

STANDARDS COMMITTEE AGENDA



Wednesday 18 July 2012

at 4.00 p.m.

**in Committee Room A,
Civic Centre, Hartlepool.**

MEMBERS: STANDARDS COMMITTEE:

Councillors Dawkins, Fleet, Griffin, Morris, Simmons, Tempest and Wells.

Co-opted Members: B Footitt, T Jackson, Reverend John Lund

Parish Councillors: A Bell, Hart Parish Council, R Musgrave, Elwick Parish Council
and 1 vacancy

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 17 April 2012.
4. **ITEMS FOR DECISION / INFORMATION**
 - 4.1 Business Report – *Chief Solicitor and Monitoring Officer*

STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

17 April 2012

The meeting commenced at 4.00 pm in the Civic Centre, Hartlepool

Present:

Mr Jackson (In the Chair);

Councillors Fleet, Griffin, Morris and Preece
Professor Footitt and John Lund Independent Members

Parish Councillor Representative, Alan Bell (Hart Parish Council)

Officers: Peter Devlin, Chief Solicitor
Denise Wimpenny, Principal Democratic Services Officer

36. Apologies for Absence

Councillors Barclay, Shaw, Mr Gray , Independent Member and Ruth Musgrave (Elwick Parish Council Representative).

37. Declarations of Interest

None

38. Minutes

The minutes of the meeting held on 7 February 2012 were confirmed.

39. Business Report (*Chief Solicitor and Monitoring Officer*)

(i) “The New Standards Board Regime”

Members were advised that previous reports have been brought to the Committee as to the emerging “new arrangements” relating to complaints alleging Member misconduct. The Localism Act, 2011, received Royal Assent on 15th November, 2011, and although Regulations and/or guidance was still awaited as to transitional arrangements and formal commencement of certain provisions, the main features of this new regime included a duty to promote high standards of conduct, a duty to adopt a

Code of Conduct which must be consistent with the seven Nolan principles as set out in the report. It was noted that the other general principles including personal judgement, respect for others, duty to uphold the law and stewardship were not mandatory. Present guidance suggested that such a Code must be adopted by full Council before 1 July 2012. The code must also contain appropriate provision for the registration and disclosure of non-disclosable pecuniary interests and non-pecuniary interests. Regulations and/or guidance was awaited in this respect.

The Chief Solicitor and Monitoring Officer referred to the proposed arrangements for dealing with complaints and Council's decision to retain a Standards Committee to deal with such complaints. It appeared there would no longer be a requirement for Standards Committee to include the level of representation of independent members. It had been proposed that there should be an Independent Person who could be consulted upon a complaint together with a substitute Independent Person and appropriate Parish Council representation to be co-opted onto the Committee to deal with parish Council business. However, it should be noted that such co-opted Members would only be able to act in an advisory capacity. It appeared the emphasis was not placed on local resolution rather than by way of formal investigation which allowed more scope for the Monitoring Officer (in consultation with the Independent Person) to deal with complaints in order to seek some form of resolution.

In relation to sanctions, unlike previously, there would be a limited range of "actions" that could be taken in the new arrangements as detailed in the report.

Details of the new arrangements for maintaining a Register of Interests for Members was provided, as set out in the report.

(ii) **Code of Conduct**

Members were referred to a previous report in relation to the option to either revise or adopt a new Code of Conduct in order to comply with the localism provisions. It was noted that regulations and guidance was still awaited from the Department of Communities and Local Government as to what constituted a disclosable pecuniary interest and which would also need appropriate reference within any Code of Conduct. There had been dialogue between the Department of Communities and Local Government and the Local Government Association over a "model" Code of Conduct, but it appeared those discussions were still ongoing. Consequently, it may well be the case, that a revised Code of Conduct would need to be reported to the Standards Committee early in the next municipal year in order to allow formal adoption by Council, on or before 1 July 2012, the present anticipated date for the operation of the "new" standards regime. The Constitution Committee as indicated, recommended to Council at its meeting on 12 April 2012 that there be retention of a dedicated Standards Committee to deal with complaints surrounding alleged Member

misconduct. Although, presently there was requirement for independent Members to comprise at least 25% of the membership of a Standards Committee, with appropriate Parish Council representation (a minimum of two representatives under present Regulations) this would alter under the “new regime” wherein a relevant authority would only be required to appoint at least one ‘Independent Person’ to be consulted in relation to complaints received. As primarily, the work of the Standards Committee would centre around (as presently) consideration of any reports following an investigative process, it was also the recommendation of the Constitution Committee that the meetings of the Standards Committee be held every six months, with intervening meetings, dependant upon the number of complaints received. The Standards Committee as before would still have certain delegated functions including, by way of example, the discretion to grant dispensations and such other delegations as prescribed through Council.

(iii) Independent Persons

The Committee was referred to advice secured through the Association of Council Secretaries and Solicitors dealing with the appointment of the ‘Independent Person’ as part of the complaints process. Many local authorities had written to the Secretary of State as to their concerns and it now appeared that transitional arrangements would include the option to appoint an ‘Independent Member’ as an ‘Independent Person’ if a local authority so wished. However, this was likely to be for a limited period of time after a Commencement Order brought into force the “new regime”. It also appeared that the advertising requirements, which was a feature of the existing standards regime and that proposed would still be required to be met, although this was still the subject of confirmation through central government. For the information of the Committee, a copy of a letter sent to Bradford Metropolitan Borough Council, attached as an appendix to the business report, seemed to contemplate the above scenario.

Decision

- (i) The report was noted.
- (ii) Details of discussions were considered under agenda item 41, as set out below.

40. Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following item of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

41. Any Other Business – Local Government Association – Template Code and Guidance Note on Conduct (*Chief Solicitor and Monitoring Officer*)

The Chief Solicitor and Monitoring Officer referred the Committee to the draft code of conduct as developed through the Association of Council Secretaries and Solicitors together with a template code and guidance note on conduct which had been circulated by the Local Government Association to leaders and Chief Executives, attached as appendices to the report.

