reported that Councillor Peter Burgess had requested dispensation to relieve him of restrictions relating to participation and voting in the Localism Act 2011 Section 31(4) and the Horsham District Council Members' Code of Conduct.

Councillor Burgess was a Parish Councillor for North Horsham Parish Council and had advised the Monitoring Officer that he received an allowance from that Parish Council in respect to this role. Councillor Burgess considered that he had a Disclosable Pecuniary Interest (DPI) in relation to two planning applications (DC/13/1599 and DC/13/1432).

The two planning applications applied to different sites: DC/13/1599 was within Denne Neighbourhood Council in Denne Ward; and DC/13/1432 was within North Horsham Parish in Holbrook West Ward. Councillor Burgess had stated in his application that both planning applications involved the purchase of land owned by North Horsham Parish Council. Whilst money would not change hands, the Parish Council would receive compensation for land in the form of works at various locations.

The Monitoring Officer advised that planning application DC/13/1432 had been granted under delegated authority. Application DC/13/1599 would be considered by the Development Control North Committee, which Councillor Burgess was a member of, on 21 January 2014.

D/3 To consider a request for a Dispensation made under Section 33 of the Localism Act 2011 from District Councillor Peter Burgess (Case Reference CED/3) (Cont.)

The Sub-Committee noted that dispensation could only be granted if, after having regard to all relevant circumstances, the council considered that one or more of the grounds set out in section 33(2) (a)-(e) of the Act had been satisfied. Members considered whether any of these five grounds were satisfied, in particular those which Councillor Burgess had indicated as relevant to his request, ie (c) whether the dispensation was in the interest of persons living in the authority's area, and (e) whether it was otherwise appropriate to grant a dispensation.

It was noted that both Holbrook West Ward and Denne Ward were dual Member Wards and the Sub-Committee considered that the Wards could be adequately represented by other Members. It was also noted that it was not the role of a District Councillor to represent the views of a parish or neighbourhood council, which were sought through the planning process in the usual way.

The Sub-Committee therefore considered that the request for dispensation should be refused.

RESOLVED

That the request for dispensation to relieve Councillor Peter Burgess of restrictions relating to participation and voting in the Localism Act 2011 Section 31(4) and the Horsham District Council Members' Code of Conduct with regard to planning application DC/13/1599 and planning application DC/13/1432 be refused.

REASON

- (i) The Sub-Committee considered the provisions of section 33(2) of the Localism Act 2011 and the Council's Dispensation Scheme incorporated in its Constitution.
- (ii) A dispensation can only be granted if after having regard to all relevant circumstances the council consider that one or more of the grounds set out in section 33(2) (a) – (e) of the Act have been satisfied.
- (iii) The Sub-Committee did not consider that any of the grounds upon which a dispensation may be granted had on this occasion been satisfied.

D/3 To consider a request for a Dispensation made under Section 33 of the Localism Act 2011 from District Councillor Peter Burgess (Case Reference CED/3) (Cont.)

- (iv) In particular, members considered it was not necessary to grant the dispensation to protect the interests of persons living in the authority's area. (s.33(2)(c))
- (v) Nor did they consider that it was otherwise appropriate to grant the dispensation. (s.33(2)(c))
- (vi) The wards affected by application DC/13/1599 and DC/13/ 1432 were both two member wards and the Sub-Committee were satisfied that the views of local constituents could be represented by other local members.
- (vii) It is not the role of a District Councillor to represent the views of a parish or neighbourhood council, which are sought through the planning process in the usual way.

The meeting finished at 12.37pm having commenced at 12 noon

CHAIRMAN

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LIST OF STANDARDS COMMITTEE REPORTS AND DOCUMENTS – May 2012 to March 2014

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
19.3.14	Ethical framework update Code of Conduct review report 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	http://www.legislation.gov.uk/uksi/2012/1463/contents/made
SCD4	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012	08.06.2012	Parliament	http://www.legislation.gov.uk/uksi/2012/1464/contents/made

SCD5	The Local Elections (Declaration of Acceptance of Office) Order 2012	15.06.2012	Parliament	http://www.legislation.gov.uk/ukxi/2012/1500/contents/made
SCD6	Can You See What it is Yet?	15.06.2012	LGL	http://localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=10692:can-you-see-what-it-is-yet&catid=181:editors-blog
SCD7	Advice from Jonathan Goolden on Standards Transitional Arrangements	22.06.2012	ACSeS	http://www.acses.org.uk/doc/filename/1652/Advice_from_Jonathan_Goolden_on_the_Standards_Transitional_Arrangements.doc
SCD8	The Art of Complaining	22.06.2012	LGL	http://localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=10753%3Athe-art-of-complaining&catid=181%3Aeditors-blog&Itemid=27
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	http://www.acses.org.uk/doc/filename/1663/Intro_and_Guide_to_Codes.doc
SCD11	Protocol between Nottinghamshire Monitoring Officers and Nottinghamshire Police	01.07.2012	ACSeS	http://www.acses.org.uk/doc/filename/1684/Protocol_Between_Notts_MOs_Notts_Police_-_July_2012.doc
SCD12	Openness and Transparency on Personal Interests	01.08.2012	DCLG	http://www.communities.gov.uk/documents/localgovernment/pdf/2193362.pdf
SCD13	Hampshire County Council Brief to Counsel – Disclosure of Pecuniary Interests	19.10.2012	ACSeS	http://www.acses.org.uk/doc/filename/1699/Brief_to_Counsel_-_Phillip_Coppel_HF000003712585_.doc
SCD14	Hampshire County Council Opinion of Philip Coppel QC – Disclosure of Pecuniary Interests	19.10.2012	ACSeS	http://www.acses.org.uk/doc/filename/1700/SCAN-bbk4wcksg_HF000003749708_.pdf
SCD15	The Localism Act 2011 - Disclosable Pecuniary Interests And Co-Opted Members – Simon Bird Qc	26.10.2012	ACSeS	http://www.acses.org.uk/doc/filename/1703/The_Localism_Act_2011_-_Disclosable_Pecuniary_Interests_and_Co-opted_Member.doc
SCD16	Making It Easier To Set Up New Town And Parish Councils – Discussion Paper	31.10.2012	DCLG	http://www.communities.gov.uk/documents/localgovernment/pdf/2246057.pdf
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	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-criticises-bolton-council-failure-protect-neighbour-development/ http://www.lgo.org.uk/news/2013/jan/ombudsman-criticises-kettering-council-family-housing-error/
SCD 23	National Standards Case Summaries	06.03.13	Various council websites	http://www.norfolk.gov.uk/view/stand010213item6pdf
SCD 24	DCLG Letter Brandon Lewis	27.12.12	DCLG	https://www.gov.uk/government/publications/council-tax-freeze-2013-to-2014
SCD 25	DCLG Letter Brandon Lewis	05.02.13	DCLG	http://localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=13128:standards-rules-of-the-local-authority-road&catid=59:governance-a-risk-articles
SCD 26	Paul Hoey Article on Disclosable Pecuniary Interests	19.02.13	Local Government Lawyer	http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=13301:disclosable-pecuniary-interests--what-did-the-government-intend-to-capture&catid=63:planning-articles
SCD 27	Committee on Standards in Public Life 14 th Report	Jan 13		http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf
SCD 28	Publicity Guidance for Councillors for County Council Elections	20.03.13	HDC	https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity http://www.horsham.gov.uk/files/Part_5G_Issue_22(1).pdf
SCD29	Declaring Interests Flowchart – Questions for Members	May 2013	HDC	
SCD30	Local Assessments, Reviews and Determinations – July 2012 onwards (updated with non-personal data)	March 2014	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	http://www.public-standards.gov.uk/wp-content/uploads/2013/04/Annual-plan-13-144.pdf
SCD33	The Code of Recommended Practice on Local Authority Publicity	March 2011	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf
SCD34	Secretary of State for DCLG: Councillors and Lobbying: Letter	12.03.2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/140313/130312_Letter_to_Hilary_Benn.pdf
SCD35	CPS' guidance on 'Misconduct in Public Office'	May 2013	Crown Prosecution Service	http://www.cps.gov.uk/legal/l_to_o/misconduct_in_public_office/
SCD36	<i>Cosford and others v R</i> (2013)	April 2013	Case decision: [2013] EWCA Crim 466	http://www.bailii.org/ew/cases/EWCA/Crim/2013/466.html
SCD37	Probity in planning for councillors and officers	April 2013	Local Government Association	http://www.local.gov.uk/c/document_library/get_file?uuid=e0cde66c-8cda-4f56-b784-a45cdd41f089&groupId=10180
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	Letter Predetermination	June 2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200496/Letter-Predetermination-March2013.pdf
SCD42	Annual Report 2012-2013	September 2013	Committee on Standards in Public Life	http://www.public-standards.gov.uk/wp-content/uploads/2013/08/Annual-report-Final-for-publication-190813.pdf
SCD43	Local Government Ombudsman Case Summaries June 2013 – September 2013	September 2013	HDC	
SCD44	Standards case summaries June 2013- September 2013	September 2013	HDC	
SCD45	Government removes 'volunteering tax' on councillors	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/news/government-removes-volunteering-tax-on-councillors

SCD46	Your council's cabinet – going to its meetings, seeing how it works A guide for local people	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207528/Your_councils_cabinet_-_going_to_its_meetings_seeing_how_it_works.pdf
SCD47	Eric Pickles opens up planning appeals and lays down challenge	September 2013	Department for Communities and Local Government and Planning Inspectorate	https://www.gov.uk/government/news/eric-pickles-opens-up-planning-appeals-and-lays-down-challenge
SCD48	Code of Practice for datasets	September 2013	Ministry of Justice	http://www.justice.gov.uk/downloads/information-access-rights/foi/code-of-practice-datasets.pdf
SCD49	Guidance on Conduct of Members and Officers for County Council By Elections Storrington Division	September 2013	HDC	
SCD50	Guidance on Conduct of Members and Officers for County Council By Election Warnham and Rusper	September 2013	HDC	
SCD51	General Advice to Members Lobbying-Predetermination	September 2013	HDC	
SCD52	Openness and transparency on personal interests	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf
SCD53	Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity	April 2012	Department for Communities and Local Government	https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2
SCD54	Push for greater town hall transparency on trade union interests	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/news/push-for-greater-town-hall-transparency-on-trade-union-interests
SCD55	Government's response to consultation on making it easier to set up new town and parish councils	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/238996/Government_response_to_consultation_on_making_it_easier_to_set_up_new_town_and_parish_councils.pdf
SCD56	Updated DCLG guidance on 'Openness and transparency on personal interests: a guide for Councillors'	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf
SCD57	Updated Illustrative text for local Codes of Conduct	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/240161/120906_Illustrative_Code_of_Conduct_2_.pdf
SCD58	Press release by Brandon Lewis MP stating that Council's Codes of Conduct should specify a requirement to register	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/news/push-for-greater-town-hall-transparency-on-trade-union-interests

	personal trade union interests			
SCD59	Standards matter: A review of best practice in promoting good behaviour in public life	November 2013	Committee on Standards in Public Life	http://www.public-standards.gov.uk/lobbying-2/
SCD60	Fifth Biennial Survey at the Institute for Government - tracking public attitudes towards standards of conduct in public life	September 2013	Committee on Standards in Public Life	http://www.public-standards.gov.uk/wp-content/uploads/2013/11/CSPL-survey-2012.pdf
SCD61	Statement on amendments to the Transparency Bill	September 2013	Department for Communities and Local Government	https://www.gov.uk/government/news/statement-on-amendments-to-the-transparency-bill
SCD62	Local Government Ombudsman Case Summaries	November 2013	HDC	
SCD63	Local Government Ombudsman report: "No place like home: Councils' use of unsuitable bed and breakfast accommodation for homeless families and young people"	October 2013	Local Government Ombudsman	http://www.lgo.org.uk/news/2013/oct/councils-use-bed-breakfast-accommodation-failing-young-people-families-says-ombudsman/
SCD64	Local Government Ombudsman factsheet: Complaints about publicity given to a Planning application	September 2013	Local Government Ombudsman	http://www.lgo.org.uk/publications/fact-sheets/complaints-about-publicity-planning-application/
SCD65	Local Government Ombudsman factsheet: Complaints about section 106 agreements/planning obligations	September 2013	Local Government Ombudsman	http://www.lgo.org.uk/publications/fact-sheets/complaints-about-section-106-agreements/
SCD66	Standards Case Summaries	November 2013	HDC	
SCD67	Ombudsman Complaints 2013-2014	November 2013	HDC	
SCD68	Local Government Lawyer: Localism Act: 2 Years On	December 2013	Local Government Lawyer	http://www.localgovernmentlawyer.co.uk/images/Localism%20Act%20Survey.pdf
SCD69	Committee on Standards in Public Life – work programme for 2014-15	January 2014	Committee on Standards in Public Life	http://www.public-standards.gov.uk/wp-content/uploads/2014/01/CSPL-WORK-PLAN-220114-updated-letterhead.doc

SCD70	Survey of public attitudes towards conduct in public life 2012	September 2013	Committee on Standards in Public Life	http://www.public-standards.gov.uk/wp-content/uploads/2014/02/CSPL-survey-2012-WEB-VERSION.pdf
SCD71	Transcript of debate on Survey of public attitudes towards conduct in public life 2012	4 th February 2014	Parliament	http://www.public-standards.gov.uk/wp-content/uploads/2014/02/Hansard-Extract-CSPL-Survey-20140204.doc
SCD72	Code of Recommended Practice for Local Authorities on Data Transparency	December 2013	Department for Communities and Local Government	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266815/Transparency_Code_Government_Response.pdf
SCD73	Recorded Votes at Budget Meetings	4 th February 2014	Department for Communities and Local Government	Copy in SCD post 2012
SCD74	LGO Guidance on remedying complaints	December 2013	Local Government Ombudsman	http://www.lgo.org.uk/publications/advice-and-guidance/#guidance
SCD75	Ombudsman Cases Update December 2013 to March 2014	March 2014	HDC	
SCD76	Standards Cases Update December 2013 to March 2013	March 2014	HDC	
SCD77	Ombudsman Complaints 1 March 2013 to 1 March 2014	March 2014	HDC	

Report to Standards Committee

19 March 2014

By the Monitoring Officer

INFORMATION REPORT

Not exempt



**Horsham
District
Council**

Ethical Framework Update: March 2014

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 meeting;
 - Parish related matters: setting up new Parish Councils;
 - Register of Interests;
 - Local Standards regime review: One year on;
 - Committee on Standards in Public Life;
 - Survey of public attitudes towards conduct in public life 2012;
 - The Localism Act 2011 – Survey Results and Report;
 - Transparency;
 - Local Authority Publicity;
 - Filming of Council meetings;
 - Recorded Votes at Budget Meetings;
 - Local Government Ombudsman Case Summaries and Standards case summaries December 2013 to March 2014;
 - Performance management;
 - Freedom of Information;
 - Data Protection Act 1998; and
 - 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; and

- (ii) To promote and maintain high standards of conduct amongst members.

Background Papers: Standards Committee Documents:

SCD 30
SCD 31
SCD 33
SCD 40
SCD 46
SCD 55
SCD 68
SCD 69
SCD 70
SCD 71
SCD 72
SCD 73
SCD 74
SCD 75
SCD 76

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 December 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

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, with regard to the ethical framework 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 forum and a regular standards bulletin. Learning from this resource is provided to this Committee.

- 3.2 All members on the Standards Committee have received training on the Code of Members' Conduct and the Council's "arrangements" for assessing complaints against Members.

Local assessment, review, other action, investigations and determinations [SCD30]

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

Local Assessment

- 3.4 Since the last Ethical Framework Update was presented to this Committee, the Local Assessment Sub-Committee has met on two occasions. Further details are set out in Appendix 2.

Local Review

- 3.5 Since the date the last Ethical Framework Update was presented to this Committee, the Local Review Sub-Committee has met on one occasion.

Other action directed

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

Local Investigations

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

Local Determinations

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

- 3.9 Attached at Appendix 3 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 Clerk's meeting

- 3.10 On 07 January 2014 the Monitoring Officer attended the Society of Local Council Clerks' meeting at Southwater Parish Council. The Ethical Framework Update report from 04 December 2013 was reported to the Parish Clerks meeting for their information. In addition, clerks were updated about the review of the local standards regime being conducted at Horsham.

Parish related matters

Setting up new Parish Councils

- 3.11 In September 2013, the Government published its response to a consultation on making it easier to set up new town and parish councils [SCD55], a copy of which can be located at:
- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/238996/Government_response_to_consultation_on_making_it_easier_to_set_up_new_town_and_parish_councils.pdf
- 3.12 Schedule 12 of the *Local Government Act 1972* allows a parish referendum to be held on any matter following a resolution at a parish meeting. This would normally take place at the instigation of the chairman or of 10 electors or one-third of those present, whichever is the least. This has the potential to lead to referendums being held, at the instigation of a very small number of voters, with the relevant parish council meeting the costs.
- 3.13 At the second reading of the Local Audit and Accountability Bill in the House of Commons, the Secretary of State, Eric Pickles, announced the Government's intention to add a provision to amend the procedures for parish polls (i.e. referendums).
- 3.14 Section 42 of the Local Audit and Accountability Act 2014 now amends Part 3 of Schedule 12 to the Local Government Act 1972 (procedure in parish Meetings). Section 42 now establishes that a poll may be demanded before the conclusion of a parish meeting on any question arising at the meeting, subject to regulations made by the Secretary of State. Such regulations may be about:
- 3.14.1 The questions arising at a meeting on which a poll may be demanded,
 - 3.14.2 The circumstances in which a poll may or must be taken (including provision as to the number of local government electors who must demand a poll for a poll to be taken), and
 - 3.14.3 The conduct of a poll, which may apply to any electoral enactment (elections or referendums).
- 3.15 Further updates with regard to the changes to Parish Polls will be provided to the Standards Committee.

Register of Interests

- 3.16 In July 2013, Register of Interests Update forms were circulated to Parish Clerks and District Councillors. Members will recall that the format of the Register of Interests Update forms was amended in light of the updated DCLG guidance on 'Openness and transparency on personal interests: a guide for Councillors'. The Council's Update forms now state expressly that Councillors are not required 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.

- 3.17 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>.
- 3.18 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 now available to view, and all District Councillors have returned their forms.
- 3.19 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>
- 3.20 To date, two Parish Councils have yet to upload or send to the Monitoring Officer completed copies of their Registers of Interest forms.

Local standards regime review: One year on

- 3.21 As Members will recall, Council requested that the local standards regime adopted in July 2012 be reviewed one year on from its adoption. A small working group of seven members has been created to bring forward proposals to discuss the areas to be considered under the review.
- 3.22 The final meeting of the working group took place on 15 January 2014, at which the following matters were considered:
- 3.22.1 Arrangements for handling complaints regarding member conduct including the right of review for a complainant and the right of appeal for a subject member and further delegation of decision making to the Monitoring Officer;
 - 3.22.2 The Code of Members' Conduct – Inclusion of the revised Nolan Principles, Personal and Prejudicial Interests in the Code and declaration of Interests at meetings;
 - 3.22.3 Standards' Committee Membership; and
 - 3.22.4 Dispensations.
- 3.23 The working group's recommendations shall be reported to the Standards Committee in March 2014, followed by a report to Cabinet and Full Council.

