

# AUDIT AND GOVERNANCE COMMITTEE AGENDA



**30 May 2013**

**at 9.30 am**

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

MEMBERS: AUDIT AND GOVERNANCE COMMITTEE

Councillors Ainslie, S Akers-Belcher, Brash, Fisher, Loynes, Robinson and Shields.

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**  
No items.
- 4. AUDIT ITEMS**
  - 4.1 Audit and Governance Committee Work Programme - Head of Audit and Governance
  - 4.2 Financial Statement Training - Chief Finance Officer
- 5. STATUTORY SCRUTINY ITEMS**  
No items.
- 6. OTHER ITEMS**
  - 6.1 Standards - Chief Solicitor and Monitoring Officer
- 7. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

## **FOR INFORMATION:**

Date of next meeting – 31 May 2013 at 3.00pm.



# AUDIT AND GOVERNANCE COMMITTEE

30th May 2013



**Report of:** Head of Audit and Governance

**Subject:** AUDIT AND GOVERNANCE COMMITTEE WORK  
PROGRAMME

## 1. PURPOSE OF REPORT

- 1.1 To inform members of the Audit and Governance Committee of the planned work they will receive over the course of the 2013/14 Municipal Year.

## 2. BACKGROUND

- 2.1 The Audit and Governance Committee is a new committee that forms part of the Councils new constitutional arrangements. It has a key role to play in the overall governance arrangements that are in operation at the Council.

## 3. PROPOSALS

- 3.1 It is proposed that members considered the following schedule of reports to be presented at the meetings detailed:

Meeting Date	Report	Members Role
July 2013	Council Financial Statements.	Review.
July 2013	Quarterly Internal Audit Update.	Review.
July 2013	Public Sector Internal Audit Standards.	Review.
July 2013	Mazars - Audit Progress Report.	Review.
Sept 2013	Council Financial Statements.	Approve.
Sept 2013	Quarterly Internal Audit Update.	Review.
Sept 2013	Treasury Management Training.	Undertake.
Sept 2013	Mazars - Audit Completion Report 12/13 (Financial statements and Value For Money conclusion).	Review.
Dec 2013	Treasury Management Strategy.	Review and Approve.
Dec 2013	Quarterly Internal Audit Update.	Review.
Dec 2013	Internal Audit Plan Training.	Undertake.
Dec 2013	Mazars - Annual Audit Letter 12/13.	Review.
Dec 2013	Mazars - 13/14 Audit Strategy Memorandum.	Review.
Dec 2013	Mazars - Audit Progress Report.	Review.
Mar 2014	Internal Audit Plan 2014/15.	Review and Approve.

Mar 2014	Quarterly Internal Audit Update.	Review.
Mar 2014	Letter to Mazars from those charged with governance.	Review and Approve.
Mar 2014	Governance Training.	Undertake.
Mar 2014	Mazars - 12/13 Grants Certification Report.	Review.
Mar 2014	Mazars - Audit Progress Report (including appendix with letter to those charged with governance re: fraud/compliance with laws and regulations).	Review and Reply.
May 2014	Role of CFO.	Review.
May 2014	Internal Audit Opinion.	Review.
May 2014	Effectiveness of the System of Internal Audit.	Review.
May 2014	2013/14 Annual Governance Statement.	Review and Approve.

#### 4. LEGAL CONSIDERATIONS

- 4.1 The Council has a statutory responsibility to produce various statements such as the Councils Financial Statement and Annual Governance Statement. It is considered best practice that these statements should be reviewed and approved by an independent Audit Committee.

#### 5. RECOMMENDATIONS

- 5.1 That members note the timing and content of reports at future meetings of the Audit and Governance Committee.

#### 6. REASONS FOR RECOMMENDATIONS

- 6.1 To ensure members are aware of the items planned to be presented to future meetings of the committee.

#### 7. BACKGROUND PAPERS

- 7.1 Meetings Diary;  
Accounts and Audit Regulations (2011);  
Public Sector Internal Audit Standards (2013).

#### 8. CONTACT OFFICER

- 8.1 Noel Adamson - Head of Audit and Governance  
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# AUDIT AND GOVERNANCE COMMITTEE

30th May 2013



**Report of:** Chief Finance Officer

**Subject:** FINANCIAL STATEMENT TRAINING

## 1. PURPOSE OF REPORT

- 1.1 To inform members of the Audit and Governance Committee of the requirement to review and approve the Councils Financial Statements for 2012/13 and provide direction in this task.

