



Sevenoaks
DISTRICT COUNCIL

Despatched: 03.07.12

MODERN LOCAL GOVERNMENT GROUP

11 July 2012 at 5.30 pm

CONFERENCE ROOM, ARGYLE ROAD, SEVENOAKS

AGENDA

Membership:

Chairman: Cllr. Fleming

Cllrs: Mrs. Bracken, Brookbank, Mrs. Cook, Mrs. Davison, Fittock, Mrs. Hunter, Piper, Scholey and Walshe

Apologies for Absence

1. The Localism Act 2011 - The New Standards Regime (Pages 1 - 92)
2. Amendments to the Constitution (Pages 93 - 100)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

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The Democratic Services Team (01732 227241)

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The Localism Act 2011 – The New Standards Regime

MODERN LOCAL GOVERNMENT GROUP – 11TH JULY 2012

Report of the: Monitoring Officer (MO)

Status: For consideration and decision

Also considered by: Council – 24th July 2012

Key Decision: No. This is a Council Function

Executive Summary: This report is presented in order for Council to approve a new Code of Conduct and new arrangements for dealing with Member complaints following implementation of the relevant provisions of the Localism Act 2011, The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012)

This report supports the Key Aim of effective management of Council resources.

Head of Service Mrs. Christine Nuttall – Head of Legal and Democratic Services

Recommendation to Council from the Modern Local Government Group that Council:

- (a) Adopts the Department for Communities and Local Government Code, as recommended by the Task Group, as the new Code of Conduct for the District Council as attached at Appendix 2a.
 - (b) Establishes a Standards Committee with the Terms of Reference and Delegations to the Standards Committee as set out at Appendix 3.
 - (c) Appoints 7 Members in accordance with the political balance rules to serve on the Standards Committee.
 - (d) Adopts the revised procedures for dealing with misconduct complaints including arrangements for the investigation of complaints alleging a breach of the Member's Code of Conduct as set out in Appendix 4.
 - (e) That the MO be authorised to advertise for no less than 1 Independent Person and that a panel comprising the leaders of the political groups be set up to set the allowances and expenses for the Independent Person and to short-list and interview candidates, and to make a recommendation to Council for appointment as set out in Appendix 5.
 - (f) Adopts the new Register of Interest Form for District Council Members and agrees the definition for interests other than pecuniary interests called non pecuniary interests (NPI's) as set out in the Form and as attached to this report at Appendix 6.
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- (g) Agrees to amend its standing orders to provide that a Member or Co-opted Member of the Authority must withdraw from the meeting room, including the public gallery, during the whole consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation. The power to amend the Council's standing orders in this way is given by virtue of s.31(10) of the Localism Act . This amendment to be incorporated into the Council's chosen new Code of Conduct.
- (h) Agrees to delegate powers to grant dispensations to the MO in relation to section 33(2)(a) and(d) of the Localism Act and delegates powers to grant dispensations to the Standards Committee in relation to section 33(2) (b), (c) and (e) of the Localism Act as set out in Appendix 7.
- (i) Agrees that the MO makes the necessary changes to the Constitution by deleting those parts of the Constitution as set out as follows:
- Part 3 – Standards Committee
 - Appendix O – Member's Register of Interests
 - Appendix Q – Member's Code of Conduct
 - Appendix S – Procedure for Local Assessment of Complaints about Allegations of Member Misconduct
 - Appendix T – Sub-Committees of the Standards Committee
 - Appendix U – Guidance on Applying the Appropriate Sanction when a Member has breached the Code of Conduct
 - Appendix V – Process and Procedure for Interviewing and Appointing (Independent and Town/Parish Council Representative) Applicants for the Standards Committee
 - Appendix X – Procedure for Referrals to the MO for Investigation and Determination

and inserting within the Constitution the new Appendices as approved by this report and any necessary consequential changes including any reference in the Constitution to personal and prejudicial interests being changed to Disclosable Pecuniary Interests (DPI's) and interests other than Pecuniary Interests called Non Pecuniary Interests (NPI's).

- (j) Agrees that the Standards Committee and or Modern Local Government Group keeps the Code and Arrangements under review and reports further to the Council as is considered necessary. The Standards Committee will consider setting up a sub-committee for this purpose.

Reason for recommendation: To enable Council to approve a revised Code of Conduct and arrangements for dealing with Member complaints following implementation of the relevant provisions of the Localism Act 2011.

Introduction

- 1 The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The existing Standards regime ceased to operate on the 30th June 2012. The transitional arrangements are limited and have not allowed for the old arrangements to continue. The Act puts in place a system of requiring members to notify the MO of a new breed of interests (The Disclosable Pecuniary Interest “DPI”) and requires the MO to maintain a public register of those interests. Additionally, the Council must, from 1st July 2012 adopt a new Code of Conduct and put in place arrangements for investigating allegations of breaches and for making decisions in respect of those allegations.
- 2 A Task Group was set up from Members of the existing Standards Committee which met on 6 occasions to give guidance to officers on implementation of the new regime. The last meeting of that group took place on the 28th June 2012 which looked at this report in draft form including the Appendices and the Group’s comments are attached at Appendix 1 (*to follow*). Unfortunately, there was insufficient time for the group to report back to the existing Standards Committee following the implementation of the Regulations which effectively abolished the existing Committee.

Features of the New Regime

- 3 The Localism Act and further Regulations puts in place a standards regime which includes the following features and requirements:
 - A duty to promote and maintain high standards of conduct by Members and Co-opted Members of the authority.
 - A requirement to have a Code of Conduct dealing with the conduct that is expected of Members and Co-opted Members when they are acting in that capacity.
 - A requirement for the Code of Conduct when viewed as a whole, to be consistent with the Nolan principles of: selflessness; integrity; objectivity; accountability; openness; honesty and leadership. (The model codes attached to this report at Appendix 2 do include these seven Nolan principles).
 - A requirement to have in place arrangements under which allegations that a member has breached the Code can be investigated and also under which decisions relating to those allegations can be made.
 - A requirement for the authority to appoint an ‘independent person’ whose views must be sought and taken into account by the authority before it makes its decision on an allegation that it has decided to investigate. Additionally, the views of the independent person may be sought by the authority and by an elected and co-opted member in other circumstances specified in the Act.

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- A regime for requiring the notification to the MO of Discloseable Pecuniary Interests (DPI's) to enable the MO to establish and maintain a register of interest backed by criminal sanctions. Under the new regime it is not only the interests of the Member which must be notified and registered but also those of a spouse or civil partner; a person with whom the Member is living as husband or wife or as civil partners.
- In relation to interests, the authority must also secure that its Code of Conduct includes appropriate provisions in respect of the Registration of DPI's and interests other than pecuniary interests called non pecuniary interests (NPI's).
- As with the current regime, the new provisions allow for the withholding of sensitive information from the Register where the Member concerned and the MO consider that the disclosure of details of the interest could lead to the Member being subject to violence or intimidation.
- Parish/Town Councils remain responsible for adopting their own Code of Conduct but are still required to rely upon the District Council and MO to register notifications of interests and to otherwise investigate allegations of a breach.
- The District Council's MO is responsible for maintaining the register of Parish/Town Council interests and for securing that the register is published on the District Council's website. In Sevenoak's case this will involve the MO receiving and administering the notification of interests of up to 30 Parish/Town Councils.

Significant Departures from the Current Arrangements

- 4 As a result of the new legislation there are some significant differences from the old regime. These can be summarised as follows:
 - The requirement that the Code of Conduct sets out 10 general principles of conduct are replaced by 7 Nolan principles although an Authority has the ability to add to the 7 principles if it so wishes.
 - The one regulatory Code and undertakings to comply with it have gone.
 - Standards for England has been abolished together with its various functions.
 - The jurisdiction of the First Tier Tribunal to hear appeals has gone.
 - The classification of personal and personal and prejudicial interests under the old Code has gone and is replaced by new registration and disclosure requirements. The legislation itself introduces the concept of DPI's and interests other than pecuniary interests (NPI's).
 - The new registration requirements for DPI's are wider in that they apply to the interests of spouses etc. The requirement has clearly been introduced in the interests of transparency. It should be noted that where the Member knows about such interests, the Member must register these interests otherwise a criminal offence is committed. There are no exemptions other than for sensitive

information. These criminal offences are automatically matters for police investigation.

- The concept of a statutory standards committee no longer features. The consequence of this is that any committee now appointed to deal with standards issues is now an ordinary local authority committee subject to all of the usual procedural rules including a requirement for it to be politically balanced. This means that its processes will be more open to public scrutiny because of the application of Schedule 12A of the Local Government Act 1972. A further consequence is that the role of Independent Members and Parish/Town appointed Members no longer exists.
- It follows from the abolition of the statutory standards committee that the statutory processes of initial assessment of complaints, review, consideration and hearings have all now gone. It is now solely for the authority to determine how allegations are to be received and processed.
- The powers of the Council to impose specific sanctions for breach of the Code have been removed. Particularly, no facility exists to disqualify or suspend a Member for a breach of the Code. In effect, the powers of a standards committee dealing with a complaint will be limited to censure and making recommendations to the authority or political leaders that a Member be removed from a particular office or committee.

Preferred New Code

- 5 The law requires the authority to adopt a new Code of Conduct for Members in furtherance of its duty to promote and maintain high standards of conduct by Members and Co-opted Members of the authority. The new Code is to be effective by the 1st July 2012. The legislation does not prescribe a single national 'model' Code and the situation has arisen where there are a number of model codes in circulation.
- 6 The Task Group considered four of the prominent models circulating nationally and across Kent. Comments are set out below on each of these and the model Codes are set out in full at Appendix 2
 - a) **Choice 1:** The Department for Communities and Local Government model (sometimes referred to as the "Bob Neill Code")

This was the Task Group's preferred choice.

The Task Group considered this to be a straightforward Code, written in plain English. The Task Group agreed that one additional provision would be needed to refer to compliance with all relevant laws and have due regard to local codes and protocols in effect from time to time including Appendix W to the Council's constitution "Guidance on the Disclosure of Confidential Information by Members"

- b) **Choice 2:** The Local Government Association model

The Task Group had concerns over the content of this model which they considered read more as a Member Job Description, and rejected it on this basis.

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c) Choice 3: The Kent Model

This model has been produced by the Association of Kent Secretaries, with the objective of having a consistent Code across Kent and Medway, for members who are “dual-hatted” at District and County level.

The Task Group had concerns over this model, which is based on the old Code and which they considered was verbose and which could invite complaints. For these reasons it was rejected.

d) Choice 4: The National Association of Local Councils (NALC) model.

This model has been produced by NALC to assist the large number of Town and Parish Councils across the country who all have to adopt their own Code. It is more relevant to Town/Parish Councils and it was considered by the Task Group as it may be likely that local Town and Parish Councils may adopt it. If any do it will remain the District Council’s role to administer it.