Committee on Standards in Public Life

- 3.24 On 22 January 2014, the Committee on Standards in Public Life (the "Committee") announced its programme of work for 2014-2015. The Committee will be carrying out three shorter pieces of work this year to help promote high standards in public life:
- 3.24.1 **Reinforcing high ethical standards in practice** - how ethics can be included across public sector organisations in internal processes such as induction and professional development and enable staff to exercise appropriate ethical judgement in resolving problems faced. The Committee

will be collaborating with other sectors to identify what works, capture best practice and make recommendations to help public sector organisations promote and support ethical decision making and a culture of high ethical standards. It intends to publish a final review in July;

3.24.2 Independent research on risks created by the development of new models of public service delivery - The Committee's view is that those commissioning and providing public services should ensure services are delivered in a way which maintains high ethical standards. The Committee will be commissioning independent research in the first quarter of 2014 to probe attitudes to the commissioning, procuring or contracting of public services and the ethical principles and standards expected; and

3.24.3 International comparators on trust - Recent evidence of declining trust in public institutions has led many to question whether there is a crisis of trust in the UK. The Committee's public attitudes surveys have shown a long term declining trend since 2004 – overall rating of standards of conduct of office holders continues to decline – 28% of respondents rated conduct as either “quite low or very low”, with a notable decline in trust in political institutions since the MPs' expenses scandal in 2009. Building on the results of their recent survey, the Committee intends to do some further work on international comparators to ascertain if declining trust is a national trend or part of a broader change in attitudes of citizens across western democracies. The Committee will run a seminar in March exploring the role high ethical standards can play in establishing and maintaining trust.

3.25 A copy of the Committee's Press **[SCD69]** release can be located at:

<http://www.public-standards.gov.uk/wp-content/uploads/2014/01/CSPL-WORK-PLAN-220114-updated-letterhead.doc>

Survey of public attitudes towards conduct in public life 2012

3.26 Members will recall that in 2013, the Committee published its report on the results of its survey on public attitudes towards conduct in public life.

3.27 On 04 February 2014, the Chairman of the Committee, Lord Bew led a debate in the House of Lords, which asked the Government what assessment they have made of the report of the Committee on Standards in Public Life, *Survey of public attitudes towards conduct in public life 2012*, published in September 2013.

3.28 A copy of the survey and report **[SCD70]** can be located at:

<http://www.public-standards.gov.uk/wp-content/uploads/2014/02/CSPL-survey-2012-WEB-VERSION.pdf>

3.29 A copy of the transcript of the debate **[SCD71]** can be located at:

<http://www.public-standards.gov.uk/wp-content/uploads/2014/02/Hansard-Extract-CSPL-Survey-20140204.doc>

The Localism Act 2011 – Survey Results and Report

- 3.30 In December 2013, Local Government Lawyer and Freeth Cartwright LLP published its survey results and report on the progress of the Localism Act 2011. One of the key findings is that “that there is a considerable distance between what the Government promised it would achieve and what the legislation is actually able to deliver in practice”.
- 3.31 One of the areas covered within the survey and report include the Standards Arrangements. In particular, the survey and report considers:
- (i) whether the revised standards regime has worked out in practice;
 - (ii) Has clarification of the law on predetermination and bias made any difference; and
 - (iii) Could authorities see a return to committees?
- 3.32 The report refers to the then Local Government Minister Bob Neill MP, who claimed that the old regime had led to “an explosion in petty, partisan and malicious complaints that dragged down the reputation of local government, as well as suppressing freedom of speech”. With regard to this claim, the report found that:
- 3.32.1 More than one in five (22%) said the reforms have led to a fall in the number of vexatious complaints;
 - 3.32.2 A significant minority (15%) argued that the number of vexatious complaints had increased; while
 - 3.32.3 Three in five (63%) said the measures had made no difference.
- 3.33 The report also found that:
- 3.34.1 One in four respondents (25%) reported that councillors’ behaviour had worsened since the reforms came into effect;
 - 3.34.2 4% claimed that it had led to improved behaviour; while
 - 3.34.3 71% said it had made no difference.
- 3.34 Further findings include:
- 3.34.1 The role of the ‘independent person’ (IP) in the handling of conduct complaints - *half of respondents said the role was working either very well or quite well, compared with 7% who considered it to be working either quite badly or very badly and the remainder (43%) said the role had made no difference;*
 - 3.34.2 Disclosable Pecuniary Interests - *Six respondents had to report a failure to disclose to the police; and*
 - 3.34.3 Sanctions are generally considered to be insufficient - *85% consider the sanctions were ‘too weak’, 13% who felt they were ‘about right’ and 2% said they were too tough.*
- 3.35 A full copy of the Survey results and report [SCD68] can be located at:

<http://www.localgovernmentlawyer.co.uk/images/Localism%20Act%20Survey.pdf>

Transparency

3.36 On 30 January 2014, the *transparency of Lobbying, Third Party Campaigning and Trade Union Administration Act 2014* received Royal Assent. This Act aims to address misunderstandings about government's intentions on third party campaigning received. The Act introduces:

- 3.36.1 Introduces a statutory register of consultant lobbyists and establishes a Registrar to enforce registration requirements;
- 3.36.2 Regulates election campaign spending by those not standing for election or registered as political parties; and
- 3.36.3 Strengthens the legal requirements placed on trade unions in relation to their obligation to keep their list of members up to date.

Data Transparency

3.37 In December 2013, the Government published its response to consultation on the Code of Recommended Practice for Local Authorities on Data Transparency (the "Code").

3.38 The Government's revised Code will be mandatory for all Councils with gross annual income or expenditure above a £6.5m threshold. The changes mean councils will now also be required to publish:

- 3.38.1 spending on corporate credit cards;
- 3.38.2 details on the money raised from parking charges;
- 3.38.3 information in relation to trade unions, including union 'facility time';
- 3.38.4 information on councils' contract and tenders;
- 3.38.5 its property assets; and
- 3.38.6 grants given to voluntary, community groups and social enterprises.

3.39 The Department for Communities and Local Government will also on broadening transparency to companies linked to councils and parishes with gross income or expenditure less than £25,000.

3.40 A copy of the response, including the draft Code **[SCD72]** can be located at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266815/Transparency_Code_Government_Response.pdf

Local Authority Publicity

3.41 Members will recall that the Local Audit and Accountability Bill included details about the proposed changes the Code of Recommended Practice on Local Authority Publicity (the "Code").

3.42 Section 39 of the Local Audit and Accountability Act 2014 now introduces two clauses relevant to Code:

- 3.42.1 Enable the Secretary of State for Communities and Local Government to give directions to one or more local authorities, requiring them to comply with the Code; and

3.42.2 Enable the Secretary of State for Communities and Local Government to make an order that applies to all local authorities, or local authorities of a specified description, imposing a duty on them to comply with the Code.

- 3.43 Members will recall that Paragraph 28 of the Code had already established that "Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly".
- 3.44 The new section means that where the Secretary of State considers that the Council is failing to adhere to the Code, he can issue a direction to the Council requiring compliance with (a) one or more specified provisions of a code, or (b) all of the provisions of a specified code. Such a direction may (a) specify the **steps** that an authority to which it is given must take to comply with it or (b) specify the **time** within which such an authority must comply with it.
- 3.45 A copy of the Code of Recommended Practice on Local Authority Publicity (the 'Code') [**SCD 33**] can be accessed on the link below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5670/1878324.pdf

Filming of Council meetings

- 3.46 In June 2013, the Department for Communities and Local Government published new guidance "*Your council's cabinet – going to its meetings, seeing how it works: A guide for local people*" (the "Guide"), which was to help the public know when they can attend meetings of a council's executive (i.e. the council's cabinet) and the type of documents and information available to them.
- 3.47 The Government believes that the earlier rules made by the last government did not provide maximum transparency because an executive was only required to hold meetings in public in certain limited circumstances. The new guidance has been produced to introduce greater transparency and openness into meetings of the executive, its committees and subcommittees. The new guidance has also strengthened the rights of local authority councillors to access information about items to be discussed at a public or private meeting.
- 3.48 A copy of the Guide [**SCD46**] can be located at:
- [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207528/Your_councils_cabinet - going to its meetings seeing how it works.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207528/Your_councils_cabinet_-_going_to_its_meetings_seeing_how_it_works.pdf)
- 3.49 Members will recall that at the second reading of the Bill in the House of Commons, the Secretary of State, Eric Pickles, announced the Government's intention to add a provision to clarify the law regarding filming and tweeting in local authority meetings.
- 3.50 Section 40 of the Local Audit and Accountability Act 2014 now legislates for filming at Council meetings, which sets out that the Secretary of State may by Regulations, make provision to allow persons:

- 3.50.1 to film, photograph or make sound recordings of proceedings at a meeting of a body to which this section applies, or of a committee or sub-committee of such a body;
- 3.50.2 to use other means for enabling persons not present at such a meeting to see or hear proceedings at the meeting, as it takes place or later;
- 3.50.3 to report or provide commentary on the proceedings at such a meeting, orally or in writing, so that the report or commentary is available, as the meeting takes place or later, to persons not present at the meeting.

- 3.51 Further provisions may be made by the Secretary of State to make provisions for requiring certain written records to be kept of decisions and specifying the detail required and publication requirements.
- 3.52 Further updates with regard to the changes to Parish Polls will be provided to the Standards Committee.

Recorded Votes at Budget Meetings [SCD 73]

- 3.53 On 04 February 2014, Brandon Lewis MP, Department for Communities and Local Government, wrote to Leaders to state that *“the Government’s expectation is that at this year’s budget meetings, all councils will adopt the practice of recorded votes – that is recording in the minutes of the meeting how each member present voted – on any decision relating to the budget or council tax. People will thus be able to see how their councillors voted, not only on the substantive budget motions agreeing the budget, setting council taxes or issuing precepts, but also on any amendments proposed at the meeting”*.
- 3.54 As part of the Government’s commitment to transparency and democratic accountability, ‘The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014’ came into force on 25 February 2014.
- 3.55 These Regulations make it mandatory for councils as soon as is practicable after the Regulations are in force, to amend their Standing Orders so as to include provisions requiring recorded votes at budget meetings. The letter also states that whilst some councils may be holding budget meetings before they have formally amended their Standing Orders, Councils are not prevented from simply resolving to holding a recorded vote, in line with the Regulations.

Local Government Ombudsman (‘LGO’) Case Summaries December 2013 – March 2014

- 3.56 A copy of LGO case summary for December 2013 to March 2014 is attached as Appendix 4.

LGO Update

- 3.57 The LGO has published new guidance on remedying complaints on its website, which replaces its previous guidance. A copy of this new guidance [SCD74] can be located at:
<http://www.lgo.org.uk/publications/advice-and-guidance/#guidance>

3.58 In summary, the new guidance:

3.58.1 Sets out the ranges of figures for financial redress;

3.58.2 Places more emphasis on remedial action;

3.58.3 Introduces new sections on assessing and remedying injustices such as distress and harm; and

3.58.4 Provides new casework examples, arranged by service area.

3.59 The LGO's guidance is intended mainly for its investigators, but encourages organisations to use it, as it is often the case that cases can be closed at the assessment stage where a council has offered a remedy in line with its guidance.

Standards case summaries December 2013 to March 2014 [SCD 75]

3.60 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/extracts of some notable cases, which have been published, is attached as Appendix 5 to assist with members learning.

Performance Management

3.61 On 12 February 2014, the quarterly report regarding complaints was submitted to the Finance and Performance Working Group. For the period 01 October 2013 to 31 December 2013, the Complaints & Information Officer was notified of 32 formal complaints, and 16 compliments. In addition, Operational Services recorded 52 complaints and 4 compliments.

Freedom of Information

3.62 For the period 1 April 2013 to 31 January 2014 the Council received 529 requests for information (excluding contaminated land requests and local land charge and personal search requests). This compares to 439 for the same period in 2012 and 2013.

Data Protection Act 1998

3.63 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. 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.

3.64 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, including updating the "Keep Information Safe and Secure" blog and circulating emails regarding good practice in handling personal and sensitive personal data. Changes to working practices, including remote

access when working from home have also been implemented across the Council to reduce the risk of a data security breach.

Work Programme update [SCD 40]

- 3.65 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 6.

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

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 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	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
CES91	Parish	N/A	Public	24.11.12	Parish Councillor allegedly used a shared email account for council business, potentially causing a breach of the Data Protection Act 1998.	N/A	Referred to the Information Commissioners Office	
CES92	District & Parish	14.08.13	Public	09.07.13	Allegation of bringing the Parish and District Council into disrepute by breaching a Planning condition and the permitted use of land resulting in trespass and abuse of a private road.	26	No Further Action	N
CES93	Parish	14.08.13	Public	09.07.13	Allegation of bringing the Parish and District Council into disrepute by using land in breach of a Planning condition and the permitted use resulting in trespass and abuse of a private road.	26	No Further Action	N
CES94	District	04.12.13	Public	19.09.13	Allegation Councillor breached Code of Conduct when answering questions from members of the public at a full council meeting. By failing to treat others with respect, attempting to bully and intimidate	31	No Further Action	N

					the complainant. Giving untrue statements, bringing office/ authority into disrepute, using position as a member to improperly secure an advantage and failing to act in accordance with authority's reasonable requirements when using resources.			
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
CES95	Parish	06.11.13	Public	26.09.13	Allegation that Parish Councillor failed to treat others with respect, bullying, bringing office/ authority into disrepute. Councillor had potentially committed a criminal offence by taking part in discussions & voting at meeting where he had a DPI. Failing to withdraw from a meeting where he had an interest.	29	No Further Action	Y

Review Requested	Decision	Working days (receipt of complaint to assessment)	Nature of complaint (Personal data removed)	Date complaint received	Complainant	Decision Date	District or Parish Council	File ref
N	No Further Action	29	Allegation that Parish Councillor failed to treat others with respect, bullying, bringing office/ authority into disrepute.	26.09.13	Public	06.11.13	Parish	CES96
	No Further Action	36	Allegation that a Parish Councillor: failed to treat others with respect, compromised impartiality, bringing the authority into disrepute, attempted to use position to as a member to improperly secure an advantage, disclosed confidential information.	19.12.13	Parish Council	12.02.14	Parish	CES97

File ref	Review of	District or Parish Council	Decision Date	Complainant	Nature of complaint (Personal data removed)	Date received	Working days	Decision
CESR9	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 '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.
CESR10	CES75	Parish	20.09.12	Public		08.07.12	53	Refer to new Local Assessment Sub-Committee
CESR11	CES76	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR12	CES77	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR13	CES78	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR14	CES79	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR15	CES80	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR16	CES81	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR17	CES82	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.

CESR18	CES83	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR19	CES84	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR20	CES85	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR21	CES86	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.
CESR22	CES87	Parish	20.09.12	Public		08.07.12	53	No Further Action. Initial Review 08.08.12; final Review 20.09.12.

Decision	Working days	Date received	Nature of complaint (Personal data removed)	Complainant	Decision Date	District or Parish Council	Review of	File ref
No Further action	53	17.11.12	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	Public	30.01.13	Parish	CES89	CESR23
No Further Action	54	24.11.13	Allegation that Parish Councillor failed to treat others with respect, bullying, bringing office/ authority into disrepute. Councillor had potentially committed a criminal	Public	12.02.14	Parish	CES95	CESR24

					offence by taking part in discussions & voting at meeting where he had a DPI. Failing to withdraw from a meeting where he had an interest.			
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*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.

Appendix 3

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

Ombudsman Case Update from December 2013 – March 2014**Sandwell Metropolitan Borough Council
Fault found and remedy provided**

30 January 2014

A complaint from a man that the council delayed in dealing with an application for a Disabled Facilities Grant (DFG) to provide accessible bathing facilities for his mother. He first contacted the council in late 2007 but the council did not start assessing his mother's needs until January 2010. The council did not complete the assessment until August 2011. Because of the delay, the man carried out his own work to build an extension. In 2012 the council refused to help him further.

The Ombudsman found maladministration causing injustice.

Agreed remedy - To remedy the injustice caused the council has agreed to:

- help the man make the necessary building regulations application for the shower room at no cost to him;
- assess whether the shower room meets his mother's needs. If not, it will help him complete a DFG application for any modification work;
- pay the man £7,000: equivalent to the cost of the lift it originally recommended and £1,000 to recognise the distress and frustration he has been caused; and
- pay £2,000 to the mother for the distress and inconvenience caused by the delay in providing accessible showering facilities.

<http://www.lgo.org.uk/decisions/housing/disabled-facilities-grants/sandwell-metropolitan-borough-council-12-021-104/>

**Kingston upon Hull City Council
Fault found and remedy provided**

23 January 2014

Complaint from a lady who was homeless and approached the council for help. The council decided it had a duty to arrange suitable accommodation for her, but withdrew her homeless priority after she refused an offer of accommodation it considered suitable. The council confirmed their decision on review but failed to tell her that she could appeal the decision in the county court on a point of law.

The Ombudsman found maladministration causing injustice.

Agreed remedy - To remedy the injustice caused, the council has agreed to:

- provide the lady with a new review decision which includes details of how she can appeal the decision to the county court on a point of law;
- pay her £200 to recognise the injustice caused by its failings; and
- check its records to identify who else might have been disadvantaged by this error and alert them to it. It should also carry out a full review of its procedures and its standard template letters. The review should take account of legal advice, to ensure the correct procedures and letters are applied on each case.

<http://www.lgo.org.uk/decisions/housing/homelessness/kingston-upon-hull-city-council/>

Fault found causing injustice and recommendations made

Mr S complains that the council forced him to accept a property that was too small for his family and has since then failed to offer him a larger property or give him adequate priority on the housing register to enable him to move to a larger property within a reasonable period of time.

The Ombudsman finds that the council was at fault in offering Mr S a property which was too small for his family's needs. The council was also at fault in failing to advise Mr S in writing of his right to request a review of the suitability of the accommodation offered.

This fault has caused Mr S and his family a serious injustice. They were moved from accommodation which, although temporary, met their needs into a property which was significantly less suitable and not large enough for them. They have been living in overcrowded conditions for two years and Mr S's 12 year old daughter was forced to sleep in a bedroom which, by law, is too small.

The Ombudsman finds fault which has caused injustice to the complainant.

Recommended remedy - The council has agreed to provide guidance to its housing officers about overcrowding rules to ensure their knowledge and practice in this area is up to date. The Ombudsman also recommends the council:

- elevates Mr S's priority to the highest category (Band One) to ensure he is re-housed as quickly as possible; and
- pays Mr S £1,000 to acknowledge the distress and frustration he and his family have suffered by living in unsuitable accommodation for over two years longer than necessary and for his time and trouble pursuing his complaint.

<http://www.lgo.org.uk/decisions/housing/allocations/isle-wight-council-12-001-189/>

The council failed to provide a lady with appropriate 24 hour care in a timely manner. This resulted in her husband having to leave work to care for her.

The recommended remedy included a payment to the lady's husband of £61,270 in recognition of the care he provided to his wife which the council had not funded at the time. The council has not accepted that recommendation.

The Ombudsman has considered all the council's arguments for not complying with her recommendation, but remains unsatisfied with the action the council has proposed to take in response to the recommendations in her initial report.

The Ombudsman now asks the council to reconsider its position on her recommended financial remedy.

<http://www.lgo.org.uk/decisions/adult-care-services/direct-payments/shropshire-council-12-007-311-fr/>

Appendix 5

[SCD76]

Standards Cases Update December 2013 to March 2014

Council blames Localism Act for inability to remove councillor from office

25 February 2014

A local authority has blamed changes brought in through the Localism Act 2011 for its inability to remove from office a councillor found guilty of benefit fraud.

Cllr Kevin Wilson, who represents a ward in Tiverton, received a 10-week suspended sentence with 200 hours community service after pleading guilty to the offence.

However, he continues to serve as a councillor at Mid-Devon District Council and receive an allowance.

The local authority has issued a statement saying that “managers, staff and elected members.....have expressed anger and frustration” at this situation.

It said: “The council wishes to make it clear that legally it has no power to remove this councillor from office. This is because the Government abolished the previous national disciplinary system for councils as part of the Localism Act 2011, which would have enabled us to take action.”

