

**STANDARDS COMMITTEE**  
**16 January 2014 at 7.00 pm**  
**Conference Room, Argyle Road, Sevenoaks**

**AGENDA**

**Membership:**

Chairman: Cllr. Gaywood Vice-Chairman: Cllr. Ball  
Cllrs. Mrs. Bosley, Mrs. Bracken, Brown, Lindsay and Mrs. Morris

	<b><u>Pages</u></b>	<b><u>Contact</u></b>
<b>Apologies for Absence</b>		
1. <b>Minutes</b> To agree the Minutes of the meeting of the Committee held on 24 January 2013, as a correct record.	(Pages 1 - 6)	
2. <b>Declarations of interest</b> Any interests not already registered		
3. <b>Monitoring Officer's Annual Report</b>	(Pages 7 - 24)	Christine Nuttall Tel: 01732 227245
4. <b>Openness and Transparency on Personal Interests</b>	(Pages 25 - 44)	Christine Nuttall Tel: 01732 227245
5. <b>Review of arrangements for the Standards Regime</b>	(Pages 45 - 74)	Christine Nuttall Tel: 01732 227245

**EXEMPT ITEMS**

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

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 Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

**The Democratic Services Team (01732 227241)**

This page is intentionally left blank

**STANDARDS COMMITTEE**

Minutes of the meeting held on 24 January 2013 commencing at 7.00 pm

Present: Cllr. Firth(Chairman)

Cllr. Ball (Vice-Chairman)

Cllrs. Mrs. Bracken, Dickins, Mrs. Dibsall and Gaywood

Apologies for absence were received from Cllr. Mrs. Purves

1. Appointment of Chairman and Vice-Chairman

Councillor Gaywood proposed and Councillor Bracken seconded that Councillor Firth be appointed Chairman for the 2012/13 municipal year.

(Councillor Firth in the Chair)

Councillor Bracken proposed and Councillor Mrs Dibsall seconded that Councillor Ball be appointed Vice-Chairman for the 2012/13 municipal year.

2. Minutes

Referring to Minute 16, the Chairman noted that the Monitoring Officer had been awaiting further regulations on disclosable pecuniary interests to be announced by the Secretary of State and questioned whether the Regulation had been published. The Monitoring Officer confirmed that they had been published and were reflected in the Code of Conduct approved by Full Council on 24<sup>th</sup> July 2012.

In response to another question, the Monitoring Officer confirmed that the District Council was maintaining a separate register of interests for Town and Parish Council's.

The Chairman questioned whether many different codes of conduct had been adopted across the District. A Councillor who sat on the Standards Task and Finish Group reported that after thorough investigation the District Council had adopted the DCLG ('Bob Neill') Code. The National Association of Local Councils (NALC) had also published a model Code of Conduct and a number of the Parish and Town Councils had adopted this. The different model codes of conduct had been set out in the report to Full Council on 24<sup>th</sup> July 2012. Another Member who had sat on the Standards Task and Finish Group reported that in an ideal world one Code of Conduct would have been adopted across the District however, this had not happened. In time it would be prudent to undertake a full review of the system and identify where there were areas for improvement.

The Committee agreed that in time it could be helpful to constitute a smaller task and finish group to consider other secondary codes that may be needed, such as gifts and hospitality. Membership for the group would be drawn from the Standards Committee.

## Agenda Item 1 Standards Committee - 24 January 2013

Resolved: That the minutes of the Standards Committee held on 26 January 2012 be approved.

### 3. Declarations of interest

There were no additional declarations of interest.

### 4. Monitoring Officer's Annual Report

The Committee considered the eighth Annual Report of the Monitoring Officer which provided an overview of the work of the Monitoring Officer, the work of the Standards Committee and general governance arrangements within the Council in the past year. The report set out the Monitoring Officer's statutory responsibilities and summarised how the duties had been discharged during 2012.

The Monitoring Officer highlighted that there had been a number of changes over the past year and, thanks to the work of the Standards Task and Finish Group, the transition to the new standards regime had been seamless.

A Member who has also been a member of the Standards Task and Finish Group reported that the new standards regime was underpinned by the basic principle that Parliament was not interested in minor tit-for-tat complaints but was mainly interested in financial fraud. The Member also highlighted that as a result of the Localism Act 2011 there were only limited sanctions for members who were found to have breached the Code of Conduct.

Following a discussion on the sanctions that were available it was agreed that the Portfolio Holder for Safer Communities would circulate the advice given by Clive Sheldon QC regarding sanctions.

Another Member questioned whether there was anything more that the District Council could do to encourage Parish and Town Councils to adopt one single Code of Conduct across the District. The Committee asked the Monitoring Officer to write to the Clerks and Chairmen of Parish and Town Council asking what Code of Conduct their Councils had adopted.

In response to a question regarding the nature of complaints made to the Local Government Ombudsman the Monitoring Officer circulated the letter from the Local Government Ombudsman outlining the types of complaint that had been received. The Monitoring Officer also reported that the Customer Services Manager could circulate some further information to Members of the Committee as long as there was no breach of data protection. The Chairman stressed that it was important for the Standards Committee and the Performance and Governance Committee to receive detailed information of the complaints that were investigated by the Local Government Ombudsman.

A Member also highlighted that the list of meetings on page 21 of the report reflected only the statutory meetings held by the Council. In addition to the 82 meetings listed, there were also working group meetings, briefing meetings and the Standards Task and Finish Group meetings which were all serviced by Officers. The Member stressed the need for Councillors to bear in mind the costs involved in requests that were made to

officers and ensure that member governance structures were cost effective and sustainable.

The Committee thanked the Monitoring Officer for the concise and comprehensive report and the work that she had undertaken over the previous year.

Resolved: that

- (a) The Monitoring Officer's Annual Report be endorsed; and
- (b) Full Council be recommended to endorse the Monitoring Officer's Annual Report.

5. Review of the New Standards Regime

New Standards Arrangements were approved by Council on 24 July 2012 following the implementation of the Localism Act 2011 and supporting legislation. Council on 24 July 2012 agreed that the Standards Committee and/or the Modern Local Government Group keep the Code and Arrangements under review and report further to the Council as is considered necessary. The Committee considered a report setting out how the new regime was working and proposing minor amendments by way of a desk top review from experience to date.

The Monitoring Officer reported that although there had been an increased number of complaints against town and parish councillors she felt that this had nothing to do with the new procedures and it appeared that the initial intake test was working well.

The Committee considered the processes of the initial intake test in detail and a Member suggested that the 'private capacity test' be moved into the initial intake test.

The Committee also agreed that the timescales for submitting complaints should be reduced to 30 days as this should give complainants more than enough time to gather evidence and draft their complaint. Members also agreed that the wording regarding the six week election period should be tightened to only include elections in which the Subject Member or the complainant were participating.

In response to a question surrounding the proposed changes, the Monitoring Officer confirmed that on 24 July 2012 Full Council had delegated authority for minor consequential changes to be made to the processes and procedures.

The Committee also considered issues surrounding vexatious complaints and the Portfolio Holder for Safer communities suggested that it would be helpful for the Monitoring Officer to develop a vexatious complaints procedure and report back to the Standards Committee.

The Monitoring Officer also sought approval to advertise for another Independent Person as the term of office of the current Independent Person would end in June 2013 and it would be beneficial for there to be a period of work shadowing.

## Agenda Item 1 Standards Committee - 24 January 2013

The Committee asked the Monitoring Officer to provide some additional training to new Members of the Standards committee on the new standards regime and processes as this would help new Members who may be required to consider complaints in the future.

Members thanked the Monitoring Officer for the comprehensive report and all the work that had gone into developing the new standards processes.

Resolved: That the following minor consequential changes be made to the Council's new processes and procedures in relation to the new standards regime as follows:

- a) The criteria in relation to the Initial Intake Test be strengthened by the following amendments being made:
  - The behaviour took place within the last 30 days
  - The complaint is not being made within 6 weeks prior to an election where the Member subject to the complaint or the complainant is a candidate (no action will be taken in relation to such a complaint within this period)
  - The Member was acting in their official capacity. (If there is ambiguity the box should still be ticked and the matter assessed).
  - The complaint is a substantive allegation under the Code rather than a service, officer or a statement of policy disagreement or a disagreement within another organisation, such as a political group (in this case the complainant may be directed to refer the complaint to another organisation).
- b) The relevant Clerk be informed of a complaint relating to a Town or Parish Councillor when a complaint passes the Initial Intake Test.
- c) The Monitoring Officer advertises for an additional Independent Person, who would meet the legal criteria for appointment beyond 1<sup>st</sup> July 2013.

### 6. Dispensation in Relation to Setting the Council Tax or a Precept

The Monitoring Officer explained that there had been some suggestion that Members would require a dispensation in order to consider Council Tax Setting over the coming weeks as they could potentially have a Disclosable Pecuniary Interest if they owned a property within the area for which the Council Tax was being considered. There had been legal advice on this from the National Association of Local Councils (Nalc) and The Association of Council Secretaries and Solicitors (Acscs) although it was felt that some additional clarification was needed.

The Portfolio Holder for Safer Communities highlighted that the former Minister responsible for the Localism Act, Bob Neill, had taken the very robust view that Councillors, in considering council tax, did not have Disclosable Pecuniary Interests and would therefore not need dispensations. The Member highlighted that it was never the

intention of Parliament for every Member voting on Council Tax setting to have a Disclosable Pecuniary Interest.