- 7 The Task Group’s preferred choice was the Bob Neill Code and this is reflected at recommendation (a) of this report. The version shown at Appendix 2a has additions shown in red which pick up the additional provision set out at 6(a) above, the Disclosable Pecuniary Interests (DPIs) that have been enacted by the Government and the Non Pecuniary Interests (NPIs) set out in paragraph 28 of this report.
- 8 The Bob Neill Code does not include an explicit provision relating to respect. This is because experience has shown that this provision in the past has generated some of the more trivial and time-consuming complaints under the old Code. In addition, the Bob Neill Code does not set out explicit provisions covering bullying and disrepute.
- 9 The provisions of the legislation require all Members to notify the MO of all DPI’s within 28 days of the Code coming into effect. These provisions have been included because, under the Localism Act itself, Members would not be required to register DPI’s until re-elected unless a matter came before a meeting which concerned a DPI. In such a case, the Member would be required to declare the interest at the meeting and notify the MO within 28 days so as to enable registration of the specific DPI.
- 10 Members are reminded that there are criminal sanctions for failure to declare and notify DPI’s. Additionally, Members’ attention is drawn to the attached arrangements at Appendix 4 which consider the relationship between an allegation of a criminal matter and a breach of the Code and how this would be dealt with in practice.

Standards Committee

11. The Localism Act 2011 contains no requirement for the establishment of a Standards Committee. Notwithstanding this, the report does call for the establishment of such a committee as, without it, it is difficult to see how the results of investigations into allegations could be considered in a way which would be seen to be fair and transparent. However, unlike the Standards Committee as presently known, (which owed its existence and derived its rules of procedure from specific statutory provision contained in the Local Government Act 2000), the new Standards Committee will be an ordinary local authority committee established under the Local Government Act 1972.
12. Apart from the adoption of the new Code of Conduct and the appointment of an Independent Person it is proposed that the new Standards Committee will discharge all functions associated with the new standards regime which have not been delegated to the MO or ascribed by statute once they have initially been established by Council. Appendix 3 recommendation (b) to this report sets out the proposed terms of reference and the delegations to the Standards Committee.
13. In order to consider reports into any allegations which are investigated it is envisaged that the Standards Committee will need to establish a hearing panel from amongst its membership.
14. As an ordinary committee of the Council the rules of political balance will apply to its membership. If the Council accepts that the committee should be comprised of 7 Members the current proportionality 'split' is 6 Conservative and 1 Labour Members as set out within recommendation (c) of this report. It is not envisaged that the creation of this committee will require a redistribution of seats on other committees so as to maintain political balance. There is no longer any statutory provision for co-opted Parish/Town Council representatives or for co-opted Independent Members on the new committee. If any such persons are appointed to the new committee they would not have any voting rights.

The Independent Person

15. The scheme of the Localism Act 2012 aims to secure independent input into the standards regime through the requirement placed upon the authority to appoint an 'Independent Person'. The requirements of the Act in this connection are quite specific. The Act provides that the arrangements put in place for the investigation of allegations and making decisions on them must include provision for the appointment of at least one independent person. The role of the Independent Person is prescribed by section 28(7) of the Act. This provides:-

“(7) Arrangements put in place.....by a relevant authority must include provision for the appointment by the authority of at least one independent person –

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose view may be sought-

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- (i) by the authority in relation to an allegation in circumstances not within paragraph (a)
- (ii) by a member, or co-opted member of the authority if that person's behaviour is the subject of an allegation, and
- (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority."

Thus, the Independent Person's functions are all related to 'allegations' and the Independent Person does not have a general advisory role in advising upon or monitoring the operation of the standards regime. This is fundamentally different from the role previously fulfilled by the Independent Representatives on the old Standards Committee.

- 16. The Localism Act 2012 contains detailed provisions as to who may and may not be regarded as an Independent Person. It also prescribes that an appointment as an Independent Person can only be made after public advertisement of a vacancy, and receipt of an application by a candidate. The appointment must be approved by the majority of members of the authority.
- 17. It should be noted that, as enacted, the Localism Act prohibited the appointment of an existing Independent Member of a Standards Committee as an Independent Person. However, the transitional arrangements (which are extremely limited) have relaxed this to allow the appointment of an existing Independent Member provided that the appointment is made before 1st July 2013.
- 18. As the Independent Person is not a Member of the authority or of its Committees or Sub-Committee, 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. Therefore, the allowances and expenses of the Independent Person can be set by the interview panel.
- 19. Members are asked to consider the proposals set out in Appendix 5, recommendation (e) to this report in order that at least one Independent Person can be selected for recommendation to Council for appointment.

Revised Procedures for dealing with Misconduct Complaints

- 20. The arrangements proposed by the Task Group as set out in Appendix 4 recommendation (d) to this report place on the MO responsibility for deciding which allegations should be investigated and which should not (the process currently known as 'Initial Assessment'). Members will recall that under the existing regime this was a function that the law placed on the Standards Committee (and its sub-committees). The Task Group's opinion is that the existing arrangements for initial assessment are bureaucratic, unwieldy and unnecessarily resource intensive. Also, they do not provide for the possibility of trivial or ill-founded allegations being dismissed at a very early stage.

21. The new arrangements as set out at Appendix 4 do have the benefit of simplicity of operation in their treatment of this aspect of the receipt of allegations. In addition, the Task Group suggested the inclusion of an initial validation test that a complaint would need to pass prior to initial assessment in order to reduce the number of trivial or ill-founded allegations being processed still further. It was also felt strongly that the current arrangements were unjust on the subject member, who is told very little about the complaint initially and is not able to give their side of the story. To rectify this the proposed arrangements include a “right of reply” prior to initial assessment. A key alteration to the current procedure is that the subject Member receives a copy of the complaint together with all supporting documentation in order to facilitate this new “right of reply”.
22. It was recognised by the Task Group that the Model Arrangements should attempt to lay down comprehensive criteria by reference to which the MO will be required to exercise judgement. In addition, there may be circumstances where the MO will have a conflict of interest or when the allegations are particularly serious or are of a particularly sensitive nature in which case provision will have to be made for the MO to refer the complaint for investigation to the Standards Committee via a working party who could give guidance to the MO via a recommendation.
23. The arrangements also offer the opportunity for the MO to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. The necessary delegations to the MO in order for this streamlined approach to take place are set out within the procedures. (Appendix 4).
24. There is no requirement to put in place any appeals mechanism against decisions. Any decision would be open to judicial review by the High Court if it was potentially unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose. In addition, complaint can be made to the Ombudsman where there is thought to be procedural impropriety.
25. The intention is for the MO to gain experience of the operation of the new Code of Conduct and the new procedures over the coming year and, if necessary, make recommendations for change to the Standards Committee and report further to Council as may be considered necessary as set out at recommendation (j) to this report.

The Register of Members’ Interests

26. In this report Members are particularly referred to the fact that The Localism Act abolishes the concept of personal and personal and prejudicial interests. Instead, Regulations define “Disclosable Pecuniary Interests” (DPI’s). The MO is required to maintain a register of interests, which must be available for inspection and available on the Council’s website. The MO is also responsible for maintaining the register for Parish/Town Councils which also have to be open for inspection at the District Council offices and on the District Council’s website. Where possible the MO will provide a link from the District Council website to the Parish/Town Council website to save the repetition of information.
27. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 sets out in some detail a description of what amounts to DPI’s. However, the Localism

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Act 2011 specifies that a relevant authority must also secure that its Register includes the provision of interests other than pecuniary interests called non pecuniary interests (NPI's). The NPI's are not defined by legislation and are those interests that the authority considers to be appropriate to disclose.

There is some similarity between DPI's and the old prejudicial interest definition. However, there are some important differences, the most significant of which is that where a Member has a DPI it is a criminal offence to:

- Fail to register the interest;
- Fail to disclose it at a meeting (unless it has already been registered);
- Participate or vote on any matter in which a member has a DPI unless they have obtained a dispensation from the Council;
- Take any action on a matter in which a member has a DPI, in their capacity as a member of the Executive (other than to refer it to another member of the Executive).

28. Standing Orders can provide for the exclusion of a Member from any meeting while any discussion or vote takes place on the matter as set out in recommendation (g) to this report and as suggested by section 31(10) of the Localism Act 2011. The reasoning behind this is that under the new rules many DPI's will not need to be disclosed at meetings and this could be confusing for members of the public who will then need to read the Register of Members' Interests to ascertain whether a member has or has not a DPI. The requirement to withdraw from the meeting will make it transparent to those attending the meeting that a DPI exists in relation to the Member who has withdrawn.

Unlike 'prejudicial' interests under the old Code, a Member with a DPI has no ability to make representations, give evidence or answer questions prior to leaving the meeting.

The definition of a DPI is in some senses broader than the existing 'prejudicial' interest. In particular, the requirement to register a DPI applies not only to the interests of the Member, but also those of their spouse/civil partner (or a person with whom they are living as husband/wife or as if they were civil partners) where the Member is aware that the other person has the interest.

On a practical level, the consequence of the recent publication of the DPI Regulations is as follows:

- Members will need to register all those interests which fall within the definition of a DPI as soon as possible. The MO sent out a new Declaration of Interest Form prior to this report so that Members would have the capability of complying with the requirements of the Regulations by the implementation date of the 1st July 2012.
- The Localism Act at section 28(2) states that as well as the Register disclosing pecuniary interests (DPI's), the Register has to disclose interests other than

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pecuniary interests which this authority call non disclosable interests (NPI's). For the NPI's we have defined these as being as follows:-

An 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 gifts or hospitality worth more than an estimated value of £25 or more which the member has received by virtue of his or her office.

These used to be personal interests and so equate to NPIs. Members are referred to the fact that we already have a Protocol on Gifts and Hospitality set out within our Constitution at Appendix K together with a notification form which can be completed by Members if and when necessary to be attached to the NPI part of the Member's Register.

- If you attend any meeting of Council, Cabinet, Committee or Sub-Committee after 1st July 2012 and prior to registering your DPI's you will need to disclose to the meeting the existence of those interests where they relate to a matter under consideration.
- Any interests disclosed at a meeting will also need to be disclosed to the MO within 28 days thereafter.
- The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests. So where a Member is concerned that disclosure of the details of an interest, either a DPI or an NPI at a meeting or on the Register of Members' Interests would lead to the Member or a person connected with him/her being subject to violence or intimidation, he/she may request the MO to agree that the interest is a "sensitive interest". If the MO agrees, the Member then merely has to disclose the existence of an interest, rather than the details of it, at a meeting, and the MO can exclude the detail of the interest from the published version of the Register of Members' Interests.
- Council is asked to agree the new Register of Interests Form as set out a Appendix 6, recommendation (f) to this report.

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Dispensations

29. The provisions on dispensations are significantly changed by the Localism Act. In future, a dispensation will be able to be granted only if, after having had regard to all relevant circumstances, the authority considers:-
- that so many Members of the decision-making body have DPI's in a matter that it would "impede the transaction of the business". In practice this means that the decision-making body would be inquorate as a result (Ground under s.33(2) (a) of the Localism Act),
 - that, without the dispensation, the representation of different political groups on the body transacting the business any particular business would be so upset as to alter the likely outcome of any vote relating to the business (Ground under s.33(2)(b) of the Localism Act),
 - that granting the dispensation is in the interests of persons living in the authority's area (Ground under s.33(2)(c) of the Localism Act),
 - that without a dispensation, no Member of the Cabinet would be able to participate on the matter to be transacted by Cabinet. In practice this means that Cabinet would be inquorate (Ground under s.33(2)(d) of the Localism Act),
 - that the authority considers that it is otherwise appropriate to grant a dispensation (Ground under s.33(2)(e) of the Localism Act).
30. Under the new regime the power to grant dispensations can be delegated to a Standards Committee, or a Sub-Committee, or to the MO. Grounds under s.33(2)(a)and(d) are quite objective, so it is recommended to delegate dispensations on these grounds to the MO thus enabling many dispensations to be granted "at the door of the meeting". Grounds under s.33(2)(b),(c)and (e) are more subjective and so it is recommended that the discretion to grant dispensations on these grounds is delegated to the Standards Committee. These recommendations are set out in Appendix 7, recommendation (h) to this report.
31. Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.
32. Under the new legislation Parish/Town Councils now have the responsibility for granting their own dispensations.