Kevin Finan, chief executive of Mid-Devon, said: “Had this been a member of staff, we would have suspended them when the allegations were first made and sacked them on the spot when found guilty.

“Unfortunately, due to changes in the law, we are prevented from applying the same standards to our elected members.”

The issue is to be considered at a meeting of full council on 26 February. A motion has been put forward that condemns Cllr Wilson and calls for his immediate resignation.

Mid-Devon also sought to address claims in the local press that it had acted disproportionately and made "legal attempts to utterly destroy" Cllr Wilson.

Full details, including commentary from a Councillor, can be located at:

http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=17463%3Acouncil-blames-localism-act-for-inability-to-remove-councillor-from-office&catid=59&Itemid=27

Councillor ends judicial review claim over standards committee finding

26 February 2014

A councillor has withdrawn his judicial review claim against East Staffordshire Borough Council over an adverse finding of its standards committee in 2012.

Cllr Andrew Riley's withdrawal of the claim came shortly before the Administrative Court was due to hear the case. According to the local authority, he has agreed to pay a "substantial contribution" towards its costs.

The dispute stemmed from a finding by East Staffordshire's standards committee that Cllr Riley had breached its code of conduct by disclosing confidential information.

The committee had decided not to impose any sanction. It also agreed not to publicise the findings "for Councillor Riley's benefit due to the particular circumstances", the council said.

East Staffordshire said the member's subsequent decision to challenge the decision had brought the issue out into the public.

The councillor had claimed that:

- The information he disclosed was not confidential;
- The committee's decision interfered with his right to freedom of expression;
- The committee was not politically neutral and was not an independent and impartial tribunal, in breach of the Human Rights Act.

Cllr Riley had also called on the Administrative Court to make a declaration that this part of the Localism Act 2011 was incompatible with the European Convention on Human Rights.

"The council and the Secretary of State for Communities and Local Government strenuously defended these claims," East Staffordshire said.

Cllr Riley told the Uttoxeter Post and Times that he did not know that the information he had divulged - relating to the sale of a car park - was private. He said the Labour group had stopped the judicial review proceedings because of "spiralling costs".

http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=17465%3Acouncillor-ends-judicial-review-claim-over-standards-committee-finding&catid=59&Itemid=27

Councillor loses bid to have code of conduct decision judicially reviewed

02 January 2014

A High Court judge has rejected a councillor's application for permission to apply for judicial review of a decision by a standards committee that he had breached the council's code of conduct.

The case of Dennehy, R (on the application of) v London Borough of Ealing [2013] EWHC 4102 (Admin) centred on comments posted by Cllr Benjamin Dennehy about residents of Southall on a blog on 12 March 2012.

The blog included comments such as: "Southall is a constant on the public purse in Ealing. It is home to the worst concentration of illegal immigrants in the UK. It is a largely Indian community who say they deplore this behaviour but yet it is that very same community that harbours and exploits their own people in squalid third world living conditions."

The standards committee at Ealing Council opened a formal investigation after a formal written complaint from another councillor. It subsequently found that in posting the comments Cllr Dennehy had not treated others with respect and had brought the council and the office of councillor into disrepute contrary to its 2007 code of conduct.

It said the blog entry – which was widely reported in the local press and prompted a petition with 280 signatories – had raised a number of important and legitimate issues for debate but the tone of much of the content had been "inappropriate and unnecessarily provocative".

The committee resolved that Cllr Dennehy, who was expelled from the Conservative Party following the blog and subsequently joined UKIP, should be requested to issue an appropriate apology. It also decided that a notice summarising the committee's decision should be published in the *Ealing Gazette* and on the authority's website.

At an oral hearing before HHJ McKenna, the claimant advanced two grounds of challenge, namely that:

- The committee had failed to give adequate reasons for its conclusion that the tone and much of the content of the blog had been inappropriate and unnecessarily provocative; and
- The decision of the committee was unreasonable and irrational on the grounds that the comments posted on the blog did not justify a finding that Cllr Dennehy had breached certain paragraphs in the code.

Cllr Dennehy argued that the committee's decision infringed his fundamental right to free speech at common law and under Article 10 of the European Convention on Human Rights. He also said the reasons given by the committee in relation to the comments posted on the blog were an unjustified restriction on his right to free speech.

HHJ McKenna rejected the councillor's application. He concluded that Ealing's decision, although engaging Article 10, was "plainly a proportionate interference in the light of the other interests identified in the Convention".

On the first ground, the judge said it could not arguably be said that there was a failure to give adequate reasons to the claimant on the facts of the case.

On the second ground, HHJ McKenna concluded that:

1. The committee was plainly entitled to find, as it did, that as a matter of fact, what the claimant had said about Southall residents had failed to treat others with respect and had brought the council and the office of councillor into disrepute.
2. On the face of it the finding and the sanctions did constitute a breach of Article 10.
3. The finding and the sanctions were justified under Article 10(2) since, as the report explained, the comments about Southall residents were contained in a separate section of the blog from those which raised legitimate topics of political debate. "They were not the expression of a political view, but an unjustified personal and generic attack on a section of the public. The subjects of the speech were not politicians but ordinary members of the public and, as such, the comments did not attract the higher level of protection applicable to political expressions and the comments would plainly have undermined confidence in local government, the preservation of which is a recognised aim of the code."
4. The extent of the interference was "on any view very limited indeed". In terms of sanctions following the finding, the claimant was "merely requested, not required, to apologise and as I understand it, he has not done so and in addition the committee's findings were neutrally reported in the local press and on the council's website".

Gunner Cooke partner Sunil Abeyewickreme, Cllr Dennehy's lawyer, said a notice of appeal had been filed last week (27 December).

Full details, including Cllr Dennehy's response to the judgment can be located at:

http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=16723:councillor-loses-bid-to-have-code-of-conduct-decision-judicially-reviewed&catid=56:litigation-articles&Itemid=24

APPENDIX 6
STANDARDS COMMITTEE WORK PROGRAMME 2013/2014 [SCD 40]

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	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.

No	Activity	Who is responsible	Completion	Notes	Legislative Root
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 Independent Person reports	Independent Person, advisory members of Standards Committee			
15	Consider regular Parish Representative reports	Parish Representative advisory members of Standards Committee	Quarterly		Good Practice.
16	Preparation and revision of Work Programme and Forward reports	MO/Standards Committee	Annually		Good Practice.
17	Response to consultations	MO/Standards Committee	As required	To ensure the Committee has ability to comment and influence the evolving standards framework.	
18	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

Report to Standards Committee

19 March 2014

By the Monitoring Officer

INFORMATION REPORT

Not exempt



**Horsham
District
Council**

The Local Government Ombudsman Update 2013-2014

Executive Summary

This report is to update Members on the number of complaints and nature of complaints against the Council that were made to the Local Government Ombudsman (the "LGO"), and provide details on the changes to the LGO's complaints processes.

Recommendations

The Committee is recommended to note the contents of the report.

Reasons for Recommendations

- 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.

Background Papers: None. Information on specific case files is confidential.

Consultation: None

Wards affected: All

Contact: Selena Saroy, extension 5507

File reference: CE0/157

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to update Members on the number, nature and the current position of complaints made to the LGO. The report shall also provide details on the changes to the LGO's complaints processes.

Background/Actions taken to date

- 1.2 The LGO requires complainants to exhaust the Council's internal complaints procedure before it will investigate a complaint. Where the LGO receives a complaint that has not first been processed internally by the Council, it will normally refer the complainant to the Council's internal complaints procedure, and log such complaints as "premature complaints". In some circumstances, however, the LGO will inform the Council that it has opted to look into a complaint or investigate a complaint without referral to the Council's internal complaints procedure.
- 1.3 Details of all complaints, compliments and suggestions to the Council are considered by the Performance Management Working Group on a quarterly basis.

2 Statutory and Policy Background

Statutory background

- 2.1 The statutory background is found in the Local Government Act 1974 (as amended) and the Local Government and Public Involvement in Health Act 2007.
- 2.2 The Local Government Act 1974 (as amended) specifies the two main statutory functions for the LGO:
- 2.2.1 To investigate complaints against councils and some other authorities; and
- 2.2.2 To provide advice and guidance on good administrative practice.
- 2.3 The Local Government and Public Involvement in Health Act 2007, also sets out the LGO's role:
- 2.3.1 The LGO may look at service failure in addition to maladministration;
- 2.3.2 The LGO will have a limited power to investigate where an apparent case of maladministration comes to light even though they have received no complaint about the matter;
- 2.3.3 Complaints about the procurement of goods and services are within its jurisdiction;
- 2.3.4 The LGO may issue a 'statement of reasons' instead of a report if they are satisfied with the council's proposals to remedy its failures;
- 2.3.5 There are powers to publish the LGO's decisions other than reports; and
- 2.3.6 Complaints no longer need to be in writing.
- 2.4 The LGO also has jurisdiction in areas that do not directly relate to the Council's services, and its jurisdiction and operations are set out within the Local Government and Public Involvement in Health Act 2007, the Health Act 2009 and the Apprenticeship, Skills, Children and Learning Act 2009.

Relevant Government policy

- 2.5 The relevant Government policy is contained within the legislation cited in paragraph 2.1 above.

Relevant Council policy

- 2.6 The Council's Complaints Procedure for handling comments, representations, criticisms of policy and formal complaints is set out within Part 5D of the Council's Constitution.

3 Details

- 3.1 Since 01 March 2013, eleven complaints were made to the LGO:
- 3.1.1 Eight complaints have been determined without investigating matters. In one case, whilst the LGO determined that the complainant had a statutory right of appeal and did not investigate, the Council agreed to apologise due to delayed responses to the complainant;
 - 3.1.2 One complaint was investigated, following which the Council agreed to pay the complainant £250 to compensate for the lost opportunity to request a review of the suitability of the temporary accommodation. The sum was offset against the complainant's outstanding rent arrears; and
 - 3.1.3 Two complaints are currently being investigated.
- 3.2 In the previous reporting period 2012-2013, eleven complaints to the LGO were made to the LGO.

Annual Review 2013-2014

- 3.3 The LGO prepares annual statistics for the period of 01 April to 31 March each year. However, following the changes at the LGO, it is unknown, as to which date the LGO will issue the Annual Review letter for 2013-2014.
- 3.4 Members will recall that the Council's Annual Review letter for 2012-2013 was reported to the Standards Committee in September 2013.
- 3.5 The Annual Review letter normally sets out:
- 3.5.1 A general update on LGO developments;
 - 3.5.2 Details of complaints that the LGO receives about the Council's services; and
 - 3.5.3 Complaint statistics, including the average time taken to respond to the LGO's written enquiries.

Complaints

- 3.6 The LGO can make recommendations to the Council in regards to remedying the complaint against its service, including an apology from the Council and compensation payments.
- 3.7 In 2013-2014, the LGO recommended that the Council pay £250 in compensation in one of the complaint cases and amend its standard letters to include an applicant's right to request a review of the suitability of any accommodation offered as a discharge of the homelessness duty, including temporary accommodation.
- 3.8 An updated schedule of cases recorded for the 2013-2014 reporting year is attached [SCD77]. Complainant details recorded within the schedule of cases are anonymised, in

compliance with Part 1 Schedule 12A of the Local Government Act 1972, as it forms information relating to individuals.

4 Next Steps

- 4.1 This report is based on the complaints that the LGO has investigated. It is intended that this report will assist with learning lessons and improve the Council's performance.
- 4.2 Should the LGO publish an Annual Review letter for 2013-2014, it shall be circulated to the Standards Committee.

5 Outcome of Consultations

- 5.1 Not applicable.

6 Other Courses of Action Considered but Rejected

- 6.1 Not applicable.

7 Staffing Consequences

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

8 Financial Consequences

- 8.1 Members should note that as the LGO can recommend compensation payments where it determines that complaints should be upheld, the Council must pay those compensation payments to the complainant(s).

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? Risk Assessment attached Yes/No	The report will assist the Council with learning lessons and improving its performance. No.
How will the proposal help to reduce Crime and Disorder?	This report does not directly affect the Council's duty to reduce crime and disorder.
How will the proposal help to promote Human Rights?	Responding to complaints effectively and learning from the process, together with the adoption of the ethical framework will enhance citizens' human rights in all their aspects.
What is the impact of the proposal on Equality and Diversity? Equalities Impact Assessment attached Yes/No/Not relevant	The Council is committed to the values of Equality and Diversity in relation to the provision of services and when serving residents. It has adopted a Single Equality Scheme as a public commitment of how the Council will meet the duties placed upon it by equality legislation. Having the right climate to accept and respond effectively to complaints against the Council will ensure the duties placed upon the Council by equality legislation are considered. No.
How will the proposal help to promote Sustainability?	This report does not directly help to promote sustainability.

Reference	Nature of Complaint	Date Complaint Received	Current Position	Date Determined	Further Action	Lessons Learnt
CEO166	Planning and Development Failure to take effective enforcement action to a nearby property address	12.10.12	Provisional view 28.08.13: While there has been some fault by the Council, there are insufficient grounds on which to base any further investigation by the Ombudsman. Final Decision 01.10.13 No change from provisional view above.	01.10.2013	None	
CEO 169	Planning and Development A complaint about the way the Council has responded to the complainant's requests for information; the way it has monitored implementation of the Section 106 agreement in respect of a development and the way it monitors section 106 agreements generally	24.01.2013	Provisional view 22.04.13 – To discontinue the investigation of this complaint The Council's planning permission for a new estate included conditions and agreements the developer had to comply with. The Council is now taking action to check on and secure compliance. It delayed in responding to the complainant's enquiries but is now in regular contact with the complainant.	30.09.2013	The Council is now in regular contact with the Complainant and is involving him in discussions with the developer	Since the complaint was first made, the council now has a Section 106 database which records key obligations and helps in checking their implementation. This should avoid similar problems occurring in the future.
CEO172	Planning and Development The Council did not properly consider and determine a planning application for a rear and first floor extension to a neighbouring property.	24.05.13	Determined: Decision to close the complaint without investigating matters. Whilst the Council had made errors in the early stages in respect of measurements, it drew these matters to Members' attention before a decision was made.	24.05.2013	None	

Reference	Nature of Complaint	Date Complaint Received from LGO	Current Position	Date Determined	Further Action	Lesson Learnt
CEO173	The Council granted conditional planning consent for a neighbour to extend their property. The complainant stated that other applications in the same street were refused and so the Council was wrong to grant consent for the applicant.	10.06.13	Determined: The LGO will not investigate the complaint as she saw no significant administrative fault in the way the Council made its decision.	10.06.2013	None	
CEO 174	Planning and Development The Council did not properly consider and determine an outline planning application for 103 dwellings and open space in February 2012. The complaint was made on behalf of other residents.	10.06.13	Determined: Events complained of took place too long ago for the LGO to investigate now. If the LGO was to investigate, it would need to assess the degree of injustice caused to the complainant i.e. loss of her residential amenity, but the complainant did not indicate that she suffered any personal injustice of this kind, No written authorisation from other residents for the complainant to complain on their behalf.	10.06.13	None	

Reference	Nature of Complaint	Date Complaint Received from LGO	Current Position	Date Determined	Further Action	Lesson Learnt
CEO175	Housing Services The Council placed the tenant in unsuitable temporary accommodation which resulted in the loss of her job as she was unable to travel to work. This led to rent arrears. Later the Complainant's housing benefit claim was mishandled and a self employment form was sent to the wrong address. There was an incorrect overpayment decision for housing benefit and eviction.	19.07.13	Determined: Council to pay complainant £250 to compensate for the lost opportunity to request a review of the suitability of the temporary accommodation. The £250 should be offset against the outstanding rent arrears.	06.12..13	Council has been asked to amend its standard letters to include an applicant's right to request a review of the suitability of any temporary accommodation offered when the council discharges its homelessness duty.	There is no statutory requirement to notify a person of their right to request a review of the suitability of temporary accommodation offered; but the Homeless Code of Guidance says housing authorities should advise applicants of this right. Councils are required to have good reasons for departing from the guidance in the Code.
CEO176	Planning and Development Complainant states (i) They received ambiguous and misleading information from the Council about the need for planning consent for fencing they wished to erect in 2004; (ii) There was unreasonable delay in the way the Council dealt with the planning applications from 2006 to	12.08.13	Decision to close the complaint without investigating matters. The complaint is outside the jurisdiction of the Ombudsman because it was not made to her in time and there is no good reason to accept it as a late complaint.	12.08.13	None	

Reference	Nature of Complaint	Date Complaint Received from LGO	Current Position	Date Determined	Further Action	Lesson Learnt
	2010; and (iii) Investigations carried out by the Council's compliance team in April 2012 involving trespass on their property.					
CEO177 CEO178	Planning and Development The Council failed to properly respond or take appropriate and timely action in response to the reports of a planning breach. Complainant says that due to the Council's fault, they had to suffer nuisance for longer than necessary.	22.08.13	Ongoing			
CEO179	Operational Services Complainant says council is not putting wheelie bins back after collection but leaving them on the public highway and in the road where they cause obstruction.	13.09.2013	Determined Ombudsman will not investigate this complaint because the injustice is not significant enough to justify the cost of her involvement.	13.09.2013	None	
CEO180	Planning & Development Complainant says the Council failed to determine schemes for development on dairy farm within the timescale	03.10.2013	Determined Ombudsman will not investigate this complaint because although there was poor handling and delay in investigating the complaint by the Council, the Complainant could have	04.11.2013	None	

Reference	Nature of Complaint	Date Complaint Received from LGO	Current Position	Date Determined	Further Action	Lesson Learnt
	imposed by the Planning Inspector. Council failed to respond to his complaint in a timely way so they has missed a deadline for getting a £17,000 grant from a Regional Development Agency towards the cost of constructing an underground slurry tank. This is a direct consequence of the Council's failure to approve the proposed scheme within a reasonable time.		exercised his statutory right to appeal much earlier (Any time after 09.10.2012). Instead the complainant chose to give the Council more time to comply which prolonged matters. The Council has agreed to apologise to Complainant.			
CEO181	Benefits & Tax. HDC obtained a court order in 2007 to sell the Complainant's house to pay moneys owed to HDC. Complainant alleges they were told by a council officer that they need not pay council tax until issues relating to sale of his house were resolved. Bailiffs should not have levied distress on the car because it was a 'tool of the trade'	06.11.2013	Determined Ombudsman would not investigate. Not in jurisdiction & discretion not exercised. Ombudsman had considered some of the issues in the past and had not upheld them. Complainant could not provide any evidence of a council officer telling him they need not pay council tax. Complainant should complain to the courts about actions of bailiffs if the car was a 'tool of the trade'.	06.11.2013	None	

Reference	Nature of Complaint	Date Complaint Received from LGO	Current Position	Date Determined	Further Action	Lesson Learnt
CEO182	Planning and Development Complainant's neighbour did not build extension according to plans. Neighbours and the local Parish Council complained to HDC. Complainant alleged planning officer gave misleading information about rendering on the extension, and suggested the neighbour apply for retrospective planning permission so the planning process was contravened.	22.10.2013	Determined Ombudsman would not investigate. There was no fault by the council in the way it handled the planning application.	25.02.2014	None	
CEO183	Planning and Development Complainant alleges the Council's Building Control Inspector passed seriously defective and incomplete drainage as being compliant with Building Regulations.	06.12.2013	Ongoing			

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Report to Standards Committee

Date of meeting 19 March 2014

By the Monitoring Officer

DECISION REQUIRED



**Horsham
District
Council**

Not exempt

Report Title: Review of the Standards Regime

Executive Summary

A review of the locally agreed standards regime has been undertaken to assess the effectiveness and efficiency of the process. The purpose of the report is to recommend changes to the standards' regime adopted at Horsham for dealing with standards of conduct for elected and co-opted Councillors. The review has been undertaken by the Standards Committee Working Group.