It had been mentioned through the Association of Council Secretaries and Solicitors the surprise at the brevity of the document that was now being produced through the Local Government Association. Given the deficiency in the template, it was anticipated that some Councils may prefer to adopt a more traditional Code of Conduct with some firm indications as to what a Member/voting Co-opted Member can and cannot do. Members were reminded that the appended documents remained as 'working drafts' as regulations were still awaited to define the descriptions of the disclosable interests which would need to be incorporated within any finalised Code.

It was reported that on 11 April 2012, communication had been received from Bob Neill MP, Parliamentary Under Secretary of State for the Department for Communities and Local Government, attaching an example of a local code, copies of which were appended to the report. Members' views were sought on the template code and guidance note on conduct.

Members supported the comments of the Association of Council Secretaries and Solicitors regarding the brevity of the proposed template code and commented on the benefits of adopting a more traditional and more detailed Code of Conduct expressing a preference to adopt the draft code developed through the Association of Council Secretaries and Solicitors, attached at Appendix 1. Discussion ensued in relation to the options for local authorities to adopt a code of the preference, the practices which were likely to be adopted by neighbouring authorities, the implications of parishes adopting a different approach to the Council and the advantages of the Borough Council and Parish Councils operating from the same Code of Conduct were outlined. The Chief Solicitor and Monitoring Officer indicated that in the absence of any further guidance from central government arrangements would be made for the draft code, attached at Appendix 1 to be utilised.

Decision

That the information given be noted and further information be awaited.

The meeting concluded at 4.35 pm.

CHAIR

STANDARDS COMMITTEE

18th July 2012



Report of: Chief Solicitor and Monitoring Officer

Subject: BUSINESS REPORT

1. PURPOSE OF REPORT

- 1.1 For the Committee to make recommendations to the meeting of Council to be held on 2nd August, 2012, following the introduction of regulations dealing with “disclosable pecuniary interests” and a further Commencement Order, under the Localism Act, 2011, relating to the operation of the new standards ‘arrangements’. A separate report is being presented to the Council’s Constitution Committee inviting comment on the draft Code of Conduct (which would upon adoption be incorporated within Part 5 of the Constitution) which will be reported to Standards Committee and upon a revised terms of reference of the Standards Committee (Article 9 refers).

2. STANDARDS – LOCALISM ACT, 2011

- 2.1 Previous meeting of the Standards Committee (7th February and 17th April, 2012) have considered reports as to the “new standards framework” to be operated in conjunction with the Localism Act, 2011, with particular emphasis on the so called “sanctions issues” and that relating to the appointment of the “Independent Person”. In addition, Members were directed to a draft Code of Conduct, with commentary provided thereon. As before, every “relevant authority” (which description now incorporates Town and Parish Councils) ‘must promote and maintain high standards of conduct by elected and co-opted Members’. In addition, a Code of Conduct must be adopted by such an authority detailing conduct that is expected of both elected and co-opted Members “when they act in that capacity”. Further, the Code must be consistent with the seven “Nolan Principles”, namely;

- selflessness
- honesty
- integrity
- objectivity
- accountability
- openness
- leadership

- 2.2 It will be observed that the above principles do not extend to the present “Ten General Principles of Public Life” as set out originally under The Relevant Authorities (General Principles) Order, 2001. Indeed, those matters relating to personal judgement, respect for others, duty to uphold the law and stewardship are not now mandatory provisions. However, the Committee have suggested that these be additional general principles to be incorporated within the Council’s revised Code of Conduct. It is a requirement that relevant authorities have in place “arrangements” for dealing with complaints. Council along with other public organisations have indicated the retention of a dedicated Standards Committee to deal with such complaints and the composition of which will still need to reflect broad political balance. Although, it has been a requirement for at least 25% of the membership of the Standards Committee to comprise “Independent Members”, this has not been carried forward under the provisions of the Localism Act, 2011, which provide for a “clear break” with the previous system. There is now the requirement to have an “Independent Person” who can be consulted upon a complaint and it is also advised that there be a substitute “Independent Person”, to cover cases where there may be a conflict of interest or the person is otherwise unavailable. Although an ‘Independent Person’ will still retain the status of being a “Co-opted Member” they will only be able to act in a strictly advisory capacity. Emphasis is now placed upon “local resolution” of complaints but there is still scope for a formal investigation, if the same is warranted, and for a hearing to take place, most probably through a Sub-Committee of the Standards Committee.
- 2.3 Although the “standards regime” emanating from the provisions of the Local Government Act, 2000, provide for a range of “sanctions”, the system to operate in compliance with the Localism Act, 2011, is very much different. There will be a limited range of so called “actions” that can be taken in dealing with a matter of complaint, which would conceivably comprise the following;
- Censure
 - Report to a meeting of the Authority
 - Recommendations of action to a Group Leader
 - Withdrawal of facilities, provided the same was both necessary and proportionate and which would not prevent a Councillor to perform his/her duties
- 2.4 Although, it is recognised that public organisations covered by the previous standards regime, may have existing complaints to deal with, the Government have already revoked the existing sanctions relating to the disqualification and suspension of a member. Whilst this may seem to be premature, it provides further evidence of the Government’s intention that the “new arrangements” will be markedly different in their application in dealing with complaints. The Monitoring Officer is still required to establish and maintain a Register of Interests of Members, which will now include “disclosable pecuniary interests”. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations, 2012 were laid before Parliament on 8th June, 2012 and are effective from 1st July, 2012. Such declarations of

these “disclosable pecuniary interests” are a feature of the appended Code of Conduct. Members will therefore appreciate a return to the system of declaration of “pecuniary” and “non-pecuniary” interests that were prevalent before the Local Government Act, 2000. Such ‘register of interests’ are available for public inspection and it is a criminal offence to fail to register such a disclosable pecuniary interest within 28 days of election or co-option without reasonable excuse, or to provide false or misleading information or to be reckless as to the accuracy of that information. The Localism Act, 2011, prescribed for the registration of such interests within a period of 28 days from the person’s election, which obviously conflicts with the effective start date of 1st July, 2012, as indicated in the Regulations. Consequently, there is provision within the draft Code of Conduct to cover all conceivable scenarios in order to ensure that members are patently aware of their obligations.