## 2. BACKGROUND

- 2.1 The Audit and Governance Committee is a new committee that forms part of the Councils new constitutional arrangements. It has a key role to play in the overall governance arrangements that are in operation at the Council.
- 2.2 Previously Audit Committees have reviewed the accounts prior to their approval by the end of June. The Accounts and Audit Regulations 2011 removed the requirement for the accounts to be formally approved before the end of June, although they must still be signed by the responsible financial officer at that date. Chartered Institute of Public Finance and Accountability (CIPFA) has recommended that it is good practice for the accounts to be presented to Members for review and comment prior to audit and this is an area where the Audit Committee can add value. Department for Communities and Local Government (DCLG) have been consulted on this point and fully endorse CIPFA's recommendation.
- 2.3 As reported in the Medium Term Financial Strategy (MTFS) in February the outturn strategy was designed to manage financial risks and unavoidable commitments in 2012/13 and future financial years. This position was therefore reflected in the management accounts and the MTFS report. At the end of the financial year the Council is required to prepare statutory accounts which present this information in a defined format.

## 3. PROPOSALS

- 3.1 The purpose of the statement of accounts is to give electors, members, employees and other stakeholder's clear information about the council's Finances in order to answer questions such as:

- What did services cost this year?
- Where did the money come from?
- What did the council owe and what was it owed at the end of the year?

### 3.2 The statement of accounts will include the following sections:

#### *i) Explanatory Foreword*

The foreword provides an explanation of the Council's overall financial performance for 2012/13, details of the year-end financial position, outlines the impact of the current economic climate on the Council's ongoing financial position and provides a guide to the most significant matters reported in the Statement of Accounts.

#### *ii) Statement of Responsibilities for the Statement of Accounts*

This sets out the responsibilities of the Council and the Chief Finance Officer.

#### *iii) Movement in Reserves Statement*

This statement shows the movement in the year on the different reserves held by the Council.

#### *iv) Comprehensive Income and Expenditure Statement*

The statement shows the economic cost in the year of providing services in accordance with International Financial Reporting Standards (IFRS) accounting practices, rather than the amount funded from taxation. A detailed reconciliation of the difference in IFRS figures and budgeting figures is provided.

#### *v) Balance Sheet as at 31st March, 2013*

The Balance Sheet shows the value of the Authority's assets, liabilities and other balances as at 31st March, 2013 and I would comment on a number of items: -

##### *a) Investments*

Investments consist wholly of surplus temporary cash balances and are invested in accordance with the Authority's Treasury Management Strategy.

##### *b) Long Term Loans Borrowing*

The Council responded proactively to the credit crunch and uncertainty in the banking sector to protect the Council's financial position. This involved action to reduce investment exposure by temporarily using investments to repay existing higher interest loans. This means the Council's actual level of external debt is significantly lower than the underlying 'Capital Financing Requirement' (CFR) – the level of borrowing needed to fund historic capital

expenditure and planned expenditure for the next three years. In accordance with the Treasury Management Strategy the Council has taken a proactive approach to managing cash investments and debt.

c) Other Long Term Liabilities

d) Reserves

Reserves consist of Usable and Unusable amounts.

e) Cash Flow Statement

The Cash Flow Statement shows the receipt and payment of cash arising from transactions with third parties for revenue and capital purposes.

vi) Statement of Accounting Policies

This states that the accounts have been prepared with certain exceptions to which specific reference is made in the Statement of Accounts, in accordance with proper accounting practices as defined in legislation and the appropriate Accounting Code of Practice. The Statement of Accounting Policies describes the basis upon which the accounts have been prepared and certain items included in the accounts.

vii) Notes to the Core Statements

This section provides further information on the figures reported in the Core Statements, namely the Comprehensive Income and Expenditure Account, Balance Sheet and Cash Flow.

viii) Collection Fund

The Collection Fund is an agent's statement that reflects that statutory obligation for billing authorities to maintain a fund separate from the General Fund of the Council, which accounts independently for transactions in relation to council tax, non domestic rates and residual communal charges.

ix) Annual Governance Statement

The statement sets out the Authority's responsibilities for ensuring the Authority has an appropriate system of internal control.

x) Glossary of Terms

This is not part of the statutory requirements. Nevertheless, it is included to assist readers in understanding the meaning of the various financial phrases included in the accounts.

### 3.3 Audit and Governance Committee role in questioning the accounts;

When reviewing the accounts members of the committee may want to consider the following areas:

- Large variances, year on year – concept of materiality;
- Large (or no) movements in reserves;
- Post-balance sheet events;
- Prior-year adjustments;
- High unallocated balances;
- Pick up on issues in Chief Finance Officer' report.

