

REPORT OF THE MONITORING OFFICER

ARRANGEMENTS FOR STANDARDS AND AMENDMENTS TO THE CONSTITUTION

Purpose of the Report

1. To consider issues arising and changes required in relation to standards as a result of the Localism Act 2011 (“**Act**”) and another minor constitutional amendment.

Information and Advice

2. This Report identifies the changes required in relation to standards and sets out proposals for implementing the statutory requirements. The Council must adopt new arrangements.

Abolition of Standards regime under the Act

3. The Act abolishes the existing Standards regime. Standards for England was formally abolished on 1 April 2012. On 1 July, statutory requirements for local authorities to have a standards committee ceased, together with the statutory complaints process.
4. Council remains under a duty to promote and maintain high standards of conduct for its elected and co-opted members. Council is required to adopt a code of conduct for members and set up procedures for dealing with complaints arising from potential breaches of that code. The purpose of this Report is to propose a number of options for the Council to consider.

Code of Conduct

5. The Council’s existing Code is the statutory prescribed Model Code. The changes made under the Act allow local authorities to each adopt their own codes of conduct, although there are some minimum requirements.
6. The Act requires any new code of conduct to:
 - a. be consistent with the seven principles of public life, often referred to as the “Nolan” principles, namely: selflessness, integrity, objectivity, accountability, openness, honesty and leadership; and
 - b. contain appropriate provisions concerning the registration and disclosure of interests. The new requirements are set out in more detail in paragraphs 11 to 17 below.

7. There are several options in respect of a new code of conduct. The Council could simply amend the existing Code. The Council could re-adopt paragraphs 16 to 23 (General Obligations) of the existing Code of Conduct (see **Appendix A**). These provisions deal with conduct and correspond broadly with the “Nolan” principles of public life. The Council would need to revise the provisions concerning the registration and disclosure of interests. The advantage of amending the existing Code is that members would not have to familiarise themselves with a new code.
8. A second option is to introduce a less prescriptive code based on the minimal requirements set out in the Act. In order to help local authorities draw up their own codes of conduct a number of suggested codes of conduct have been developed by different bodies. The draft codes are set out in **Appendix B** to this Report:
 - 1) Department for Communities and Local Government’s (“DCLG”) draft code;
 - 2) The Local Government Association’s (“LGA”) draft code;
 - 3) The National Association of Local Councils’ (“NALC”) draft code; and
 - 4) Bevan Brittan Solicitor’s draft code.
9. It is suggested that the DCLG draft code of conduct is the most appropriate code for the Council to adopt (see Appendix B(1)). The LGA’s code is considered too informal and loose. NALC’s code has been developed specifically for Parish Councils and Bevan Brittan Solicitor’s code is too legalistic.

Registration and disclosure of interests

10. The Act introduces requirements in respect of “disclosable pecuniary interests”. The Council’s new code must include provision for the registration and disclosure of “disclosable pecuniary interests” and any other interests it decides should be registered and disclosed.
11. The definition of “disclosable pecuniary interests” is set out in regulations and attached at **Appendix D** of this Report for information. This replaces the previous requirements regarding ‘personal’ and ‘prejudicial’ interests’. In essence members need to declare their interest (and any interest of their spouse, civil partner or a person they are cohabiting with) in:
 - a. Any employment or job which they get paid for;
 - b. Any sponsorship or assistance received towards their expenses (including election expenses);
 - c. Any contract between them (including any body in which they have a beneficial interest) and the Council for providing goods or services or for carrying out works;
 - d. Any property, licences or tenancies they have an interest in;
 - e. Any share capital over £25,000 or 100th of the total issued share capital in a body.

These categories are broadly in line with the previous registration requirements.