- 2.5 This report therefore sets out suggested amendments to the Code of Conduct and related documentation for dealing with standards allegations under the Localism Act, 2011. For ease of reference, these matters are further itemised below, for the consideration of the Committee.

3. CODE OF CONDUCT

- 3.1 An authority can either revise or adopt a new Code of Conduct in order to comply with the Localism Act, 2011. On 10th April, 2012, the Local Government Association circulated to Leaders and Chief Executives a “template and guidance note on conduct”. A further revision of the draft Code of Conduct as appended herewith, seeks to incorporate some of the features of this “template” in addressing the statutory principles under the Code of Conduct. Further, on 11th April, 2012, communication was received from Bob Neil MP, Parliamentary Under Secretary of State for the Department for Communities and Local Government, attaching an ‘example of a local Code’. Following on from receipt of Regulations covering “disclosable pecuniary interests” reference from this document have also been incorporated within the revised draft. The Committee are therefore formally requested to consider this document and make recommendations to Council for the adoption of a revised Code of Conduct to comply with the Localism Act, 2011.

4. COUNCIL PROCEDURE RULES

- 4.1 Council Procedure Rule 23 indicates that a Member withdraws from a meeting where they have a ‘prejudicial interest’ in a matter, in the absence of a dispensation from Standards Committee. This is reflected in the draft Code and it is suggested that this is broadened to encompass a ‘prejudicial’ interest and a ‘disclosable pecuniary’ interest situation. Reference to Standards Committee where there is an incident of Member misbehaviour as contemplated in Council Procedure Rules 21.3 and 21.4, should be

maintained given the duty to maintain high standards of conduct and the general obligations contained within the Code

5. TERMS OF REFERENCE – STANDARDS COMMITTEE

5.1 An authority has a discretion whether or not to have a Standards Committee within its overall governance arrangements. Clearly, there must be “arrangements” in place in order to deal with complaints alleging member misconduct. However, it is up to each individual authority how they seek to discharge those arrangements. Although the “Independent Person” will sit on a Standards Committee in an advisory capacity they seemingly have no voting rights and there is no statutory requirement for such an individual to formally chair meetings of a Committee or any of its Sub-Committees. The local assessment and determination process required the holding of an initial assessment hearing and consequently an Assessment Sub-Committee was formed for this particular purpose. Further, an individual who is aggrieved over the determination of an Assessment Sub-Committee can thereafter request a review through a Sub-Committee comprising a different membership from the Sub-Committee that dealt with the earlier assessment. Any investigation reports would also be considered through a Consideration Sub-Committee and could lead to a formal hearing before Standards Committee.

5.2 As indicated a separate report is proceeding before the Constitution Committee, but it is envisaged that the role and remit of Standards Committee would be as follows;

- (i) To advise Council upon the adoption of a Code of Conduct and any revisions to that Code through monitoring its operation and overall effectiveness.
- (ii) To promote good ethical governance and maintain high standards of conduct from members and to assist them in observing the Code of Conduct.
- (iii) Provide such advice, guidance and training as may be required in relation to the duty to promote and maintain high standards of conduct by elected and co-opted members.
- (iv) To undertake matters of complaint referred to them by the Monitoring Officer or through any regulatory body for their consideration and to delegate to a Hearing Sub-Committee powers to consider the outcome of any investigation report, to publish report findings and make such recommendations as are appropriate.
- (v) To grant dispensations to members upon the requirements relating to disclosable pecuniary interests (or otherwise prejudicial interests) as set out within the Code of Conduct.

- (vi) Dealing with the grant. and supervision of exemptions from political restrictions in respect of all relevant Authority posts, as required.
- (vii) To make recommendations in relation to the promotion and maintenance of high ethical standards within the authority and to contribute to issues of governance at its discretion.
- (vii) Such other functions as Council consider appropriate.

6. ASSOCIATED DOCUMENTATION

6.1 In conjunction with the operation of a Code of Conduct and arrangements to deal with complaints, the following documentation as appended (**Appendix 2-6**) is attached herewith for the observation and comment of the Committee;

- Recruitment Pack for Appointment of Independent Person
- Complaint Form
- Assessment Criteria
- Arrangements for dealing with standards allegations under the Localism Act, 2011. This document also incorporates reference to the Authority's Code of Conduct and also the 'Hearing Procedures' for the Standards Committee.
- Register of Members Disclosable Pecuniary Interests

Members are therefore requested to make recommendations as to the incorporation of the above documentation within the Council's ethical governance framework and to publicise the same in conjunction with the arrangements to deal with complaints under that framework..

7. INDEPENDENT PERSONS

7.1 Members will recall that Counsel's opinion through the Association of Council Secretaries and Solicitors had been obtained wherein it was the opinion of Counsel that "it is not permissible for an independent member to serve as an independent person". The role of the "independent person" is prescribed through Section 28(7) of the Localism Act, 2011. A person is not independent if that person is;

- (i) a member, co-opted member or Officer of the authority,
- (ii) a member, co-opted member or Officer of the Parish Council for which the authority is the principal authority, or
- (iii) a relative, or close friend, of a person within paragraph (i) or (ii).

A person may not be appointed under the provisions required by sub-section (vii) if at any time during the five years ending with the appointment if the person was –

- (i) a member, co-opted member or Officer of the authority, or

- (ii) a member, co-opted member or Officer of a Parish Council for which the authority is the principal authority.

7.2 The legislation also requires for such a post to be advertised for a person to respond with an application and for the appointment to be approved by the majority of members of the authority. Through correspondence dated 23rd February, 2012, which was sent to Chris Hopkins MP through the Parliamentary Under Secretary of State it was mentioned that the new provisions were intended to provide that “clear break” with the old Standards Board regime. The intention was that no person who is an Independent Member or Chair of a Council’s statutory Standards Committee can be appointed as an ‘independent person’ while they continue to be a member of that Committee. The correspondence also indicated that the Department for Communities and Local Government has received a number of representations and after careful consideration Ministers were minded that transitional provisions should be made allowing a Council to appoint a person as an independent person “who, although not a member or a Chairman of a Standards Committee at the time of appointment (or thereafter) has held such a post within the last five years”. Further, such transitional provisions would apply to the first year of the new arrangements.