The Committee agreed that if Clerks of Parish and Town Councils requested advice on this they could be signposted to the advice that was currently available on the need for granting dispensations when setting their precept.

However the Committee did not feel that there was any need for the Monitoring Officer to grant dispensations to Members when debating and voting on setting the Council Tax for the District.

The Committee thanked the Portfolio Holder for Safer Communities for the research that she had undertaken on this matter.

THE MEETING WAS CONCLUDED AT 8.40 PM

CHAIRMAN

This page is intentionally left blank

## **MONITORING OFFICER'S ANNUAL REPORT**

### **Standards Committee – 16 January 2014**

Report of	Monitoring Officer
Status:	For consideration and decision
Also considered by:	Council – 18 February 2014
Key Decision:	No

---

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

**Contact Officer(s)** Mrs Christine Nuttall – Chief Officer Legal and Governance

---

**Recommendation to the Standards Committee:** That the Monitoring Officer's Annual Report be noted.

**Recommendation to Full Council:** That the Monitoring Officer's Annual Report be noted.

---

**Reason for recommendation:** This report sets out the work of the Monitoring Officer, Standards Committee and other governance arrangements monitored by other committees within the Council thus providing Members and the public with valuable information which should promote Member and Public confidence in the high ethical standards set by the Council.

---

### **Introduction and Background**

- 1 This is the ninth Annual Report of the Monitoring Officer as attached as an appendix to this report.
- 2 The purpose of the Monitoring Officer's Report is to provide an overview of the work of the Monitoring Officer, the work of the Standards Committee and the general governance arrangements within the Council in the past year and to provide an opportunity to review and learn from experience.
- 3 The information contained within this Report will also provide Members of the Standards Committee, with an overview of the workings of the Council thus providing them with valuable information to facilitate the carryout of their functions.

### **Substance of Report**

- 4 The Monitoring Officer's Report sets out the Monitoring Officer's statutory responsibilities, summarises how these duties have been discharged during 2013

## Agenda Item 3

in accordance with the Council's Constitution, legislative requirements and draws attention to those issues that will require attention in the next calendar year.

### Key Implications

#### Financial

- 5 The Monitoring Officer's Report has not identified any financial implications for this Council over and above normal requirements.

#### Legal Implications and Risk Assessment Statement.

- 6 The Monitoring Officer's Report has not uncovered any illegality.

#### Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	N/A
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	The report provides insight into the high ethical standards applied across all levels of the authority.
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

### Conclusions

- 7 The Monitoring Officer's report sets out the elements of good governance and demonstrates that robust procedures are in place to raise ethical standards, identify problems and ensure that Members, Officers and the Public are aware of appropriate channels to raise concerns.

#### **Appendices**

Appendix – Monitoring Officer's Report

#### **Background Papers:**

Information supplied by various officers and sections of the Council

**Mrs Christine Nuttall**  
**Chief Officer for Legal and Governance**

**REPORT OF THE  
MONITORING OFFICER  
2013**

### Introduction

This is the ninth Annual Report of the Monitoring Officer for the period January 2013 to December 2013. The purpose of the report is not only to provide an overview of the work of the Monitoring Officer in the past year, but also to provide an opportunity to review and learn from experience. This report therefore sets out the Monitoring Officer's statutory responsibilities and summarises how these duties have been discharged from the last Monitoring Officer's Report for the period January 2012 to December 2012. The Report also highlights the work of the Standards Committee.

### 1. Recommendations

That the Standards Committee comments on and notes the Monitoring Officer's Annual Report.

That the Full Council notes the Monitoring Officer's Annual Report.

### 2. The Role of the Monitoring Officer

The role of the Monitoring Officer derives from the Local Government and Housing Act 1989. The Act requires local authorities to appoint a Monitoring Officer.

The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision making, ensuring compliance with Codes and Protocols and promoting good governance and high ethical standards.

A Summary of the Monitoring Officer's Functions is as follows:

<u>Description</u>	<u>Source</u>
Report on contraventions or likely contraventions of any enactment or rule of law	Local Government and Housing Act 1989
Report on any maladministration or injustice where the Ombudsman has carried out an investigation	Local Government and Housing Act 1989
Appoint a Deputy	Local Government and Housing Act 1989
Establish and maintain the Register of Members' interests.	The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 The Localism Act 2011 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Report on sufficiency of resources.	Local Government and Housing Act 1989

<u>Description</u>	<u>Source</u>
Maintain the Constitution	The Constitution
Promote and maintain high standards of conduct.	The Localism Act 2011
Grant Dispensations	The Localism Act 2011 and delegation from Council
Consulting with, supporting and advising the Head of Paid Service and s.151 Officer on issues of lawfulness and probity.	The Constitution
Appointing an Investigating Officer in relation to Member Complaints	The Localism Act 2011 and the Constitution
Advising the Standards Hearings Sub Committee in relation to allegations of breaches of the Code of Conduct and advising when matters are determined following an investigation	The Localism Act 2011 and the Constitution
Advise on whether executive decisions are within the Budget & Policy Framework.	The Constitution
Provide advice on vires issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all members.	The Constitution and s.5 of Local Government and Housing Act 1989
Legal Advice and Support to the authority	The Constitution
Considering whether certain Information is exempt from disclosure under the Freedom of Information Act.	Freedom of Information Act 2000

### **3. The Constitution**

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. The Monitoring Officer is responsible for ensuring that the Constitution operates efficiently, is properly maintained and is adhered to.

### **3.1 Constitutional Review and Revision**

This Council continues to update its Constitution as and when necessary and reports to the Governance Committee of the Council in this respect.

On the 23<sup>rd</sup> April 2013 Council approved a proposed new governance structure following Members concerns with the previous structure in the following areas:

Perception of remoteness/inaccessibility of portfolios; feeling of disengagement from influence and decision-making; lack of training and development (succession planning for future Cabinet members); and the need to streamline the system to match the resource available.

The approval was subject to detailed mechanisms being brought back to the Annual Council in May 2013 to enable implementation of the structure with a review of the new governance arrangements being undertaken and reported back to Full Council by April 2014. In addition, options requiring more detailed consideration, such as the Committee System or a Hybrid Model requiring Secretary of State approval, were to be investigated during the next municipal year. The new governance structure was accordingly approved at Annual Council on the 14<sup>th</sup> May 2013.

The Governance Committee has started the review of the new governance structure and to date have invited Members to give their views on the new governance arrangements through a survey. The questions were focused on whether the new arrangements meet with the initial aims and have suitably addressed Members' concerns. The results of the survey along with other research will be reported to Full Council in April next year.

On the 19<sup>th</sup> February 2013 Council approved a senior management restructure and as a result consequential changes needed to be made to the Constitution in order for these to be in place when the new senior management structure took effect on 1<sup>st</sup> September 2013. The necessary amendments were made under delegated authority and later approved by Council on the 1<sup>st</sup> October 2013.

### **3.2 Fitness for Purpose**

The Constitution sets out in clear terms how the Council operates and how decisions are made. Some of these processes 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;
- enable decisions to be taken efficiently and effectively; and
- hold decision makers to public account.

#### **3.3 Managing the Constitution**

Any significant changes to the Council's decision making arrangements and Committee structure need to be approved by full Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Governance Committee ensures that this takes place.

#### **4. Lawfulness and Maladministration**

The Monitoring Officer is the Council's lead adviser on issues of lawfulness and the Council's powers and in consultation with the Head of Paid Service/s.151 Officer and the Chief Finance Officer, advises on compliance with the Budget and Policy Framework. Part of this role involves monitoring Committee reports, agendas and decisions to ensure compliance with legislation and the Constitution. The Monitoring Officer ensures that agendas, reports and minutes of all Council meetings are made publicly available unless there is a reason for exemption under the Local Government Act 1972. In addition Portfolio Holder decisions are also made publicly available subject to the same caveat as are all planning and licensing decisions made by Officers. All such decisions can be viewed by members of the public through the Council's website: [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk).

If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration she must report to the full Council or where appropriate the Cabinet after first consulting with the Head of Paid Service/s.151 Officer. Any proposal or decision that is subject to such a report cannot be implemented until the report has been considered.

The sound governance arrangements operated by the Council ensure that the power to report potentially unlawful decision making is rarely used and the Monitoring Officer has not had to issue such a report throughout 2013.

### **4.1 Reports from the Local Government Ombudsman**

The annual letter from the Local Government Ombudsman used to set out a summary of statistics on the complaints made to the Ombudsman about the Council for the year.

The annual letter this year, only presents the total number of complaints received and does not provide the more detailed information that the Local Government Ombudsman offered in previous years. The reason for this is that they have changed their business processes during the course of the year and therefore could not provide a consistent set of data for the entire year.

In 2012/13 the Local Government Ombudsman received 11 complaints about our local authority with 8 decisions being made and this statistic compares favourably with the average number of complaints received by other District/Borough Councils.

No compensation payments were made by Sevenoaks District Council in relation to the complaints that went to the Local Government Ombudsman and there was no finding of maladministration.

### **5. Report of the Chief Surveillance Commissioner**

On the 19<sup>th</sup> June 2013 the Council was inspected by the Office of the Surveillance Commissioner (OSC). These inspections are carried out on a 3 yearly basis.