3.4 In training provided by the CIPFA Better Governance Forum, it was advised members look for:

- Changes;
- Material variances;
- Anything that doesn't make sense.

#### **4. LEGAL CONSIDERATIONS**

4.1 The Council has a statutory responsibility to produce a set of financial statements. It is considered best practice that these statements should be reviewed by an independent Audit Committee.

#### **5. RECOMMENDATIONS**

5.1 That members note the content of the report and the need to review the Councils Statement of Accounts at its July meeting.

#### **6. REASONS FOR RECOMMENDATIONS**

6.1 To ensure members are aware of the need to review the Councils Statement of Accounts.

#### **7. BACKGROUND PAPERS**

7.1 Accounts and Audit Regulations (2011);  
CIPFA Better Governance Forum Training.

#### **8. CONTACT OFFICER**

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# AUDIT AND GOVERNANCE COMMITTEE REPORT

30<sup>th</sup> May 2013



**Report of:** Chief Solicitor and Monitoring Officer

**Subject:** STANDARDS

## 1. PURPOSE OF REPORT

- 1.1 The Audit and Governance Committee have delegated functions dealing with the promotion and maintenance of high ethical standards as outlined within the Council's Constitution and this report provides an overview of those functions as previously assigned to the Council's Standards Committee. Further, this Committee is requested to agree amendments to various documents (as appended herewith) which make reference to the former 'Standards Committee' and which information should be available to the public in dealing with complaints alleging Member misconduct.

## 2. BACKGROUND

- 2.1 The Localism Act, 2011 continues to place a duty upon relevant authorities "to promote and maintain high standards of conducts by Members and Co-opted Members of the Authority" (Section 27 (1) refers). This duty is broadly comparable with the "Standards of Conduct" introduced through the Local Government Act, 2000 and which in turn arose from the recommendations of the 'Committee on Standards in Public Life' ("the 'Nolan' Committee"). Indeed, the Localism Act requires a relevant Authority to adopt a Code of Conduct which is consistent with the initial "seven principles" established by the Nolan Committee, namely;
- Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Openness
  - Honesty
  - Leadership.
- 2.2 A Code of Conduct compliant with the above principles was adopted by Hartlepool Borough Council at its meeting on the 2nd August, 2012. The Code also incorporates those additional principles which formed in totality



the “ten general principles of public life” as set out originally under The Relevant Authorities (General Principles) Order, 2001, which also formed the preamble to the Code of Conduct adopted by the Borough Council over the period 2001 through to its revision in 2012. The Code must also make provision in respect of the registration and disclosure of pecuniary interests and “interests other than pecuniary interests”. The Code therefore sets out those ‘disclosable pecuniary interests’ as provided through regulations. In addition, the Code also places an onus upon Members to disclose ‘personal’ and ‘prejudicial’ interests, as was previously the case under the Local Government Act, 2000. The present Code also incorporates features of the Local Government Association’s “Template Code and Guidance Note on Conduct” as well as elements of an example of a local Code as produced through the Department for Communities and Local Government.

- 2.3 At its meeting on the 23rd April, 2013, Standards Committee received a report and recommended revisions to the Code of Conduct through the revised descriptions to the “Nolan” principles which follows the fourteenth report published by the Committee on Standards and Public Life in January, 2013. In addition, acting on commentary received through representatives of the Department for Communities and Local Government (through engagement on changes to the Council’s governance arrangements), reference within the Code is also made to the offence provision provided under Section 34 of the Localism Act, 2011. This provision entails that a person commits an offence if, without reasonable excuse, there is a failure to comply with an obligation in respect of the disclosure of pecuniary interests on taking office and the requirement to disclose that interest (other than in the case of certain sensitive interests to which a different procedure applies) as well as the prohibition on participation in any discussion or in voting or taking any steps in contravention of the above. The offence is engaged if a Member provides information that is false or misleading and the person knows that the information is false or misleading or is reckless as to whether the information is true and not misleading. On conviction as a summary offence there is liability to a fine (not exceeding level 5 on the standard scale i.e. currently £5,000) and a Court may also disqualify that person from being or becoming a Member or Co-opted Member of a relevant Authority for a period not exceeding five years.
- 2.4 It is also a requirement that “arrangements” are put in place to deal with allegations that a Member may not have complied with the Council’s Code of Conduct. Further, comparable arrangements need to be in place in assisting Parish Council’s to deal with such allegations. Although, the new standards regime is intended to put an accent upon local resolution, there can be an investigative process under which decisions on allegations can be made. Consequently, a report covering the outcome of an investigation could indicate a finding or a fault where a Member had breached the Council’s Code of Conduct, which if contested by the Member can lead to a formal hearing to determine the issues involved. If a finding of fault is made, the Committee or Sub Committee will need to determine what action should be taken. These ‘arrangements’ must also include the appointment by the Authority “of at least one independent person”. This person may only be