7.3 The Localism Act, 2011 (Commencement No 6 and Transitional, Savings and Transitory Provisions) Order, 2012, makes reference to a Code of Conduct in order to comply with the Localism Act, 2011 taking effect “on or after 1st July, 2012” and similarly in relation to the operation of “arrangements” underpinning that system. There is also reference to the maintenance of the Register of Declarable Pecuniary Interests, revisions to Standing Orders and reference to the granting of dispensations through a Standards Committee. Article 7, of this Order, indicates that notwithstanding Section 28(8)(b) of the Localism Act, 2011, an authority may appoint an independent member as an independent person who is not a member or co-opted member on 1st July, 2012, but has been so, any time in the five years before 30th June, 2012. This will have application to appointments made before 1st July, 2013. There has been some confusion as regards such provisions, as there is the recognised need to cover the completion of complaints received under the “old” system and those “new” arrangements operating under the Localism Act, 2011. In conjunction, with earlier informal guidance, most authorities have requested their existing cohort of independent members to submit formal applications to be appointed as independent persons. The operation of the transitional arrangements has become somewhat shambolic and the Local Government Association have requested clarification and formal guidance from the Department of Communities and Local Government (DCLG) to address concerns. The Monitoring Officer has been informed by DCLG that it is accepted that authorities may not be able to have in place formal approvals for a Code of Conduct and all necessary ‘arrangements’ underpinning the new system, to be operative by 1st July, 2012. Indeed they are taking a relaxed view upon the same so long as authorities are in the process of making the necessary arrangements. Further, they do not intend to prohibit Independent Members from becoming the Independent Person(s) and it will be a matter for each

authority to decide upon the same, particularly as part of the transition from one system to another. Council will therefore be requested to make appointments from amongst the present cohort of Independent Members who have expressed an interest for a period of appointment to be determined by the Authority.

8. RECOMMENDATIONS

1. That Council adopt the Code of Conduct as appended herewith (**Appendix 1**).
2. That the Council's ethical framework incorporates the documents at appendices 2 – 6 in conformity with the Localism Act, 2011 and regulations made thereunder.

CODE OF CONDUCT

INTRODUCTION

This code applies to you as a member of Hartlepool Borough Council and when you act in your role as a Member it is your responsibility to comply with the provisions of this code. The code will also have application to voting co-opted Members.

You are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code is adopted through the requirement for Hartlepool Borough Council to promote and maintain high standards of conduct by its members, under Section 27 of the Localism Act, 2011. The Code has application to those “principles of public life” as set out below under paras (i) – (vii) as specified under the Localism Act, 2011 and the Council has decided to incorporate the additional principles as set out within paras (viii) – (x).

PRINCIPLES OF PUBLIC LIFE

(i) SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

(ii) INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

(iii) OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holder of public office should make choices on merit.

(iv) ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

(v) OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

(vi) HONESTY

Holders of public office have a duty to declare any private interest relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

(vii) LEADERSHIP

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

((viii) RESPECT FOR OTHERS

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. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

(ix) DUTY TO UPHOLD THE LAW

Members should uphold the law and, on all occasions act in accordance with the trust that the public is entitled to place in them.

(x) PERSONAL JUDGEMENT

Members may take account of the view that others, including their political groups, but should reach their conclusion on the issues before them and act in accordance with those conclusions.

As a Member your conduct will in particular address the statutory principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me – and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents'

casework, the interests of the authority's area or the good governance of the authority in a proper manner.

- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional Officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public and engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

[Extracted from the Local Government Association 'Template Code and Guidance Note on Conduct'.]

Interpretation

In this Code;

"Disclosable Pecuniary Interest" has the meaning and description as detailed in the Schedule to this Code of Conduct.

"Meeting" means any meeting of;

- (a) the authority;

- (b) the Executive of the authority;
- (c) any of the authority's or its Executive Committee, Sub-Committees, Joint Committees or Area Committees;
- (d) whether or not the press and public are excluded from the meeting in question by virtue of a resolution of Members.

“Member” includes a co-opted Member and any appointed Member.

GENERAL OBLIGATIONS

1. When acting in your role as a Member of the authority
 - 1.1 You must treat others with respect.
 - 1.2 You must not conduct yourself in a manner which is contrary to the authority's duty to promote and maintain high standards of conduct amongst its Members.
 - 1.3 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe or are reasonably aware, is of a confidential nature, except where –
 - (i) you have the consent of the person authorised to give it;
 - (ii) you are required by law to do so
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (c) you have consulted with the authority's Monitoring Officer prior to its release.
 - 1.4 You must not prevent any other person from gaining access to information to which that person is entitled by law.
2. When using or authorising the use by others of the resources of the authority –
 - 2.1 You must act in accordance with the authority's reasonable requirements including the requirements of the authority's applicable information technology policy and those related policies, copies of which have been provided to you and which are deemed to have been read;
 - 2.2 You must ensure that such resources are not used improperly for political purposes (including party political purposes); and

- 2.3 You have regard to any applicable Code of Recommended Practice on local authority publicity issued under Section 4 of the Local Government Act, 1986.

INTERESTS

3. As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests however when performing your public role as a Member, you should act solely in terms of the public interest and should not act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.
4. You are required to register “pecuniary” and such other interests as directed. A failure to declare or register a pecuniary interest will be a criminal offence if this is done without a reasonable excuse. If you knowingly or recklessly provide false or misleading information about a pecuniary interest this will also be a criminal offence.
5. There will be no requirement for you to formally declare or register any gifts and hospitality; however you should not accept any gifts in excess of £25. *Further, you should also have regard to the following considerations;*
 - *you should not accept any gift or hospitality which might interfere with or be perceived as impacting on Council business or services,*
 - *you should not accept significant personal gifts from any contractor and/or outside suppliers or agents thereof,*
 - *you should only accept hospitality if there is a genuine need to impart information or to represent the Council (or a body to which you are appointed by Council) in the community*
 - *you should also be particularly sensitive to receiving gifts and/or hospitality which may relate to the timing of a decision which the Council may be taking which affects those from whom the gift and/or hospitality was received,*
 - *the advice of the Council’s Monitoring Officer should be obtained where necessary or desirable.*

(i) **Notification of Interests**

- (1) 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),

notify the Monitoring Officer of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and The Relevant Authorities

(Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests, and notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.