12. The Act requires that each elected or co-opted member must register all their “disclosable pecuniary interests” within 28 days of becoming a member. Failure to register is made a criminal offence; members are therefore strongly advised to keep their register of interests up to date.
13. Members already disclose various pecuniary and non-pecuniary interests and are advised to check their existing register to see if there are any further interests which need to be registered as a result of the new regulations and should register such interests within 28 days of this Report.
14. Whilst it is not a requirement in law to declare a registered “disclosable pecuniary interest” at relevant meetings, it is strongly advised that for members’ own protection, and in the interests of openness and transparency, members declare any “disclosable pecuniary interest” at the start of the relevant meeting. It is proposed therefore to include this provision in the meeting procedure rules.
15. Members must not participate in any discussions or voting on any Council or committee item in which they have a “disclosable pecuniary interest”. To participate or vote in any business in which the member has a “disclosable pecuniary interest” is a criminal offence. Whilst members are not required to leave the room during the discussions or voting, in order to avoid any allegations of impropriety it is proposed that the meeting procedure rules provide for the exclusion of the Councillor or co-opted member from the meeting whilst a discussion or vote in relation to the relevant item takes place.
16. Failure to disclose “disclosable pecuniary interests” and participating in business where the member has such an interest is a summary offence under which the Courts may issue a fine of up to £5000 and may disqualify a member for up to 5 years if found guilty.
17. The Council may also make provision for other interests to be declared at relevant meetings and in the register of members’ interests. By law members are only required to disclose “disclosable pecuniary interests” however it is proposed that other interests should be declared at meetings; provision is made for this in the DCLG draft code. This is to ensure that the Council takes decisions in a transparent manner and is also for members’ own protection.

Sensitive Interests

18. As with the previous arrangements, where a member is concerned that disclosure of an interest would lead to them or a person connected with them being subject to violence or intimidation, they may request the Monitoring Officer to agree that the interest is a "sensitive interest".
19. If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

Process for dealing with complaints

20. The Act requires the Council to set up its own arrangements for dealing with complaints concerning any breach of the Code of Conduct. The proposed draft procedure is attached in

Appendix C. The opportunity has been taken to simplify arrangements in comparison to the previous statutory arrangements.

21. It should be noted that there is no longer a power to suspend or disqualify Councillors.

Independent Person

22. Under the new arrangements, the Council must appoint at least one Independent Person to be called upon as and when required in order to provide their views regarding a complaint. The Council must take into account the Independent Person's views before making a decision in relation to an allegation concerning a complaint. The Independent Person may also be consulted by any Councillor whose behaviour is subject to an allegation.
23. Unlike the independent members of the Standards Committee, the new Independent Person will not be required to be a member of any Committee or be allowed to chair any such Committee.
24. It is suggested that two Independent Persons should be appointed to help ensure availability.
25. Any person who has been a Councillor or co-opted member in the last 5 years will not be eligible to be an Independent Person, neither would a person who is a relative or close friend of a current elected or co-opted member. However, former independent members of the Standards Committee are eligible.
26. It is suggested that two of the four independent members of the Council's statutory Standards Committee be appointed as the Independent Persons and that the Monitoring Officer contact all four former Independent Members in order to invite expressions of interest. The appointments will be formally approved by Full Council.
27. As the Independent Person is not a member of the authority or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel. It is proposed that the Independent Person be entitled to reasonable expenses for travel and subsistence only.

Dispensations

28. Previously, a member who had a prejudicial interest could apply to Standards Committee for a dispensation to attend and vote at the meeting. Similar provisions now apply to "disclosable pecuniary interests".
29. In future, a dispensation may be granted in the following circumstances:
 - a. Where (without the dispensation) the number of persons not eligible to participate or vote at the decision-making body would result in the body not being able to carry on with its business;
 - b. Where (without the dispensation) the representation of different political groups on the decision making body would be unbalanced;

- c. Where the Council considers it appropriate to grant the dispensation in the interests of persons living in the Nottinghamshire area.
30. The legislation gives discretion to the Council to delegate responsibility for granting dispensations. It is suggested that Policy Committee consider such requests.

Politically Restricted Posts

31. The Act amends the provisions in relation to the granting of exemptions from political restriction. Members should note that with effect from 1 July 2012 any applications for the granting of exemptions from political restriction will be considered by the Head of Paid Service.