Key Implications

Financial

33. It is too early to assess the overall financial implications of the introduction of the new standards regime on the Council. On the one hand it can be anticipated that the new registration of interest requirements will create additional administrative work for the MO and supporting officers, particularly in its initial stages. In addition, following late amendments to the bill through the parliamentary process

responsibility for policing Parish/Town Councils was given to District Councils in relation to Member complaints and also in relation to registration of Member Interests. However, other changes to the Code and a streamlined procedure for the assessment of allegations in their initial stages should reduce the need for meetings of the Standards Committee and any Sub-Committees.

Community Impact and Outcomes

34. As the legislation sets out clearly that an authority must promote and maintain high standards of conduct by Members and Co-opted Members of the authority, the community should not be aware of any impact or outcomes as it is anticipated that a seamless transfer to the new system will take place.

Legal, Human Rights etc.

35. The proposals contained within the report comply with the provisions of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Resource (non-financial)

36. As the Code of Conduct and the detailed procedures are changed there will be a need for training at the District Council level. The Council may also consider it appropriate if training at the Parish/Town Council level takes place although this is not a requirement of the Localism Act.
37. There are increased registration requirements for the District Council under the new arrangements.

Value For Money and Asset Management

38. The new streamlined procedures should produce value for money. In addition, a smaller Standards Committee should produce savings in relation to the claiming of allowances and expenses.

Equality Impacts

39. It is suggested that there are no specific equality implications arising from these proposals. These proposals do not have any particular implications regarding one “protected group” over another. The Explanatory Note to The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 states “A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.”

Sustainability Checklist

40. These proposals are considered to have a neutral impact on sustainability.

Conclusions

41. Under the provisions of the Localism Act 2011 the existing Standards regime ceased to operate from the 30th June 2012. The transitional arrangements are very limited and do not allow for the old arrangements to continue. The Act puts in

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place from the 1st July 2012 a system requiring Members to notify the MO of a new form of interests DPI's and NPI's and requires the MO to maintain a public register of those interests. Additionally, the Council must, with effect from the 1st July 2012 adopt a new Code of Conduct and put in place arrangements for investigating allegations of breaches and for making decisions in respect of those allegations.

42. As a result of the late implementation of the Regulations supporting the Localism Act Members will appreciate that there is no time for consideration of alternatives and that one of the Codes illustrated within Appendix 2 needs to be adopted at this meeting along with the arrangements presented for adoption.
43. As indicated by this report at recommendation (j) the Standards Committee will keep the Code and Arrangements under review and report further to the Council as is considered necessary.

Risk Assessment Statement

44. The Council needs to ensure that appropriate arrangements are now in place to ensure compliance with the legislation. Failure to comply with the requirements of the Localism Act 2011 could create a challenge to the Council's Governance Arrangements.

Appendices

Appendix 1 – The Task Group's Comments on the proposals. (*to follow*)

Appendix 2 – Draft Codes of Conduct.

Appendix 3 – Standards Committee and Terms of Reference and Delegations.

Appendix 4 – Revised Procedures for dealing with Misconduct Complaints including Delegations to the MO.

Appendix 5 – Procedures for making a recommendation for the Appointment of an Independent Person.

Appendix 6 – The New Form of Members Register of Interests.

Appendix 7 – The Granting of Dispensations.

Background Papers:

- a) The Localism Act 2011
- b) The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012
- c) The Relevant Authorities (Disclosable

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Pecuniary Interests) Regulations 2012

- d) Notes of the Task Group
- e) Precedents and Information produced by Bevan Brittan
- f) Precedents produced by the Association of Kent Secretaries
- g) Model draft Codes as set out within the body of the report
- h) The Council's Code of Conduct existing arrangements for handling allegations of Member misconduct as set out within the Council's Constitution
- i) Existing Codes and Procedures appropriate to the existing Standards Arrangements as set out within the Council's Constitution

Contact Officer(s):

Christine Nuttall – ext. 7245

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APPENDIX 2a
Draft DCLG Code
Sevenoaks District Council
Members' Code of Conduct

(Additions/Amendments to DCLG Code are shown in red)

You are a member or co-opted member of the Sevenoaks District 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 -

1. 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.
2. 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.
3. 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.
4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
5. 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.
6. 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.
7. 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.
8. 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.

You must always comply with relevant laws and have due regard to local codes and protocols in effect from time to time including Appendix W to the Council's Constitution "Guidance on the Disclosure of Confidential Information by Members".

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Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify the monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State **and set out in Schedule A appended to this Code**, 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 the monitoring officer of any disclosable pecuniary or non-pecuniary interest which the Council has decided should be included in the register **and set out in Schedule B appended to this Code**.

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 a 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 (DPI) **and set out in Schedule A**. ~~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.~~ **you must withdraw from the meeting room, including the public gallery, during the whole consideration of any item of business in which you have a pecuniary interest as defined by regulations made by the Secretary of State (DPI) as set out in Schedule A.**

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.

SCHEDULE A

Disclosable Pecuniary Interests, as prescribed by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No 1464) are as follows:

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

“the Act” means the Localism Act 2011

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

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

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

“M” means a member of the 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 (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“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

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant

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	<p>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 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.</p>

NOTE:

In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a Member or Co-opted Member of the Authority;
- (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
- (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted
- (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

SCHEDULE B

An 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 gifts or hospitality worth more than an estimated value of £25 or more which the member has received by virtue of his or her office.

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Appendix 2b
LGA Template Code of Conduct

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]*

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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.

Appendix 2c**[Name of Authority]****Kent Code of Conduct for Members****Preamble**

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest it is a criminal offence if, without reasonable excuse, you:
 - (a) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a member.
 - (b) Fail to disclose the interest at Meetings where the interest is not entered in the Authority's register.
 - (c) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the Authority's register and is not the subject of a pending notification.
 - (d) Take part in discussion or votes, or further discussions or votes, at Meetings on matters in which you have the interest which are being considered at the meeting.
 - (e) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority.
 - (f) Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
 - (g) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the

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Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

THE CODE**1. Interpretation**

In this Code:

“Associated Person” means (either in the singular or in the plural):

- (a) a family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management:
 - (i) exercising functions of a public nature; or
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

“Authority” means [*name of Authority*].

“Authority Function” means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) school meals or school transport and travelling expenses - where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which your child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members of the Authority;
- (e) any ceremonial honour given to members of the Authority;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not an elected member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

“Disclosable Pecuniary Interest” means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest or

- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

“Interests” means Disclosable Pecuniary Interests and Other Significant Interests.

“Meeting” means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

“Member” means a person who is an elected member of the Authority and includes a Co-opted Member.

“Other Significant Interest” means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) which:

- (a) affects the financial position of yourself and/or an Associated Person; or
- (b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment of the public interest.

“Register of Members’ Interests” means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

“Sensitive Interest” means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

Scope

- 2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

General obligations

- 3. (1) You must, when using or authorising the use by others of the resources of the Authority:

- (a) act in accordance with the Authority's reasonable requirements; and
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes).

- (2) You must not:

- (a) bully any person;
- (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;

- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- (d) 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 written consent of a person authorised to give it; or
 - (ii) you are required by law to do so; or
 - (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;
- (e) prevent another person from gaining access to information to which that person is entitled by law;
- (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (g) 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.

Registering Disclosable Pecuniary Interests

- 4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

Declaring Interests

- 5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest in any matter to be considered, or being considered, at the Meeting, you must:
 - (a) disclose the Interest; and
 - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation or are acting under para 5(4):

- (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
 - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:
- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
 - (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
 - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:
- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

Sensitive Interests

6. (1) Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

Gifts and Hospitality

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.

- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The 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.

Dispensations

- 8.(1) The [Standards] Committee, or any sub-committee of the [Standards] Committee, or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the [Standards] Committee, its sub-committee, or the Monitoring Officer (where authorised) considers that:
- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
 - (b) 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; or
 - (c) granting the dispensation is in the interests of persons living in the Authority's area; or
 - (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
 - (e) it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

SELFLESSNESS: You should act solely in terms of the public interest and 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.

INTEGRITY: You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

ACCOUNTABILITY: You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

OPENNESS: You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen 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.

HONESTY: You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

LEADERSHIP: Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

ANNEX 2

Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

“**the Act**” means the Localism Act 2011

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

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

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

“**M**” means a member of the 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 (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“**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

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a

	<p>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 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.</p>

NALC's template code of conduct for parish councils (final version)

Introduction

This Briefing updates L08-12 and it should be read in conjunction with Legal Topic Note (LTN) 80, last updated in June 2012. NALC's template code of conduct has been finalised and is attached.

NALC's template code of conduct incorporates a member's new mandatory obligations in the Localism Act 2011 ('the 2011 Act') concerning 'disclosable pecuniary interests' which come into force on 1 July 2012. Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464). They are set out in Legal Briefing L10-12.

Important information (explained in detail in LTN 80 and Legal Briefing L10- 12)

1. Transitional arrangements (confirmed in The Localism Act 2011 (Commencement Order No.6 and Transitional, Savings and Transitional Provisions Order 2012) SI 2012/1463 ('the 2012 Regulations'), brought into force on 7 June 2012, confirm :-
 - a parish council must adopt a new code of conduct **to take effect on or after 1 July 2012.**
 - the district/ unitary authority's Monitoring Officer may prepare a register of interests for members of parish councils in the principal authority's area **to take effect on or after 1 July 2012.**
2. The 2012 Regulations also confirm that on 1 July, a member of a parish council is at risk of prosecution for committing criminal offences in s.34 of the 2011 Act if:-
 - he/she participates or votes on a matter being considered at a meeting in which he/she has a 'disclosable pecuniary interest' (s.31(4) of the 2011 Act) or
 - written notification of such disclosable pecuniary interest has not already been given to the Monitoring Officer, and the member does not disclose the disclosable pecuniary interest to the meeting and does not provide written notification of the interest to the Monitoring Officer within 28 days of the meeting (31(2) and (3) of the 2011 Act) or
 - he/she provides false or misleading information about the above (s.34(2) of the 2011 Act).

Next steps

NALC advises parish councils to adopt a new code of conduct as soon as possible.

A member's mandatory obligations relating to prescribed disclosable pecuniary interests are incorporated in the NALC template code of conduct. If a parish council adopts the NALC template, its members and co-opted members are also required to register disclosable pecuniary interests within 28 days of adoption of the code.

NALC recommends that a parish council adopts a new code of conduct (which may or may not be based on the NALC template code of conduct) in June to take effect on 1 July 2012. This timetable, although relatively short, would assist a parish council and its members to satisfy their new obligations in the 2011 Act with relative ease.

If a parish council adopts a new code of conduct to take effect after 1 July 2012, it is NALC's view that the parish council's existing code of conduct based on the Local Authorities (Model Code of Conduct) Order 2007 SI 2007/1159, would continue to have effect. Accordingly, its members would remain subject to the requirements of their existing code (which includes obligations for the registration and disclosure of personal and prejudicial interests) until the parish council adopted a new code of conduct. Nevertheless, if a council has not adopted a new code by 1 July 2012, members of the parish council are still subject to the mandatory obligations in the 2011 Act, summarised above, in relation to disclosable pecuniary interests from 1 July 2012 .