The Regulations of Investigatory Powers Act 2000 (RIPA) introduced a statutory framework for those carrying out a surveillance as part of an investigation. The Protection of Freedoms Act 2012 (2012 Act) amended RIPA to provide additional controls. The internal authorisation process is now followed by external authorisation from a Justice of the Peace.

For the Council surveillance activities are most likely to be carried out within the areas of benefit fraud and environmental health. However, in practice the District Council seeks to carry out enforcement activity by overt means whereby it is not necessary to engage the provisions of RIPA.

On the 10<sup>th</sup> September 2013 the Audit Committee considered a report recommending the adoption of a revised surveillance policy and the approval of reporting arrangements to Elected Members following the Commissioner's inspection.

In the last three years there has been only one instance of covert monitoring which had related to a housing benefit contravention where it has been necessary to undertake surveillance outside a house. No surveillance operations have taken place in the last three months.

Training on RIPA for officers of this Council took place on the 11<sup>th</sup> November 2013 with an emphasis on allowing delegates to do their job whilst respecting the law. Delegates worked through a number of real life case studies and exercises in order to discuss issues that commonly arise.

Council on the 1<sup>st</sup> October 2013 noted the Chief Surveillance Commissioner's report, adopted the revised Surveillance Policy and agreed an annual report with quarterly updates being made to Councillors by e-mail in addition to being available on the Members Electronic Portal.

#### **6. Good Governance**

The Monitoring Officer has a pro-active role in promoting good practice, good procedures and good governance. This involves networking, collaboration and joined-up working practices and decision making as well as ensuring standing orders, codes of practice, procedures are kept under review and up to date. Collaborative working entails regular weekly meetings with the Chief Executive/s.151 officer, Chief Officers/Senior Management Team as well as working in partnership with other departments to develop and disseminate policies and procedures. There is also the work undertaken in partnership with other authorities.

In 2013 the Council stepped up its efforts to bring further economic growth to the District.

After months of planning, and negotiation, the Council secured a new Marks & Spencer department store for Sevenoaks town. Construction began on the 2,700 square metre retail development in May, which is set to open its doors to customers in the summer of 2014. The store is expected to attract new shoppers to Sevenoaks benefitting existing traders while securing the town's retail future.

In partnership with the county and neighbouring councils, Sevenoaks District Council successfully bid for £5.5 million of interest free loan funding for local businesses. The money will be used to support fast growing companies to safeguard or create 1,200 jobs in the area.

Other initiatives included launching a free e-mail newsletter for businesses, using planning policies to protect key office space from potential housing development and free car parking in the District's retail centres in the run-up to Christmas.

Building on the 2012 Paralympic Games legacy, the Council encouraged more people to take up cycling by installing 60 plus bike racks across the District and working with British Cycling to run a series of community cycle rides. It also secured £50,000 in funding to install an Adizone outdoor gym in West Kingsdown where the Paralympic cycling Games took place.

This year has seen significant change at the Council. After 10 years our Chief Executive retired and was succeeded by the Council's Finance Director. One of the first tasks undertaken by the new Chief Executive/s.151 Officer was to introduce a streamlined senior management structure creating financial savings for the Council.

The Council went under the microscope in December when it volunteered for a Peer Review by the Local Government Association (LGA). The review involved a number of officers and Councillors from other councils and together with sector experts, including the Department for Communities and Local Government's Finance Director, looking at how well it performs and testing its plans for the future.

Their feedback was extremely positive. The LGA team said they were impressed with the Council's financial management, culture, high levels of customer satisfaction and the pride staff take in their work, helping it achieve one of the best reputations in local government. They also praised the way the Council works with the community and partner organisations to deliver its vision to improve the quality of life in the District.

### **7. The Ethical Framework and Work of the Standards Committee**

The New Standards Committee which was introduced on the 24<sup>th</sup> July 2012 comprises 7 Members in accordance with the political balance rules.

An Independent Person has a statutory role under the Localism Act 2011 and Mr John Linehan was appointed Independent Person and Mrs Elaine Jackson was appointed as the reserve Independent Person for the purposes of the Localism Act 2011 by a majority of the Council with immediate effect from the 23<sup>rd</sup> April 2013. The Independent Persons are not Members of the Standards Committee although they are given details of the Committee's meeting date in order that they may attend. The Independent Persons assist the Monitoring Officer in considering complaints and will also be consulted by the Monitoring Officer following investigations to help decide what action to take. The Independent Person may also be contacted by Councillors who are the subject of any complaint.

The Standards Committee has a key role in facilitating and promoting the Ethical Framework and in promoting and maintaining high standards of conduct within the Authority. The terms of reference of the committee are set out within Part 3 of the Constitution entitled "Standards Committee".

Examples of the Standards Committee's work during 2013 is as follows:

- Receive the Annual Monitoring Officer's Report
- Review of the New Standards Regime and making minor amendments
- Reviewing the need for a Dispensation in Relation to Setting the Council Tax or a Precept
- Standards Training
- Looking at Openness and transparency in relation to interests

#### **7.1 Maintaining a Register of Member Interests**

The codes of conduct of relevant authorities must include provision for the registration and disclosure of "disclosable pecuniary interests", as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Members with disclosable pecuniary interests in the business of their authorities are prohibited from participating in such business unless they have a dispensation. The Localism Act 2011 has introduced criminal offences relating to failure to register disclosable pecuniary interests. Members convicted of such offences are liable to a scale 5 fine and may also be disqualified from being a councillor for up to five years.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Members at this Council through training have been made aware that even if a Member's interest does not amount to a disclosable pecuniary interest, if their interest in a matter would lead them to predetermine a decision, it would not be appropriate for that member to participate in the decision, If they did so the decision could be vulnerable to challenge.

In addition, the Department for Communities and Local Government have stated that where a Councillor receives a taxable allowance from any authority of which they are a member, the allowance would give rise to a disclosable pecuniary interest that should be entered on the registers of interests under "Employment, office, trade, profession or vacation. However, the question of whether a Councillor has a disclosable pecuniary interest in an item of Council business related to another authority of which he is a member will depend on the nature of what is to be discussed.

The prohibitions on councillors participating in any discussion or vote on an item of Council business in which they have a disclosable pecuniary interest ensures that Councillors cannot put their private financial interests before the public interest. However, where a Councillor has a disclosable pecuniary interest but stand to make no personal financial gain by participating in a discussion or vote on Council business related to that interest, they can apply for a dispensation, under section 33 of the Localism Act 2011. The grounds for granting a dispensation will depend on the circumstances.

#### **6.1 Code of Conduct for Employees**

The Code is based on an original draft published by the IDeA and has been updated since being implemented in 2006. The Code forms part of the employers' terms and conditions of employment. The Code is well publicised on the Council's internal intranet and is introduced to employees through the induction process.

Under the Code employees must declare any non-financial or financial interests that they or members of their family have which they consider could conflict with the Council's interests. Chief Officers and the Chief Executive declarations of non-financial or financial interests are declared to the Monitoring Officer.

All relationships of a business or private nature with external contractors, or potential contractors should be made known to the employees' Managers and Chief Officers.

All hospitality received and given should be appropriate, necessary and must, wherever possible, have the prior sanction of the relevant Chief Officer and must be recorded in the Hospitality book kept by the Chief Executive's Secretary. There is a Protocol on Corruption, Gifts and Hospitality contained within the Staff Code of Conduct.

#### **6.2 Whistle Blowing**

The Council's Whistle Blowing Policy was amended in March 2012 to reflect the requirements of the Bribery Act 2010. The Policy sets out how to raise concerns within the organisation with employees encouraged in the first instance to raise concerns with their immediate manager or superior.

Concerns may be raised verbally or in writing and there is a dedicated telephone number which allows communication in confidence to the Audit and Fraud Team.

A record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) is maintained and reported (in such a way as to preserve confidentiality), to the relevant committee of the Council.

The Policy is intended to provide an avenue within the Council to raise concerns. However, if it is felt that it is right to take the matter outside the Council contact points are given as follows:

- Public Concern at Work
- Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- Relevant voluntary organisation
- The police
- Trade Union representative
- Local Government Ombudsman

In the last calendar year no concerns have been raised under the Whistle Blowing Policy.

#### **6.4 Human Resources Strategy and Workforce Plan**

A Human Resources Strategy and Workforce Plan is available on the Council's internal intranet which incorporates many policies, strategies and procedures. These are regularly reviewed in line with legislative changes.

#### **6.5 New Standards**

The Localism Act 2011 and subordinate legislation made extensive changes to the Standards regime which had previously applied under the Local Government Act 2000 and subordinate legislation. The changes are to achieve high standards of conduct and to put in place an appropriate regime.

Under the new regime Councils have been obliged to adopt a Code of Conduct for their Members and Co-opted Members as part of their duty to promote and maintain high standards of conduct. These include provisions relating to the registration and disclosure of interests although, unlike the arrangements under the previous legislation, authorities were no longer required to adopt codes based on a national model. However, most authorities have chosen to adopt codes which reflect models suggested by various recognised organisations. Sevenoaks District Council chose the text published by the Department for Communities and Local Government (DCLG).

Town and Parish Councils will have adopted their own Codes although they must be based on the seven Nolan principles laid down in the Localism Act 2011. The District Council encouraged Town and Parishes to adopt the Sevenoaks District Council Code,

although it is known that some have adopted the National Association of Local Council's model.