appointed if they have responded to an advertised position, submitted an application in respect of that vacancy and thereafter having their appointment approved by a majority of the Members of the Authority. The independent person's role is purely advisory in that their views must be taken into account before any decision is taken on an allegation which has been subject to an investigation. Further the legislation provides for the Member or Co-opted Member of the Authority (or a Parish Council) the subject of a complaint to approach the independent person and to seek their views. On the 23rd April, 2013, the Standards Committee interviewed two individuals for the appointment as independent persons for a four year term commencing on the 1st July, 2013. These recommendations for appointment will be considered by a meeting of full Council on the 6th June, 2013.

- 2.5 For the information of the Committee, the Tees Valley District Lawyers have operated protocols for dealing with alleged breaches of the Code of Conduct which provides reciprocal arrangements for the reference of the matter of complaint to the Monitoring Officer of a neighbouring Authority, if there was a conflict of interest involving the Monitoring Officer or Deputy Monitoring Officer, in respect of the complaint before that particular Authority. The protocol allows the services of a Monitoring Officer from a neighbouring Authority to undertake an investigation and thereafter make a report to the relevant Authority. On the same basis, there is also a protocol covering "legal advice" which again would be set against a background of where there is a conflict of interest and which would allow the subject Member to obtain initial legal advice from a neighbouring Authority, at their behest.
- 2.6 The Localism Act requires the Monitoring Officer of a relevant Authority to establish and maintain a 'Register of Interests' of Members and Co-opted Members of the Authority. Apart from the requirement for Members to register 'disclosable pecuniary interests', it is up to the Authority to determine what other interests should be entered in the Authority's register. Accordingly, this Council's 'Register of Interests' includes such "other interests" falling outside the definition of disclosable pecuniary interests which a Member should have regard for the purposes of disclosure and also those matters relating to the interest of close relations, known as "related party disclosure" which again, should be recorded. It has always been the view of the Standards Committee that the registration and disclosure of Members interests should be as all encompassing as possible and should not simply relate to those "disclosable pecuniary interests" as defined within the regulations and which is limited to the Member, his/her spouse or civil partner. Such a Register of Interests needs to be available for public inspection and by statute is required to be published on the Authority's website. The Council resolved some years ago that the Register of Interests should be accessed through the Council's website in order to allow for greater transparency. Whilst the Localism Act requires a Member of Co-opted Member before the end of the period of 28 days beginning with the day on which that person becomes a Member of Co-opted Member to provide notification of such interests the Council's Code of Conduct also covers the scenario of compliance with this obligation within 28 days of any

adoption or revision to the Council's Code of Conduct. There is also mention within the Code of Conduct for the separate registration of what is termed as "sensitive interests" together with references to the issue of "pre-determination or bias" as stated within Section 25 of the Localism Act, 2011. This particular statutory provision provides that a prior indication of a view on a matter will not necessarily amount to pre-determination etc. of an issue and provided the Member has an open mind in the capacity as a decision maker then this would not prohibit them from participation in that particular item of business. However, as expressed within the Council's Code of Conduct and referenced within Council Procedure Rule 23 where a Member has a disclosable pecuniary or other prejudicial interest in a matter, they should not participate in the debate or vote on that matter. Further, this particular Council Procedure Rule (which has reference to the Council's Committees and its Sub-Committees) requires the individual to leave the room where the meeting is held whilst any discussion or voting takes place.

### 3. PROPOSALS

3.1 To comply with applicable legislation the Council has adopted certain procedures to assist with the arrangements for making a complaint and the overall process in dealing with complaints. The assorted documentation as described below (and accessible on the Council's website) makes present reference to the Council's Standards Committee and therefore it is proposed that this documentation is revised to reflect that 'standards functions' are now delegated to Audit and Governance Committee. It is therefore a recommendation of this report that the following documentation be revised to reflect the Council's present governance arrangements:-

- Pro-forma complaint form
- Assessment criteria
- Guidance notes
- Hearing procedures.