- (2) 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) any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (3) You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1) above, or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

(ii) Disclosure of interests

- (1) Subject to sub-paragraphs (2) to (5) below, where you have a personal interest described in paragraph 1 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, 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.
- (2) (A) You have a personal interest in any business of your authority
 - (i) where 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, or

- (ii) it relates to or is likely to affect any of the interests you have registered as a disclosable pecuniary interest.

(B) In sub-paragraph (2)(A) (i), 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 paragraph 1(2)(a)(i) or (ii).
- (3) 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 1(2)(a)(i) or 1(2)(a)(ii)(aa) above, you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (4) Where you have a personal interest but, by virtue of paragraph (iv), 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.
- (5) 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.

(iii) **Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

(iv) **Sensitive interests**

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

(v) Non participation in case of pecuniary interest

- (1) Where you have a personal interest in any business of your authority you also have a pecuniary 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 and where that business –
 - (a) affects your financial position or the financial position of a person or body described in paragraphs (i)(2) or (ii)(2) ;or
 - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.
- (2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority –
 - a) You may not participate in any discussion of the matter at the meeting.
 - b) You may not participate in any vote taken on the matter at the meeting.
 - c) If the interest is not registered, you must disclose the interest to the meeting.
 - d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition Council Procedure Rule 23 requires you to leave the room where the meeting is held while any discussion or voting takes place.

- (3) Where you have a pecuniary interest in any business of your authority, you may attend a meeting 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 and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

- (4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that 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.
- (5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

PRE – DETERMINATION OR BIAS

6. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however you should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
7. When making a decision, you need to consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.
8. In any business before an Overview and Scrutiny Committee of your authority (or of a Sub-Committee of such a Committee) where –

4.1 APPENDIX 1

- (a) that business relates to a decision made (whether implemented or not) or action taken by the 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 Committees or Joint Sub-Committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the Overview and Scrutiny Committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

SCHEDULE

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:

(In the extracts from the Regulations below, ‘M’ means you and ‘relevant person’ means you and your partner, as above)

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from 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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).</p>
Contracts	<p>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 –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licenses	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 are 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.

[Extract from 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations, 2012]

**RECRUITMENT PACK FOR
APPOINTMENT OF
INDEPENDENT PERSON**

CLEVELAND FIRE AUTHORITY AND HARTLEPOOL BOROUGH COUNCIL

APPOINTMENT OF INDEPENDENT PERSONS

Under the Localism Act, 2001, the Fire Authority and the Borough Council are required to appoint Independent Persons as part of their arrangements in the promotion and maintenance of high standards of conduct affecting its members and in the case of the Borough Council, those members of a Parish Council within its area.

The Fire Authority and the Borough Council presently propose to appoint two Independent Persons and two substitutes, although, this composition may change following on from any transitional arrangements.

Applications are therefore invited from members of the public, particularly from those within experience in either a regulatory, commercial, professional or voluntary sector with an interest in the proper and effective ethical governance of an organisation.

Training will be provided and reasonable travel and subsistence expenses will be payable.

Subject to transitional provisions, applicants should not within the past five years have been an elected member, co-opted member or Officer of either the Fire Authority or Borough Council or of a Parish Council within the Council's area, or a relative or close friend of such persons.

An application pack, including application form and role description is available upon request. For an informal discussion about the post please contact Peter Devlin, Chief Solicitor and Monitoring Officer, Hartlepool Borough Council and Legal Advisor and Monitoring Officer to the Cleveland Fire Authority on 01429 523003.

Completed applications should be returned no later than _____ to;

Peter Devlin
Chief Solicitor and Monitoring Officer
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

peter.devlin@hartlepool.gov.uk

INDEPENDENT PERSON

SELECTION CRITERIA

SKILLS AND COMPETENCIES

The Independent Person will have:

- a keen interest in standards in public life.
- a wish to serve the local community and uphold local democracy.
- the ability to be objective, independent and impartial.
- sound decision making skills
- leadership qualities, particularly in respect of exercising sound judgement.

The Independent Person will:

- be a person in whose impartiality and integrity the public can have confidence.
- understand and comply with confidentiality requirements.
- have a demonstrable interest in local issues.
- have an awareness of the importance of ethical behaviours.
- be a good communicator.

Desirable additional criteria are:

- working knowledge/experience of local government or other public service and/or of large complex organisations and awareness of and sensitivity to the political process.
- knowledge and understanding of judicial/quasi-judicial or complaints processes.

You should demonstrate in your application how you meet the above criteria as this will assist any short-listing process.

Means of assessment will be by application form and by interview.

NOTE: You will be required to be contactable at all times during normal working hours by telephone or by email and to be available to attend hearings which may be held in the day time and at relatively short notice.

Eligibility for Appointment

A person cannot be appointed as an Independent Person if they are or were within a period of 5 years prior to the appointment:

- a member, co-opted member or officer of the authority.
- A member, co-opted member or officer of a parish council in the Borough Council's area, or a relative or close friend of the above.

NOTE

However, by virtue of transitional arrangements it is likely that this will not prevent existing Independent Members of the Council's or the Fire Authority's Standards Committee from being eligible to apply for the role.

ROLE OF INDEPENDENT PERSON

ROLE DESCRIPTION

Responsible to: The Council/The Cleveland Fire Authority

Liaison with: Monitoring Officer, members of the Standards Committee, officers and members of the Council/Fire Authority and parish councillors within the Borough, key stakeholders within the community.