Minor amendment to the Constitution

32. It is proposed that a minor amendment is made to the Constitution that was adopted on 17 May. It is proposed to amend the time for notification of changes in membership to 4pm instead of 3.30pm (paragraph 85 of the procedure rules for Council and paragraph 52 of the procedure rules for committees).

Other Options Considered

33. Full Council has a number of options in relation its code of conduct, as set out in the Report.
34. In relation to dealing with complaints the Council could consider the following options:
- a. Retaining a Standards Committee;
 - b. Establishing a Audit and Standards Committee;
 - c. Sharing a Standards Committee with another Council.
35. It is suggested that the time and expense involved in the setting up a new standards committee would not be a good use of resources considering the Council's budgetary constraints and that standards matters can be more effectively dealt with under the arrangements proposed.
36. The option recommended in the Report is considered preferable because historically the Council has only received a limited number of complaints, the Standards Committee's statutory functions have been removed, and its other responsibilities have already been moved to other Committees under the committee system. Going forward any standards committee would need to be politically balanced and could not have any independent member chairing or voting.
37. The recommended new arrangements will be kept under review and if it is considered necessary a future report will be brought to Council to reconsider the arrangements.

Reason for Recommendations

38. To make the changes necessary to allow the Council to comply with its obligations under the Act.

Statutory and Policy Implications

39. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATIONS

- 1) To adopt a code based on the DCLG code of conduct and which is consistent with recommendations 3 and 5 of this Report;
- 2) To note the advice to members to check their existing register of members' interests within 28 days of this Report;
- 3) That the meeting procedure rules provide for Councillors and co-opted members to declare any "disclosable pecuniary interests" at the start of a relevant meeting as proposed in paragraph 14 of this Report;
- 4) That the meeting procedure rules provide for the exclusion of the Councillor or co-opted member from the meeting whilst a discussion or vote in relation to any item of business that the Councillor or co-opted member has any "disclosable pecuniary interest" is taking place;
- 5) That the meeting procedure rules provide for Councillors and co-opted members to declare other relevant interests at the relevant meeting as proposed in paragraph 17 of this Report;
- 6) To adopt the procedure for dealing with complaints set out in **Appendix C** of this Report;
- 7) To delegate responsibility for matters relating to the Councillors' Code of Conduct to the Policy Committee;
- 8) To invite the four former Independent Members of the Standards Committee to make expressions of interest for the positions of Independent Person and to appoint two Independent Persons; Council to make the final appointments;
- 9) That the Independent Persons be entitled to claim reasonable expenses for travel and subsistence;
- 10) To delegate the responsibility for granting dispensations to participate in an item at the meeting where the member has a "disclosable pecuniary interest" to the Policy Committee;
- 11) To acknowledge that the Head of Paid Service will consider applications from officers for exemptions from political restriction;

- 12) To amend the time for notification of changes in membership to 4pm instead of 3.30pm as proposed in paragraph 32 of this Report;
- 13) That the Monitoring Officer makes the necessary amendments to the Constitution.

Jayne Francis-Ward
Monitoring Officer

**For any enquiries about this report please contact:
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Constitutional Comments (SLB 27/06/2012)

40. County Council has responsibility for adopting and changing the Council's Constitution and certain matters set out in the report are reserved to it by law. County Council is the appropriate body to consider the content of the report.

Financial Comments (MB 27/06/12)

41. Any expenses will be contained within the budget for Legal and Democratic Services.

Background Papers

The Localism Act:

www.legislation.gov.uk/ukpga/2011/20/contents

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012:

www.legislation.gov.uk/uksi/2012/1464/contents/made

Electoral Division(s) and Member(s) Affected

All

Appendix A
Extract from the current Councillor Code of Conduct

GENERAL OBLIGATIONS

16. You must treat others with respect.
17. You must not
 - a. do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
 - b. bully any person;
 - c. intimidate or attempt to intimidate any person who is or is likely to be
 - i. a complainant,
 - ii. a witness, or
 - iii. involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's Code of Conduct; or
 - d. do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
18. In relation to police authorities and the Metropolitan Police Authority, for the purposes of paragraph 17(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
19. You must not
 - a. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
 - i. you have the consent of a person authorised to give it;
 - ii. you are required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - iv. the disclosure is reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority; or