3.2 The Standards functions of Audit and Governance Committee reflects the statutory requirement to promote and maintain high standards of conduct by Members and Co-opted Members of the Authority. Additionally, assistance to observe the requirements of the Council's Code of Conduct, to offer guidance on the adoption or revision of that Code and to undertake arrangements for dealing with complaints with any necessary delegation to a Hearing Sub-Committee are features of the Committee's remit. There is also the additional power to grant dispensations with delegation as appropriate to the Chief Solicitor acting in the capacity of the Council's Monitoring Officer in the following circumstances:-

- without a dispensation the number of persons prohibited from participating in any particular business will be so great of the proportion of the body transacting that business so as to impede the transaction of business.

- without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
- that granting the dispensation is in the interests of persons living in the Authority's area.
- that it is otherwise appropriate to grant a dispensation.

The Committee are also reminded that following any report to Council on a findings of maladministration etc. there is delegated power provided to the Committee in conjunction with the Chief Solicitor to seek the resolution of a complaint made through the Office of the Local Government Ombudsman. Finally, the Committee have the general power in making recommendations to Council for the better governance of the Authority "insofar as it relates to the maintenance and promotion of high ethical standards".

- 3.3 It is important for the Committee to note that the Localism Act, 2011 does not provide the detail of the so called "arrangements" which authorities have to have in place when investigating allegations of Member misconduct. However, the documentation as appended herewith necessarily provides a process and public information about how matters should proceed through the mechanics of a complaint. Although there is an accent upon "local resolution" much will depend upon the nature of the complaint and particularly when judged against the "assessment criteria" as appended herewith. The legislation simply prescribes that the "arrangements" must include the involvement of the independent person, as detailed within the confines of this report. Crucially, Section 28 (11) of the 2011 Act provides where there is a finding of a failure to comply with the Code of Conduct the Authority may have regard to that failure in deciding:-

- Whether to take action in relation to the Member or Co-opted Member and;
- What action to take.

The 2011 Act does not define the "actions" which an Authority might take. What is certain is that the former "sanctions based system" operating under the Local Government Act, 2000 which included the powers of suspension and disqualification has no feature in the system operating in compliance with the Localism Act, 2011. Section 34 does provide for criminal sanctions as indicated above but the present standards regime lays emphasis on "actions" albeit that the Act is silent upon what actions can be taken. Senior Counsel's opinion was sought through the then Association of Council Secretaries and Solicitors (ACSeS) who advised that the case of R -v- Broadland District Council, ex parte Lashley (2000) did allow for the following:-

- Censure of a Member (name and shame)
- Giving advice or making observations either generally or specifically about a Councillors misconduct
- Reporting matters to police

- Making a recommendation to the full Authority to remove a Councillor from a Committee or where the appointment to a Committee is a decision of one of the political groups, a request to the Group Leader of the relevant political group to remove the Member from the Committee.

In addition, Counsel also indicated that the following actions were also permissible:-

- Sending a formal letter to a Councillor who has been found to have breached the Authority's Code
- Sending out a press release/giving publicity to the fact that a Member has breached the Local Authority's Code of Conduct.

Within his advice, Counsel recognised that such actions may not provide "just satisfaction" for such misbehaviour. However, it was also made comment that "Councillors will be acutely aware of election cycles and the use by which their electoral opponents may make of findings of misconduct". Such 'actions' in cases of findings of fault will be gauged by the Committee on a proportionate and reasonable basis, against the circumstances of the particular case. It is therefore proposed that on-going training and the dissemination of "best practice" will form the main emphasis of the Committee's work in discharging its standards functions.

#### **4. RECOMMENDATIONS**

1. That the Committee note the contents of this report.
2. That revisions to the documents as appended herewith incorporate reference to the Council's Audit and Governance Committee as opposed to Standards Committee in compliance with legislative changes and the Council's new governance arrangements.

#### **5. CONTACT OFFICER**

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Chief Executives Department  
Hartlepool Borough Council  
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Peter.devlin@hartlepool.gov.uk

## Appendix 1

**COMPLAINT FORM**

Your details

1. Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

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 Audit and Governance 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 Audit and Governance 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](http://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 chcieliby 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

## APPENDIX 2

**HARTLEPOOL BOROUGH COUNCIL**  
**AUDIT AND GOVERNANCE 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 e.g. 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 Audit and Governance 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 e.g. 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.

## APPENDIX 3

**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](http://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](mailto: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 or 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 Audit and Governance 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 Audit and Governance 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 Audit and Governance Committee. The Audit and Governance 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.

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

## APPENDIX 4

### **HEARING PROCEDURES FOR THE AUDIT AND GOVERNANCE 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 Audit and Governance 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 Audit and Governance 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.