Useful reminders

The function of adopting, revising or replacing a code of conduct must be discharged by full council (s.28(13) of the 2011 Act). A parish council must publicise its adoption (and in future any revision or replacement) of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area (s. 28(12)).

Whilst members of a parish council may provide written notification of interests (including disclosable pecuniary interests) to the local Monitoring Officer, most Monitoring Officers are likely to prepare a standard register of interests form for members of parish councils to complete. Members of parish councils should liaise directly with the local Monitoring Officer about providing written notifications about their interests.

This briefing was issued by Meera Tharmarajah, Solicitor and Head of Legal Services

FINAL

NALC template code of conduct for parish councils

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 in 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 or the co-opted member's appointment (where that is later), he/she shall register with the Monitoring Officer the 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 with the Monitoring Officer any interests in Appendices A and B.

8. A member shall register with the Monitoring Officer 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 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 at meetings

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 not vote on the matter. He/she may speak on the matter 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. 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 (other than an interest in Appendix A), the member shall disclose the nature of the interest and not vote on the matter. He/she may speak on the matter 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

Interests defined by regulations made under section 30(3) of the Localism Act 2011 and described in the table below.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 above for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her election expenses.
	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 made between the member or between his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a body in which such a person is a partner in a firm, a director of an incorporated body or holds the beneficial interest in securities*) and the Council —
	(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 Council.
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 the member's knowledge)—
	(a) the landlord is the Council; and
	(b) the tenant is a body in which the member, or his/her spouse or civil partner/ the person with whom the member is living as if they were spouses/civil partners has a beneficial interest.
Securities	Any beneficial interest in securities of a body where—
	(a) that body (to the member's knowledge) has a place of business or land in the area of the Council; and
	(b) either—
	(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or
	(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'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 B

An 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 gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.

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APPENDIX 3

PART 3 –STANDARDS COMMITTEE

1. Establishment

1.1 The Council will establish a Standards Committee.

2. Composition

2.1 Standards Committees have to comply with the political balance rules under the Local Government Act 1972.

3. Membership

3.1 The Standards Committee will be composed of:

- Seven Members other than the Leader of the Council and no more than one Member selected from a particular Parish Boundary.
- Only one Member out of the above seven Members to be an Executive Member without being a Chair of the Committee as Standards is a Council function as opposed to an Executive function (s.27(8), Part 1, Chapter 7 of the Localism Act 2011.
- Up to two co-opted Members of a parish or town council (a parish/town council member)

4. Voting

4.1 All Sevenoaks District Council members of the Committee will be entitled to vote at meetings of the Committee.

4.2 Any Co-opted Parish or Town Council representatives would not have voting rights.

5. Quorum

5.1 The quorum of the Standards Committee will be three voting members.

6. Number of meetings

6.1 At least one meeting will be held each year.

7. Role and Function (Terms of Reference)

7.1 To discharge the functions as set out in Part 1, Chapter 7 of the Localism Act 2011 including:

- (a) To promote and maintain high standards of conduct by Members and Co-opted Members of the District Council and to make recommendations to Council on improving standards.

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- (b). To advise and assist Parish/Town Councils and Parish/Town Councillors to maintain high standards of conduct and to make recommendations to Parish/Town Councils on improving standards.
- (c) To advise the District Council on the adoption of or revisions to its Code of Conduct.
- (d) To advise, train or arrange to train Members, Co-opted Members of the District Council on matters relating to the Code of Conduct.
- (e) To assist the Members and Co-opted Members of the District Council to observe their respective Codes of Conduct.
- (f) To monitor and assess the operation and effectiveness of the District Council Code of Conduct and to review and manage the Arrangements for dealing with Code of Conduct Complaints.
- (g) To advise on local ethical governance protocols and procedures.
- (h) To maintain oversight of the District Council's arrangements for dealing with Code of Conduct complaints.
- (i) To act as an advisory body in respect of any ethical governance matter.
- (j) To monitor and review the procedures for the Register of Members' Interests including reviewing interests other than Disclosable Pecuniary Interests (DPI's) called Non Pecuniary Interests (NPI's).
- (k) To receive reports from the Monitoring Officer on the number and nature of complaints received and action taken as a result in consultation with the Independent Person.
- (l) To receive the Monitoring Officer's annual report which includes a summary of the District Council's ethical governance arrangements.
- (m) To appoint a Sub-Committee being a Hearing Panel following an investigation and finding that a breach of the Code of Conduct has occurred and no informal resolution can be found in accordance with "Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011".
- (n) Delegated authority to grant dispensations pursuant to S33(2) of the Localism Act 2011 only if, after having had regard to all relevant circumstances, it is considered that:
 - 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 (s.33(2)(b) of Part 1, Chapter 7 of the Localism Act 2011.

- granting the dispensation is in the interests of persons living in the authority's area (s.33(2)(c) of Part 1, Chapter 7 of the Localism Act 2011.
- It is otherwise appropriate to grant a dispensation (s.33(2)(e) of Part 1, Chapter 7 of the Localism Act 2011.

8. Standards Assessment Working Party (Terms of Reference)

- 8.1 It is recognised that complaints may be received which are of an extremely serious nature or other similar exceptional circumstances exist as set out within the procedures entitled "Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011". In such a situation the Monitoring Officer can set up a Working Party comprising three members of the Standards Committee.
- 8.2 The Working Party will examine thoroughly the contents of the complaint and after consultation with the Independent Person make recommendations to the Monitoring Officer on whether an investigation should take place.
- 8.3 The Working Party will produce a written summary of its consideration of the complaint to include the main points considered, its conclusion on the complaint and the reasons for that conclusion.

9. Standards Hearings Sub Committee (Terms of Reference)

- 9.1 A Sub Committee comprising three voting Members of the Standards Committee having a quorum of three established to conduct Hearings into allegations referred to it by the Monitoring Officer that a Member or Co-opted Member (the Subject Member) has failed to comply with the relevant Code of Conduct appertaining to that Subject Member.
- 9.2 To hold a hearing and make a determination in relation to a complaint referred to it by the Monitoring Officer alleging a breach of the Code of Conduct appertaining to the Subject Member.
- 9.3 Where the Sub Committee determines that a Subject Member has failed to comply with the Subject Member's Code of Conduct to determine what action to take in respect thereof including the power to make recommendations to the Subject Member's Council and power to instruct the Monitoring Officer to publicise its decision on the District Council's web site and/or newspaper circulating in the locality.
- 9.4 To give notice in writing of any of its determinations including the reasons for such determination.

10. Standards Sub Committee for Granting Dispensations

- 10.1 The Sub Committee can be summoned by the Monitoring Officer to grant dispensations in accordance with its delegated powers referred to above at paragraph 7.1 (n).

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- 10.2 The Sub Committee will comprise three voting Members of the Standards Committee having a quorum of three.
- 10.4 A written record of the Sub-Committee decision will be made and given to the Monitoring Officer. The written record will specify the reasons for the Sub-Committee's decision and if a dispensation is granted the written record will evidence the name of the Member or Co-opted Member receiving the dispensation and the period for which it has effect.

11. Codes and Protocols

- 11.1 High standards lie at the root of the Council's activities and the work of the Standards Committee is supported by policies and protocols including:

Members' Code of Conduct

Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011

Procedure for Making a Recommendation for the Appointment of an Independent Person

Protocol on Gifts and Hospitality

Members' Register of Interest Form

Powers to Grant Dispensations

Guidance of Disclosure of Confidential Information by Members

APPENDIX 4

Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011

1 Delegations under these arrangements

- 1.1 The Monitoring Officer is appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct.
- 1.2 The Monitoring Officer, in consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. The Monitoring Officer will seek resolution of complaints without formal investigation wherever practicable, and is given discretion to refer decisions on investigation to the Standards Assessment Working Party in accordance with the criteria set out in Part 1 for them to take the decision. The Monitoring Officer will report regularly to the Standards Committee on the discharge of this function.
- 1.3 Where an investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer is instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned (the Subject Member), and to the Independent Person, and reporting the findings to the Standards Committee for information
- 1.4 Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person is authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such local resolution is not appropriate or not possible, the Monitoring Officer will report the investigation findings to a Standards Hearings Sub Committee for local hearing.

Sanctions

- 1.5 The Council delegates to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include-

Sanctions for Sevenoaks District Council Members:

- Reporting its findings to Council for information and publishing findings on the District Council's website;
- Recommending to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council. It may not be

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possible for the Group Leader to carry out the recommendation if the Group is very small.

- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instruct the Monitoring Officer to arrange training for the Member and/or conciliation if appropriate;
- Recommend to the District Council that the member be removed, from all outside appointments to which he/she has been appointed or nominated by the authority.

Sanctions for Town and Parish Council Members:

- Reporting its findings to the Town/Parish Council, for information and publish findings on the District Council's website;
- Recommending to the Town/Parish Council that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend that the Town/Parish Council arrange training for the member and/or conciliation if appropriate all at the Town/Parish Council's own expense;
- Recommending to the Town/Parish Council that the member be removed, from all outside appointments to which he/she has been appointed or nominated by the authority.

The Election Period

No action will be taken in relation to any complaint within six weeks prior to an election.

2 Context

These "Arrangements" set out how anyone may make a complaint that an elected or Co-opted Member of Sevenoaks District Council *or of a town/parish council within its area* has failed to comply with the authority's Code of Conduct, and sets out how Sevenoaks District Council will deal with allegations of a failure to comply with the authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member or Co-opted Member of the authority *or of a town/parish council within the authority's area*, 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 Co-opted Member of a town/parish council against whom an allegation as been made.

3 The Code of Conduct

The Council has adopted a Code of Conduct for Members and Co-opted Members, which is set out within the Council's Constitution and available for inspection on the authority's website and on request from Reception at the District Council Offices.

Each town/parish council is also required to adopt a Code of Conduct. If anyone wishes to inspect a Town/Parish Council's Code of Conduct, they should inspect any website operated by the town/parish council or request the town/parish clerk to allow inspection of the town/parish council's Code of Conduct.

4 Making a complaint

If anyone wishes to make a complaint, please write or email to –

“The Monitoring Officer
Council Offices, Argyle Road,
Sevenoaks
TN13 1HG”

Or –

members.conduct@sevenoaks.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 or Co-opted Member misconduct.

In order to ensure that we have all the information which we need to be able to process a complaint, a complainant will need to complete and send us the Complaint Form, set out at Part 4 to these arrangements, which can be downloaded from the Sevenoaks District Council's website and is available on request from Reception at the District Council Offices.

The complainant will need to provide us with details of their name and a contact address or email address, so that we can acknowledge receipt of the complaint. 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 the complaint promptly after receiving it,. The Monitoring Officer will send the Subject Member a copy of the complaint and all supporting evidence in order that the Subject Member can reply to the complaint. The Monitoring Officer will notify the complainant and Subject Member of any decision taken upon it.

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The Monitoring Officer will validate the complaint by subjecting it to the Initial Intake test and Assessment test set out in Part 1 to these arrangements. If the complaint fails the Initial Intake test it will not be considered further and the complainant and the Subject Member will be informed of this. If the complaint fails the subsequent Assessment test it will not be considered further and the complainant and the Subject Member will be informed of this. .