1. To assist the Council/Fire Authority in promoting high standards of conduct by elected and co-opted members of the Council/Fire Authority and parish councillors and in particular to uphold the Code of Conduct adopted by the Council/Fire Authority including the principles of public office, namely; selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
2. To be consulted by the Council/Fire Authority through the Monitoring Officer and/or the Standards Committee before it makes a decision on an investigated allegation and to be available to attend meetings of the Hearing Sub-Committee of the Standards Committee for this purpose.
3. To be available for consultation by the Monitoring Officer and/or the Standards Committee before a decision is taken as to whether to investigate a complaint or to seek local resolution of the same.
4. To be available for consultation by any elected member, including parish councillors, who is the subject of a standards complaint.
5. To develop a sound understanding of the ethical framework as it operates within the Council/Fire Authority and Parish Councils within the Borough.
6. To participate in training events to develop skills, knowledge and experience and in networks developed for Independent Persons.
7. To attend training events organised and promoted by the Council's and/or the Fire Authority's Standards Committee.
8. To act as advocate and ambassador for the Council/Fire Authority in promoting ethical behaviour.

APPLICATION FOR THE POSITION OF INDEPENDENT PERSON

Individuals who wish to be considered for appointment as Independent Person are requested to provide the following information to support their application. All information provided will be treated in the strictest confidence and will only be used for the purposes of selection. Please feel free to use a separate continuation page if you wish to expand upon your answer to any question outlined below.

1. PERSONAL DETAILS

Name:

Address:

Postcode:

National Insurance Number:

Contact Details:

Daytime Telephone Number:

Daytime Fax Number:

Email Address:

2. QUALIFICATIONS

(Please list in particular any qualifications which you think are relevant to the position of Independent Person)

3. SUMMARY OF EXPERIENCE

(Please give a brief account of your experience including career, public and voluntary work together with the nature of your current or most recent occupation)

4. RELEVANT EXPERTISE/SKILLS

(Please outline briefly any knowledge or expertise which you believe would be particularly relevant to your role as an Independent Person having regard to the selection criteria and role description)

5. Why do you wish to be considered for appointment as Independent Person and what particular attributes do you believe you would bring to the role?

6. Please provide any additional information you may wish to give in support of your application:

7. References will be taken up for all applicants who are invited for interview

<p>1. Name:</p> <p>Address:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Telephone No.</p>	<p>2. Name:</p> <p>Address:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Telephone No.</p>
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I wish to apply to be an Independent Person for * Hartlepool Borough Council/Cleveland Fire Authority.

(*delete as applicable)

In submitting this application, I declare that:

EITHER

- I am not and have not during the past five years been a Member or Officer of the Borough Council or Cleveland Fire Authority (as applicable).
- I am not related to, or a close friend of, any Member or Officer of the Borough Council or Cleveland Fire Authority.
- I am not currently an Officer or Member of any other relevant authority (this includes parish, unitary councils and Police and Fire Authorities).
- I am not actively engaged in local party political activity. *

OR

- I am an existing independent member of the Standards Committee. *

(* Please delete as applicable)

Signed

Date

Please return this application form by

addressed to:

Peter Devlin
Chief Solicitor & Monitoring Officer
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Or the completed form to peter.devlin@hartlepool.gov.uk



COMPLAINT FORM

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

(Delete as appropriate)

- The member (s) you are complaining about
- The monitoring officer of the authority
- The parish or town clerk (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted member of an authority
- ☐ An independent person of the standards committee
- ☐ Member of Parliament
- ☐ Local authority monitoring officer
- ☐ Other council officer or authority employee
- ☐ Other ()

3. Equality Monitoring questions

Dealt with in another document.

Making your complaint

Anyone who considers that a Member of the Authority may have breached the Code of Conduct may make a complaint through the Monitoring Officer. The Standards Committee are required to promote and maintain high standards of conduct by elected and co-opted Members of the Authority. In addition a Hearings Sub-Committee is established to determine (where necessary) whether a Member has breached the Code, and where appropriate, what action should be taken in relation to that Member.

Consequently, a complaint is initially directed to the Monitoring Officer who will determine in conjunction with an Independent Person whether or not to refer the matter for investigation or whether other action (for example, training, conciliation, instituting changes to procedures) should be taken or that no action should be taken. The aim is to complete this initial review within an average of 20 working days.

Guidance on 'Arrangements for dealing with standards allegations under the Localism Act, 2011, can be found on the Authority's website www.hartlepool.gov.uk.

4. Please provide us with the name of the member (s) you believe have breached the Code of Conduct and the name of their authority:

Title	First Name	Last Name	Authority

5. Please explain in this section (or separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account in the decision whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Only complete this next section if you are requesting that your identity is kept confidential

6. In the interests of fairness and natural justice, members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:
- Disclosure may lead to intimidation either of yourself as a complainant or a witness
 - Disclosure could prejudice an investigation
 - Lead to evidence being compromised or destroyed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer in conjunction with the Independent Person will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

7. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

If you would like information in another language or format, please ask us. Tel No: 01429- 523003

إذا أردت المعلومات بلغة أخرى أو بطريقة أخرى، نرجو أن تطلب ذلك منا.
(Arabic)

যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।
(Bengali)

ئەگەر زانیاریت بە زمانیکی که یا بە فۆرمیکی که دەوی تکایه داوامان لی بکه
(Kurdish)

اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھئے۔
(Urdu)

यदि आपको सूचना किसी अन्य भाषा या अन्य रूप में चाहिये तो कृपया हमसे कहे
(Hindi)

Jeżeli chciałoby Państwo uzyskać informacje w innym języku lub w innym formacie, prosimy dać nam znać.

(Polish)

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。
(Cantonese)

If you need any support in completing this form, please let us know as soon as possible.

Peter Devlin
Chief Solicitor / Monitoring Officer
Hartlepool Borough Council
Level 3
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Tel: 01429 523003

HARTLEPOOL BOROUGH COUNCIL
STANDARDS COMMITTEE
ASSESSMENT CRITERIA FOR DEALING WITH STANDARDS ALLEGATIONS
UNDER THE LOCALISM ACT, 2011

Assessment Criteria

Before commencing an assessment of a complaint, it needs to be satisfied that:-

1. It is a complaint against one or more named Members of the Council or a Parish Council within the Borough of Hartlepool.
2. The named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.
3. The complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of the above requirements it cannot be investigated as a breach of the code and the complainant will be informed that no further action will be taken in respect of the complaint.