The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The new provisions came into force on 1 July 2012. Following full Council meetings on 22 February 2012, 15 May 2012 and finally on 27 June 2012 Council agreed:

- to establish a new Standards' Committee with responsibility for promoting and maintaining high standards of conduct and its membership;
- the adoption of a new Code of Members Conduct and Dispensation Scheme;
- the appointment of 2 Independent Persons and 2 Parish Representatives;
- the "Arrangements" and procedures for dealing with misconduct complaints in relation to both district and parish councillors;
- changes to the Register of Interests to reflect the new disclosable pecuniary interest created within the Localism Act and regulations made there under; and
- all necessary changes to the Constitution.

Council also requested that a review to be undertaken by the Standards' Committee after one year to see how the process was bedding down and whether any further changes should be made to the now locally agreed standards regime.

On 19 June 2013 the Standards Committee set up a Standards Committee Working Group to carry out investigation for the purposes of the review and make recommendations to the Standards Committee on its findings.

The working group chaired by Councillor Brian Donnelly and assisted by Councillor David Coldwell, Councillor Philip Circus, Councillor Godfrey Newman, Councillor Sheila Matthews, Independent Member Mary Jagger and also Parish Representative Val Court met on 3 occasions on 11 September and 23 October 2013 and 15 January 2014 to consider the review.

All members of the Council were consulted and invited to make representations on the review.

Research was undertaken as to the final content of standards' regimes adopted by neighbouring authorities. An on line survey was carried out of authorities within West Sussex, East Sussex and Surrey to assist the review. A report from Hoey Ainscroft "Standards 1 year on" provided information regarding the national picture.

On 11 December 2013 full Council requested the Standards Committee to consider the issue of dispensations and dual hatted membership generally as part of the local standards regime review.

The Standards Committee Working Group have identified some changes which they believe would promote efficiencies in procedure without causing injustice to either complainants or subject members.

Recommendations

The Committee is recommended TO RECOMMEND to Council:

- i) That the Arrangements and procedure for dealing with complaints regarding councillor behaviour be revised by:
 - removal of the internal right of review for a complainant; and
 - removal of the right of appeal for a subject member; and
 - delegation of power to the MO to determine whether a complaint is within the jurisdiction of the Standards Committee.
- ii) That the Code of Members' Conduct be revised by:
 - the inclusion of the updated Nolan Principles in line with the latest recommendation from the Committee on Standards in Public Life; and
 - inclusion of a requirement to declare a DPI at meetings in the same way as a personal and prejudicial interest.
- iii) That the Membership of the Standards Committee be revised by:
 - the extension of membership to 9 elected members to include the Chairman or past Chairman, the Vice Chairman and 1 member of the Cabinet.
- iv) That under the Council's Dispensation Scheme:
 - consideration be given as to whether a general dispensation should be granted to all members who have a DPI in any business of the authority in relation to themselves or their partners where it relates to category 1 of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 namely '*any employment, office, trade, profession or vocation carried on for profit or gain*' by virtue of being a dual hatted member in receipt of an allowance from either a parish or county council to enable them to speak but not to vote where a member of the public has similar rights.
- v) That the Monitoring Officer be authorised to make all necessary revisions to the Constitution to implement the above changes.

Reasons for Recommendations

- i) to recommend actions required for Council to implement proposed revisions to the standards regime adopted locally;
- ii) to instruct the Monitoring Officer to prepare all necessary changes to the standards regime documentation including the Council's Constitution;
- iii) to inform Members of the Committee and all those who may be interested about developments in the revised standards framework following enactment of the Localism Act 2011 which affect the role and activities of Councillors and the Council's business and the work of the Standards Committee Working Group.

Background Papers	Notes of meetings of the Standards Committee working group 11 September 23 October 2013 and 15 January 2014
Consultation	All Councillors SLT Standards Committee Working Group Cabinet
Wards affected	All
Contact	Sandra Herbert Monitoring Officer extn 5482

Background Information

1 Introduction

The purpose of this report

- 1.1 A review of the locally agreed standards regime has been undertaken to assess the effectiveness and efficiency of the process. The purpose of this report is to (i) recommend actions required to amend the locally agreed standards regime following the review which has been undertaken by the Standards' Committee Working Group; and (ii) inform Members of the Council and all those who may be interested about developments in the standards' framework following enactment of the Localism Act 2011 which affect the role and activities of Councillors and the Council's business and the work of the Standards' Committee and its Working Group.

Background/Actions taken to date

- 1.2 The Localism Act 2011 Chapter 7 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted councillors. As from 1 July 2012 the Council was required to:
- Promote and maintain high standards of conduct;
 - Adopt a new Code of Members Conduct;
 - Put in place "Arrangements" for dealing with misconduct complaints;
 - Appoint at least one Independent Person;
 - Prepare and maintain a Register of Interests;
 - Comply with the introduction of criminal offences in relation to interests; and
 - Adopt a revised Dispensation Scheme.
- 1.3 On 15 May 2012 full Council agreed the appointment of a new Standards Committee, Arrangements for dealing with Code of Conduct complaints for both district and parish councils, changes to the Constitution and a revised Dispensation Scheme.
- 1.4 On 27 June 2012 full Council agreed the adoption of a new code of conduct from 1 July 2012 to comply with the statutory requirements of Chapter 7 of the Localism Act 2011, the appointment of Mary Jagger and Paul Byford as Independent Person and reserve Independent Person for a period of 4 years; and the revision of the Register of Interests to include the newly created Disclosable Pecuniary Interest as defined in regulations.
- 1.5 Council also resolved on 27 June 2012 that there should be a review of the local standards regime adopted by members one year on to consider any changes required. This review formed part of the Standards' Committee work programme for 2013/14.
- 1.6 On 19 June 2013 the Standards Committee agreed to set up a small working group of members to consider if any changes were required to the local standards regime

adopted at Horsham including the current HDC Members' Code of Conduct and to make recommendations to the Standards' Committee as required. All areas were to be considered.

- 1.7 The working group chaired by Councillor Brian Donnelly and assisted by Councillor David Coldwell, Councillor Philip Circus, Councillor Godfrey Newman, Councillor Sheila Matthews, Independent Member Mary Jagger and also Parish Representative Val Court have met on 3 occasions on 11 September and 23 October 2013 and 15 January 2014 to consider the review.
- 1.8 All members of the Council were consulted and invited to make representations on the review and to raise any matters they wished to be considered as part of the process.
- 1.9 Research was undertaken with neighbouring authorities as to the standards regime adopted locally. A research paper by Hoey Ainscroft Associates "Standards One year on" providing information regarding the national picture (see Appendix [1]) was considered. An on line survey was carried out of authorities within West Sussex, East Sussex and Surrey to assist the review (see Appendix [2]).
- 1.10 Separately on 11 December 2013 full Council also agreed the Standards Committee should consider the issue of dispensations and dual hated membership generally as part of the local standards regime review.

2 Statutory and Policy Background

Statutory background

- 2.1 The Localism Act 2011.

Relevant Government policy

- 2.2 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 2012 No. 1464
Openness and Transparency on personal interests: a Guide for Councillors DCLG

Relevant Council policy

- 2.3 The Council's policy is set out in its Constitution and through the activities of Council and the Standards Committee.
- 2.4 Arrangements adopted under Section 28(6) of the Localism Act 2011 regulate how the Council will deal with complaints involving allegations that a district or parish councillor has breached the Code of Members' Conduct.

3 Details

3.1 General list of matters to be considered

All areas of the standards regime were considered as part of the review. A list of matters brought to the attention of the Standards Committee following consultation upon which the review has focussed is attached as Appendix [3].

3.2 Arrangements for handling complaints regarding member conduct

3.2.1 The right of review for a complainant

3.2.1.1 If the Local Assessment Sub Committee decide that no further action should be taken on a complaint which they have assessed, the complainant, if he/she remains dissatisfied, is currently entitled to seek a review of that decision. The review would be conducted by three different members of the Standards Committee sitting as a Local Review Sub Committee. The Review Sub-Committee can consider (i) whether the original decision was unreasonable in law or (ii) if new information has come to light which materially alters the original assessment decision decide whether this should be referred for local assessment.

3.2.1.2 A copy of the Complaints Flowchart is attached as Appendix [4] to remind members of the complaints process and assist with their deliberations. A copy of the Council's Arrangements for dealing with complaints is also attached as Appendix [5].

3.2.1.3 Since adoption of the new standards regime in July 2012, 22 complaints have been assessed by the sub-committee. There have been 16 requests for a review. All but one of the review hearings conducted have found the original decision to be reasonable. In one case new information was submitted to the sub committee which resulted in a reference to the Local Assessment Sub Committee as a new complaint.

3.2.1.4 The Standards Working Group considered the operation of the review process resource intensive both for members and officers and were therefore concerned to ensure it added value. There was often difficulty in finding sufficient members to form a review sub committee who were not involved in the original assessment and who did not have a conflict of interest.

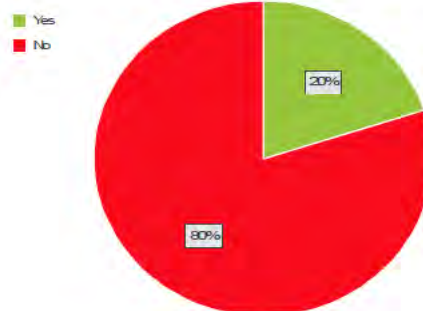
3.2.1.5 The Monitoring Officer advised that complainants also have the right to make a complaint through the Council's Complaints process and subsequently to the Local Government Ombudsman if they remain dissatisfied. The Ombudsman will

ascertain whether or not the Council had been guilty of maladministration in the processing of the complaint causing injustice to the complainant. The Ombudsman has no authority to change the decision made but would assess for maladministration in failing to follow a proper process and any injustice caused to the complainant as a result of the Council's decision. There appears to be a growing trend for a complainant who remains dissatisfied with the Council's review decision to, in addition, make a formal complaint to the Local Government Ombudsman. The Council has dealt with 2 Ombudsman complaints regarding standards matters which were also subject to the right of review since commencement of the new regime in July 2012. On average the process will take 3 months from complaint to assessment/review. Referral to the Ombudsman will extend this timescale.

3.2.1.6 In all the circumstances members questioned what value the right of review actually provided to the complainant who had avenues via the Council's complaint's process and also to the Local Government Ombudsman. In addition any decision of the local authority could be challenged by way of judicial review in the courts.

3.2.1.7 An on line survey conducted across 24 local authorities in West Sussex East Sussex and Surrey authorities found that 80% of the authorities responding had not retained a right of review for a complainant in the processes they had adopted for dealing with code of conduct complaints. A copy of the survey questions and answers is attached as Appendix [2].

Has your authority retained a right for a complainant to seek a review of a decision on assessment to take no action?



3.2.1.8 The working group felt the current arrangements sufficiently robust and did not consider there was a need to retain the right of review for the complainant. They considered the rights of the complainant were sufficiently protected by rights to use the Council's complaints process, the powers of the local government Ombudsman and civil remedies by way of judicial review.

3.2.1.9 Members wished the decision notice to be revised to make clear what rights the complainant had he/she remained dissatisfied.

IT IS THEREFORE RECOMMENDED that the complainant's right to a review of a No Further Action decision on an allegation that a member has breached the code of conduct be removed from the Councils adopted Arrangements for handling complaints.

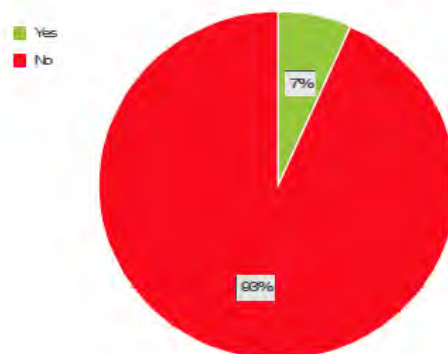
3.2.2 *The right of appeal for a subject member*

3.2.2.1 As currently drafted the Council's Arrangements for handling code of conduct complaints regarding a member's behaviour provide in paragraph 36 for a right of appeal for the subject member. If the member is found to be in breach of the Code following an investigation and hearing before the Local Determination sub-committee but they are dissatisfied with the finding they have a right to appeal to the full Standards Committee.

3.2.2.2 Members of the working group were concerned to ensure that this additional right added value and was a necessary backstop. Members were mindful that in addition there was a right to challenge the decision making process by way of judicial review.

3.2.2.3 Members will see from the on line survey at Appendix [2] that 93% of authorities who responded had not included an internal right of appeal for a subject member

Has your authority included an internal right of appeal for a subject member following a determination of breach of the code?



following a determination of breach of the Code.

IT IS THEREFORE RECOMMENDED that the subject member's right to an internal appeal in respect of a decision that a member is in breach of the code of conduct be removed from its adopted Arrangements for handling complaints.

3.2.3 *Further delegation of decision making*

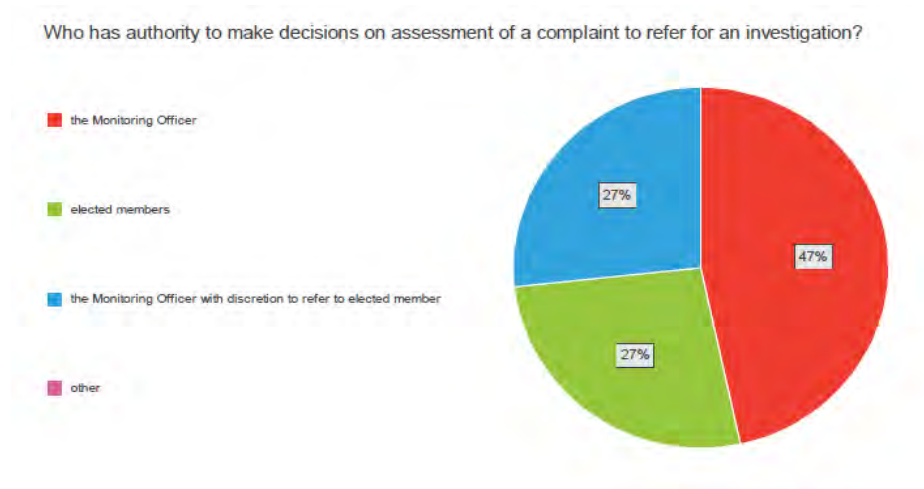
3.2.3.1 Currently the assessment of all complaints both parish councillor and district councillor are considered by a panel of members. The MO carries out certain preliminary checks e.g. to ascertain that the complaint is about an individual councillor and not the entire council, if the relevant authority have adopted a code etc.

3.2.3.2 The MO also consults with the Independent Person and as required the Parish Representative to obtain views. However, the decision as to whether the councillor is acting in their capacity as a member, whether there is a potential breach of the code and if so whether it is in the public interest to take action and if so what action rests with a panel of members.

3.2.3.3 The flow chart at Appendix [4] shows the process in more detail and identifies examples of preliminary checks undertaken by the Monitoring Officer and the assessment criteria applied by members at an assessment meeting.

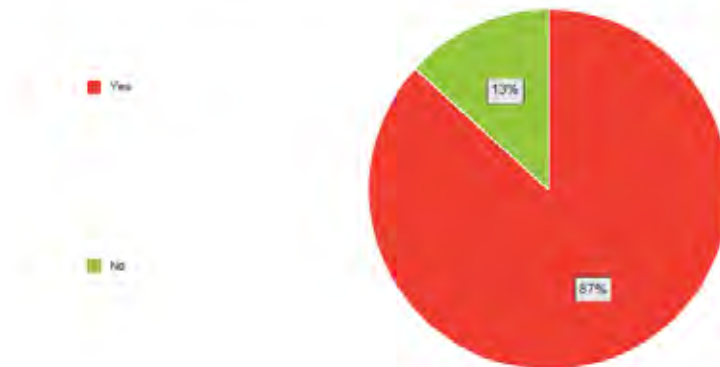
3.2.3.4 Members will note from the Hoey Ainscroft research paper “Standards: One year on” the national picture regarding delegation of powers. See Appendix [1]

3.2.3.4 Members will note from the on line survey at Appendix [2] that 47% of authorities taking part had delegated decisions on assessment of a complaint to the MO (i.e. whether there was a potential for a breach of the code and if so what action should be taken), 27% had delegated assessment to the MO with discretion to refer to elected members and the remaining 27% had only elected members making decisions on assessment of complaints.



3.2.3.5 Whilst not a statutory requirement at this stage of the process Members will note that the survey reveals that 87% of authorities consult with the Independent Person before making decisions on assessment of complaints in line with the practice adopted at Horsham. This is also shown to be the national picture in the Hoey Ainscroft research paper at Appendix [1].

Does the authority consult the Independent Person before making a decision on assessment of a complaint?



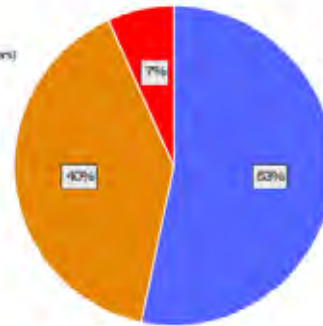
3.2.3.6 As to determination decisions the Council's current Arrangements provide for decisions as to whether a member is found to be in breach of the code following an investigation are also carried out by a panel of members.

3.2.3.7 Members will see from the Hoey Ainscroft report at Appendix [1] that nationally nearly all councils refer matters to a committee for a hearing.

3.2.3.7 Members will note from the on-line survey that if a complaint is referred for an investigation following assessment in 53% of cases the Standards Committee make determination decisions as to breach of the code. In 40% of cases determination decisions are made by the MO with discretion to refer to members.

If a complaint is referred for an investigation who has authority to make determination decisions as to a breach of the code of conduct?

the Monitoring Officer
 the Standards Committee (or other Committee of members)
 the Monitoring Officer with discretion to refer to the Standards Committee (or other Committee of elected members)
 Full Council
 other



3.2.3.8 Members of the working Group were generally content with the current arrangements for elected members to make decisions both on assessment of complaints and also determination decisions. Members were mindful of the amount of work currently undertaken by the MO in preparing reports to members for assessment decisions but noted that even if decisions on assessment were delegated to the MO there would still need to be a clear documented and reasoned report for the purpose of decision making. Savings may nevertheless accrue for the democratic services section who currently arrange meetings of the Local Assessment Sub Committee and minute meetings. Members were concerned that the MO may be under severe criticism for decisions made personally by her. Previously complaints involving senior members of a MO's authority could be referred to the Standards Board for England for assessment. Following abolition of the Standards Board this option is no longer available.

3.2.3.9 Members of the working Group ultimately felt that it was important to retain member involvement in assessment and determination of complaints. However, it was considered appropriate to delegate to the MO the ability to make decisions as to whether or not a complaint was within the jurisdiction of the Standards Committee without the need to refer the matter to members for a decision on this matter. e.g. Is the councillor acting in their capacity as a member, was the complaint made within 28 days of the alleged breach.

IT IS THEREFORE RECOMMENDED that the Arrangements for dealing with councillor complaints be revised to delegate power to the MO to determine whether a complaint is within the jurisdiction of the Standards Committee with ability for MO to refer the matter to the LASC in their discretion.

3.3

The Code of Members Conduct

3.3.1 Nolan Principles

3.3.1.1 Section 28(1) of the Localism Act 2011 provides that the Council must secure that its code of conduct for members, when viewed as a whole is consistent with the principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. These principles are currently set out in Part 5 of the Code of Conduct. A copy of the council's adopted Code of Conduct for Members is attached as Appendix [6]

3.3.1.2 Attached as Appendix [7] is a note of the changes recommended by the Committee on Standards in Public Life for adoption in relation to the principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

The standards Working Group RECOMMEND the Nolan Principles incorporated in the Code of Conduct should be updated in line with Committee on Standards in Public Life recommendations as set out in Appendix [7].