Councils in England are no longer required to have the statutory Standards committee which was established under the provisions of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008. However, the majority of Councils did choose to retain such a committee including Sevenoaks District Council. The new standards committee is an ordinary committee of the council which means that it is politically balanced and subject to the usual requirements relating to access to information.

Under the Localism Act 2011 authorities are not obliged to include provisions in their arrangements for members to be able to appeal against findings that they have breached the code of conduct of their authorities. This Council decided not to include appeal provisions in their arrangements although for procedural irregularity a complaint can always be made to the Ombudsman.

The Localism Act 2011 makes no provision for sanctions against Members who are found to have breached the codes of conduct of their authorities. However, authorities are able to censure members, to publicise breaches of their codes of conduct, to report to their Councils and to recommend that members are removed from positions on committees and outside bodies. This Council decided to include provisions for the Monitoring Officer to be instructed to arrange training for the Member and/or conciliation if appropriate which is a useful practical measure for improving member conduct.

### **6.6 Complaints against Members**

The current Standards Regime, set up under the Localism Act 2011, was implemented by this Council in July 2012.

Allegations of Member Misconduct received under this regime, up to December 2012, numbered 15. All of these related to Parish/Town Council Members (no complaints relating to District Councillors) and 11 of these complaints related to one Parish Council. None of these complaints went to formal investigation.

Three complaints have been received between January and December 2013:

	<b>Subject Member</b>	<b>Complainant</b>	<b>Received</b>	<b>Assessed</b>	<b>Result</b>
13/01	Parish/Town	Councillor	January 13	January 13	No Further Action
13/02	District	Member of the public	January 13	February 13	No Further Action
13/03	Parish/Town	Councillors (4)	April/May 13	July 13	Informal Resolution, with the help

					of the Independent Person
--	--	--	--	--	---------------------------

The last meeting of the Standards Committee, which took place on 24 January 2013, reviewed the procedures put in place in July 2012 in light of the complaints received in 2012. Some Initial Intake Criteria were strengthened to improve the process of receiving and considering such Complaints.

The first complaint in the table above would not have progressed beyond the Initial Intake Stage under these revised criteria, as it related to a disagreement within another organisation.

The second complaint in the table above was subject to a brief deferment as a complaint had been made to the police also. This came to nothing and, under the District Council Assessment, there was no evidence of a breach of the Code of Conduct.

The third complaint could have fallen within the relevant Council's Code; but it was not considered sufficiently serious to warrant an Investigation, and any investigation may not have served any useful purpose. The Independent Person offered to progress the matter to attempt Informal Resolution.

At the time of writing this report there are no outstanding complaints at any stage in the process.

The number of complaints has reduced considerably in 2013. There are no lessons to be picked up from operating the procedures this year requiring amendment to the Intake or Assessment Criteria; but it did prove very useful to have the Independent Person involved in the mediation/conciliation work.

### **7. Equalities and the Public Sector Equality Duty under the Equality Act 2010**

As a community leader, service provider and employer Sevenoaks District Council recognises that everyone has a contribution to make to our society and a right to access services without being discriminated against or disadvantaged.

Sevenoaks District Council is part of the West Kent Equality Partnership which also includes Tonbridge & Malling Borough Council and Tunbridge Wells Borough Council.

The Partnership sets out its aims and commitments for 2012-16 and reviews its progress against its aims and commitments.

**8. Support to Councillors, Cabinet, Scrutiny and Committee Meetings**

The distribution and publication of committee reports, agendas and decisions is central to meeting the requirements of a key deliverable. It is the Monitoring Officer’s responsibility to oversee the process and ensure that these documents comply with statutory and constitutional requirements.

This includes:

- Distributing and publishing all agendas within five clear working days of the meeting taking place and ensuring that all agendas are compliant with the access to information rules and exempt information is marked up accordingly.
- Advertising public meetings five clear days before the meeting date.
- Ensuring that papers are made available to the public.
- Drafting minutes for publication within nine working days.
- Publishing a record of all decisions including key decisions taken by Cabinet within 48 hours (2 working days) of the meeting.
- Ensuring that petitions are handled in accordance with the Council’s Constitution including e-petitioning.
- Ensuring that meetings are accessible.
- Complying with the requirements of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

**9. Statutory Meeting Analysis**

One of the explicit aims of the Council has been to try and streamline the decision making process to allow Council to focus on service delivery.

Between the 15th May 2012 and 14<sup>th</sup> May 2013 the following were serviced:

Full Council Meetings (including 1 annual meeting)	7
Cabinet	11
Performance and Governance Committee	5
Electoral Arrangement Committee	2
Environment Select Committee	5
Services Select Committee	5
Social Affairs Select Committee	4

## Agenda Item 3

### Appendix

Modern Local Government Group	3
Development Control Committee	17
Standards Committee	1
Sevenoaks Joint Transportation Board	4
Licensing Committee	5
Sevenoaks District Locality Board	4
Finance Advisory Group	5
Local Development Framework Advisory Group	3

Other meetings serviced include 6 Licensing Sub Committee hearings.

Annual Council on the 14th May 2013 saw the introduction of the new governance structure.

Between the 15<sup>th</sup> May 2013 and the 31<sup>st</sup> December the following committees under the new structure were serviced (in brackets the figure shows how many additional meetings have been scheduled for the remainder of the Municipal year):

Full Council Meetings (including 1 annual meeting)	3	(2)
Strategy & Performance Advisory Committee	3	(1)
Economic & Community Development Advisory Committee	2	(2)
Finance & Resources Advisory Committee	3	(1)
Housing & Community Safety Advisory Committee	2	(2)
Local Planning & Environmental Advisory Committee	3	(2)
Cabinet	5	(4)
Audit Committee	2	(2)
Licensing Committee	2	(2)
Licensing Sub Committee Hearings	7	(5)
Development Control Committee	11	(5)
Governance Committee	3	(2)
Standards Committee	0	(1)

Sevenoaks Joint Transportation Board	2	(1)
Sevenoaks District Locality Board	1	
Sevenoaks District Strategic Board	1	(1)
Health Liaison Board	2	(2)

The volume of meetings represents a substantial commitment of both Councillors' and Officers' time and resources. It is of great importance that meetings constitute an effective use of time and resources; that they add value to corporate effectiveness and help in meeting the aims and objectives of the Constitution and the Community Plan and Corporate Plan.

**10. Notice of Key Decisions which replaces the Forward Plan**

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 replaced the 2000 Executive Access to Information Regulations. The new regulations only apply to executive decisions. Previously there was a requirement to publish a rolling forward plan at least 14 days before the start of each month that set out details of all the key decisions which the authority anticipated making within the next four months. This has now been replaced by a requirement to publish a 28 clear days' notice of any intended key decision. This notice is available for inspection and is also published on the authority's website. If an urgent decision is required and it is impracticable to give the full notice, the key decision can still be taken if the authority gives at least five days' clear notice to the Scrutiny Committee of the authority which can then call in the decision to check that it was genuinely urgent. Where a key decision is so urgent there is not even time to give five clear days' notice, the authority can still take the decision if the Chairman of the Scrutiny Committee has agreed that the key decision is urgent and cannot reasonably be deferred.

This new requirement is being observed by the authority and by publishing the Notice of Key Decisions the public will be able to find out the expected timing of key decisions.

**10.2 Call-In requests**

There were no call-in requests within 2013.

**10.3 Scrutiny Function**

The Council is required by Law to discharge certain scrutiny functions. These functions are an essential component of local democracy. A Scrutiny Committee is a powerful committee which principally holds the Executive to account for its decisions. Policy development used to take place within the Select Committees and this now takes place within the Cabinet Advisory Committees, this being part of the changes made by the Governance restructure.

**10.4 Member Training and Development**

The New Standards and Conduct Arrangements for Members were adopted by the Full Council on the 24<sup>th</sup> July 2012 and briefing reports on the new system were circulated prior to adoption.

Specialist training on the Code of Conduct and Standards was given on the 27<sup>th</sup> September 2012 by Claire Lefort an Associate at Weightmans Solicitors and a recognised expert in the field of governance and was well attended by both District Councillors and Parish/Town Councillors.

Training for the Independent Person took place on the 4<sup>th</sup> December 2012.

During 2013 the following relevant training has been under taken by the Monitoring Officer and her staff:

March 2013 – training for the (then) Chairman of the Committee.

May 2013 – training for the newly appointed Independent Person and Deputy Independent Person

August 2013 – afternoon training for Members of the Committee

October 2013 – evening training for Members of the Committee

The Monitoring Officer employs an open door policy allowing District Council Members to call in at any time to receive advice.

The New Standards Committee has worked well through out the year as a cohesive group to promote high standards across the whole district.

### **11 Conclusion**

The Monitoring Officer's role in conjunction with the Standards Committee encompasses both proactive and reactive elements. The proactive role centres on raising standards, encouraging ethical behaviour, increasing awareness and utilisation of the elements of good governance and ensuring that robust procedures are in place.

The reactive role focuses on taking appropriate action to deal with issues and potential problems as they arise. The Monitoring Officer together with the Standards Committee's effectiveness in this role is in turn dependent on effective systems and procedures being in place to identify problems and ensure that Members, Officers and Public are aware of appropriate channels to raise concerns.