If the complaint appears to the Monitoring Officer not to be a substantive allegation of misconduct under the Code of Conduct, the Monitoring Officer will so inform the complainant but may ensure where appropriate that the matter is dealt with under a more relevant procedure, eg: if it is a complaint about a service or an officer or a statement of policy disagreement.

If the complaint appears to the Monitoring Officer to be an allegation that could constitute a criminal offence, the Monitoring Officer will advise the complainant to refer the complaint to the police in the first instance. (Section 34 of the Localism Act 2011).

Where the complaint does appear to be an allegation of misconduct under the code, the Monitoring Officer (as well as acknowledging the complaint) will notify the Subject Member of receipt of the complaint and give the Subject Member a right to respond to the complaint. The Subject Member will normally be given up to 30 working days to comment on the complaint and provide any evidence of their own.

As part of this process the Monitoring Officer may try to reach an informal resolution of your complaint, with the complainant and the Subject Member concerned.

5 Will the complaint be investigated?

The Monitoring Officer will review every complaint passing the Initial Intake test and the Assessment test and, after consultation with an Independent Person, take a decision as to whether it merits formal investigation. This review will be carried out in conjunction with the Assessment decision factors set out in Part 1 of these arrangements and take into account the statements and evidence of both the complainant and the Subject Member in any response given. This decision will normally be taken within 40 working days of receipt of full information in relation to the complaint. Where the Monitoring Officer has taken a decision, they will inform the complainant and the Subject Member of the decision and the reasons for that decision.

The Monitoring Officer may refer certain cases to the Standards Assessment Working Party in accordance with the Criteria entitled “Criteria for referral to the Standards Assessment Working Party” set out within Part 1 for advice and guidance and to make recommendation as to the decision to be taken.

Where the Monitoring Officer requires additional information in order to come to a decision, the Standards Assessment Working Party may require the Monitoring Officer to go back to the complainant for such information, and will instruct the Monitoring Officer to request information from the

Subject Member. *Where the complaint relates to a Town/Parish Councillor, the Monitoring Officer may also inform the Town/Parish Clerk.*

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 Subject Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the Subject Member makes a reasonable offer of local resolution, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

6 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Part 2 to these arrangements.

The process is designed to be proportionate to the nature and seriousness of the case. This may involve little more than an exchange of letters or written representations in some cases.

If the Monitoring Officer decides that a complaint merits formal investigation, an Investigating Officer may be appointed by the Monitoring 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 they need to meet or speak to the complainant to understand the nature of the complaint and enable the complainant to explain their 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 Subject Member and provide them with a copy of the complaint, and ask the Subject Member to provide further explanation of events, and to identify what further documents are needed in addition to those contained in any initial "right of reply" response and who they need to interview.

At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the Subject Member concerned, to give both an opportunity to identify any matter in that draft report which are disagreed with or which it is considered requires more consideration.

Having received and taken account of any comments which are made on the draft report, the Investigating Officer will send the final report to the Monitoring Officer.

7 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 in consultation with the Independent Person will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant and to the Subject Member concerned *and to the Town/Parish Council, where the complaint relates to a Town/Parish*

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Councillor, notifying that the Monitoring Officer is satisfied that no further action is required, and give the complainant and the Subject Member a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider their report.

8 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 Panel or, after consulting the Independent Person, seek local resolution.

8.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, the Monitoring Officer will consult with the Independent Person and with the complainant and seek to agree what is considered to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee *and the Town/Parish Council* for information, but will take no further action.

8.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, then the Monitoring Officer will report the Investigating Officer's report to the Standards Hearings Sub Committee which will conduct a local hearing before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Subject Member.

The Council has agreed a procedure for local hearings, which is attached as Part 3 to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the Subject Member to give their 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 Standards 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 their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Subject Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Hearings Panel. The Subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations

to the Standards Hearings Sub Committee as to why they consider that they did not fail to comply with the Code of Conduct.

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

9 What action can the Standards Hearings Sub Committee take where a Subject Member has failed to comply with the Code of Conduct?

9.1 The Council has delegated to the Standards 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 Standards Hearings Sub Committee may impose the sanctions as set out in paragraph 1.5 above.

The Standards Hearings Sub Committee has no power to suspend or disqualify the Subject Member or to withdraw allowances or expenses.

Any decision of a district on sanctions in relation to a Town/Parish Council can only in effect be a recommendation to the Parish Council, who must then itself decide whether to accept the recommendation. In the absence of express powers, a district could not, for example, remove a parish councillor from a committee. The district could only make a finding of breach/no breach and then recommend a course of action to the parish.

10 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Standards Hearings Sub Committee as to whether the Subject Member failed to comply with the Code of Conduct and as to any actions which the Standards Hearings Sub Committee resolves to take. Prior to reaching and announcing its decision in public, the Standards Hearings Sub Committee may retire to a separate room to deliberate in private. It cannot retire with either the Monitoring Officer or the Independent Person. The Monitoring Officer may be called by the Standards Hearings Sub Committee if they require technical or legal guidance but the nature of this must be disclosed in public.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Standards Hearings Sub Committee, and send a copy to the complainant, to

Agenda Item 1

the Subject Member *and to the Town/Parish Council*, and make that decision notice available for public inspection.

11 Who are the Standards Hearings Sub Committee?

The Standards Hearings Sub Committee derives from the Council's Standards Committee and will consist of three Members drawn from the membership of the Standards Committee in accordance with the rules on political balance, if required.

The Independent Person is invited to attend all meetings of the Standards Hearings Sub Committee and their views are sought and taken into consideration before the Standards Hearings Sub Committee takes any decision on whether the Subject 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. The Independent Person otherwise takes no part in the discussions or deliberations of the Standards Hearings Sub Committee.

12 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 Council.

A person cannot be "independent" if they –

- 12.1 Are, or have been within the past 5 years, a member, co-opted member or officer of the authority;
- 12.2 *Are or have been within the past 5 years, a member, co-opted member or officer of a town/parish council within the authority's area, or*
- 12.3 Are a relative, or close friend, of a person within paragraph 12.1 or 12.2 above. For this purpose, "relative" means –
 - 12.3.1 Spouse or civil partner;
 - 12.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 12.3.3 Grandparent of the other person;
 - 12.3.4 A lineal descendent of a grandparent of the other person;
 - 12.3.5 A parent, sibling or child of a person within paragraphs 12.3.1 or 12.3.2;
 - 12.3.6 A spouse or civil partner of a person within paragraphs 12.3.3, 12.3.4 or 11.3.5; or

- 12.3.7 Living with a person within paragraphs 12.3.3, 12.3.4 or 12.3.5 as husband and wife or as if they were civil partners.

13 Revision of these arrangements

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

14 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 Standards Hearings Sub Committee.

If the complainant feels that the authority has failed to deal with the complaint properly, a complaint may be made to the Local Government Ombudsman.

Part One	Initial test and Assessment Criteria
Part Two	Procedure for Investigations
Part Three	Procedure for Standards Hearings Sub Committee
Part Four	Complaint Form

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PART 1 to Appendix 4

Criteria for Assessment of Complaints against Members relating to the Code of Conduct

All the criteria used for the assessment of complaints against Members in respect of the Code of Conduct apply to all relevant codes not just those of Sevenoaks District Council.

Initial Intake test

Before assessment of a complaint begins, the complaint has to meet the following tests:

	Tick box
It is a complaint against one or more named Members of Sevenoaks District Council or one or more named Members of one of the Parish/Town Councils within the Sevenoaks District Council area.	
The Subject Member was a Member at the time of the alleged conduct.	
The behaviour took place within the last 90 days.	
The complainant has given their name and address.	
The complaint is a substantive allegation under the Code rather than a service, officer or a statement of policy disagreement,	
The complaint is not an allegation that could constitute a criminal offence (Section 34 of the Localism Act 2011)	
The complaint is not being dealt with by the police, ombudsman or another complaint process (in this case the complaint will not be processed until after the other process has been completed).	
The complaint is not being made within 6 weeks prior to an election (no action will be taken in relation to any complaint within this period).	
The complaint is not the same or substantially similar to a complaint that has already been assessed even if this was prior to 1st July 2012.	

If the complaint fails one or more of these tests it cannot be considered for Assessment and the complainant will be informed that no further action will be taken in respect of the complaint. The Subject Member concerned will also be told of the complaint and that it had failed the Initial Intake test. The Monitoring Officer may advise the complainant that the complaint needs to be referred elsewhere, if appropriate.

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Assessment test

The Subject Member concerned will be informed of the complaint by being sent a copy of the complaint together with all supporting documentation and given the opportunity to respond.

The allegations will then be considered by the Monitoring Officer, together with the appointed Independent Person. A complaint will be considered in relation to the following criteria:-

Sufficiency of Complaint

- Does the complaint state sufficient and detailed information as regards the allegation and alleged misconduct to sustain a breach of the Code of Conduct
- Does the complaint and related documents include sufficient independent evidence supporting the claim and establishing the facts on which it is based such as witness statements and documentary evidence to show a reasonable prospect of establishing a breach of the Code of Conduct
- Can it be shown that the Subject Member was acting in a public capacity
- Can it be shown that the behaviour falls within the relevant Code of Conduct

Evidence

- Is the evidence sufficiently reliable i.e. is it first hand evidence or hearsay evidence
- What weight can be given to the evidence
- Is the evidence relevant to the alleged breach
- Could any further evidence be revealed by an investigation

Suitability for Investigation

- Is it sufficiently serious
- Would an investigation serve any useful purpose
- Have the circumstances changed
- Is it serious enough to warrant a sanction
- Is the conduct seriously and unreasonably disrupting the business of the authority
- How long ago did the alleged conduct occur
- Is an investigation likely to prove on the balance of probability that a breach took place
- Is it likely that an investigation will prove only a technical or inadvertent breach
- Has the same or a substantially similar complaint already been the subject of an investigation
- Is the complaint really about dissatisfaction with a Council decision
- Is the complaint about the administrative practices of the Council rather than a Member's behaviour

Extenuating Circumstances

- Has the issue been publicised in the local press
- Is the complaint malicious
- Is the complaint minor
- Is the complaint tit for tat
- Is the case politically motivated

Possible Defences

- Was the breach made in all innocence i.e. without knowledge
- Are there strong mitigating circumstances
- Was there provocation

In order to facilitate the making of a decision the following definitions are given:-

- Lack of respect means derogatory comments that are aimed at a person or their personal qualities. However Members should be able to express disagreement publicly with each other and have the freedom to disagree with the views and opinions of others.
- Bullying or intimidation means offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient (Advisory, Conciliation and Arbitration Service (Acas)). Such conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature or when the behaviour by both the complainant and the Subject Member contributed equally to the breakdown in relations.

The Monitoring Officer will evaluate and weigh up the above criteria in reaching a decision. The Monitoring Officer will make one of the following decisions:-

- No further action
- Attempt informal resolution
- Recommend formal investigation

The complainant, the Subject Member concerned and the relevant Town/Parish Clerk (if applicable) will be informed of the outcome.

There may be certain complaints where the Monitoring Officer feels the need to make a referral to the Standards Assessment Working Party. Such referrals will take place according to the criteria set out below.