3.3.2 Inclusion of Personal and Prejudicial Interests in the Code.

3.3.2.1 All members had been consulted on the current code of conduct and the standards regime review generally. One councillor had responded that personal and prejudicial interests should be removed from the Code and only the statutory disclosable pecuniary interests (DPIs) included.

3.3.2.2 Members will note from the on-line survey at Appendix [2] that 60% of those authorities taking part had retained both personal and prejudicial interests in the code adopted in addition to DPIs. In addition members will see that 74% of authorities taking part had adopted either a code similar to the pre Localism Act code with additions or other bespoke code. Only 14% had adopted the LGA template code either as drafted or with additions and 13% the DCLG template code with additions.

Have you retained provisions akin to the old style personal and prejudicial interests?



3.3.2.3 Members of the Working Group considered that the status quo should be maintained. They considered that in the interests of transparency and good decision making other interests in addition to DPIs should be included on the face of the Code as had existed in the Council's pre Localism Act code.

The Working Group therefore **RECOMMENDED** that personal and prejudicial interests be retained alongside DPIs in the HDC Code.

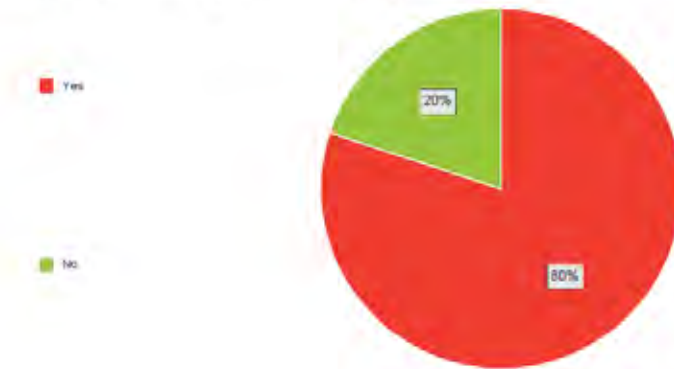
3.3.3 *Declaration of Interests at meetings.*

3.3.3.1 As part of the consultation with councillors one member had requested that the requirement in the code to declare personal and prejudicial interests at meetings where the interest is already on a member's register should be removed.

3.3.3.2 Members should note that under the Localism Act DPIs are effectively declared on a member's Register and if on their Register there is no further legal requirement to declare again at meetings. However, as currently adopted our Code required members to declare personal and prejudicial interests at meetings whether or not the interest was already declared on their Register but not DPIs. As a matter of good practice, however, DPIs were declared by Members and minuted at meetings along with personal and prejudicial interests.

3.3.3.3 Members will see from the on line survey at Appendix [2] that 80% of those responding have included a requirement to declare DPIs at meetings within the body of their Code.

Have you retained a requirement for members to declare disclosable pecuniary interests (DPIs) again at meetings within the body of your Code?



3.3.3.4 The Working Group generally felt that declaration at meetings was an aid to transparency and a good idea. Declaration was a personal responsibility for individual members and a change to the current position regarding personal and prejudicial interests would weaken the Council's position on decision making. It provided protection for members who may be challenged about their interests.

In the circumstances the Working Group RECOMMEND that personal and prejudicial interests should continue to be declared at meetings and that this should include also DPIs in the interests of transparency irrespective of whether or not the interest was already on the Member's Register of Interests.

3.4 Standards' Committee

3.4.1 *Membership of the Standards' Committee*

3.4.1.1 As Members will be aware the current membership of the committee is 7 elected members reflecting the political balance of the Council including the chairman of the Council and 1 member of the Cabinet. There were 2 Independent Persons and 2 Parish representatives who were advisory members to the committee.

3.4.1.2 Attached as Appendix [8] is a copy of the Membership and terms of reference of the Standards Committee.

3.4.1.3 On the whole members of the Working Group felt a committee of 7 was adequate although they were aware there had been difficulties in having sufficient members for sub-committees in the past. Whilst members felt it was right that the Chairman should be a member of the Committee they did not think it necessary to require them to be ex officio chairman of the committee in order to ensure independence. They were content for the committee to be politically balanced.

3.4.1.4 There was a great deal of discussion at the Working Group regarding whether the automatic seat for the Chairman on the Committee should be extended to the Vice Chairman. Members were concerned that whilst the Chairman was the conscience of the Council and that it was important he was part of the Committee they were also aware that during the chairman's year he/she is very busy and not always available for meetings. They also saw merit in the Vice chairman being part of the committee during the vice year so as to build up an expertise which hopefully would continue into his second year of membership of the committee if elected as Chairman of the Council. They all agreed the Vice chairman was likely to be less busy and more available to attend meetings although this may not be the case if they work full time. Members were advised that if the Vice chairman was also to join the Standards Committee this would be 8 – it was suggested that a committee of 7 or 9 would be better for decision making.

3.4.1.5 Members recall that under the old standards' regime one place on the Standards Committee had been reserved for the Chairman or past Chairman. The working group also discussed whether any member of the Cabinet should be a member of the Committee. However, it was agreed that 1 seat should be available, but no more than 1 seat, to ensure the work of the Standards Committee is known and supported by the Executive.

3.4.1.6 Members will note from the on line survey at Appendix [2] that 100% of those responding have a committee to deal with code of conduct matters. 80% had a dedicated standards committee i.e. it was not combined with any other function such as audit and governance. 67% have a politically balanced committee. 80% do not require the Chairman or Vice chairman to be members of the committee whilst 20% have made this compulsory. Of those consulted none had made the Chairman or Vice Chairman ex officio chairman and vice chairman of the Standards Committee.

3.4.1.7 Nationally the picture appears more mixed as to whether or not there is a dedicated Standards committee or whether it is combined with other functions. Also the picture is mixed as to whether or not proportionality rules have been used. See Hoey Ainscroft report Appendix [1]

3.4.1.7 As to Independent Persons the survey reveals a split in the responses 33% had more than 2, 33% had 2 and 33% had 1. As to parish representatives 13% of the authorities responding were not responsible for parish councils 53% had appointed parish representatives and 33% had not. Of those who had appointed parish representatives 40% had 2 and 13% had more than 2.

3.4.1.8 As to elected members the results show that 60% had 7 or less and 40% had more than 7.

3.4.1.9 Nationally the Hoey Ainscroft report at Appendix [1] suggest that most councils have only one or two Independent Persons.

In all the circumstances the Working Group RECOMMEND that the Standards Committee should increase to 9 members to include the Chairman or past Chairman, the Vice Chairman and 1 member of the Cabinet.

3.5 Dispensation Scheme

3.5.1 General

3.5.1.1 Members will recall the decision of full Council on 11 December 2013 recommending that the Standards Committee consider the issue of dispensations and dual hatted membership generally as part of the local standards regime which was currently taking place.

3.5.1.2 The recommendation from full Council to the Standards Committee had arisen as a result of a request from a significant number of dual hatted members (both district/parish and district/county) who had an interest in two agenda items on the full Council agenda on 11 December. This had resulted in applications for dispensation being made to full Council on the night by 16 members. Dispensations were subsequently granted by full Council on the ground that in view of the number of members with an interest it was in the interests of persons living in the District that they be permitted to participate and vote.

3.5.1.3 The statutory basis for dealing with applications for dispensation is now set out in the Localism Act section 33, 33(1) and 31(4). The Council's Dispensation Scheme also assists members in determining whether or not a dispensation is required. A copy of the Council's Dispensation Scheme, application for dispensation, and decision notice template is attached as Appendix [6] [9] and [10] respectively.

3.5.1.4 Members should consider whether there is a need to make changes to the current process for dealing with dispensation applications and in particular whether it was necessary to revise the Code of Conduct to provide a blanket dispensation for dual hatted membership.

3.5.2 *Process for dealing with dispensations*

3.5.2.1 Currently authority to grant a dispensation rests with the Standards Committee or a sub-committee of standards and also the Monitoring Officer.

3.5.2.2 Members of the Working Group were content with this arrangement. They considered it seemed appropriate for the MO to be able to deal with applications where the grounds were objective e.g. meeting non quorate without dispensation, political balance of committee affected or interest affects the whole Cabinet. However, two of the grounds in section 33 were subjective – in the interests of the community or any other reason. In the circumstances it was considered appropriate for the MO to refer such applications to the Standards Committee for decision. They did not believe a change to the current procedure was considered necessary.

3.5.3 *Revision to the Code of Conduct – blanket dispensations*

3.5.3.1 Members will be aware that a councillor will have a DPI in any business of the Council in relation to the member or the member's partner where it relates to any of the matters within the descriptions set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The regulations include the category "any employment, office, trade, profession or vocation carried on for profit or gain". This category includes appointments where an allowance is paid. Therefore any appointment as e.g. a parish or county councillor will be a DPI if an allowance is paid for the appointment. Failure to act appropriately in relation to a DPI is a serious matter and carries with it criminal sanction. In particular the existence of a DPI in relation to any business of the authority will prevent the member participating either in the debate or voting. There are no rights to participate whatsoever short of a dispensation where a member has a DPI.

3.5.3.2 By contrast a member with a prejudicial interest which affects the well being or financial position to a body such as the parish or county council to a significant degree will prevent the member voting but they would be entitled to exercise the right to speak as a member of the public under provisions in paragraph 12(2) of the Code. If a councillor is a member of a public body such as a parish council but is not in receipt of an allowance then it is considered this would be dealt with as a personal and in some cases prejudicial interest but not as a DPI.

3.5.3.3 The Independent Person on the working Group expressed sympathy for the grant of a general dispensation within the Code of Conduct so that any allowance received by a dual hatted member could be disregarded. In the case of dual hatted parish councillors any allowance received is of a modest sum and is

generally not much more than compensation for expenses. She felt a general dispensation could be granted on the ground that it would be in the interests of the local community.

3.5.3.4 There would still need to be consideration as to whether membership of a public body such as a parish or county council was a prejudicial interest if the financial position of the body were affected by any business of the authority. However, if a general dispensation were granted in relation to the allowance then even if the existence of a prejudicial interest would prevent them remaining in the meeting, debating and from voting they would at least have initial speaking rights as a member of the public without the need formally to apply for a dispensation to speak.

3.5.3.5 Other members were less convinced of the need to make any change to the code. They considered that each case should be determined on its merits and some were content for the current status to remain.

The Working Group RECOMMENDED that the current practice of making application for dispensation through either the MO or Standards Committee should remain and that their preliminary view was that it was not considered necessary to grant a blanket dispensation for dual hatted members but that the group wished to consider further the views of the Standards Committee on the issue particularly in relation to the grant of a dispensation to dual hatted members to allow them to speak only where they had a DPI arising from an allowance.

3.6 General

Subject to the recommendations of the Committee revisions will be required to various aspects of the Council's Constitution. In particular the Code of Members Conduct, The Arrangements for dealing with complaints, the Scheme of Delegation to Committees and the Scheme of Delegation to Officers.

4 Next Steps

- 4.1 The adoption of a Members' Code of Conduct and standards regime is a matter for Council. Any recommendations from the Standards' Committee arising from this report will be reported to the April Council meeting for a decision.
- 4.2 If approved changes will need to be made to the Code, the Council's Arrangements for dealing with complaints and its Constitution.

5 Outcome of Consultations

5.1 The comments and views of the Standards Committee working group and the Monitoring Officer have been incorporated in this report.

5.2 The Leader of the Council has been consulted on the contents of this report and has made the following comments:

5.2.1 He was in agreement with the removal of the right of review for a complainant and the right of appeal for the subject member. He noted that 83% of those authorities responding to the survey did not have an internal right of review and 93% did not have an internal right of appeal. He was content for any challenge to be dealt with by way of complaint to the local government ombudsman or by way of judicial review.

5.2.2 He expressed the view that he would be content for all decisions on assessment of complaints both in relation to district council and parish council matters to be delegated to the Monitoring Officer. He considered however, that the Monitoring Officer should have absolute discretion to refer the matter to the Standards Committee should she consider it necessary. He felt this would enable much faster resolution of minor or trivial matters and also those considered to be malicious, vexatious, politically motivated or tit for tat. This would appear to accord with the position demonstrated by the majority of those taking part in the on-line survey.

5.2.3 He was content for the provisions as to interests in the Code of Conduct to remain as drawn and felt that it was appropriate for all interests to be declared at meetings and recorded in the minutes. He agreed to the revised Nolan Principles being included within the Code noting particularly that the Officer Code of Conduct had recently been updated by Council to include the revised Nolan Principles.

5.2.4 The position regarding membership of the Standards Committee was noted. He was content for membership to include Chairman or past chairman, Vice Chairman and 1 member of the Cabinet. He considered the Vice Chairman position could also include 'previous Chairman' giving greater scope for membership.

5.2.5 He noted the position regarding dual hatted members and the suggestion that those members with a disclosable pecuniary interest as a result of the payment of an allowance should be permitted to speak on an item in the interests of the community.

5.2.6 He requested that all members of the Council be consulted on the proposed recommendations and views reported to the Standards Committee.

5.3 The Leader of the Opposition has been consulted on the contents of this report. Members will be provided with an oral update as to her views at the meeting.

5.4 The SLT were consulted on the contents of this report.

- 5.5 All members were consulted at the outset of the review and all issues raised either with the Standards Committee or the Monitoring Officer have been included in the review process. All members were also consulted on the recommendations of the Standards Committee working group. An oral update will be provided for members of the Committee at the meeting as to the final responses received.

6 Other Courses of Action Considered but Rejected

- 6.1 There is no requirement to make any changes to the locally agreed standards regime. The Council has complied with its obligations under the Localism Act. The Standards' Committee could recommend no change to the current local standards regime adopted in July 2012. However, it is both the wish of Council and good practice to undertake a review after a new process has been adopted to assess its effectiveness and efficiency. The review has identified some changes which the working group believe would promote efficiencies in procedure without causing any injustice to either complainants or subject members.

7 Staffing Consequences

- 7.1 Staff time will be required to carry out the changes to the procedures and documentation which it is anticipated can be carried out within existing staffing structures.

8 Financial Consequences

- 8.1 There are no financial consequences from these recommendations.

9 Other consequences of the Proposed Action

- 9.1 Other consequences of the proposed action are set out in Appendix [11].

Appendix 1	Hoey Ainscough Associates paper 'Standards:One year on'
Appendix 2	Monitoring Officer on Line survey of West Sussex East Sussex and Surrey authorities
Appendix 3	List of matters brought to the attention of the Standards Committee
Appendix 4	Complaints flow chart
Appendix 5	HDC Arrangements for dealing with complaints against councillors
Appendix 6	HDC Code of Members' Conduct and Dispensation Scheme
Appendix 7	Nolan Principles – CSPL recommended revisions
Appendix 8	Membership and TOR of the Standards Committee
Appendix 9	Application for Dispensation template
Appendix 10	Dispensation Decision template
Appendix 11	Consequences of proposed actions schedule

Appendices

Appendix 1

Hoey Ainscroft Associates: Standards One year On

Appendix 2

Horsham District Council Monitoring Officer Survey

Appendix 3

List of Matters brought to the attention of the Standards Committee and considered as part of the review

Appendix 4

Complaints Flowchart

Appendix 5

Horsham District Council's Arrangements for Dealing with Councillor Complaints

Appendix 6

Horsham District Council Code of Members Conduct

Appendix 7

Committee on Standards in Public Life recommendations – Nolan Principles

Appendix 8

Membership and Terms of Reference of Standards Committee

Appendix 9

Horsham District Council Dispensation Request Form

Appendix 10

Horsham District Council Dispensation Decision Form

Appendix 11

Other Consequences of the proposed action

APPENDIX 1
Hoey Ainscroft Associates: Standards One year On

STANDARDS; ONE YEAR ON

A CONFERENCE FOR MONITORING OFFICERS 11 July 2013

CASE HANDLING DISCUSSION PAPER

Background

The Localism Act standards arrangements have now been in place for just over a year. We have worked with a large number of councils over that period, both in looking at their processes in theory and in helping them with advice on live cases in practice.

This paper reflects our experience of some of the good and bad practice we have seen over that time and raises some points for discussion as to whether it reflects your experience and how you might ensure your processes meet your requirements.

Assessment of complaints

Comments

- Most councils have delegated this decision to the monitoring officer though a small minority have retained a sub-committee to make the decision
- Most MOs consult the Independent Person before reaching a decision even though this is not a legal requirement
- Most MOs who have had the power delegated to them have the power to refer sensitive/high profile cases to a committee – some procedures lay out circumstances, some simply say it is at the MO's discretion
- Most councils have built in three possible outcomes – no further action; investigate; or 'informal resolution'. We have seen one procedure with a 'fourth option' as allowed under the legislation – a finding of breach without investigation.
- Most councils see informal resolution as the preferred route, with some councils saying to us that they expect to investigate nothing or hardly anything
- Informal resolution tends to be just that – more formal mediation between parties is rarely envisaged or budgeted for
- Most councils notify the subject member once a complaint is received, though a few will only tell the member once the assessment decision has been made
- Where the subject member is notified, some councils do it simply 'for information' but others explicitly invite comments before an assessment decision is reached
- The number of complaints does not on the face of it appear to have diminished nor does the type of complaints – some councils report more than in previous years; some fewer; and some about the same
- More cases are being 'filtered out' at this stage and there seem to be far fewer investigations taking place

Issues

- Where does your council sit against this picture?
- Do you feel your arrangements for filtering cases are working well?
- Where your IP is being consulted, have there been differences of opinion? If so how have these been resolved?
- What sorts of cases have been referred on to the standards committee to take the decision and have they shared your conclusion?
- Where you are telling/not telling the member up front have there been any advantages/disadvantages to this?
- Is informal resolution working well at this point? Are there times when it hasn't worked? Or cases where it is inappropriate?
- Are you treating parish cases the same or are they more/less likely to go down a particular route?

'Other action'

Comments

- 'Other action' (i.e. not investigating) seems to be most popular route for case handling
- Some councils have it twice in their procedures – once at the initial decision-making stage and then again, after investigation, if it seems a better route than holding a hearing
- In some councils, the complainant is given a say on whether this route is acceptable. This is particularly so when it is considered as an option post-investigation
- In most councils, the IP's views are also sought on the acceptability of this route
- This course often involves working with senior figures in the political group to find a resolution or goes in parallel with party disciplinary action
- Standards committees tend not to be consulted before this course is pursued

Issues

- Where does your council sit against this picture?
- How effective is other action proving to be?
- Where the views of the complainant or IP are being sought, do they have a 'veto' or are they merely being consulted? How have you dealt with differences of opinions?
- What if the resolution by 'other action' doesn't work or the subject member refuses to cooperate – are you then taking cases to the next stage or closing them down?
- What role have the political groups played in your council in terms of dealing with their own members? Has this course of action been effective where you have an independent councillor?
- Has this course of action proved effective for dealing with parish cases?
- Is the use of other action sufficiently transparent for the public/media? Does it need to be?

Investigations

Comments

- Fewer cases going for formal investigation but there is still a significant number

- Presumption against investigation is partly driven by costs and partly by perception that sanctions are ineffective at the end of the process
- Some councils have said to us informally they don't intend to investigate anything
- Where cases are investigated they naturally tend to be the more serious matters Some processes have two forms of investigation – a quick 'desktop' investigation where views are simply sought from the complainant and subject member; or a more in-depth investigation
- Pressure from councils to minimise costs and do cases more quickly than in the past
- Similar mixture to previously of cases being done in-house or outsourced
- There are few cases of the police looking at DPI cases, but there are some, though none seem to have led to a councillor being formally charged

Issues

- How does your authority look against this picture?
- What types of cases have been investigated?
- Where matters are being investigated, how are you managing expectations and balancing the issues of being cheaper and quicker against the appearance that you are only dealing with more serious matters?