Christine Nuttall  
Monitoring Officer

**OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS**

**Standards Committee – 16 January 2014**

Report of	Monitoring Officer
Status:	For consideration and decision
Also considered by:	Governance Committee – 29 January 2013 Council – 18 February 2013
Key Decision	No

---

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

**Contact Officer(s)** Mrs Christine Nuttall – Chief Officer Legal and Governance

---

**Recommendation to the Standards Committee:**

- (a) to consider whether the DCLG amendment underlined in red and highlighted in the Illustrative Text, as set out in Appendix A in this report be incorporated into the Sevenoaks District Council’s Code of Conduct;
- (b) to note the amended Department for Communities and Local Government (DCLG) “guide for councillors” set out at Appendix B regarding “Openness and transparency on personal interests”; and

**Recommendation to the Governance Committee:**

- (a) to consider whether the DCLG amendment underlined in red and highlighted in the Illustrative Text, as set out in Appendix A in this report be incorporated into the Sevenoaks District Council’s Code of Conduct;
- (b) to note the amended Department for Communities and Local Government (DCLG) “guide for councillors” set out at Appendix B regarding “Openness and transparency on personal interests”; and

**Recommendation to Full Council:**

- (a) to consider whether the DCLG amendment underlined in red and highlighted in the Illustrative Text, as set out in Appendix A in this report be incorporated into the Sevenoaks District Council’s Code of Conduct;
  - (b) to note the amended Department for Communities and Local Government (DCLG) “guide for councillors” set out at Appendix B regarding “Openness and transparency on personal interests”.
-

## Agenda Item 4

---

**Reason for recommendation:** To keep the Council's Code of Conduct (the Code) under review and to ensure that Members of the Council receive up to date guidance on the Code of Conduct.

---

### **Introduction and Background**

- 6 Following the introduction of the Localism Act 2011 and subordinate legislation extensive changes were made to the Standards regime. The changes were brought in to achieve high standards of conduct and to put in place an appropriate regime. Under the new regime Councils were obliged to adopt a Code of Conduct for their Members and Co-opted Members in order to promote and maintain high standards of conduct. These included provisions relating to the registration and disclosure of interests and authorities were no longer required to adopt codes based on a national model. Most authorities chose to adopt codes which reflected models suggested by various recognised organisations. Sevenoaks District Council chose the text published by the Department for Communities and Local Government (DCLG).
- 7 The DCLG has published revised guidance on Personal Interests, with respect to membership of a Trades Union. The covering letter from DCLG and the Guidance to which it relates concludes that it is a legal requirement that such membership should be 'registered and declared'. The covering letter from DCLG and the changes that would need to be incorporated into our Code of Conduct are shown in red within the DCLG Illustrative Text as set out at Appendix A.
- 8 When it comes to registering and declaring pecuniary and non-pecuniary interests the illustrative text from the DCLG takes the view that membership of a Trade Union is a Non-Pecuniary interest and is not prescribed as a Disclosable Pecuniary Interest. Therefore there is no enforceable criminal legal power to back compliance with this requirement.
- 9 However, the revised guidance as set out at Appendix B explains that any payment or financial benefit from a trade union is a Disclosable Pecuniary Interest. Therefore non disclosure could result in a criminal sanction. The Council's Notification of Disclosable Pecuniary Interests Form does require under Part B Sponsorship disclosure of "Any payment or provision of any other financial benefit (other than from Sevenoaks District Council) ... 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".

### **Registering Membership of a Trade Union**

- 10 It has always been the position of this Council and the Standards Committee that openness and transparency are key to maintaining public confidence in the office of Councillor. With that in mind, when the Council adopted its new Code of Conduct, it continued to be a requirement of the Code that all Members give notification of Non Pecuniary Interests that include "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)”. In conclusion, the Council’s policy position on transparency with respect to Trades Union membership is consistent with the DCLG position.

**Is a Dispensation necessary to take part in Setting Council Tax or a Precept**

6 The position on this has been made clear in the revised guidance which confirms DCLG’s view that a dispensation is not required to take part in the business of setting council tax or a precept, simply by virtue of being a homeowner or tenant within the Authority’s area. The Committee is asked to note this clarification as this was a matter under discussion at the last meeting of the Standards Committee.

**Key Implications**

Financial

7 None.

Legal Implications and Risk Assessment Statement.

8 Under section 28(2) of the Localism Act 2011, “A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure of-

- (a) pecuniary interests, and
- (b) interests other than pecuniary interests”.

Accordingly, Members and Co-opted Members must notify the Monitoring Officer of any interests that the Council has decided should be included in the register.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	This report provides insight into the high ethical standards applied across all levels of the authority.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

## Agenda Item 4

### Conclusions

- 9 The Committee is asked to consider whether the DCLG amendments as set out in red within their illustrative text within Appendix A to this report should be recommended to the Governance Committee for adoption by Council.

### Appendices

Appendix A – Letter from DCLG dated 20<sup>th</sup> September 2013 with illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity with amendments shown in red for possible incorporation in the Members' Code of Conduct.

Appendix B – DCLG's "Openness and transparency on personal interests A guide for councillors"

### Background Papers:

[The Council's Constitution in particular Appendix O "Notification of Disclosable Pecuniary Interests \(Sevenoaks District Council\)" and Appendix Q "Sevenoaks District Council Members' Code of Conduct".](#)

[The Localism Act 2011](#)

**Mrs Christine Nuttall**  
**Chief Officer for Legal and Governance**



Department for  
Communities and  
Local Government

Appendix A

Chief Executives  
Principal Local Authorities in England  
Greater London Authority  
Fire and Rescue Authorities in England  
The London Fire and Emergency Planning Authority  
The Broads Authority  
National Park Authorities in England  
Council of the Isles of Scilly

20 September 2013

Dear Chief Executive,

**OPENNESS AND TRANSPARENCY ON PERSONAL INTERESTS:  
A GUIDE FOR COUNCILLORS**

I enclose a copy of the revised plain English guide for councillors on openness and transparency on personal interests, and a copy of a revised illustrative text for a code of conduct for members and co-opted members of local authorities, both of which the Department has today published on its website.

The guide gives straightforward information about how councillors should be open and transparent about their personal interests. It has been revised with new guidance making it clear that councillors should treat Trade Union membership as a personal, non-pecuniary interest. The illustrative code has been revised to reflect the same guidance.

Where a councillor is sponsored by a Trade Union, this constitutes a disclosable pecuniary interest and as such must be registered and declared. The guide now makes it clear that membership of a Trade Union constitutes a personal interest which should be registered and declared. The Government believes that this new guidance will give local people the confidence that their councillors are putting residents' interests before their own and before those of any particular group. I should be grateful if you would please draw the guide and this correspondence to the attention of your monitoring officer.

Yours sincerely

**Paul Rowsell**

Paul Rowsell  
Deputy Director - Democracy  
Department for Communities and Local Government  
3/J1, Eland House  
Bressenden Place  
London SW1E 5DU  
Tel 0303 44 44166

Email [paul.rowsell@communities.gsi.gov.uk](mailto:paul.rowsell@communities.gsi.gov.uk)



**Appendix A**

**Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

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

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

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

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

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

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

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

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

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

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

**Registering and declaring pecuniary and non-pecuniary interests**

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

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register or which you consider should be included if you are to fulfil your duty to act in conformity with the Seven Principles of Public Life. **These non-pecuniary interests will necessarily include your membership of any Trade Union.**

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'.<sup>1</sup>

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

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

---

<sup>1</sup> 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.



Department for  
Communities and  
Local Government

## Openness and transparency on personal interests

A guide for councillors

## Agenda Item 4

© Crown copyright, 2013

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This document/publication is also available on our website at [www.gov.uk/dclg](http://www.gov.uk/dclg)

If you have any enquiries regarding this document/publication, email [contactus@communities.gov.uk](mailto:contactus@communities.gov.uk) or write to us at:

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

September 2013

ISBN: 978-1-4098--3604-9

## The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011<sup>1</sup>.

### Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.<sup>2</sup>

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

### Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority

---

<sup>1</sup> The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

<sup>2</sup> The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

## Agenda Item 4

- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

### How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.<sup>3</sup>

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

### What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

### What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in

---

<sup>3</sup> <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

### Appendix B

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**<sup>4</sup>

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose<sup>5</sup> this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

## What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider

---

<sup>4</sup> <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

<sup>5</sup> If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

## Agenda Item 4

financial interests they might have (for example trust funds, investments, and assets including land and property).

### Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests or your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

### Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

### Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

### Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district of borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

**Appendix B**

## Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

## When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

## What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

## Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

## Do I need a dispensation to take part in the business of setting council tax or a precept?

## Agenda Item 4

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

### When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

### What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

**Appendix B**

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

## Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

## Annex A

### Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your 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. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
  - the landlord is your council or authority; and
  - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

**Appendix B**

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
  - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
  - (b) either –
    - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



**REVIEW OF ARRANGEMENTS FOR THE STANDARDS REGIME**

**Standards Committee – 16 January 2014**

Report of Monitoring Officer

Status: For consideration

Key Decision: No

---

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

**Contact Officer(s)** Mrs Christine Nuttall – Chief Officer Legal and Governance

---

**Recommendation to the Standards Committee:** That the report be noted.

---

**Reason for recommendation:** To keep the Council’s arrangements for the consideration of complaints under the Standards Regime under review.