Criteria for referral to the Standards Assessment Working Party

- It is of an extremely sensitive nature or other similarly exceptional circumstances exist which justify departure from the arrangements and the Monitoring Officer and Independent Person must set those reasons out so they can be scrutinised.
- It involves the Leadership of the Council or the Opposition
- It involves the Chairman of the Council
- Complaints are from the Chief Executive, Chief Financial Officer or the Monitoring Officer
- There is a significant conflict of interest on the basis that the Monitoring Officer has previously advised the Member on the matter.

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PROCEDURE FOR INVESTIGATING THE COMPLAINT

1. Preliminaries

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, the Human Rights Act 1998 and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.
- 1.4 Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 Within 10 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:
 - (a) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
 - (b) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
 - (c) request contact details of any potential witnesses;
 - (d) require that confidentiality is maintained and that the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation - the fact that an investigation is being conducted does not need to remain confidential.
- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8 The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer.

2. The draft report

- 2.1 On the conclusion of their investigation and/or when the Investigating Officer is satisfied that they have sufficient information or has obtained as much information as is likely to be reasonably capable of being obtained, the Investigating Officer will issue a draft report (clearly labelled DRAFT) to the Monitoring Officer for review.
- 2.2 Following review of the draft report by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be marked 'confidential' and will detail:

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- (a) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- (b) a summary of the complaint;
- (c) the Subject Member's response to the complaint;
- (d) relevant information, explanations, etc, which the Investigating Officer has obtained in the course of the investigation;
- (e) a list of any documents relevant to the matter;
- (f) a list of those persons/organisations who have been interviewed;
- (g) a statement of the Investigating Officer's draft findings of fact and reasons;
- (h) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- (i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

2.3 Once the Investigating Officer has determined that the responses received from the Subject Member and/or the Complainant add nothing of substance to the investigation, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled FINAL.

3. Consideration of Investigating Officer's final report

3.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

3.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

3.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either seek informal resolution or refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Part 3.

STANDARDS HEARINGS SUB COMMITTEE PROCEDURE

The complainant and the Subject Member can request that the hearing takes place by way of written submissions rather than a formal hearing undertaken by the Standards Hearings Sub Committee. This can only take place with the agreement of both the complainant and Subject Member.

1. Rules of procedure

- 1.1 The Standards Hearings Sub Committee consists of three voting elected Members drawn from the Standards Committee.
- 1.2 The quorum for a meeting of the Standards Hearings Sub Committee is three elected Members.
- 1.3 The Independent Person's view must be sought and taken into consideration before the Standards Hearings Sub Committee takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person must be present throughout the hearing (but not during the deliberations of the Standards Hearings Sub Committee] in private) or may submit their views on the complaint to the Standards Hearings Sub Committee in writing.
- 1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Standards Hearings Sub Committee. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied where it is necessary to exclude the public and press from meetings of the Standards Hearings Sub Committee because it is likely that confidential or exempt information will be disclosed.
- 1.5 All matters/issues before the Standards Hearings Sub Committee will be decided by a simple majority of votes cast.
- 1.6 Where the Subject Member fails to attend the Standards Hearings Sub Committee and where the Standards Hearings Sub Committee is not satisfied with their explanation for their absence from the hearing, the Standards Hearings Sub Committee may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination. If the Standards Hearings Sub Committee is satisfied with the Subject Member's reasons for not attending the hearing they may adjourn the hearing to another date or, may resolve in exceptional circumstances, to proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.

2. Right to be accompanied by a representative

The Subject Member may choose to be accompanied and/or represented at the Standards Hearings Sub Committee by a fellow councillor, friend or colleague or legal counsel.

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3. The conduct of the Standards Hearings Sub Committee

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) appointment of a chairman
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.6 above);
- (e) introduction by the Chairman, of members of the Standards Hearings Sub Committee, the Independent Person, the Monitoring Officer, Investigating Officer, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Standards Hearings Sub Committee may adjourn the hearing at any time.

3.4 Presentation of the complaint

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls any complainant witnesses;
- (b) The Standards Hearings Sub Committee may question the Investigating Officer upon the content of his/her report and any complainant witnesses.

3.5 Presentation of the Subject Member's case

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Standards Hearings Sub Committee may question the Subject Member and any witnesses called by the Subject Member.

3.6 Views/Submissions of the Independent Person

The Chairman will invite the Independent Person to express their view on whether they consider that on the facts presented to the Standards Hearings Sub Committee, there has been a breach of the Code of Conduct or no breach as the case may be.

3.7 Deliberations of the Standards Hearings Sub Committee

3.7.1(a) The Standards Hearings Sub Committee will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether on the facts found, the Subject Member has failed to comply with the Code of Conduct.

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- (b) The Standards Hearings Sub Committee will consider the views expressed by the Independent Person prior to reaching a decision(s), including any views of the Independent Person on sanction(s) to be applied [and/or recommendations to the District or Town/Parish Council or Monitoring Officer.
- (c) The Standards Hearing Sub Committee when making its decision will consider the criteria set out in Part 1 – Assessment test.
- (d) Where the complaint has a number of aspects, the Standards Hearings Sub Committee may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- (e) The Standards Hearings Sub Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.
- (f) The Standards Hearings Sub Committee may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.
- (g) If evidence presented to the Standards Hearings Sub Committee highlights other potential breaches of the District or Town/Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a 'new complaint'.

3.7.2 (a) Having deliberated on its decision and/or recommendation(s) and the application of any sanction(s), the Standards Hearings Sub Committee will reconvene the hearing in public and the Chairman will announce that on the facts presented to the Hearing Panel, the Panel considers that there has been a breach of the Code of Conduct, or no breach, as the case may be. The Chairman will announce the sanction(s) the Sub Committee is minded to apply and/or any recommendation(s) to the District or Town/Parish Council and/or Monitoring Officer.

- (b) The Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether any sanction(s) should be taken and what form any sanction(s) should take. The Independent Person will be invited to express their view on any recommendation(s) to the District or Town/Parish Council or Monitoring Officer.

Having heard the representations/views, the Standards Hearings Sub Committee will adjourn and deliberate in private.

3.7.3 (a) Having deliberated on its decision and/or recommendation(s) and the application of any sanction(s), and having taken into account the Independent Person's views, the Standards Hearings Sub Committee will reconvene the hearing in public and the Chairman will announce:

- (i) the Sub Committee's decision that the Subject Member has failed to comply with the Code of Conduct; or, that the Subject Member has not failed to comply with the Code of Conduct and the principal reasons for the decision;
- (ii) the sanction(s) to be applied;
- (iii) whether any recommendations will be made to the District or Town/Parish Council;

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(iv) that the Sub Committee's full decision and reasons will be issued by the Monitoring Officer, in writing, within 10 working days following the close of the hearing;

(v) that the decision will be published on the District Council's website; and

(vi) that there is no right of appeal against the Sub Committee's decision(s) and/or recommendation(s).

3.7.4 The Standards Hearings Sub Committee's decision and/or recommendations will be published in accordance with paragraph 5 of this Part 3.

4. Range of possible sanctions

4.1 Subject to paragraph 4.4 below, where the Standards Hearings Sub Committee determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the sanctions set out in paragraph 1.5 of the document entitled "Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011".

4.2 The Standards Hearings Sub Committee has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4.3 The Standards Hearings Sub Committee may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

4.4 When deciding whether to apply one or more sanctions referred to in paragraph 4.1 above, the Standards Hearings Sub Committee will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour and that any sanction does not unduly restrict the Subject Member's ability to perform the functions of a councillor. The Standards Hearings Sub Committee will consider the following questions along with any other relevant circumstances or other factors specific to the local environment and/or the Conventions 'proportionality' requirements:

(a) What was the Subject Member's intention and did they know that they were failing to follow the District or Town/Parish Council's Code of Conduct?

(b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?

(c) Has there been a breach of trust?

(d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?

(e) What was the result/impact of failing to follow the District or Town/Parish Council's Code of Conduct?

(f) How serious was the incident?

(g) Does the Subject Member accept that they were at fault?

(h) Did the Subject Member apologise to the relevant persons?

(i) Has the Subject Member previously been reprimanded or warned for similar relevant misconduct?

(j) Has there been a relevant previous breach of the District or Town/Parish Council's Code of Conduct?

(k) Is there likely to be a repetition of the incident?

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- (l) Was it a deliberate breach of the code or was it inadvertent (i.e. the Member thought that he/she was acting in a private capacity)? If capacity is an issue the Standards Hearings Sub Committee will need to give reasons for its decision that the Subject Member was or was not acting publicly.

5. Publication and notification of the Standards Hearings Sub Committee's decision(s) and/or recommendation(s)

5.1 Within 10 working days of the Standards Hearings Sub Committee's announcement of its decision and/or recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Standards Hearings Sub Committee's decision and/or recommendations and reasons for the decision and/or recommendations on the District Council's website.

5.2 Within 10 working days of the announcement of the Standards Hearings Sub Committee's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision including any recommendations in the format of the decision notice template annexed to this Part 3 to:

- (a) the Subject Member;
- (b) the Complainant;
- (c) the Clerk to the Town/Parish Council;

5.3 The Monitoring Officer will report the Standards Hearings Sub Committee's decision and/or recommendations to the next ordinary meeting of the Standards Committee for information.

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TEMPLATE - DECISION NOTICE (of Standards Hearings Sub Committee)

Complaint No: xxxx

On [insert date], the Standards Hearings Sub Committee of The Sevenoaks District Council considered a report of an investigation into the alleged conduct of Councillor [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Standards Hearings Sub Committee]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Standards Hearings Sub Committee reached the following decision(s):

[Summarise the finding of facts and the Standards Hearings Sub Committee's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Standards Hearings Sub Committee, but substitute the Investigating Officer for the Standards Hearings Sub Committee. Please note that the Standards Hearings Sub Committee's findings may differ from that of the Investigating Officer]

The Standards Hearings Sub Committee also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Standards Hearings Sub Committee's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- Clerk to the xxxx Parish/Town Council;

Additional help

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If you need additional support in relation to this decision notice or future contact with the District Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on 01732 227000 or email information@sevenoaks.gov.uk. We welcome calls via [Typetalk](#)

Signed:

Date

Print name:

Chairman of the Standards Hearings Sub Committee Sevenoaks District Council,

Argyle Road,

Sevenoaks,

TN13 1HG

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PART 4 to Appendix 4 COMPLAINT FORM

1. Your Details - Please provide us with your name and contact details

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

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

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

- The member(s) you are complaining about
- The parish or town clerk (if applicable)

and the Monitoring Officer will be aware of your complaint.

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 – the member(s) concerned will be given the right of reply to your complaint, before Initial Assessment. **If you have serious concerns about your name and a summary, or details of your complaint being released, please contact the Monitoring Officer.**

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 member of the Standards Committee

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- Member of Parliament
 Other Council Officer or authority employee
 Other ()

3. 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	Council or authority name

4. Making your complaint

Please explain in this section (or on separate sheets) what the Member has done that you believe breaches the relevant Code of Conduct of the District Council or the particular Town/Parish Council. 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.

Please provide us with the details of your complaint setting out the specific Code provisions you believe have been breached and how the conduct breaches the Code. You must submit with the complaint supporting witness statements and evidence. If these are not provided the Council may not investigate on your behalf. Continue on a separate sheet if there is not enough space on this form.

It is important that you provide all the information you wish to have taken into account when it is decided whether to take any action on your complaint.