Standards committees and hearings

- Nearly all councils refer matters to a committee for hearing. We have seen one procedure where the MO can also issue a sanction without reference to the committee at an early stage
- It is a mixed picture as to whether there is a dedicated standards committee or whether the function is performed by a wider committee such as audit and governance
- It is a mixed picture as to whether the committee conforms with political proportionality rules or whether the political proportionality rules have been waived by council to ensure all-party representation
- Some standards committees also have kept 'independent members' although this is not true for the majority of committees. Similarly some have kept parish representatives on.
- The independent standards committee members tend not to be the IPs though they are in a handful of cases and in a handful of cases, the committee is chaired by an independent
- Standards committees have struggled with access to information provisions and some have resorted to having closed hearings which has led to difficulties with the media
- Councils have typically included a similar range of sanctions in their provisions – censure, removal from committee/appointment, withdrawal of resources/access/contact with certain officers. In nearly all cases all sanctions are subject to ratification by full council and/or the political group
- Parishes are struggling to understand that the standards committee is making the finding of fact but is simply making recommendations to them as to sanction and it is for the parish council to sanction
- There have been some cases of parishes wanting tougher sanctions than those recommended and facing legal challenge on their powers
- There has been a big increase in media/public campaigns to get councils to 'sack' members or force members to resign following a finding of censure or an apology

- There has been increased media concerns about the transparency and/or 'politicisation' of the process

Issues

- How does your council compare to the above?
- Why did you keep/not keep independent representation on the committee?
- Where you have independent members, is this proving worthwhile?
- Have sanctions proved effective?
- How have you dealt with 'serial offenders'/parish sanctions?
- Has the issue of hearings in public/private been an issue?
- Has media handling been an issue?

The independent person

Comments

- Most councils have only one or two IPs – usually a lead and substitute - with one IP allocated per case. A minority of councils have several and either work on a rotating principle or allocate them different roles in the process.
- A lot of councils kept an old 'independent member', often working in parallel with a new person as part of transition
- The 'one year cut-off' imposed in regulations last year if they were reappointed after a certain date led to some confusion and was widely seen as unjust
- Most IPs are not on the standards committee
- Most councils involve their IP throughout the process, though a few only involve them where the law requires it
- Some councils allow the complainant equal access as the subject member to the views of the IP.
- IPs generally struggle to know what views they are expected to give to the subject member without being seen to become their advocate or get drawn into the dispute or else simply duplicating the role of the MO.

Issues

- How does your council compare to this picture?
- Has the role of the IP been effective during the year?
- Do you/they have a clear understanding of the role and their relationship to the MO and standards committee?
- How has their role of giving views to the subject member worked in practice?
- Has the complainant been given equal access? What have been the advantages/disadvantages of that approach?

APPENDIX 2
Horsham District Council Monitoring Officer Survey

Horsham District Council is conducting a review of the local standards regime one year on to consider any changes required.

This review forms part of the Standards Committee work programme for 2013/14 and as Monitoring Officer I am assisting with this work.

The review will consider arrangements for handling complaints regarding member conduct, the Code of Conduct and composition of the Standards Committee.

If you could help by completing the attached questionnaire that would be greatly appreciated. Please submit your responses by 6 January 2014.

ABOUT YOU

Name of Authority

15

Position within authority

15

Name of officer

15

Contact telephone number

14

CODE OF CONDUCT FOR COUNCILLORS

Q1 What Code of conduct did your members adopt?

- 0 DCLG illustrative Code
- 1 LGA template Code
- 2 DCLG illustrative Code with additions
- 1 LGA template Code with additions
- 7 Code similar to pre Localism Act Code with additions
- 4 Other bespoke Code

Q2 The Committee on Standards in Public Life have recently updated the Nolan Principle definitions. Do you propose to update your Code of Conduct for members to incorporate the revised wording?

- 1 Yes
- 5 No
- 9 No decision yet

Q3 The Localism Act provides that disclosable pecuniary interests (DPIs) declared on a members register do not need to be declared again at meetings. Have you retained a requirement for members to declare again at meetings within the body of your Code?

- 12 Yes
- 3 No

Q4 Have you retained provisions akin to the old style personal and prejudicial interests within your code to deal with matters under discussion, which are not about a matter listed in the DPI regulations, but which may nevertheless affect the wellbeing or financial position of the member, a member of his or her family or a body that they represent?

An example may be a planning application being considered by the planning committee. It is not a planning application made by a councillor about his own property (so not a DPI) but is an application made by a next door neighbour so has a potential to affect the wellbeing or financial position of the member.

- 9 Yes
- 6 No

ARRANGEMENTS FOR DEALING WITH COMPLAINTS

Q5 Who has authority to make decisions on assessment of a complaint to refer for an investigation?

- 7 the Monitoring Officer
- 4 elected members
- 4 the Monitoring Officer with discretion to refer to elected members
- 0 other

Q6 Does the authority consult the Independent Person before making a decision on assessment of a complaint?

- 13 Yes
- 2 No

Q7 Has your authority retained a right for a complainant to seek a review of a decision on assessment to take no action?

- 3 Yes
- 12 No

Q8 If a complaint is referred for an investigation who has authority to make determination decisions as to a breach of the code of conduct?

- 0 the Monitoring Officer
- 8 the Standards' Committee (or other Committee of members)
- 6 the Monitoring Officer with discretion to refer to the Standards Committee (or other Committee of elected members)
- 0 Full Council
- 1 other

Q9 Has your authority included an internal right of appeal for a subject member following a determination of breach of the code?

- 1 Yes
- 14 No

COMPOSITION OF STANDARDS COMMITTEE

Q10 Has your authority established a Committee to deal with code of conduct matters?

- 15 Yes
- 0 No

Q11 If so is it combined with any other function e.g. accounts/ audit or governance?

- 3 Yes
- 12 No
- 0 Not applicable

Q12 Is any committee established for dealing with code of conduct matters politically balanced?

- 10 Yes
- 5 No (i.e. have members given unanimous agreement to waive requirements for political balance)

Q13 Are your Chairman/Mayor or Vice Chairman/deputy Mayor members of your Committee?

- 3 Yes
- 12 No
- 0 Not applicable

Q14 If so, are your Chairman/Mayor or Vice Chairman/deputy Mayor ex officio chairman and/or ex officio vice chairman of any committee established to deal with code of conduct matters?

- 0 Yes
- 9 No
- 6 Not applicable

Q15 How many Independent Persons have you appointed?

- 5 One
- 5 Two
- 5 More than two

Q16 If you have responsibility for parish councillors, have you appointed Parish representatives?

- 8 Yes
- 5 No
- 2 Not applicable

Q17 If so, how many Parish Representatives have you appointed?

- 1 None
- 0 One
- 6 Two
- 2 More than two
- 6 Not applicable

Q18 How many elected members sit on your committee with responsibility for code of conduct matters?

- 9 Seven or less
- 6 More than seven
- 0 Not applicable

GENERAL

Q19 Have you undertaken a review of your local standards regime in the last 12 months?

4 *Yes*

11 *No*

Q20 Are you proposing to undertake a review of your local standards regime within the next 12 months?

5 *Yes*

6 *No*

4 *Don't know*

Q21 Data collected from this survey will be shared with the Horsham District Council Standards Committee. Are you happy for this data to be shared with other authorities for research purposes?

15 *Yes*

0 *No*

Q22 Do you have any other comments you wish to add?

4

THANK YOU FOR COMPLETING THE QUESTIONNAIRE

APPENDIX 3

**List of Matters brought to the attention of the Standards
Committee and considered as part of the review**

Appendix [3]

List of matters brought to the attention of the Standards Committee and considered as part of the review

1 *Arrangements for handling complaints regarding member conduct*

- When the Committee resolve that no further action should be taken on a complaint the complainant currently has a right to seek an internal review of that decision. Should this right be retained?
- When a subject Member is found to be in breach of the Code of Members' Conduct the member currently has a right to an internal appeal of the decision. Should this right of appeal be retained?
- Whilst some decision making has been delegated to the Council's Monitoring Officer decisions on assessment of complaints and determinations regarding breach of the code are currently dealt with by Committee. Is it necessary to make further delegation of decision making powers in relation to complaints to the Council's Monitoring Officer?

2 *The Code of Members Conduct*

- The Council's Code of Conduct incorporates the Nolan Principles of public life. These principles have recently been revised. Should the revised Nolan Principles as adopted by the Committee on Standards in Public Life be incorporated within the Code?
- Should Personal and Prejudicial interests be retained within the Code?
- Should the process for formal declaration of interests at meetings be changed?

3

Standards' Committee

- Are there sufficient numbers of elected and advisory members on the Standards' Committee to deal with day to day business? Should the membership of the committee be revised?

4

Dispensation Scheme

- Issues surrounding dual hatted membership have been raised. Should the process for seeking a dispensation be revised and should a general dispensation be granted within the Code to dual hatted members?

5

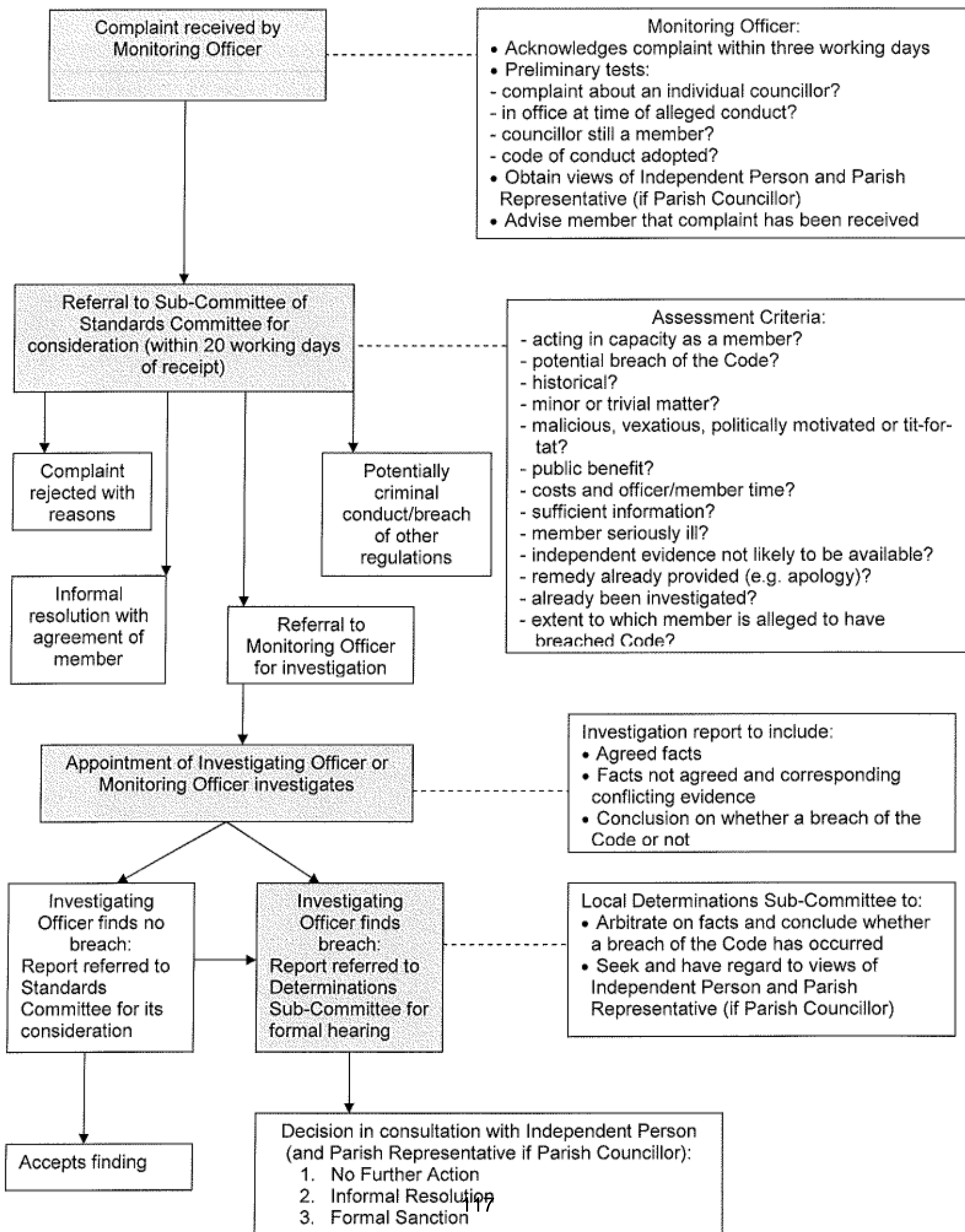
Constitution changes

- If further delegation of powers are agreed what consequential changes to the Scheme of delegation to officers are required?
- If membership of the committee is revised what changes to the Scheme of delegation to committee are required?

APPENDIX 4

Complaints Flowchart

COMPLAINTS FLOWCHART



APPENDIX 5
Horsham District Council arrangements for dealing with
councillor complaints

CODE OF MEMBERS' CONDUCT ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011 - GUIDANCE FOR MEMBERS

Introduction

1. It is expected that elected and co-opted members of the Council and the 32 parish councils within the district uphold the highest standards of public office. However, in the event that there is a complaint it is important that this is handled effectively to ensure public confidence is maintained.
2. Section 28(6) and (7) of the Localism Act 2011 requires the Council to put in place "arrangements" under which allegations that a member or co-opted member of the district council or of a parish council within the district has failed to comply with the relevant authority's code of conduct when they are acting in that capacity (a) can be investigated and (b) decisions made on such allegations.
3. These "arrangements" must provide for the authority to appoint at least one Independent Person whose views (a) must be sought, and taken into account by the authority before it takes a decision on an allegation which it has decided shall be investigated (b) may be sought by the authority at any other stage and (c) may be sought by a member or co-opted member of the authority or of a parish council if that person's behaviour is the subject of an allegation.
4. The purpose of this guidance is to comply with the requirements of the Localism Act 2011 and to explain the 'arrangements' which are in place to make a complaint about an elected or co-opted member of Horsham District Council or an elected or co-opted member of the 32 parish councils in Horsham District. A complaint must comprise a breach by a member of the relevant council's Code of Members' Conduct when acting in that capacity. Complaints which are trivial, simply malicious, vexatious, politically-motivated or tit-for-tat are likely to be rejected. Complaints made against an entire council or committee are also likely to be rejected. Complainants are encouraged to resolve complaints through informal means rather than following through this complaints procedure.
5. Overall responsibility for overseeing compliance with the Codes of Members' Conduct is that of Horsham District Council's Standards Committee. The Standards Committee comprises seven District Councillors. In addition, the

Council has co-opted two parish council representatives and two persons independent of any council to advise the committee but who are not entitled to vote. The Committee has three sub-committees: the Local Assessment Sub-Committee, the Local Review Sub-Committee and the Local Determinations Sub-Committee. The Standards Committee and its sub-committees are advised and supported by Horsham District Council's Monitoring Officer.

Interpretation

6. 'Member' means the member of the authority who is the subject of the allegation made by the complainant, unless otherwise stated.
7. 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation and may include the Monitoring Officer and his or her representative.
8. 'the Matter' is the subject matter of the allegation.
9. 'the Standards Committee' refers to the Standards Committee or to any sub-committee to which it has delegated assessment of complaints, review of decisions or the conduct of the hearing unless the context indicates that it refers only to the standards committee itself.
10. 'Independent Person' means a person appointed by the Council under the Localism Act 2011 s 28(7) to advise the standards committee and its sub-committees and who has the functions set out in the Localism Act 2011 s 28(7).
11. 'Parish Representative' means a parish councillor appointed by the Council to advise the standards committee and its sub-committees in relation to cases involving parish councillors.
12. 'Monitoring Officer' means a statutory officer appointed by the Council under the Local Government and Housing Act 1989 ss 5 and 5A who has a role in the promotion and maintenance of high standards of conduct within local authorities and his or her deputy or representative.

The assessment of complaints

13. The Local Assessment Sub-Committee has initial responsibility for considering written complaints by way of allegations against Members for breach of the relevant Code of Members' Conduct. This is known as assessment. The purpose of assessment is to determine whether or not, based on the information supplied by the complainant, if the matter were proven it would amount to a breach of the Code of Members' Conduct. No investigation or hearings are undertaken at this stage.
14. The Independent Person will be consulted on the allegation and whether in their view it could amount to a breach of the code of conduct. The Parish Representative will also be consulted in relation to complaints concerning parish councillors. Their views will be included in the Monitoring Officer's report to the Local Assessment Sub-Committee.
15. The Monitoring Officer will notify the Member subject to the complaint that a complaint has been made. You may seek views from the Independent Person appointed by the Council.

16. Following consultation with the Independent Person (and the Parish Representative as appropriate) the Local Assessment Sub-Committee will make a decision as to whether the complaint merits formal investigation. This decision will normally be made within 6 weeks of receipt of your complaint. You will be advised of the decision and the reasons for that decision.
17. If the Local Assessment Sub-Committee requires further information in order to reach a decision they may go back to the complainant for such information and may request information from you. The Local Assessment Sub-Committee may also inform the parish council of your complaint and seek views of the parish council before deciding whether the complaint merits formal investigation if the complaint involves a parish councillor.
18. In appropriate cases the Local Assessment Sub-Committee may direct the Monitoring Officer to seek to resolve the complaint informally without the need for a formal investigation. Such informal resolution may involve the member e.g. undertaking training, conciliation or other remedial action. Where the Member makes a reasonable offer of local resolution the Local Assessment Sub-Committee will take account of this in deciding whether the complaint merits formal investigation.
19. If the complaint identifies criminal conduct or breach of other regulation by any person the Local Assessment Sub-Committee has power to call in the police and other regulatory agencies.
20. If the Local Assessment Sub-Committee decides that there is no potential breach of the Code it will decide to take no further action. If it decides that there is a potential breach of the Code then it can decide to take no further action or to refer the complaint to the Monitoring Officer for an investigation or other action or to the Police or other regulatory body if the complaint identifies criminal conduct or breach of other regulation. It can ask for further information to enable it to reach a decision. A decision to refer a case to the Monitoring Officer does not mean that the Local Assessment Sub-Committee has made its mind up about the complaint. Each of these steps is described in this guidance note.



The Codes of Members' Conduct

21. Copies of the relevant council's Code of Members' Conduct are available, in the case of Horsham District Council, at the Council's offices, from the Council's Monitoring Officer or at its website
<http://www.horsham.gov.uk/council/1110.aspx>
Parish council Codes of Members' Conduct are available from the relevant parish clerk or (where available) the parish council's website.

Making complaints

22. Complaints by way of allegations must be made in writing and should be on the official complaint form which sets out all the necessary information. There is separate guidance for complainants available on Horsham District Council's website at <http://www.horsham.gov.uk/council/12363.aspx> or from the Monitoring Officer. This complaints procedure is separate from Horsham District Council's and the parish councils' complaints procedures which are directed at corporate and service failings. More information about Horsham District Council's complaints procedure can be accessed at <http://www.horsham.gov.uk/council/3144.aspx> or by contacting:

Sarah Gill
Complaints & Information Officer
Horsham District Council
Park North
North Street
Horsham RH12 1RL

 01403 215470
 yoursay@horsham.gov.uk

23. A valid complaint must relate to the conduct of a named individual Member while in office since 1 July 2012. The Local Assessment Sub-Committee cannot deal with complaints about the District Council or parish councils, their staff or services or about an individual's conduct before he or she was elected, co-opted or appointed or after he or she ceased to be a Member or to a period before the adoption of the statutory Codes of Members' Conduct in 2012.