- b. prevent another person from gaining access to information to which that person is entitled by law.
- 20. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- 21. You
 - a. must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - b. must, when using or authorising the use by others of the resources of your authority
 - i. act in accordance with your authority's reasonable requirements;
 - ii. ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - c. must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- 22. When reaching decisions on any matter you must have regard to any relevant advice provided to you by
 - a. your authority's chief finance officer; or
 - b. your authority's monitoring officer,where that officer is acting pursuant to his or her statutory duties.
- 23. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Appendix B

Part 1 Draft code from DCLG

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

Part 2 Draft code from LGA

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

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.

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.

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

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.

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.

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

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [*X authority*], my 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 [*county*][*borough*][*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 I 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

Part 3

Draft code from NALC

Introduction

Pursuant to section 27 of the Localism Act 2011, X [Parish/Town/Village/Community/Neighbourhood] Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations,

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

6. Within 28 days of this Code being adopted by the Council, or the member's election the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the categories set out in Appendices A and B.

7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests in Appendices A and B.

8. A member shall register any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.

9. A member need only declare on the public register of interests the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.

10. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.

11. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting.

12. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter before withdrawing. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.

13. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate, the member shall disclose the nature of the interest and withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting. If It is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

14. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest In Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in

the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

Appendix A

Such interests, as prescribed by regulations, are.. . . .

Appendix B

[Unless they are interests prescribed by regulation for inclusion in Appendix A] any interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body-
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;
- (iii) any employment or business carried on by the member;
- (iv) any person or body who employs or has appointed the member;
- (v) any person or body, other than the Council, who has made a payment to the member in respect of his/her election or any expenses incurred by him/her in carrying out his/her duties;
- (vi) any person or body who has a place of business or land in the Council's area, and in whom the member has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between the member's Council and the member or a firm in which he/she is a partner, a company of which he/she is a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.
- (ix) any land in the Council's area in which the member has a beneficial interest;

- (x) any land where the landlord is the Council and the member is, or a firm in which the member is a partner, a company of which the member is a remunerated director, or a person or body of the description specified in paragraph (vi), is the tenant;
- (xi) any land in the Council's area for which the member has a licence (alone or jointly with others) to occupy for 28 days or longer.

Part 4
Draft code from Bevan Brittan Solicitors

Code of Conduct for Members

1 Application

This Code of Conduct applies to you whenever you are in your capacity as a member of Middletown Borough Council, including –

- 1.1 at formal meetings off the Council, its Committees and Sub-Committees, its Cabinet and Cabinet Committees
- 1.2 when acting as a representative of the authority
- 1.3 in taking any decision as a Cabinet member or a Ward Councillor
- 1.4 in discharging your functions as a ward Councillor
- 1.5 at briefing meetings with offices and
- 1.6 at site visits
- 1.7 when corresponding with the authority other than in a private capacity

2 General Conduct

You must -

- 2.1 provide leadership to the authority and communities within its area, by personal example and
- 2.2 respect others and not bully any person
- 2.3 recognise that officers (other than political assistants) are employed by and serve the whole authority
- 2.4 respect the confidentiality of information which you receive as a member -
 - 2.4.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest on doing so: and
 - 2.4.2 not obstructing third parties' legal rights of access to information
- 2.5 not misconduct yourself in a manner which is likely to bring the authority into disrepute
- 2.6 use your position as a member in the public interest and not for personal advantage
- 2.7 accord with the authority's reasonable rules on the use of public resources for private and political purposes
- 2.8 exercise your own independent judgement, taking decisions for good and substantial reasons -
 - 2.8.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
 - 2.8.2 paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and
 - 2.8.3 stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.9 account for your actions, particularly by supporting the authority's scrutiny function
- 2.10 ensure that the authority acts with in the law.