---

**Introduction and Background**

- 1 The last meeting of the Standards Committee on 24 January 2013 reviewed the procedures put in place in July 2012 in the light of the complaints received in 2012. Some Initial Intake Criteria were strengthened to improve the process of receiving and considering such complaints.
- 2 As set out in the Monitoring Officer’s Annual Report 2013, elsewhere on this Agenda, the number of complaints received in 2013 was three – a considerable reduction from the previous year. There are no lessons to be picked up from operating the procedures during 2013 requiring amendment to the Intake or Assessment Criteria.
- 3 A small number of issues were raised at the January 2013 meeting for officers to consider, covering:
  - Parish and Town Council Codes
  - Private Capacity
  - Vexatious Complaints

**Parish and Town Council Codes**

- 4 Information has been sought from all Parish and Town Councils in the District with regard to which Code they have adopted. This information has been sought in the past from the relevant Council whenever a complaint had been received.

## Agenda Item 5

- 5 It appears that the only codes adopted are either the SDC (DCLG) Code or the NALC one. This has not been a problem for the District Council in administering the procedures to consider complaints. It may be worth writing again to those that have not adopted the SDC Code, immediately prior to the 2015 elections to try and get them to change to the SDC Code for their new Councils.

### Private Capacity Test

- 6 The issue of “private capacity” was strengthened in the Initial Intake Test, at the last meeting, by adding a Criteria:
- “The Member was acting in their official capacity (if there is ambiguity the box should still be ticked and the matter assessed)”
- 7 This means that if the Member is CLEARLY acting in their private life, the complaint will NOT get through the Initial Intake Test. This arose from complaints in 2012 where this was clearly the case, but which at that time still had to proceed to Assessment.
- 8 Any complaint where there is doubt would continue to Assessment Stage.

### Vexatious Complaints

- 9 The Council’s “Complaints procedure – Guidance for staff” includes a section on Vexatious complaints. A copy of this document is attached at Appendix A and the relevant section is 3.6. The document defines a complaint as vexatious if it is:
- essentially about the same matter that has already been considered, with only very minor differences and does not contain any new information
  - slightly different from the original complaint but about the same broad area of activity. A decision will have to be made as to whether or not the matters are sufficiently different to justify being considered as a new complaint.
  - one where the complainant has already exhausted all stages of the Council’s complaints procedure and possibly the Ombudsman too, but continues to send in complaints covering the same ground and the Council cannot comment any further apart from restating information previously given.
- 10 With regard to the Standards arrangements, the Initial Intake Test includes a Criteria that -
- “The complaint is not the same or substantially similar to a complaint that has already been assessed”;
- and the Assessment Test includes the following –
- 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

- 11 Both the Initial Intake Test and the Assessment are carried out by officers of the Council, and they would have due regard to the guidance document. It is the case that vexatious complaints would be picked up and dealt with in any case, either at Intake or Assessment, under the criteria detailed above.
- 12 It is suggested that additional criteria for such complaints are therefore not required.

**Key Implications**

Financial

- 13 None.

Legal Implications and Risk Assessment Statement.

- 14 The current processes and procedures comply with the Localism Act 2011 and supporting legislation.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	This report provides insight into the high ethical standards applied across all levels of the authority.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

**Conclusions**

- 15. The current arrangements for receiving and considering complaints under the Standards Regime are working well, in an efficient manner, and it is suggested that no further amendment is required at this time. The Committee is asked to note the content of this report.

**Appendices**

Appendix A – Sevenoaks District Council’s Complaints procedure – Guidance for staff.

## Agenda Item 5

**Background Papers:**

[The Council's Constitution in particular Appendix S "Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011"](#)

**Mrs Christine Nuttall**  
**Chief Officer for Legal and Governance**

**Sevenoaks District Council's**  
**Complaints procedure**  
**Guidance for staff**



## Agenda Item 5

### Contents

<b>1. Introduction</b>	<b>p1</b>
<b>2 Complaints and their Resolution</b>	<b>p2</b>
What is a complaint?	p2
Why worry about complaints	p2
Principles of a good complaints procedure	p3
Benefits of a centralised complaints procedure and the role of the complaints officers	p4
<b>3. The Complaints procedure – some general guidance</b>	<b>p6</b>
Complaint or enquiry	p6
Getting complaints to the right people	p7
Exemptions to the complaints procedure	p7
Complaints and legal proceedings	p8
Vexatious complaints	p8
<b>4. The complaints procedure in practice</b>	<b>p9</b>
Stage 1 complaints	p9
Stage 2 complaints	p12
<b>5. Ombudsman investigations</b>	<b>p13</b>
<b>6. Good practice guidance for investigators</b>	<b>p14</b>
<b>7. Consideration of the implications of the Human Rights Act 1998</b>	<b>p14</b>
<b>8. Remedies</b>	<b>p15</b>
Providing a remedy	p15
Compensation as a remedy	p15
<b>9. Complaints Officer co-ordination of follow up action</b>	<b>p16</b>
<b>10. Departmental monitoring</b>	<b>p16</b>
<b>11. Complaints under the Freedom of Information Act</b>	<b>p16</b>

### Appendices

- A. [Specimen Letters/Memos](#)
- B. [Guidance on compensation payments](#)
- C. [How we deal with complaints: summary & flowcharts](#)

## **1. Introduction**

The Council's complaints procedure aims to give our customers maximum opportunity to resolve any problems they may have with one or more of our services.

The purpose of this guide is to give staff the information they need to deal with complaints confidently and effectively.

The guide is divided into two sections, one giving general information on the nature of complaints and their resolution and the second giving more detailed information on the procedure for dealing with complaints which has been adopted by the Council.

## 2. Complaints and their resolution

### 2.1 What is a complaint?

A complaint as defined in the Council's complaints scheme is "*any expression of dissatisfaction with our services whether justified or not*". A complaint may arise when a customer considers that a service has not been delivered as advertised or as might reasonably have been expected. A complainant may consider that the service provider:

- failed to provide a service
- failed to deliver a service in the time promised
- delivered an inefficient or poor quality service
- provided an unfair service
- failed to act in the proper manner
- made a mistake.

An expression of dissatisfaction is a complaint, and remains so, whether or not the dissatisfaction appears justified to staff – it is the customer who is the judge of the quality of service received and of whether they wish to make a complaint.

### 2.2 Why worry about complaints?

The Council will always receive complaints owing to the complexity and scale of its services and the limitations on its resources. Although they can be time consuming to resolve, complaints should be viewed positively.

Our customers should receive quality services, delivered according to the standards and procedures we set. If we have failed our customers, we should do our utmost to try to resolve their complaint.

If customers tell us when things go wrong, we can learn from our mistakes and provide better services in the future. The existence of an effective complaints procedure is beneficial for the Council. It:

- demonstrates that the Council is prepared to listen and respond to customers as part of the customer care policy
- shows that the Council accepts responsibility for its actions and responds when things go wrong
- shows we are prepared to learn from our mistakes and want to improve services
- provides a measure of the kind of services which customers actually want or require

- highlights gaps in current policies
- contributes to the broader decision making process, enabling the Council to identify the need to reform particular policies or procedures
- contributes to policy and performance review, facilitating quality control and acting as a barometer of the public's concern and dissatisfaction
- should result in better services.

### 2.3 Principles of a good complaints procedure

The Council aims to make its complaints procedure:

- **well publicised** to all in Sevenoaks District
- **easily accessible**
- **ensure equal access to services** regardless of race, disability, gender, age, religious belief or sexual orientation, by giving help to people who may have difficulty in making their complaints
- **simple** to use and understand
- **confidential** to protect staff and those who complain
- **fair** with a specified investigation process by trained and objective investigators
- **speedy** to allow quick resolution of complaints with set time limits for investigation and response
- **effective** to deal with all issues raised and give a full response and appropriate remedy
- **informative** to provide information to management so that services can be improved
- **regularly monitored and audited** to ensure it is effective and improved.

## Agenda Item 5

### **2.4 Benefits of a centralised complaints procedure and the role of the Complaints Officers**

The departmental Complaints Officers administer the Council's corporate formal complaints procedure within each department.

The complaints themselves are dealt with by service managers, heads of service and directors, to encourage both speedy response and also "ownership" of the complaints. Some key aspects of the formal complaints procedure are, however, co-ordinated and monitored by the Complaints Officers. This allows more effective management of the complaints procedure and has the additional benefit of allowing complaints and trends to be analysed to show where improvements to service can be made. Additionally, the Complaints Officers provide:

- a focal point for members of the public who wish to make a complaint about the services provided by the department. The Complaints Officer can give advice and liaise with other sections of the department, acting as an advocate for a complainant, in an attempt to resolve the problem before it becomes a formal complaint
- increased confidence in the system because customers feel they are dealing with an officer who is independent of the particular service area they are complaining about
- a "clearing house" for complaints, receiving and recording all formal complaints, explaining the complaints procedure to customers and deciding where best the complaints should be directed
- assistance for members of the public who require help in completing complaint forms
- advice and guidance to staff on complaints' resolution.