The handling of complaints

24. After making sure that the complaint is valid, i.e. it satisfies the requirements of paragraphs 22-23, the Monitoring Officer will submit the complaint to the Local Assessment Sub-Committee. The Local Assessment Sub-Committee may come to you for further information but is entitled to rely on the information the complainant has provided. Complaints are normally assessed within six weeks of receipt. This allows for the preparation for and consideration by the Local Assessment Sub-Committee which is scheduled to meet every four weeks.

Openness

25. The complainant's name and a summary of the complaint will usually be sent to you and the clerk to the parish council (if you are a parish councillor). The complainant is entitled to ask the Local Assessment Sub-Committee to keep their name and the details of the complaint confidential. They will need to demonstrate exceptional circumstances where to disclose would be contrary to the public interest or would prejudice a person's ability to investigate the allegation and may include where they believe:
- 25.1 that they may be victimised or harassed by the Member(s) against whom the complainant is submitting a written complaint (or by a person associated with the Member); or
 - 25.2 that they may receive less favourable treatment from the Council because of the seniority of the Member against whom the complainant is submitting a written complaint in terms of any existing Council service provision or any tender/contract that you may have or are about to submit to the Council; or
 - 25.3 that they are an officer who works closely with the Member and has a reasonable belief that they may be adversely affected in their employment if their identity is disclosed.

How the Local Assessment Sub-Committee assesses the complaint

26. In reaching its decisions on the complaint the Local Assessment Sub-Committee will consider the following depending on the nature of the complaint and the need to adopt a proportionate response:
- 26.1 the extent to which the Member is alleged to have failed to treat others with respect;
 - 26.2 the extent to which the Member is alleged to have acted in a way that may cause the authority to breach an equality enactment;
 - 26.3 whether the allegation relates to bullying, intimidating, or attempting to intimidate a person involved in an allegation against the Member;
 - 26.4 whether in disclosing confidential information the Member failed to take or to heed advice;
 - 26.5 the implications for public perception or the reputation of the Council;
 - 26.6 the implications for staff relations;
 - 26.7 the seniority or position of influence of the Member and public trust and confidence;
 - 26.8 the consequences or the likely consequences of the Member's alleged actions;

- 26.9 the extent to which the Member is alleged to have used his or her position as a member *improperly* to confer or secure an advantage or disadvantage;
- 26.10 the extent to which the Member is alleged to have misused or abused the resources of the Council;
- 26.11 the detriment caused by acting against advice when reaching decisions;
- 26.12 the extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;
- 26.13 the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor, or the subject of proceedings in court;
- 26.14 that the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
- 26.15 that the complaint is too trivial to warrant further action;
- 26.16 that the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat;
- 26.17 the public benefit in directing an investigation or other steps;
- 26.18 the costs and officer and Member time which could be incurred on an investigation or other steps;
- 26.19 whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
- 26.20 whether the complaint is about someone who has died, resigned, is seriously ill or is no longer a member of the Council concerned and not in the public interest to pursue;
- 26.21 the complaint is such that it is unlikely that an investigation is likely to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain;
- 26.22 whether the subject Member has already provided a satisfactory remedy (e.g. apologising);
- 26.23 whether the matter is suitable for informal resolution and the Member complained of is amenable to such an approach.

What the Local Assessment Sub-Committee can do

- 27. When the Local Assessment Sub-Committee has considered the complaint it can:
 - 27.1 decide to take no further action on the complaint, with reasons;
 - 27.2 ask the complainant for additional information, with reasons;
 - 27.3 refer the complaint to the Monitoring Officer for investigation;

- 27.4 refer the complaint to the Monitoring Officer for other steps (i.e. to resolve the complaint informally without the need for an investigation); or
- 27.5 refer the complaint to the Police or other regulatory agency if the complaint identifies criminal conduct or breach of other regulation.

A decision to take no further action

- 28. Reasons for taking no further action include:
 - 28.1 that the subject matter of the allegation is outside the jurisdiction of the Standards Committee;
 - 28.2 that the allegation does not appear to disclose a failure by the Member to comply with the Code of Members' Conduct when acting in that capacity;
 - 28.3 the information submitted by the complainant is insufficient to enable the Local Assessment Sub-Committee to reach a decision;
 - 28.4 the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in court;
 - 28.5 that the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - 28.6 that the complaint is too trivial to warrant further action;
 - 28.7 that the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat.

The complainant's right to a review

- 29. If the Local Assessment Sub-Committee decides that no further action should be taken, the complainant has the right within 20 working days of its decision to request in writing a review of the decision. The complainant has no right to a review in any other circumstances. A valid request for a review will be referred to the Local Review Sub-Committee, which comprises members different from those involved in the assessment decision. A different Independent Person will be consulted and their comments made available to the Review Sub-Committee. If the matter concerns a parish Member a different Parish Representative will be consulted. The Local Review Sub-Committee has all the powers of the Local Assessment Sub-Committee. There is no right to a further review after a review by the Local Review Sub-Committee.

Local investigations and local determinations

30. If the Monitoring Officer is directed to undertake an investigation, there is a separate procedure governing this process. Investigations are conducted in private and the outcome is reported to the Local Determinations Sub-Committee and may result in a disciplinary hearing (local determination) before that Sub-Committee. Separate guidance on local determinations is available.

Other steps

31. If the Monitoring Officer is directed to take other steps (e.g. training or conciliation, a report will be made to the Standards Committee or relevant sub-committee on the outcome of that action. A direction to take other steps precludes an investigation or other disciplinary action and may include the Member accepting that his or her conduct is unacceptable and offering e.g. an apology.
32. If you make a reasonable offer of resolution the Local Assessment Sub-Committee will take account of this in deciding whether the complaint merits formal investigation.

Withdrawing a complaint

33. Once the complainant has submitted a valid complaint it can only be withdrawn before assessment by the Local Assessment Sub-Committee. Withdrawal requires the consent of the Local Assessment Sub-Committee (in consultation with the Independent Person and Parish Representative, as appropriate). Consent will normally be given. However, in considering the complainant's request the Local Assessment Sub-Committee will consider:
- 33.1 the reasons for the request;
 - 33.2 whether the public interest in pursuing action outweighs the request;
 - 33.3 if the public interest suggests that the matter should proceed, the extent to which it can proceed without the complainant's involvement;
 - 33.4 whether there is an identifiable reason for the request, e.g. improper pressure has been brought to bear.
34. After assessment by the Local Assessment Sub-Committee a complaint cannot formally be withdrawn although the Local Assessment Sub-Committee, the Monitoring Officer or the Local Determinations Sub-Committee will (in consultation with the Independent Person and Parish Representative, as appropriate), depending upon the stage to which action has reached, take into account the complainant's request for the matter not to proceed further.

Appeals

35. No right of appeal for a Member lies against a local assessment decision. A Member does have the right to appeal to the Standards Committee against a finding by the Local Determinations Sub-Committee of a breach of the Code of Members' Conduct following a local determination hearing. Further details of the right of appeal are given in any local determination decision notice.

Supply of information

36. Decisions of the Local Assessment Sub-Committee are usually made in private. Neither the complainant nor the Member will usually be permitted to attend where such meetings contain confidential personal information. In such cases meetings will not be open to the press or public.



Variation

37. The Monitoring Officer may vary this procedure in any particular instance where he or she is of the opinion that such a variation is desirable and does not conflict with statutory requirements.

Help

38. The procedures for assessing complaints by way of allegations against Members and for subsequently handling such allegations are regulated by the Localism Act 2011 and any regulations made by the Secretary of State there under.
39. If you need any help or information on the progress of a complaint, please contact the Monitoring Officer. However, the Monitoring Officer will not enter into correspondence about a decision of the Local Assessment Sub-Committee.
40. This document is available in alternative formats. Please call 01403 215478.
41. The Monitoring Officer can be contacted at:

Mrs S A Herbert
Monitoring Officer
Horsham District Council
Park North,
North Street,
Horsham RH12 1RL

	01403 215482
Fax	01403 215487
	standards@horsham.gov.uk

42. Further information about Code of Conduct and the ethical framework can be obtained from the Council's website:
<http://www.horsham.gov.uk/council/members/1113.aspx>

CODE OF MEMBERS' CONDUCT

ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS UNDER THE LOCALISM ACT 2011 - GUIDANCE FOR POTENTIAL COMPLAINANTS

Introduction

1. It is expected that elected and co-opted members of the Council and the 32 parish councils within the district uphold the highest standards of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure that public confidence is maintained.
2. Section 28(6) and (7) of the Localism Act 2011 requires the Council to put in place "arrangements" under which allegations that a member or co-opted member of the district council or of a parish council within the district has failed to comply with the relevant authority's code of conduct when they are acting in that capacity (a) can be investigated and (b) decisions made on such allegations.
3. These "arrangements" must provide for the authority to appoint at least one Independent Person whose views (a) must be sought and taken into account by the authority before it takes a decision on an allegation which it has decided shall be investigated (b) may be sought by the authority at any other stage and (c) may be sought by a member or co-opted member of the authority or of a parish council if that person's behaviour is the subject of an allegation.
4. The purpose of this guidance is to comply with the requirements of the Localism Act 2011 and to explain the "arrangements" which are in place to make a complaint about an elected or co-opted member of Horsham District Council or an elected or co-opted member of the 32 parish councils in Horsham District and what happens if you make a complaint.

A complaint must comprise a breach by the member of the relevant council's Code of Members' Conduct when acting in their capacity as a councillor. Complaints which are trivial, simply malicious, vexatious, politically-motivated or tit-for-tat are likely to be rejected. Complaints made against an entire council or committee are also likely to be rejected. If, having read this Guidance, you think that your complaint can be resolved through informal means rather than following through this complaints procedure, please contact the Monitoring Officer.

5. Overall responsibility for overseeing compliance with the Codes of Members' Conduct is that of Horsham District Council's Standards Committee. The Standards Committee comprises seven District Councillors. In addition the Council has co-opted two parish council representatives and two persons independent of any council to advise the committee but who are not entitled to vote. The Committee has three sub-committees: the Local Assessment Sub-Committee, the Local Review Sub-Committee and the Local Determinations Sub-Committee. The Standards Committee and its sub-committees are advised and supported by Horsham District Council's Monitoring Officer.

Interpretation

6. 'Member' means the member of the authority who is the subject of the allegation made by the complainant, unless otherwise stated.
7. 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation and may include the Monitoring Officer and his or her representative.
8. 'the Matter' is the subject matter of the allegation.
9. 'the Standards Committee' refers to the Standards Committee or to any sub-committee to which it has delegated the assessment of complaints, the review of decisions or the conduct of the hearing unless the context indicates that it refers only to the Standards Committee itself.
10. 'Independent Person' means a person appointed by the Council under the Localism Act 2011 s 28(7) to advise the Standards Committee and

its sub-committees and who has the functions set out in the Localism Act 2011 s 28(7).

11. 'Parish Representative' means a parish councillor appointed by the Council to advise the Standards Committee and its sub-committees in relation to cases involving parish councillors.
12. 'Monitoring Officer' means a statutory officer appointed by the Council under the Local Government and Housing Act 1989 ss 5 and 5A who has a role in the promotion and maintenance of high standards of conduct within local authorities and his or her deputy or representative.

The assessment of complaints

13. The Local Assessment Sub-Committee has initial responsibility for considering written complaints by way of allegations against a Member for breach of the relevant Code of Members' Conduct. This is known as assessment. The purpose of assessment is to determine whether or not on the basis of information supplied by the complainant, if the matter were proven, it would amount to a breach of the Code of Members' Conduct. No investigation or hearings are conducted at this stage.
14. The Independent Person will be consulted on the allegation and whether in their view it could amount to a breach of the Code of Conduct. The Parish Representative will also be consulted in relation to complaints concerning parish councillors. Their views will be included in the Monitoring Officer's report to the Local Assessment Sub-Committee.
15. The Monitoring Officer will notify the Member subject to the complaint that a complaint has been made.
16. Following consultation with the Independent Person (and the Parish Representative as appropriate) the Local Assessment Sub-Committee will make a decision as to whether the complaint merits formal investigation. This decision will normally be made within 6 weeks of receipt of your complaint. You will be advised of the decision and the reasons for that decision.

17. If the Local Assessment Sub-Committee requires further information in order to reach a decision they may come back to you for such information and may request information from the Member against whom the complaint is directed. For complaints about parish councillors the Local Assessment Sub-Committee may also inform the parish council of your complaint and seek views of the parish council before deciding whether the complaint merits formal investigation.
18. In appropriate cases the Local Assessment Sub-Committee may direct the Monitoring Officer to seek to resolve the complaint informally without the need for a formal investigation. Such informal resolution may involve the member undertaking e.g. training, conciliation or other remedial action. Where the Member makes a reasonable offer of local resolution the Local Assessment Sub-Committee will take account of this in deciding whether the complaint merits formal investigation.
19. If the complaint identifies criminal conduct or breach of other regulation by any person the Local Assessment Sub-Committee has the power to call in the police and other regulatory agencies.
20. If the Local Assessment Sub-Committee decides that there is no potential breach of the Code it will decide to take no further action. If it decides that there is a potential breach of the Code then it can decide to take no further action or to refer the complaint to the Monitoring Officer for an investigation or other action or to the Police or other regulatory body if the complaint identifies criminal conduct or breach of other regulation. It can ask for further information to enable it to reach a decision. A decision to refer a case to the Monitoring Officer does not mean that the Local Assessment Sub-Committee has made its mind up about the complaint. Each of these steps is described in this guidance note.

The Codes of Members' Conduct



21. Copies of the relevant council's Code of Members' Conduct are available, in the case of Horsham District Council, at the Council's offices, from the Council's Monitoring Officer or at its website via the following link:
<http://www.horsham.gov.uk/council/1110.aspx>

Parish councils' Codes of Members' Conduct are available from the relevant parish clerk or (where available) the parish council's website.

Making complaints

22. Complaints by way of allegations must be made in writing and should be on the official complaint form which sets out all the necessary information. This complaints procedure is separate from Horsham District Council's and the parish councils' complaints procedures which are directed at corporate and service failings. More information about Horsham District Council's corporate complaints procedure can be accessed at <http://www.horsham.gov.uk/council/3144.aspx> or by contacting:

The Complaints & Information Officer
Horsham District Council
Park North
North Street
Horsham RH12 1RL

 01403 215470
 yoursay@horsham.gov.uk

23. A valid member complaint must relate to the conduct of a named individual Member while in office since 1 July 2012. The Local Assessment Sub-Committee cannot deal with complaints about the District Council or parish councils, their staff or services or about an individual's conduct before he or she was elected, co-opted or appointed or after he or she ceased to be a Member or to a period before the adoption of the statutory Codes of Members' Conduct on 1 July 2012.
24. Once you have completed your complaint form you should submit it, together with any background information and documents, to the Monitoring Officer (see contact details at paragraph 69).

The handling of complaints

25. After making sure that the complaint is valid, i.e. it satisfies the requirements of paragraphs 22-23, the Monitoring Officer will submit your complaint to the Local Assessment Sub-Committee. Whilst the Monitoring Officer or the Local Assessment Sub-Committee may request information from the Member against whom the complaint is directed or the parish council (if relevant), the Local Assessment Sub-Committee is entitled to rely on the information you have provided, so it is important that the information is full and complete.

Openness

26. Your name and a summary of your complaint may be sent to the Member and the clerk to the parish council (where the Member is a parish councillor). If you wish your name and the details of the complaint to remain confidential please indicate this on the complaint form. You will need to demonstrate exceptional circumstances in which to disclose would be contrary to the public interest or would prejudice a person's ability to investigate the allegation and may include where you believe:
- 26.1 that you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with him or her); or
 - 26.2 that you may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender/contract that you may have or are about to submit to the Council; or
 - 26.3 that you are an officer who works closely with the Member against whom the allegation is made and have a reasonable belief that you may be adversely affected in your employment if your identity is disclosed.

How the Local Assessment Sub-Committee assesses your complaint

27. In reaching its decisions on your complaint, the Local Assessment Sub-Committee will take into account the following considerations, depending on the nature of your complaint and the need to adopt a proportionate response:
- 27.1 the extent to which the Member is alleged to have failed to treat others with respect;
 - 27.2 the extent to which the Member is alleged to have acted in a way that may cause the authority to breach an equality enactment;
 - 27.3 whether the allegation relates to bullying, intimidating, or attempting to intimidate a person involved in an allegation against the Member;
 - 27.4 whether in disclosing confidential information the Member failed to take or to heed advice;
 - 27.5 the implications for public perception or the reputation of the Council;
 - 27.6 the implications for staff relations;
 - 27.7 the seniority or position of influence of the Member and public trust and confidence;
 - 27.8 the consequences or the likely consequences of the Member's alleged actions;
 - 27.9 the extent to which the Member is alleged to have used his or her position as a member *improperly* to confer or secure an advantage or disadvantage;
 - 27.10 the extent to which the Member is alleged to have misused or abused the resources of the Council;
 - 27.11 the detriment caused by acting against advice when reaching decisions;
 - 27.12 the extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;
 - 27.13 the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor, or the subject of proceedings in court;

- 27.14 that the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
- 27.15 that the complaint is too trivial to warrant further action;
- 27.16 that the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat.;
- 27.17 the public benefit in directing an investigation or other steps;
- 27.18 the costs and officer and Member time which could be incurred on an investigation or other steps.
- 27.19 whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
- 27.20 whether the complaint is about someone who has died, resigned, is seriously ill or is no longer a member of the Council concerned and not in the public interest to pursue;
- 27.21 the complaint is such that it is unlikely that an investigation is likely to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain;
- 27.22 whether the subject Member has already provided a satisfactory remedy (e.g. apologising);
- 27.23 whether the matter is suitable for informal resolution and the Member complained of is amenable to such an approach.

What the Local Assessment Sub-Committee can do

- 28. When the Local Assessment Sub-Committee has considered your complaint it can:
 - 28.1 decide to take no further action on your complaint, with reasons;
 - 28.2 ask you for additional information, with reasons;
 - 28.3 refer your complaint to the Monitoring Officer for investigation;

- 28.4 refer your complaint to the Monitoring Officer for other steps (i.e. to resolve the complaint informally without the need for a formal investigation); or
- 28.5 refer your complaint to the Police or other regulatory agency if the complaint identifies criminal conduct or breach of other regulation by any person.

A decision to take no further action

- 29. Reasons for taking no further action include:
 - 28.1 that the subject matter of the allegation is outside the jurisdiction of the Standards Committee;
 - 28.2 that the allegation does not appear to disclose a failure by the Member to comply with the Code of Members' Conduct when acting in that capacity;
 - 28.3 the information submitted by you is insufficient to enable the Local Assessment Sub-Committee to reach a decision;
 - 28.4 the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in court;
 - 28.5 that the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - 28.6 that the complaint is too trivial to warrant further action;
 - 28.7 that the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat.

The right to a review

- 30. If the Local Assessment Sub-Committee decides that no further action should be taken, you have the right within 20 working days of its decision to request in writing a review of the decision. You have no right to a review in any other circumstances. A valid request for a review will be referred to the Local Review Sub-Committee, which comprises members different from those involved in the assessment decision. A different Independent

Person will be consulted and their comments made available to the Review Sub-Committee. If the matter concerns a parish Member a different Parish Representative will be consulted. The Local Review Sub-Committee has all the powers of the Local Assessment Sub-Committee. There is no right to a further review after a review by the Local Review Sub-Committee.

Local investigations and local determinations

31. If the Monitoring Officer is directed to undertake an investigation, there is a separate procedure governing this process. Investigations are conducted in private and the outcome is reported to the Local Determinations Sub-Committee and may result in a disciplinary hearing (local determination) before that Sub-Committee. Separate guidance on local determinations is available.