3 Disclosable Pecuniary Interests

You must –

- 3.1 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest
- 3.2 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 3.3 make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.4 'Meeting' means any meeting organised by or on behalf of the authority, including -
 - 3-4.1 any meeting of the Council, or Committee or Sub-Committee of Council
 - 3.4.2 any meeting of the Cabinet and any Committee of the Cabinet.
 - 3.4.3 in making a decision as a Ward Councillor or as a Member of the Cabinet
 - 3.4.4 at any briefing by officers; and
 - 3.4.5 at any site visit to do with business of the authority

4 Other Interests

- 4.1 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non disclosable pecuniary interest or non-pecuniary interest in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 4.2 You have a "non-disclosable pecuniary interest or non-pecuniary interest*" in an item of business of your authority where –
 - 4.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
 - 4.2.2 it, relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a 'relevant person') or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

5 Gifts and Hospitality

- 5.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.

- 5.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 5.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

Appendix

Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows -

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation Sponsorship	Any employment, office, trade, profession or vocation carried on for profit or gain. Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority - (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – i. The total nominal value of the securities exceeds £25,000 or one hundredth of the

- 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.

For this purpose -

"the Act" means the Localism Act 2011;

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

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

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

"M means the person M referred to in section 30 of the Act;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

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

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

Appendix C

Draft Procedure for dealing with standards allegations

Introduction

1. The Council is committed to promoting and maintaining high standards of conduct by all Councillors and co-opted members and has adopted a Code of Conduct which all of its members must adhere to.
2. This procedure covers complaints made against members who are alleged to have breached the Code.
3. The process for dealing with allegations made under the Code should be the same for all Councillors and co-opted members. It must be fair and be seen to be fair.

Responsibilities

4. Any complaints should be addressed to the Monitoring Officer who will consider the matter.
5. The Independent Person appointed by Council will be consulted before any decision is made.
6. The member who is the subject of a complaint may consult the Independent Person in respect of the complaint.

Receiving the complaint

7. Any complaint must be made in writing, the complaint should include details of:
 - a. the complainant's name, address and other contact details;
 - b. the complainant's status, for example, member of the public, fellow member or officer;
 - c. who the complaint is about; and
 - d. the alleged misconduct including, where possible, dates, witness details and other supporting information.

Initial considerations

8. The Monitoring Officer will check that the complaint relates to a serving member of the Council and could amount to a breach of the Code and is therefore valid.
9. If the complaint is not valid the complainant must be informed that no further action will be taken.

10. Where the complaint falls under the scope of one of the Council's other complaints procedures, the Monitoring Officer may refer the complaint on to the Complaints and Information Team for investigation.

Consideration of the complaint

11. The Monitoring Officer can take the following action:

- a. if the complaint is considered to be trivial, take no further action;
- b. refer the complaint to the member's Group in order for it to be dealt with under the Group's discipline rules or agreed process;
- c. investigate the complaint and refer the complaint to the Policy Committee for formal action.

12. The Monitoring Officer will seek the views of the Independent Person.

13. The Monitoring Officer will inform the relevant member that the complaint has been received and, unless the complainant objects, the identity of the complainant.

14. The Monitoring Officer will keep a record of all complaints received.

15. All complaints must be dealt with within a reasonable time period.

16. The Monitoring Officer should keep the relevant member and the complainant up to date with the progress and outcome of the complaint.

Referral to the Policy Committee

17. Where the complaint is referred to the Policy Committee, the relevant member and the complainant should be given reasonable notice of the meeting at which the complaint will be considered.

Appendix D
The definition of “Disclosable Pecuniary Interest” as set out in the Relevant Authorities
(Disclosable Pecuniary Interests) Regulations 2012

Interest	Prescribed description
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 authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</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.</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.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M’s knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one</p>

	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.
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“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

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

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(1) and other securities of any description, other than money deposited with a building society.

EXPLANATORY NOTE (not part of the regulations): the provisions in the Council's proposed draft code in respect of the registration and disclosure of Disclosable Pecuniary Interests and to withdraw from participating in respect of any matter where you have a Disclosable Pecuniary Interest apply to your interests and those of your spouse or civil partner or person with whom you are living as a spouse or civil partner where you are aware of their interest.