The Complaints Co-ordinator and Complaints Officers also:

- organise training for those in the department who investigate complaints and complaints awareness training for others
- monitor the progress of the complaints and speed of response to them
- monitor the quality of responses to complaints, enabling the Council to learn from good practice and techniques in complaint resolution, thereby reducing the number of complaints and ensuring uniformity of practice across the district
- canvass complainants' opinions of the complaints procedure and analyse their responses with a view to making further improvements in the complaints procedure
  - produce an annual report of complaints for all members and staff. The report contains general information on complaints statistics, trends, response performance and remedies, and it highlights cases of special interest or where particular lessons have been learned

## Agenda Item 5

- monitor trends in the numbers of people making complaints, the nature of the complaints, equalities issues, why complaints progress to the further stages of the complaints process and how the Council performs against set targets. The findings are reported to Management Team. This enables performance trends to be evaluated and decisions made on what policy and procedural changes are necessary
- share experience and ideas with the other departmental officers on delivery of the corporate complaint procedure
- work closely with the Local Government Ombudsman in an attempt to improve the way we work by learning from best practice elsewhere. Additionally, knowledge is acquired on recommended levels of compensation.
- On occasions MPs and Councillors will write directly to the Chief Executive, if these are formal complaints they must be dealt with following the normal complaints process.

### **3. The complaints procedure – some general guidance**

#### **3.1 Complaint or enquiry/service request?**

This may appear straightforward, but it is not. For the complaints procedure to be successful, it is essential that all staff are aware of the distinction between an enquiry and a complaint.

A distinction should be made between a request for a service and a complaint. For example, a report that a toilet is faulty should not be defined as a complaint when it is first reported. At this stage it is an enquiry, a request for service – “Please mend this toilet”. If however, the department gives an indication of when the work will be carried out and subsequently fails to meet this deadline, then this failure could form the basis for a complaint.

This example is straightforward. Sometimes however, the distinction is less clear. A distinction will need to be made between a complaint about service provision to which the applicant is entitled, and a complaint which is an expression of disagreement with the current policies which deny the complainant entitlement to a service.

**The Complaints Co-ordinator and local Complaints Officer makes decisions on how complaints received should be processed and can give advice where necessary.**

#### **3.2 Getting complaints to the right people**

The Complaints Officer decides how complaints should be processed and to which section of the department they should be directed.

If a customer completes a complaint form but it is considered by the Complaints Officer that the issue raised does not fall within the Council’s definition of a complaint, then a letter will be sent to the customer by the Complaints Officer explaining the reason for this assessment and explaining how the matter will be progressed.

If a complaint is sent to the Community Services department but would be better dealt with by another department, the Complaints Officer will record the basic details before forwarding it to the appropriate department. A letter will be sent to the customer informing them of the action that has been taken.

Where a complaint has been sent to the wrong department, then it will be treated as if the procedure had not been invoked until it is received by the correct section.

#### **3.3 Exemptions to the complaints procedure**

The complaints procedure cannot be used where recognised appeals procedures exist. Examples of areas where recognised procedures exist are as follows:

## Agenda Item 5

- a Town & Country Planning appeal against refusal of planning permission, where the complaint relates to planning policy rather than the administrative/procedural aspects
- a complaint where the customer or the Council has **started** legal proceedings or has taken court action but **not** cases where a customer has simply threatened to start legal proceedings against the Council
- a complaint that has already been referred to/heard by a court or tribunal, including the Housing/Council Tax Benefits Tribunal Service
- a staff complaint about a personnel matter, including appointments, dismissals, pay, pensions and discipline (but not from staff as service users)
- a complaint about Council policy (the legality of which can be challenged through court action)
- a complaint about the issue of a penalty charge notice by the parking control service
- a complaint **about** a councillor; please contact the Council's Monitoring Officer on 01732 227000
- a complaint **from** a councillor; this will be recorded as a service request by the relevant Complaints Officer on a separate log
- A Freedom of Information Complaint
- A complaint about a Leisure Centre in the district (In the first instance they must complain to the leisure centre in question. The second stage would be to contact Mark Whyman at Sencio's Head Office on 01732 746010. If they are still not satisfied they can write to Merle Bigden in Community Development who have a procedure in place to deal with complaints

If for any reason we cannot review a complaint under this procedure, we will give an explanation with the acknowledgement of the complaint.

### **Complaints about Partnerships**

The Council has a variety of partnership arrangements and responsibilities. In the case of complaints made against these partnerships, complaints will be referred to the lead agency within the partnership for resolution.

### **3.5 Complaints and legal proceedings**

If the customer or the department has **begun** legal proceedings then the complaint can be treated as out of jurisdiction. Investigating officers should write to the customer to inform them of this and refer the complaint to the Legal team. However, if a legal advisor is acting as an **advocate** and no legal action is actually being pursued, then the complaint should be dealt with in the usual manner.

## Agenda Item 5

### 3.6 Vexatious complaints

If a complaint is considered to be deliberately vexatious, it may be excluded from the complaints procedure. The Council's complaints policy states "We may, at any stage of the complaints process, review a complaint and give a decision, without a formal investigation, where the Chief Executive considers it to be deliberately repetitious or vexatious."

#### Is a complaint vexatious?

It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It is important to remember that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of the case rather than their attitude.

Even though someone has made vexatious complaints in the past it cannot be assumed that the next complaint is also vexatious. Each complaint must be considered and a decision made as to whether it is vexatious or genuine.

A complaint may be defined as vexatious if it is

- essentially about the same matter that has already been considered, with only very minor differences and does not contain any new information
- slightly different from the original complaint but about the same broad area of activity. A decision will have to be made as to whether or not the matters are sufficiently different to justify being considered as a new complaint.
- one where the complainant has already exhausted all stages of the Council's complaints procedure and possibly the Ombudsman too, but continues to send in complaints covering the same ground and the Council cannot comment any further apart from restating information previously given,

#### How to deal with vexatious complaints

- The complaint should first be taken through both stages of the Council's formal complaints procedure and the complainant should then be advised to go to the Ombudsman if they remain dissatisfied.
- If they have been to the Ombudsman and they do not agree with the ombudsman's decision, they should be referred back to the Ombudsman.
- If the complainant persists in submitting complaints that fall within the definition of vexatious (see above), they should be warned that the Council will not enter into any further correspondence on the matter.
- If the complainant still does not take this advice, any further correspondence that does not raise any significant new matters or present any new information should simply be filed with no acknowledgement sent.
- If a complainant keeps telephoning either to discuss an existing complaint or to make a new complaint, and this is proving time consuming and disruptive, it may be reasonable to ask them to put their concerns in writing and to discontinue the call. If the problem persists it may be reasonable to tell the complainant that the Council will, for a set period, not accept telephone calls and only deal with the complainant in writing.
- If the complainant is told that the Council will only deal with his or her concerns in writing, a letter should be sent to the complainant to confirm this,

## Agenda Item 5

how long the ban will apply, and the reason for it. At the end of the period the matter should be reviewed, and the ban lifted if appropriate.

There should never be a blanket ban for an unspecified period of time.

In all instances where an officer believes a complaint may be vexatious, the case should be discussed with the Complaints Co-ordinator. If it is considered that the complaint is indeed vexatious, the matter will be discussed with the Customer Service Manager before a final decision is made.

## 4. The complaints procedure in practice

### 4.1 Stage 1 complaints

**Step 1** If a customer contacts the service area, the officer receiving the enquiry/complaint should first check whether it is a complaint as defined above.

The officer should make every effort to try to resolve or rectify the problem quickly and informally, but they should also explain to the customer that they have a right to invoke the formal complaints procedure if they are not happy. If the query is not a complaint the officer should deal with the matter through the normal procedure.

**Step 2** Any customer who wishes to use the formal complaints procedure should be able to access it easily. Complaints should normally be made in writing. However, in some cases, telephone calls or face to face interviews may be more appropriate. Thus complaints forms should be displayed in all reception areas and staff should always issue a complaint form when asked, giving a brief explanation of the procedure when they do so. It should be made clear to the customer, that what they write is not restricted by the space available on the form. They can attach additional sheets to the complaint form if they wish (or write a letter instead of using the form).

Whether a complaint form is requested in person or by telephone, staff should always try to ascertain whether the complainant requires any assistance in completing the form. For example, is help needed in understanding the form or the process, is translation required or assistance needed in relation to a disability?

If the customer requests a translator or help with communication every effort should be made to provide assistance. Please contact the Complaints Co-ordinator.

Officers may wish to seek advice from either the Complaints Co-ordinator or their manager on which service may be most appropriate.

If a customer writes a letter which is clearly a letter of **formal** complaint to the section responsible for the service complained of, the letter should be passed immediately to the Complaints Officer.

If a customer sends an expression of general dissatisfaction by electronic mail, an appropriate response should be sent which includes information on the right to complain formally if not satisfied with the response. Attention should be drawn to the Complaints Co-ordinator's e-mail address: [feedback@sevenoaks.gov.uk](mailto:feedback@sevenoaks.gov.uk).

If a customer sends an electronic mail message which appears to be an expression of **formal** complaint it should be forwarded immediately to the Complaints Officer. The service team will check with the sender that the communication was intended as a formal complaint and if this is confirmed it will be processed as such.

If a complaint is received from a child or young person (who will probably have submitted their complaint using the booklet entitled *We can complain too!*) it should be forwarded immediately to the Complaints Officer for the relevant department. The Complaints Officer will oversee the response to the child or young person.

All complaints will be dealt with in the same manner, whether made by an agency or advocate on behalf of a service user, or by the service user direct.

**Step 3** The complaint will be received by the Complaints Officer. Details of the complaint will be recorded on the computerised database and a reference number will be issued.