Other steps (i.e. informal resolution)

32. If the Monitoring Officer is directed to take other steps e.g. training or conciliation, a report will be made to the Standards Committee or relevant sub-committee on the outcome of that action. A direction to take other steps precludes an investigation or other disciplinary action.
33. If the Member makes a reasonable offer of resolution the Local Assessment Sub-Committee will take account of this in deciding whether the complaint merits formal investigation.

Withdrawing your complaint

34. Once you have submitted a valid complaint it can only be withdrawn **before** assessment by the Local Assessment Sub-Committee. Withdrawal requires the consent of the Local Assessment Sub-Committee in consultation with the Independent Person and Parish Representative, as appropriate. Consent will normally be given. However, in considering your request, the Local Assessment Sub-Committee will consider:

- 34.1 the reasons for your request;
 - 34.2 whether the public interest in pursuing action outweighs your request;
 - 34.3 if the public interest suggests that the matter should proceed, the extent to which it can proceed without your involvement;
 - 34.4 whether there is an identifiable reason for your request, e.g. improper pressure has been brought to bear.
35. After assessment by the Local Assessment Sub-Committee a complaint cannot formally be withdrawn although the Local Assessment Sub-Committee, the Monitoring Officer or the Local Determinations Sub-Committee will, in consultation with the Independent Person and Parish Representative, as appropriate, depending upon the stage to which action has reached, take into account your request for the matter not to proceed further.

Variation

36. The Monitoring Officer may vary this procedure in any particular instance where he or she is of the opinion that such variation is desirable and does not conflict with statutory requirements.

Supply of information

37. Decisions of the Local Assessment Sub-Committee are usually made in private. Neither the complainant nor the Member will usually be permitted to attend where such meetings contain confidential personal information. In such cases meetings will not be open to the press or public.

Using the complaint form

38. We ask you use our complaint form because it covers all the relevant headings. It is this document and any supporting information which are placed before the Local Assessment Sub-Committee to enable it to make a decision on your complaint, so it is important that the information is full, complete and readily accessible. Incomplete or unclear information may lead to the rejection of or delays in progressing your complaint.

39. You can fill in the form then attach it to an e-mail or you can complete it in paper form. Please use black ink as it copies better.

Guidance on individual provisions of the complaint form

A. Your details

Paragraph 1.

40. We encourage you to use electronic means of communication because this makes it easier to send the information to the Local Assessment Sub-Committee. However, paper copies are equally as acceptable.
41. Please be aware that your name and the details of your complaint may be made public.
42. Personal information will be held in accordance with the Data Protection Act 1998 and processed for the purposes of handling your complaint (which includes supplying information to statutory regulators).

Paragraphs 2-3

43. For statistical and reporting purposes and to enable us to comply with our statutory duties regarding diversity we welcome information about your status and background, which can be filled in on the attached form.

B. The details of your complaint

Paragraph 4

44. The Standards Committee has an overview of elected and co-opted Members of Horsham District Council and the 32 parish councillors in the Horsham District, of which there are over 400. Each of the 33 councils is governed by a separate Code of Members' Conduct. Some Members are

members of both district and parish councils. It is important that your complaint identifies the individual Member(s) and the Council upon which he, she or they serve and were serving in relation to the conduct in question.

Paragraph 5

45. The information about your complaint is at the heart of the complaints process. Be clear **about whom** you are complaining, **what** it is alleged he or she has done, **how** this breaches the relevant Code of Members' Conduct and **when** the alleged incident(s) occurred.
46. You should provide background material such as extracts of the relevant Code, minutes of meetings, or details of witnesses who can provide a statement of what was said or done.
47. Your complaint should be made promptly so that the events are fresh in your mind and justice for all concerned is neither delayed nor denied. This is why we ask you to make your complaint within 28 days of the incident or to tell us why it has taken longer. However, some complaints, for example those involving bullying, may be based on a series of incidents taken together.
48. Work through the incidents comprising your complaint in date order. Relate each incident to the background or supporting information and explain the impact upon you. For example:

"On 1 November 2012 I attended a meeting of Horsham District Council. Councillor A accused me of dishonesty. He said "...". I found this hurtful and damaging to my professional reputation. His words are recorded in the minutes of the meeting. This document is marked "2". I believe that Councillor A is in breach of paragraph 3 of Horsham District Council's Code of Members' Conduct (failure to treat me with respect)".

49. Do not just refer to a document or a series of documents; the Local Assessment Sub-Committee will expect to be told what your complaint is and is not charged with working this out for itself.

C. Openness

Paragraphs 6-9

50. In the interests of fairness and in compliance with the rules of natural justice, we believe Members who are subject to a complaint have a right to know who has made the complaint and the substance of the allegation(s) made against him or her. However, this right is subject to what is said below about the timing of the release of information and exceptions.
51. Your name and a summary of your complaint may be sent to the Member and the parish council where the Member is a parish councillor. Your name maybe withheld if you can demonstrate very exceptional circumstances. Those very exceptional circumstances are where to disclose would be contrary to the public interest or would prejudice a person's ability to investigate the allegation and may include where you believe:
- 51.1 that you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with him or her); or
 - 51.2 that you may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender/contract that you may have or are about to submit to the Council; or
 - 51.3 that you are an officer who works closely with the Member and have a reasonable belief that you may be adversely affected in your employment if your identity is disclosed.

52. If you wish us to consider a request for withholding your name and/or the details of your complaint please complete the box but only do so if you feel that you have a very good case for seeking confidentiality. The Local Assessment Sub-Committee will need to be persuaded by you that the normal rules on openness should not apply.

D. Remedy sought

Paragraph 10

53. Section 28(1) of the Localism Act 2011 provides that "if a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements in place under subsection (6)) it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take."
54. The remedies available to the Standards Committee in the event of an allegation being proven include:
- the issuing of a formal letter;
 - a formal reprimand;
 - a recommendation that the Member be removed from any or all committees or sub-committees, Cabinet or sub-committees of Cabinet;
 - restriction of the Member's access to the premises of the relevant authority and the Member's use of the resources provided that any such restrictions imposed upon the Member (a) are reasonable and proportionate to the nature of the breach, and (b) do not unduly restrict the Member's ability to perform his or her functions as a member.
55. In addition, with the agreement of the Member concerned the Standards Committee may also:
- require the Member to undertake training as specified by the Standards Committee;

- require the Member to participate in such conciliation as specified by the Standards Committee;
 - require the member to submit an apology in a form specified by the Standards committee; or
 - the publication of its findings or other relevant publicity.
56. The Standards Committee cannot suspend a Member, withdraw a Member's allowance, impose financial penalties, award compensation or make awards of costs.
57. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint. In particular, state what you think the Member should do or the Standards Committee could do in response to your complaint. The Standards Committee is not bound to agree to your request.

E. What to do next

Paragraphs 11-12

58. Read through your complaint form and make sure that all the parts are completed and you have the supporting documents and then send it to the Monitoring Officer (see contact details below). Keep a copy of your complaint form for future reference.

F. What happens next

Paragraphs 13-16

59. We will acknowledge receipt of your complaint and give you a reference number which you should quote on all correspondence.
60. Once a valid complaint relating to an alleged breach of the relevant Code of Members' Conduct has been received by the Monitoring Officer, it will be presented to a meeting of the Local Assessment Sub-Committee for consideration.

61. You and the Member against whom the complaint has been made will not usually be allowed to attend the meeting of the Local Assessment Sub-Committee as such meetings are likely to include confidential personal information. In such cases meetings will not be open to the press or public.
62. The Local Assessment Sub-Committee may resolve to:
- 61.1 take no further action on your complaint, with reasons;
 - 61.2 ask you for additional information, with reasons;
 - 61.3 refer your complaint to the Monitoring Officer for investigation;
 - 61.4 refer your complaint to the Monitoring Officer for other action (i.e. to resolve the complaint informally without the need for an investigation); or
 - 61.5 refer your complaint to the Police or other regulatory body if your complaint identifies criminal conduct or breach of other regulation.
63. You will be notified after the meeting and given information on any further stage(s) in the process at that time.
64. We normally expect to assess complaints within six weeks of receipt. This allows for the preparation for and consideration by the Local Assessment Sub-Committee, which meets every four weeks.

G. Help

65. The procedures for assessing complaints by way of allegations against Members and for subsequently handling such allegations are regulated by the Localism Act 2011 and any regulations made by the Secretary of State thereunder.
66. In line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents

you from making your complaint in writing. We can also help if English is not your first language.

- 67. If you need any help before or in completing this form or want information on the progress of your complaint, please contact the Monitoring Officer.
- 68. This document is available in alternative formats. Please call 01403 215549.
- 69. The Monitoring Officer can be contacted at:

Monitoring Officer
Horsham District Council
Park North
North Street
Horsham RH12 1RL



01403 215478

Fax

01403 215487



standards@horsham.gov.uk

APPENDIX 6
Horsham District Council Code of Members Conduct

PART 5A



Horsham
District
Council

serving our towns and villages

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 2011 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 1

CODE OF MEMBERS' CONDUCT - DISPENSATIONS

1. Applicability

The following arrangements for seeking dispensations from prohibitions on participation apply from the 1 July 2012. The statutory basis for the rules is to be found in the Localism Act 2011 sections 33 and 31(1) and (4).

The authority may on a written request made to the proper officer by a member or co-opted member of the authority grant a dispensation (a) relieving the member or co-opted member from either or both of the restrictions in section 31(4) of the Localism Act in cases described in the dispensation and/or (b) relieving the member or co-opted member from the restrictions in Paragraph 12 of the Code of Member's Conduct in cases described in the dispensation.

2. Existing dispensations

All dispensations granted before 1 July 2012 have ceased to apply.

3. New rules

The old rules for seeking dispensation under the Local Government Act 2000 are now replaced. In future, dispensations may only be granted by the Council's Monitoring Officer or Standards Committee acting on a written request from a member.

4. Legal criteria

- 4.1 If a member or co-opted member of the authority (a) is present at a meeting of the authority, or of any committee, sub-committee, joint committee of the authority (b) has a disclosable pecuniary interest and/or a prejudicial interest in any matter to be considered, or being considered at the meeting, and (c) is aware that the condition in paragraph (b) is met the member or co-opted member may not participate in the matter.

4.2 These rules apply:

- 4.2.1 to either or both of the prohibitions from participation set out in the Localism Act 2011 section 31(4) concerning the matter in which a member or co-opted member has a disclosable pecuniary interest; and
- 4.2.2 to prohibitions from participation concerning a matter in which a member or co-opted member has a prejudicial interest.

Section 31(4) of the Localism Act 2011 provides in relation to disclosable pecuniary interests:

- "(4) The member or co-opted member may not -
- (a) participate, or participate further, in any discussion of the matter at the meeting, or
- (b) participate in any vote, or further vote, taken on the matter at the meeting
- but this is subject to section 33"

Paragraph 12 (1) of the Code of Member's Conduct provides in relation to



prejudicial interests:

"(1) 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."

4.3 A dispensation can only be granted if after having had regard to all relevant circumstances the authority:

4.3.1 considers that without the dispensation the number of persons prohibited by section 31(4) from participation in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or

4.3.2 considers that without the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business, or

4.3.3 considers that granting the dispensation is in the interests of persons living in the authority's area, or

4.3.4 if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements considers that without the dispensation each member the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

4.3.5 considers that it is otherwise appropriate to grant a dispensation.

5. Development control

The political balance requirements have been disapplied to Development Control Committees and accordingly the criterion in paragraph 4.3.2 for dispensation does not apply to the consideration of development control matters.

6. Maximum period

A dispensation will specify the period for which it has effect and the period specified may not last for more than four years from the date of the giving of the dispensation.

7. When dispensation should never be given

A dispensation should never be given where:

7.1 A member is prohibited from voting on a matter at a meeting of an overview and scrutiny committee of the authority relating to a decision made by any body of which that person was a member at the time the decision was taken; OR

7.2 A member of the authority's executive is prohibited from exercising functions which are the responsibility of the executive and which would otherwise be discharged solely by that member.

8. How to apply for a dispensation



If a member wishes to seek dispensation to enable him or her to participate in the consideration of a matter from which he or she would be excluded by the provisions of section 31(4) of the Localism Act 2011 or the Code, he or she should write to or e-mail the Monitoring Officer a request for a dispensation explaining why it is desirable for a dispensation to be granted. At least fourteen working days' notice must be given before the dispensation is required to enable (a) consideration of the matter by the Monitoring Officer together with all necessary consultations to be undertaken or (b) at the absolute discretion of the Monitoring Officer the convening of a meeting of the Standards Committee or sub-committee set up by the Standards Committee to consider the matter.

9. Records

The Standards Committee will record the existence, duration and nature of any dispensation and the record is to be kept with the Register of Members' Interests.

10. The Monitoring Officer's or the Standards Committee's consideration of an application for dispensation

The following is a summary of what might be regarded as good practice in considering an application for a dispensation.

- 10.1** Dispensations should be granted only in exceptional circumstances.
- 10.2** Dispensations cannot be granted other than in the circumstances set out in the Localism Act 2011 Section 33(2) (a) – (e) set out in paragraphs 4.1 to 4.3 above.
- 10.3** A dispensation cannot authorise a Member to act unlawfully.
- 10.4** Dispensations should not be granted in the two circumstances set out in paragraph 7 above.
- 10.5** Any dispensations that have already been granted will be ignored when applying the legal criteria in paragraph 4.
- 10.6** The interest of the member seeking the dispensation will be balanced against the potential effect on the outcome of the vote if the member is unable to participate.
- 10.7** A dispensation may be granted to enable a member to speak only or to speak and vote.
- 10.8** A dispensation should not be granted where the dispensation would conflict with the general principles which underlie the Code of Members' Conduct:

10.8.1 Selflessness

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

10.8.2 Integrity



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

10.8.3 Objectivity

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

10.8.4 Accountability

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

10.8.5 Openness

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

10.8.6 Honesty

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.

10.8.7 Leadership

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

- 10.9** A dispensation should not be granted where the nature of the member's interest would damage public confidence in the conduct of the authority's business were the dispensation to be granted.
- 10.10** If a dispensation is granted it should usually be for one specific item of business at one meeting of the authority.
- 10.11** Consideration must take account of any legal requirement or statutory guidance issued by the Department for Communities and Local Government.
- 10.12** Section 31(4) of the Localism Act 2011 does not apply in relation to anything done for the purposes of deciding whether to grant a dispensation under this section.

11. Help

Further assistance can be obtained from the Monitoring Officer. Or e-mail standards@horsham.gov.uk.



APPENDIX 7
Committee of Standards in Public Life recommendations
– Nolan Principles

Appendix 7 Committee on Standards in Public Life recommendations – Nolan Principles

Committee on Standards in Public Life

1. The fourteenth report of the Committee on Standards in Public Life (CSPL) was published in January 2013. The report is a review of best practice in promoting good behaviour in public life in public life.

A copy of the report can be accessed by following the attached link:

http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf

2. Chapter 3 of the report assesses the seven principles of public life and whether the principles and the descriptions used should be reformulated. The report concludes the principles should remain as originally formulated but that the words used to describe them should be revised as the meaning of certain words has developed. Consideration will need to be given as to whether or not your code of 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. The revised descriptions (with new preamble) are as follows:

Principle – current description	Revised description
Preamble	<i>The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.</i>
Selflessness 1 Members should serve only the public interest and should never improperly confer an advantage	<i>Holders of public office should act solely in terms of the public interest.</i>

or disadvantage on any person.	
<p>Integrity</p> <p>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.</p>	<p><i>Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.</i></p>
<p>Objectivity</p> <p>3 Members should make decisions on merit including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.</p>	<p><i>Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.</i></p>
<p>Accountability</p> <p>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.</p>	<p><i>Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.</i></p>
<p>Openness</p> <p>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.</p>	<p><i>Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.</i></p>
<p>Honesty</p> <p>6 Members should not place themselves in situations where their honesty may be questioned, should</p>	<p><i>Holders of public office should be truthful.</i></p>

<p>not behave dishonestly and should on all occasions avoid the appearance of such behaviour.</p>	
<p>Leadership</p> <p>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.</p>	<p><i>Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.</i></p>

APPENDIX 8
Membership & Terms of Reference Standards
Committee

Part 3C

(Article 8)

SCHEME OF DELEGATION TO COMMITTEES

2.6. Standards Committee

Membership:

- (a) Seven members of the Council (reflecting the political balance of the Council including the Chairman of the Council, one member of the Executive (but no more than one); and
- (b) Two persons independent of the Council co-opted to assist the committee in an advisory capacity only (Independent Persons); and
- (c) Two parish councillors co-opted to assist the committee in an advisory capacity only (Parish Representatives).

Matters delegated to the Committee:

To perform the functions set out in the Localism Act 2011 Chapter 7 and any regulations made under the Act.

APPENDIX 9
Horsham District Council Dispensation Request Form



**Horsham
District
Council**

Dispensation Request Form Horsham District Council

Please give full details of the following in support of your application for a dispensation and return to the Monitoring Officer (Sandra Herbert) , Horsham District Council, Park North, North Street, Horsham, West Sussex, RH12 1RL.

Please submit applications at least 14 days prior to the date of the meeting at which the dispensation is required to enable your application to be considered and any consultation carried out.

If you have any questions, please contact Sandra Herbert, Monitoring Officer, on 5482; Selena Saroy, Senior Solicitor, on 5507; Nathalie Sabatelli, Legal Assistant on 5478; or email standards@horsham.gov.uk

1	Name of Councillor	
2	What is the business for which you require a dispensation? (refer to agenda item number if appropriate)	
3	What is the nature of your interest in that business? Please provide full details including amounts where the matter involves funding or finance.	
4	What is the date of the meeting or time period (up to 4 years) for which the dispensation is sought?	
5	Is a dispensation required to participate, or participate further in any discussion of that business by that body?	YES / NO

6	Is a dispensation requested to participate in any vote, or further vote taken on that business by that body?	YES / NO
7	The Localism Act 2011 section 33 sets out the grounds upon which a dispensation may be granted. Please indicate below the ground(s) upon which you rely to support your request.	
a)	without the dispensation the number of persons unable to participate in the transaction of business would be so great as to impede the transaction of the business (s.33(2)(a))	YES/NO
b)	without the dispensation the representation of different political groups would be affected so as to alter the likely outcome of any vote (s.33(2)(b))	YES/NO
c)	the dispensation is in the interests of persons living in the authority's area (s.33(2)(c))	YES/NO
d)	without the dispensation each member of the Executive would be prohibited from participating (s.33(2)(d))	YES/NO
e)	that it is otherwise appropriate to grant a dispensation (s.33(2)(e))	YES/NO
8	<p>Please provide a statement in support of the grounds(s) upon which you rely.</p> <p>(You may wish to consider such matters as how the business of the Council would be impeded in the absence of a dispensation; how the business of the Council would be advanced by your participation; and any other relevant factors you wish to be taken into account).</p>	

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Signed: _____

Dated: _____

APPENDIX 10
Horsham District Council Dispensation Decision Form



**Horsham
District
Council**

Dispensation Decision

Horsham District Council

Date Dispensation Request considered (by full council/committee)	
Name of Councillor requesting dispensation	
Dispensation granted:	YES/NO
Reasons for the decision (If granted, also specify on what grounds the decision was made, i.e. the dispensation is in the interests of persons living in the authority's area)	
The business of the council for which the dispensation has been given (if appropriate)	

Length of the dispensation	
----------------------------	--

Signed: _____

Dated: _____

APPENDIX 11
Other consequences of the proposed action

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached Yes/No</p>	<p>There is a risk that complaints to the local government Ombudsman will increase if an internal right of review is removed</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 Code of Conduct sets out clear standards of behaviour for members and includes the expectation of respect for others defined in the prescribed 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>Having an enforceable Code in place should continue to have a positive obligation upon members to eliminate unlawful discrimination.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>Where possible electronic means of communication were used as part of the review process.</p>