Decisions to refer a complaint for investigation

A complaint is likely to be investigated when it meets one or more of the following criteria:-

- It is so serious, if proven, to justify in the public interest a formal investigation of the complaint.
- It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Authority and there is no other avenue left to deal with it, other than by investigation.

Note: In considering the above points, consideration will be given to the time that has passed since the alleged conduct occurred.

Decisions not to refer for investigation

A complaint is unlikely to be referred for investigation where it falls into any of the following categories:-

- The complaint appears to be vexatious, malicious, politically motivated, relatively minor or insufficiently serious,
- The same, or substantially similar, complaint has already been the subject of an investigation and there is nothing more to be gained by further action being.
- The complaint concerns acts carried out in the Members private life, when they are not carrying out the work of the authority or have not misused their position as a Member.

- It appears that the complaint concerns, or is really about dissatisfaction with a Council decision, or policy rather than a breach of the Code.
- There is not enough information currently available to justify a decision to refer the matter for investigation.
- The complaint is about someone who is no longer a member of the Authority.
- A significant period of time has elapsed since the events the subject of the complaint occurred.
- The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter.

Other Considerations

- Training for the Member concerned is considered to be a more appropriate way of dealing with the matter.
- The Monitoring Officer in conjunction with the Independent Person believe that a breakdown in relationships has occurred which may be effectively dealt with by conciliation/mediation and the member complained of and the complainant are amenable to engaging in such alternative action.
- An investigation is not the most cost effective way of resolving the matter and the Monitoring Officer is able to deal with it informally.
- Some other action is more appropriate eg a review and/or change to the Authority's policies and procedures.
- The conduct complained of is not so serious that it requires a substantive investigation.

Decisions to refer the complaint to another Authority

The Monitoring Officer is likely to refer complaints to another Authority where:-

- The Complaint is about someone who is no longer a Member of an Authority within Hartlepool, but is a Member of another Authority. In such cases the Monitoring Officer may refer the complaint to the Standards Committee of that other Authority.

Anonymous Complaints

The Monitoring Officer will only consider anonymous complaints if there is independent evidence to substantiate them. There must be documentary, photographic or other evidence which supports the substance of the anonymous complaint. However, even if such evidence has been provided, the Monitoring Officer in consultation with the Independent Person is unlikely to consider a complaint that is minor in nature, or appears to be malicious or politically motivated.

Considering Requests for withholding a complainant's details

The Monitoring Officer and where required a Hearing Sub-Committee will need to determine whether or not the complainant's details should be withheld from the subject member. Rarely is it in the public interest not to disclose the complainant's details. This could be on the basis that disclosure could prejudice an investigation, may lead to intimidation of the complainant or indeed, any witnesses involved, or could lead to evidence being compromised or destroyed. This will necessarily involve undertaking an assessment of the potential risks against the wider connotations of procedural fairness and the principles of natural justice.

Withdrawing Complaints

A complainant may ask to withdraw their complaint before it is considered by the Monitoring Officer or a Hearing Sub-Committee.

In such circumstances, and before coming to a decision on the request, consideration will need to be given to;

- whether the public interest in taking action about the complaint (eg because of its seriousness) outweighs the complainant's wish for the matter to be withdrawn;
- if the complaint can be actioned eg investigated, without the complainant's participation or assistance;
- the actual reasons given (if any), and what other reasons there appear to be, for the request to withdraw and whether those reasons would support a decision to agree to the withdrawal of the complaint.

HARTLEPOOL BOROUGH COUNCIL

Arrangements **for dealing with standards allegations under the** **Localism Act 2011**

1 BACKGROUND

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this Authority *[or of a parish council within the Borough]* has failed to comply with the Authority’s Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the adopted Code of Conduct.

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

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a member *[or a member or co-opted member of a parish council]* against whom an allegation as been made.

2 The Code of Conduct

The Authority has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the Authority’s website www.hartlepool.gov.uk and on request from Reception at the Civic Centre.

[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.]

3 Making a complaint

If you wish to make a complaint, please write or email to –

Mr P J Devlin
Chief Solicitor & Monitoring Officer
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Or –

peter.devlin@hartlepool.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the Authority's website, next to the Code of Conduct, and is available on request from Reception at the Civic Centre.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

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

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 20 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. *[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

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

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

5 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an

officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

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

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

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

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

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned *[and to the Parish Council, where your complaint relates to a Parish Councillor]*, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

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

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

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee *[and the Parish Council]* for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

7.2 Local Hearing

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

The Authority has agreed a procedure for local hearings, which is attached as Appendix Two to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Sub-Committee may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

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

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

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

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to the Authority [*or to the Parish Council*] for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to the Authority or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

- 8.4 Recommend to the Leader of the Authority (operating executive arrangements) that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the member;
- 8.6 Remove *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- 8.7 Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude *[or recommend that the Parish Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Authority, Committee and Sub-Committee meetings.

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

9 What happens at the end of the hearing?

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

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Sub-Committee, and send a copy to you, to the member *[and to the Parish Council]*, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Authority.

10 Who are the Hearings Sub-Committee?

The Hearings Sub-Committee is a Sub-Committee of the Authority's Standards Committee. The Standards Committee has decided that it will comprise a maximum of seven members of the Authority and comprising members drawn from at least 2 different political parties. Subject to those requirements, a Member is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Authority.

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

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of the Authority.

APPENDIX 5

A person cannot be “independent” (subject to transitional arrangements) if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.2 *[Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority’s area], or*
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
 - 11.3.1 Spouse or civil partner;
 - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 Grandparent of the other person;
 - 11.3.4 A lineal descendent of a grandparent of the other person;
 - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Authority may by resolution agree to amend these arrangements, and has delegated to the Hearings Sub-Committee the right to depart from these arrangements where the Sub-Committee considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

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

If you feel that the Authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Appendix One The Authority’s Code of Conduct

Appendix Two Procedure for Hearings

HEARING PROCEDURES FOR THE STANDARDS COMMITTEE:

HARTLEPOOL BOROUGH COUNCIL

Definition and Interpretation

‘Member’ means the Member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member’s nominated representative.