For example:

Have you been specific, wherever possible, about exactly what you are alleging the member said or did.	YES/NO
Have you provided the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a	YES/NO

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general timeframe	
Have you confirmed whether there are any witnesses to the alleged conduct and provided their names and contact details if possible.	YES/NO
Have you provided all relevant background information and evidence	YES/NO
Did the behaviour take place within the last 90 days.	YES/NO
Have you sent the complaint to the police, ombudsman or another complaint process	YES/NO PLEASE PROVIDE DETAILS IF YES

Name of Witness(es)	Address of Witness(es)

5. Initial Tests

Before assessment of a complaint begins, the complaint has to meet the tests set out in Part 1 entitled “Criteria for Assessment of Complaints against Members in respect of the Code of Conduct”

If the complaint fails one or more of the Initial Intake tests set out in Part 1 entitled “Criteria for Assessment of Complaints against Members in respect of the Code of Conduct” it cannot be considered for Assessment and the complainant will be informed that no further action will be taken in respect of the complaint. The member(s) concerned will also be told of the complaint and that it had failed Initial Intake.

Furthermore, if you identify witnesses yet fail to provide witness statements or claim that there is supporting evidence but fail to supply it the complaint may not meet the Initial Intake tests for acceptance or satisfy Assessment tests when the merits are considered.

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If you have any queries please direct these to the Monitoring Officer, on 01732 227180

6. Additional Help

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.

We can also help if English is not your first language.

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

Help will be given in assisting a complainant who has a disability that prevents them from making a complaint in writing. Please contact the Monitoring Officer on 01732 227245 if you need such assistance.

This publication is available in large print. For a copy telephone 01732 227162. If you need help understanding the publication we can arrange for an interpreter to help you. Please call on 01732 227180 stating your language and telephone number.

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To return the completed form:

e-mail to: members.conduct@sevenoaks.gov.uk (please save a copy for your records)

Fax: 01732 740693

Paper copy to: The Monitoring Officer
C/o The Standards Committee, Sevenoaks District Council
Argyle Road, Sevenoaks, Kent TN13 1HG

Appendix 5

Procedure for making a recommendation for the Appointment of an Independent Person

The Council will appoint at least one person to fulfil the role of the Independent Person under Section 28 of the Localism Act 2011.

A panel consisting of the leaders of the political groups of the Council shall set the remuneration and expenses for the Independent Person and any reserve and shall interview candidates and make a recommendation to Council for appointment.

The Monitoring Officer shall publicly advertise for candidates for the Independent Person and a possible reserve, using the attached Job Description and Person Specification.

The panel will meet to interview candidates.

After the interviews have taken place, and the interviewees have left, the panel will then make a decision on who is the preferred applicant(s) to be recommended to Council.

Appointment at Council shall be by a majority of all members of the Council (at least 28 members in favour), not just of those attending or voting.

The Standards Committee shall review the remuneration and expenses for the Independent Person and any reserve on an annual basis.

After the initial appointment, the appointment of an Independent Person will take place at Annual Council in May each year.

JOB DESCRIPTION FORM

Post Details

Post Title:	Independent Person for the Sevenoaks District Council
Post Holder:	Vacant (new position)
Reports To:	N/A

<u>Job Purpose</u>	The postholder will be the Council's Independent Person for the purposes of s28 of the Localism Act 2011 and will assist the Council and its Members to deal with any allegation that a Member has breached the Code of Conduct of the Council, or of the relevant Town/Parish Council.
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<u>Principal Accountabilities</u>	<ol style="list-style-type: none">1. To advise the Council before it takes its decision on any allegation that it has investigated that a Member has breached the Code of Conduct of the Council, or of the relevant Town/Parish Council.2. To advise the Council on any allegation that a Member has breached the Code of Conduct, in other circumstances at its request.3. To advise any Member of the Council, or of any Town/Parish Council within the Council's area who is the subject of an allegation that he or she has breached the Code of Conduct, at the request of that Member.
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<u>Job Context:</u>	The postholder's duties are likely to be very occasional. He or she will be working essentially on a voluntary basis, but will be paid an annual retainer and reimbursed for
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Agenda Item 1

	<p>travel expenses whenever required to carry out any duties.</p> <p>After the initial appointment, any subsequent appointment will take place at Annual Council in May each year.</p> <p>To apply for the post applicants must live or work within the vicinity of the area served by the Council. The applicant must not be as follows:-</p> <ol style="list-style-type: none"> 1. a member, co-opted member or officer of the authority; 2. A member, co-opted member or officer of a parish council of which the authority is the principal authority, or 3. A relative or close friend, of a person within (1) and (2) above. <p>The persons set out in (1), (2), (3) above may not be appointed if at any time during the five years ending with the appointment the person was:-</p> <ol style="list-style-type: none"> 1. a member, co-opted member or officer of the authority; 2. A member, co-opted member or officer of a parish council of which the authority is the principal authority. <p>Notwithstanding these legislative requirements as set out in The Localism Act 2011, the transitional arrangements under The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 do allow that a person may be appointed if that person is:-</p> <ol style="list-style-type: none"> 1. not a member or co-opted member of the Standards Committee of the relevant authority on 1st July 2012: but 2. has held such a post at any time during the five years ending on 30th June 2012. <p>This only applies in relation to appointments made before 1st July 2013.</p>
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Prepared by:		Date:	
Approved by:		Date:	
Post Holder:		Date:	

Agenda Item 1

PERSON SPECIFICATION FORM

Post Title:	Independent Person for the Sevenoaks District Council
Post Holder:	Vacant (new position)
Reports To:	Monitoring Officer and Members

<u>Knowledge</u>	<i>Include specific knowledge that is important for the post holder to have in order to perform the role e.g. financial processes, systems, environmental issues.</i>	
	Essential	Desirable
	1. Good understanding of the ethical standards required of people holding public office and the impact of ethical issues within a local authority context.	1. An understanding of the workings of the Sevenoaks District Council, its aims and objectives and the operations of the Town/Parish Councils within its area..

<u>Skills</u>	<i>The post holder will require a certain level of these skills in order for the purpose of this role to be achieved e.g. communication skills, specific systems skills, negotiation skills etc.</i>	
	Essential	Desirable
	1. A calm, rational approach to problem solving which considers detailed evidence to reach a balanced judgement. 2. Good interpersonal skills, demonstrated through a considered, measured and consultative approach when dealing with potentially difficult or complex issues.	

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Qualifications	<i>Academic or professional qualifications that would be important to the performance of this role.</i>	
	Essential	Desirable
	1. High degree of personal integrity.	
Experience	<i>Include any past experience the post holder could have that would help them perform this role e.g. working within the community, organisation of events, voluntary work etc.</i>	
	Essential	Desirable
	<p>1. Experience in dealing with difficult issues which need constructive and sensitive solutions.</p> <p>2. Experience of dealing with issues of ethical conduct in employment or public service.</p>	<p>1. Experience of working in or with local authority bodies.</p> <p>2. Experience of partnership working, where politically or ethically sensitive issues have to be considered.</p>

Prepared by:		Date:	
Approved by:		Date:	
Post Holder:		Date:	

APPENDIX 6
Notification of Disclosable Pecuniary Interests
[Sevenoaks District Council]

To the Monitoring Officer:

Surname:

Forename(s) *in full*:

Address:

I am completing this form because on []

- I was elected as a member of the Sevenoaks District] Council*
- I was co-opted as a member of a committee or sub-committee of the [] Council*
- the Council adopted a new code of conduct*
- there was a change in my interests and this form supersedes and replaces the form registered by you on []*

*Delete as appropriate

IMPORTANT NOTES

(1) The requirement to notify the Monitoring Officer of a disclosable pecuniary interest applies not only to your own interests but also those of your husband/wife/civil partner, or a person with whom you are living as husband/wife or as if you are civil partners, where you are aware that the other person has the interest.

The term 'relevant person' therefore means you and any other person referred to above.

(2) Details of your notified interests will appear in the Members' Register of Interests and will be published on the [Sevenoaks District Council]'s website, and open to public inspection.

(3) If you consider that the disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violent or intimidation, and you would like to withhold these details from the register of interests, please provide this information to the Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information, including why it is likely to create such a risk. If the Monitoring Officer agrees, the information will not be included in copies of the register made available for inspection, or any published version of the register.

Further explanatory notes are included at the end of this notification.

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Part A: Employment

1. Any employment, office, trade, profession or vocation carried on for profit or gain

You	Husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners

Part B: Sponsorship

Any payment or provision of any other financial benefit (other than from the [Sevenoaks District Council]) made or provided within the relevant period* in respect of any expenses incurred by you in carrying out duties as a member, or towards the election expenses of yourself. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992

*'relevant period' means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Localism Act 2011

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Part C: Contracts

Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest*) and [Sevenoaks District Council]—

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged

*“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;

You	Husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners

Part D: Land

Any beneficial interest in land* which is within the area of the [Sevenoaks District Council]

*“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

You	Husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners

Part E: Licences

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Any licence (alone or jointly with others) to occupy land* in the area of the relevant authority for a month or longer

*“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

You	Husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners

Part F: Corporate Tenancies

Any tenancy where (to your knowledge)—

(a) the landlord is [Sevenoaks District Council]; and

(b) the tenant is a body in which the relevant person has a beneficial interest

*“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

“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

You	Husband/ wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners

Part G: Securities

Any beneficial interest in securities* of a body where—

- (a) that body (to your knowledge) has a place of business or land in the area of the [Sevenoaks District Council]; and
- (b) either—
 - (i) the total nominal value of the securities exceeds £25,000 (face value) or one hundredth (1/100th) of the total issued share capital of that body; or
 - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

*“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

You	Husband/ wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners

Part H: Declarations

IMPORTANT

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

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

Agenda Item 1

alone in the course of discharging a function of the authority (s31(7) *Localism Act 2011*)).

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

In addition to the above, the [name of Authority] has adopted a Code of Conduct for Members which requires you to notify the Monitoring Officer of any disclosable DPIs before the end of 28 days beginning with the day on which the Code takes effect. Failure to comply with this requirement would not of itself be a criminal offence but could render you liable to action being taken against you under the Code.

To the best of my knowledge, the information given in this form is complete and correct.

Signed:

Date:

This form is to be returned direct to the Monitoring Officer

This declaration has been registered by me:

Monitoring Officer

Date:

You may use this space as a continuation sheet or, if necessary, attach another sheet of paper:

EXPLANATORY NOTES:

1. Employment - detail:

- (a) the nature of every employment, business, office, trade, profession or vocation that you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners have, with a short description of the job concerned
- (b) the name and address of the employer
- (c) if you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, are employed by a company, the name and address of the company paying your or their wages or salary, not that of the ultimate holding company
- (d) the name and address of any company for which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, are a paid director
- (e) the name and address of any firm in which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners have, are a partner.
- (f) where you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners hold an office, the name of the person or body which appointed you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners.

If you consider that the disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violent or intimidation (e.g. certain scientific research or the Special Forces), and you would like to withhold these details from the register of interests, please provide this information to the Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information, including why it is likely to create such a risk. If the Monitoring Officer agrees, the information will not be included in copies of the register made available for inspection, or any published version of the register.

2. Sponsorship - Name any person or body (other than the Council) who has made a payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a Member.