‘Investigator’ means the Monitoring Officer or other Investigating Officer, and his or her nominated representative.

‘Committee’ also refers to ‘a sub-committee’ of the Council’s Standards Committee.

‘Legal Adviser’ means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer or the Deputy Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Representation

The member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Committee, another person.

Legal Advice

The Committee may take legal advice from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the member and the investigator if they are present.

Setting the scene

After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to proceed with the hearing.

Preliminary procedural issues

The Committee should seek to resolve any issues or disagreements about how the hearing should be conducted, prior to the formal hearing process.

Making findings of fact

After dealing with any preliminary issues, the Committee should then consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.

If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

NOTE

At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the Member.

If the Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at any earlier stage, the Committee may then:

- (a) continue with the hearing, relying on the information in the investigator's report;
- (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
- (c) postpone the hearing to arrange for appropriate witnesses to be present or for the investigator to be present if he or she is not already.

The Committee will usually move to another room to consider the representations and evidence in private.

On their return, the Chair will announce the Committee's findings of fact.

Did the Member fail to follow the Code?

The Committee needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.

The Member should be invited to give reasons why the Committee should not decide that he or she has failed to follow the Code.

The Committee should then consider any verbal or written representations from the investigator.

The Committee may, at any time, question anyone involved on any point they raise in their representations.

The Member should be invited to make any final relevant points.

The Committee will then move to another room to consider the representations.

On their return, the Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

If the Member has not failed to follow the Code of Conduct

If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the authority.

If the Member has failed to follow the Code

If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the Member as to:-

- (a) whether or not the Committee should recommend action to be taken; and
- (b) what form any action should take.

The Committee will then move to another room to consider whether or not to impose a sanction on the Member and if so, what the sanction should be.

The Chair will announce the Committee's decision.

Recommendations to the Authority

After considering any verbal or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among Members.

The written decision

The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision within 5 working days from the conclusion of the hearing.

Register of Members' Disclosable Pecuniary Interests

I, (**FULL NAME**),

a member of Hartlepool Borough Council, give notice that I have set out below under the appropriate headings my pecuniary interests which I am required to declare in accordance with the Council's approved Code of Conduct as set out in Part 5 of the Council's Constitution and in accordance with applicable regulations and any amendments thereto.

(Please complete all sections indicating "None" or "N/A" as appropriate.)

1. EMPLOYMENT, OFFICE, TRADE, PROFESSION OR VOCATION

You should show every employment, office, trade, profession or vocation carried on for profit or gain

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NOTE:

Give a short description of the employment etc concerned.

Employees should give the name of their employer. If employed by a company, give the name of the company paying your wages or salary, not that of the ultimate holding company.

Where you hold an office, give the name of the person or body which appointed you. In the case of a public office, this will be the authority which pays you. In the case of a teacher in a maintained school, the local education authority; in the case of an aided school, the school governing body.

If you are a partner in a firm, give the name of the firm.

If you are a remunerated director, give the name of the organisation

2. SPONSORSHIP

You should declare the name of any person or body who has made any payments to you in the last year towards your expenses as a councillor or towards your election expenses. You do not need to declare the amounts of any payments: only the name of the person or body making them.

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NOTE:

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act, 1992.

3. CONTRACTS WITH THE AUTHORITY

(a) You should describe all contracts, of which you are aware, which are not fully discharged, and which are:

(i) contracts for the supply of goods, services or works to the authority or on the authority's behalf, and

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(ii) between the authority of which you are a member, and either yourself or a company in which you have a beneficial interest or of which you are a director.

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NOTE: You need not say what the financial arrangements are, but should say for how long the contract is.

4. LAND IN THE AREA OF THE AUTHORITY

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NOTE: You should include any land in the area of the authority in which you have a beneficial interest (that is, in which you have some proprietary interest for your own benefit). You should give the address or a brief description to identify it. If you live in the authority's area you should include your home under this heading as owner, lessee, or tenant.

You should also include any property from which you receive rent, or of which you are the mortgagee.

"Land" includes any buildings or parts of buildings.

5. LICENCES TO OCCUPY LAND

You should include land in the area of the authority which you have a right to occupy (alone or jointly with others), but neither own nor have a tenancy of and which licence is for a month or longer.

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NOTE: You should give the address or a brief description to identify it.

"Land" includes any buildings or parts of buildings.

6. CORPORATE TENANCIES

You should list any tenancies of property of which you are aware where the landlord is the authority of which you are a member, and the tenant is a body in which you have a beneficial interest.

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7. SECURITIES

You should list the names of any body that (to your knowledge) has a place of business or land in the authority's area and in which you have a substantial interest. You do not need to show the extent of your interest.

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You have a substantial interest if you own shares or other securities in the body with a nominal value of more than £25,000 or more than 1/100th of the issued shares or securities. If there are several classes of shares or securities, the fraction of 1/100th applies to any of those classes.

The requirement also covers shares and securities held in the name of other people in which you have a beneficial interest.

8. OTHER INTERESTS

You should give the names of any other bodies of which you are a member, or are in a position of general control or management.

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NOTE:

a body to which you are appointed by the authority as its representative.

a public authority or body exercising functions of a public nature

a company, industrial and provident society, charity, or body directed to charitable purposes

a body whose principal purposes include the influence of public opinion or policy, and a trade union or professional association

9. INTERESTS OF CLOSE RELATIONS (RELATED PARTY DISCLOSURE)

You should disclose the existence of any interests that close relations may have with any body that (to your knowledge) are active in the authority's area in which you have a substantial interest. A 'close relation' would be considered as a spouse, civil partner or someone living in a common household

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I recognise that it can be a criminal offence to:

- (1) fail to comply with an obligation to disclose a pecuniary interest
- (2) provide information that is materially false or misleading;
- (3) fail to give further notices in order to bring up to date information given in this notice.

Signed: _____

Date: _____

FOR OFFICE USE ONLY

RECEIVED

Signed: _____

Proper Officer of
Hartlepool Borough Council.

Date: _____