3. Contracts with Sevenoaks District Council - Describe the subject matter and the length of all contracts (goods, services or works) which are not fully discharged:

- (a) between you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, and the Council;
- (b) between you and a firm in which you are a partner, or a company of which you are a paid director or a corporate body in which you have shares of a value described in para. 7 below;
- (c) between your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners and a firm in which they are a partner, or a company of which they are a paid director or a corporate body in which they have shares of a value described in para. 7 below.

4. Land - The address or a brief description of the property (e.g. houses, land and buildings) in the area of Sevenoaks District Council, which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, own, lease or rent (other than leases or tenancies with the Council).

5. Licences - The address or a brief description of the property (e.g. houses, land and buildings) in the area of Sevenoaks District Council, which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners, occupy under licence (alone or jointly with others), for a month or longer.

6. Corporate tenancies - The address or a brief description of the property where:

- (a) you, or a firm in which you are a partner, a company of which you are a paid director or a person or a corporate body in which you have shares of a value described in para. 7 below, are lessees or tenants of the Council;

Agenda Item 1

(b) your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners or a firm in which they are a partner, or a company of which they are a paid director or a corporate body in which they have shares of a value described in para. 7 below, are lessees or tenants of the Council.

7. **Securities** - Name the company or other body which to your knowledge has a place of business or land in the area of Sevenoaks District Council in which you or your husband/wife/civil partner or a person with whom you are living as husband/wife or as if you are civil partners have a shareholding of more than £25,000 (face value) or have a stake of more than 1/100th of the total issued share capital (whichever is the lower).

Notification of Non-Disclosable Pecuniary Interests (NPI's)

IMPORTANT NOTES

- (1) The requirement to notify the Monitoring Officer of a non-disclosable pecuniary interest (NPI) applies only to your own interests.
- (2) Details of your notified interests will appear in the Members' Register of Interests and will be published on the [Sevenoaks District Council]'s website, and open to public inspection.
- (3) If you consider that the disclosure of the details of any of your interests could lead to you, or a person connected with you, being subject to violent or intimidation, and you would like to withhold these details from the register of interests, please provide this information to the Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information, including why it is likely to create such a risk. If the Monitoring Officer agrees, the information will not be included in copies of the register made available for inspection, or any published version of the register.

Further explanatory notes are included at the end of this notification.

1. Any Body of which you are a Member or in a position of general control or management and to which you are appointed or nominated by your authority:

2. Bodies which exercise functions of a public nature of which you are a member or in a position of general control or management:

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3. Bodies which are directed to charitable purposes of which you are a member or in a position of general control or management:

4. Bodies whose principle purpose include the influence of public opinion or policy of which you are a member or in a position of general control or management (including any political party or trade union):

5. The interests of any person from whom you have received a gift or hospitality with an estimated value of £25 or more:

Explanatory Notes:

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1. Name the outside body and position you are appointed to e.g. Member, Trustee, Director, observer etc. and name the Authority which appointed you e.g. Sevenoaks District Council.
2. Name the body and say what position you hold e.g. Councillor on "Middleton" Parish Council, Governor of the ABC School etc.
3. Name the body and say what position you hold e.g. Trustee of ABC Charity, Member of ABC Charity, Member of the Grand Charity.
4. Name the Body and say what position you hold e.g. Secretary or Member of the ABC for Action Group, ,or Member of the ABC Trade Union.
5. List all gifts or hospitality worth £25 or more that you receive in connection of your official duties as a Member and the source/donor of the gift or hospitality.

The Protocol entitled Gifts and Hospitality is set out as an Appendix to the Constitution. This Protocol sets out at the end a notification form that can be used to list your gifts and hospitality. Once complete you can send this to the Monitoring Officer who will attach it to this part of your Register.

To the best of my knowledge, the information given in this form is complete and correct.

Name (in full):
Signed:
Date:	

This form is to be returned direct to the Monitoring Officer

This declaration has been registered by me:	
Monitoring Officer	Date:

Appendix 7

The Granting of Dispensations

1. Dispensations may be granted in the following circumstances:
 - 1.1 That so many members of the decision making body have DPIs or NPIs in a matter that it would “impede the transaction of the business”. In practice this means that the decision making body would be inquorate as a result.
In such cases the power to grant any dispensation rests with the Monitoring Officer (s.33(2)(a) of the Localism Act 2011)
 - 1.2 That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the likely outcome of any vote relating to the business.
In such cases the power to grant any dispensation rests with the Standards Sub-Committee for Granting Dispensations (s.33(2)(b) of the Localism Act 2011)
 - 1.3 That granting the dispensation is in the interests of persons living in the authority’s area
In such cases the power to grant any dispensation rests with the Standards Sub-Committee for Granting Dispensations (s.33(2)(c) of the Localism Act 2011)
 - 1.4 That without a dispensation, no Member of the Cabinet would be able to participate on the matter to be transacted by Cabinet. In practice this means that Cabinet would be inquorate.
In such cases the power to grant any dispensation rests with the Monitoring Officer. (s.33(2)(d) of the Localism Act 2011)
 - 1.5 That the authority considers that it is otherwise appropriate to grant a dispensation
In such cases the power to grant any dispensation rests with the Standards Sub-Committee for Granting Dispensations (s.33(2)(e) of the Localism Act 2011)

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- 2 Any grant of a dispensation will specify how long it lasts for, up to a maximum of 4 years
- 3 Following any decision by the Monitoring Officer under 1.1 or 1.4 above, there will be a right of appeal to the Sub-Committee of the Standards Committee.
- 4 The Monitoring Officer will keep a register of all dispensation requests, recording the decision, the member any dispensation is given to, when it starts and when it ends.

AMENDMENTS TO THE DISTRICT COUNCIL'S CONSTITUTION

Modern Local Government Group – 11 July 2012

Report of the: Deputy Chief Executive & Director of Corporate Resources

Status: For Decision

Also considered by: Council – 24 July 2012

Key Decision: No

Executive Summary: This report outlines two amendments to the Council's Constitution one relating to the number of meetings and one relating to the delegated powers of the Community and Planning Director,

This report supports the Key Aim of Effective Management of Council Resources

Portfolio Holder Cllr. Mrs. Bracken

Head of Service Head of Legal and Democratic Services, Christine Nuttall

Recommendation to Modern Local Government Group and Council : It be RESOLVED that:

MLG agrees and recommends to Council that the amendments outlined in the report be agreed.

Reason for recommendation: To ensure that the Council's constitution reflects current practice and that delegated authority in relation to planning matters can be reviewed in the light of changed circumstances.

Introduction

(1) The Constitution sets out how the Council operates and how decisions are made. It sets out the procedures which are followed to ensure that these decisions are efficient, transparent and that those who make the decisions are accountable to local people.

(2) Some of these procedures are required by law, while others are a matter for the Council to choose. The purpose of the Constitution is to:

- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- support the active involvement of local people in local authority decision making;
- help Members represent local people more effectively;

Agenda Item 2

- enable decisions to be taken efficiently and effectively; and
- hold decision makers to public account.

(3) Part 1, paragraph 2.4 of the Council's constitutions states that except for changes required by statute, changes to the constitution will only be approved by the full Council after consideration of the proposal by the Modern Local Government Group.

(4) At the beginning of the 2011/12 municipal year the Leader of the Council nominated the Chairman and Vice-Chairman of the three Select Committees. This was a departure from the previous practice whereby brief meetings of the Committees would be held immediately after the Annual Council Meeting with five further meetings being held throughout the year. Accordingly, Part 5, paragraph 5 of the Council's Constitution states that 'there shall be at least six ordinary meetings of each Select Committee in each year'. However, as there is now no requirement to have the "business meetings" immediately following the Annual Council Meeting in order to elect the Chairman and Vice-Chairman, the constitution needs to be updated to reflect that there is no longer a requirement to have at least six meetings.

(5) The amendments to the Constitution outlined in **Appendix A** will bring the constitution into line with the new working practice whilst also providing an element of flexibility.

(6) **Appendix B** contains an addition to the Constitution with regards to delegated powers to the Community and Planning Director. The amendment relates to the specific circumstance where planning permission has been refused under delegated powers, an appeal has been lodged and new information has been received that leads Officers to conclude that refusal of permission can no longer be substantiated at appeal. Under these circumstances the matter will be referred back to Members to enable the original delegated refusal to be reviewed.

(7) The need for the proposed amendment arose following a change in circumstances during a recent appeal process and which led the Planning Officer to conclude that the original reason for refusal could no longer be sustained at the appeal.

(8) The revision under consideration has been drafted in consultation with Members and Officers and is intended to strengthen the democratic process for Development Control matters to enable the original delegated refusal to be reviewed.

Key Implications

Financial

(9) The need to review the delegated authority may result in the need for an extraordinary Development Control meeting. This would have a cost implication.

Community Impact and Outcomes

(10) A review of the delegated planning decision could have an impact upon the parties involved.

Legal, Human Rights etc.

- (11) Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review.

Equality

- (12) There are no specific equality implications arising from these proposals. These proposals do not have any particular implications regarding one “protected group” over another.

Conclusions

- (13) Members are recommended to approve the minor amendments to the Constitution which will support the democratic process.

Appendices:

Appendix A: Minor amendment to Part 5 of the Constitution

Appendix B: Changes to delegation to the Community and Planning Services Director

Background Papers:

Sevenoaks District Council Constitution

Contact Officer(s):

Philippa Gibbs Ext 7247

Dr Pav Ramewal

Deputy Chief Executive & Director of Corporate Resources

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PART 5 - OVERVIEW AND SCRUTINY FUNCTION

5. Overview and Scrutiny Procedure Rules

Meetings of the Select Committees

- 5.5 There shall be a maximum of five ordinary meetings of each Select Committee in each year. In addition, other meetings may be called from time to time as and when appropriate. A meeting of a Select Committee may be called by the Chairman of the relevant Select Committee, by a quarter of the members of the relevant Committee or by the Chief Executive (in consultation with the relevant Chairman or Vice-Chairman, if available) if he considers it necessary or appropriate.

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Changes to Delegated Powers

13. Delegations to the Community and Planning Services Director

Development Services

(a)

- (4) Where permission has been refused under delegated powers, an appeal has been lodged and new information has been received that leads Officers to conclude that refusal of permission can no longer be substantiated at appeal, the matter will be referred back to Members to enable the original delegated refusal to be reviewed.

If sufficient time is available, local Members will be asked to agree to a decision no longer to oppose the scheme following the procedure for delegated decisions and if the local Members do not agree the matter will be referred to the Development Control Committee including, if necessary, an emergency meeting.

If the appeal timetable does not allow for the above process to be completed in time, the review of the delegated decision will be referred to a Panel of three Members of the Committee for decision, after consultation with the local Members.

The Chief Executive will call a meeting of one of the Panels whenever there is business to be transacted.

A Panel will contain three Members of the Development Control Committee. Either the Chairman or Vice-Chairman of the Development Control Committee will be one of the Members of the panel and other Members of the Panel will be selected sequentially in alphabetical order. Local Members should not normally be part of the Panel but will have the right to address the Panel for a maximum of 3 minutes.

Any Member of the Development Control Committee may act as a substitute on a Panel. Democratic Services must be notified by the Members concerned of any substitutions at least one working hour prior to a Panel meeting.

The Chairman or Vice-Chairman of the Development Control Committee, whichever is present, will be the Chairman of the Panel.

The quorum for a Panel meeting shall be three Members.

The procedure will not apply to the review of individual reasons for refusal where the decision to refuse permission does not change.

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