An acknowledgement letter will be sent by the Complaints Officer to the customer within **two** working days informing them that their complaint has been registered at Stage 1 of the complaints procedure, explaining what will happen next and giving the name of the officer that will be dealing with the complaint. The acknowledgement will state that the complainant will be notified of a decision regarding the complaint within **15** working days of the date of the acknowledgement letter.

The service team may use its discretion to fast track a complaint to Stage 2 of the complaints procedure if the particular circumstances of a complaint are deemed to merit this action.

**Step 4** The service team to which the complaint relates will then pass the correspondence to the appropriate officer for investigation and response. The deadline for response will be indicated.

The Service Manager and Complaints Officer will be responsible for ensuring that the complaint is dealt with in the timescale stated.

Where it is foreseen that a response to the complaint will not be completed within the required timescale, a holding response should be sent to the complainant. The complainant should receive the holding response **before** the original response due date. The complainant should be informed of the reason for the delay and should be given a revised date by which a full response will be provided. A copy of this holding response should be sent to the Complaints Officer for monitoring purposes. A specimen holding letter is appended at **Appendix A**. Further holding letters should be sent if necessary.

If the officer who receives the complaint believes that the complaint should instead be directed elsewhere in the department, then the complaint should be forwarded to the appropriate officer. The reason for the redirection should be clearly stated. Please see **Appendix B**. Please remember to inform the Complaints Officer of any redirections.

**Step 5** The complaint should be investigated by the Service Manager for the service in question.

**An investigation should never be conducted by an officer who has in any way been complained of in the complaint, even if the criticism is small or relates to a minor point of the complaint. Any officer who considers themselves to have been too closely involved in the issues which have led to the complaint should likewise not attempt to investigate the complaint. It is crucial that the complaints procedure is perceived as impartial. Investigation of a complaint by anyone who has been involved in the matter would obviously undermine customer confidence.**

## Agenda Item 5

The Complaints Officer may ask the investigating officer to liaise with officers in other sections to obtain necessary information to provide one co-ordinated response to the complaint. This will normally happen in cases where the complaint encompasses a number of issues, but the majority of the complaint relates to one service area and a small part of the complaint relates to other service areas.

**Step 6** Following investigation, the Service Manager will brief the Complaints Officer and Head of Service who will then agree the best way to notify the customer. As a matter of good practice, consideration will already have been given by the Service Manager to inviting the complainant to a meeting as part of the investigation (especially if it is still felt that the complainant has not been able to adequately express the full nature or complexity of the complaint in writing, or if it is felt that a meeting would clarify or draw out the significant issues). The Head of Service may choose to contact the customer with the outcome of the complaint by invitation to a meeting, or by letter. During this process the decision must be stated clearly, how the decision was reached, the remedy where appropriate, and the complainant's right to request that the decision be reviewed. (The letter must be signed off by the Head Of Service).

Please see **Appendix C** for a specimen Stage 1 response. The reference number must be quoted on the response. A copy of the response must be sent to the Complaints Officer.

**The original complaint and a copy of the response must be kept in the relevant file by the investigating section.**

It is important that the response at Stage 1 is as comprehensive and thorough as possible. It is in everybody's interests to resolve the complaint at Stage 1 where possible.

Investigators should ensure that all points of the complaint are covered in the response, that a full explanation of the circumstances is provided and that the way forward is comprehensively addressed.

Investigators should also ensure that any follow up action is notified to relevant officers and commenced as quickly as possible.

The customer should be informed that a further right of appeal to the Service Director exists. **The Stage 1 response should state:**

If you wish to appeal against my decision, please telephone or write to:

Complaints Co-ordinator  
Sevenoaks District Council, Argyle Road, Sevenoaks, Kent TN13 1HG  
Telephone 01732 227000  
E-mail [feedback@sevenoaks.gov.uk](mailto:feedback@sevenoaks.gov.uk)

**Step 7** The Complaints Officer will record the outcome of the complaint on the database. The Complaints Coordinator will send a questionnaire to a sample of formal complainants, seeking customer opinion of the complaints procedure and the outcome of the complaint and will analyse this on its return.

## 4.2 Stage 2 complaints

**Step 1** A customer who remains dissatisfied after receipt of the Stage 1 response can submit a letter of appeal to the Complaints Co-ordinator requesting that the decision be reviewed. The Complaints Co-ordinator will log the appeal on CRM and pass it to the relevant Complaints Officer. The Complaints Officer sends an acknowledgement within **two** working days, stating that the matter will be dealt with within **20** working days of the date of the acknowledgement letter and indicating that the Service Director will be responsible for undertaking the review.

If a customer writes what is clearly a letter of appeal against the Stage 1 decision to the section responsible for the service complained of, the letter should be passed immediately to the Complaints Co-ordinator.

The Departmental Complaints Officer will notify the Service Director, the Head of Service, Local Members and the Cabinet Member. Appeals investigations are normally completed within 15 working days to meet the 20 day deadline for a response. The Director will appoint a nominee at Head of Service level to carry out the investigation (this must be an independent Head Of Service).

Appeals received by electronic mail should be forwarded to the Complaints Co-ordinator.

**Step 2** The Head of Service nominee will request all relevant files from the service area concerned. These should be sent immediately together with any comments on the case. Any staff who have been involved with the case will be offered an opportunity to meet the Head of Service nominee to discuss the case.

**Step 3** A draft of the Stage 2 investigation will be sent by the Head of Service nominee to the relevant Service Director and Head of Service for comments. A timescale for comments, normally 5 working days, will be specified.

**Step 4** A copy of the Stage 2 decision will be sent to the relevant service director and implementation of action required will be actioned. Details of the Stage 2 outcome will be recorded on CRM by the Complaints Officer who will send a reply to the customer signed by the Service Director. **The letter must state that “The Chief Executive has asked me to investigate your complaint on their behalf”.** The customer will be informed that if they remain dissatisfied, a complaint may be made to the Local Government Ombudsman.

**Step 5** A copy of the Stage 2 decision will be sent to the Complaints Co-ordinator.

## 5.0 Ombudsman investigations

Where the Local Government Ombudsman decides to investigate a complaint, a tight deadline for response to the Ombudsman will operate. Currently the Council has **15** working days to respond to the Ombudsman's request for information.

**Step 1** The Complaints Co-ordinator will receive the request & record it on CRM and then forward it to the service department Complaints Officer. The Complaints Officer will notify Local Members & Cabinet Member & Monitoring Officer.

**Step 2** The Complaints Officer will take all necessary action to minimise the time taken to get the request for information to Service Directors or Heads of Service. Heads of Service will normally be given 5 working days to respond to the Complaints Officer.

**Step 3** The Complaints Officer will prepare & agree the Council's submission to the Ombudsman with the Service Directors, Heads of Service and Complaints Co-ordinator before it is signed by the Chief Executive.

**Step 4** The Complaints Co-ordinator will liaise between the Ombudsman & the Head of Service/Director to negotiate a settlement. The Ombudsman may then ask further questions, to which responses will be required from the Service Director or Head of Service, and a process of negotiating a settlement of the complaint may commence, during which the Complaints Co-ordinator will liaise with service areas as necessary to ensure resolution is completed.

**Step 5** The Complaints Co-ordinator will update CRM and circulate the Ombudsman's Result letter to the Director, Head of Service, Local Members, Cabinet Member & Departmental Complaints Officer.

**N.B. The Monitoring Officer must be informed if the Ombudsman finds maladministration as reports from the Ombudsman which amount to maladministration must be reported to the Cabinet and the Council together with proposals for remedial action.**

## **6.0 Good practice guidance for investigators**

The good practice guide titled *Dealing with Complaints*, produced by the Corporate Policy Team, provides guidelines for investigating and dealing with complaints, to improve and standardise responses and to encourage good practice. The booklet will provide those who respond to complaints with a handy resource for answering and resolving complaints. It contains guidance on structuring a reply, the right of appeal and the use of plain English. The Complaints Co-ordinator organises training for those who investigate complaints. Interested parties should contact the Complaints Co-ordinator for further details.

## **7.0 Consideration of the implications of the Human Rights Act 1998**

Investigators should ensure that they have considered the implications of the Human Rights Act 1998 (in force since October 2000). A sentence may be included in the response stating "In investigating your complaint, I have taken into account ...(files assessed, policies assessed and so on) including the Human Rights Act 1998". If it is considered that one of the articles is directly relevant, it should be specifically addressed. Otherwise investigators have discretion as to whether to directly refer to the Act or not. The important thing is for investigators to ensure that they have considered the Act and have made a record of the fact that they have considered it in the case file.

## 8.0 Remedies

### 8.1 Providing a remedy

When considering what remedy to provide, investigating officers should always consider:

- an apology
- an explanation
- an assurance that the same thing will not happen again (monitored to make sure it does not)
- action that can be taken to put things right
- financial compensation.

The Local Government Ombudsman view is that:

“The remedy needs to be appropriate to the injustice, and should as far as possible put the complainant in the position he or she would have been in but for the maladministration.

There will be many circumstances where this cannot be achieved because of the passage of time or of events which have occurred. In such cases financial compensation may be the only available proxy.”

The investigating officer should always consider whether any practical action could provide all or part of a suitable remedy, for example, by ensuring necessary repairs are completed or entitlements to a benefit assessed and payment made. The investigating officer may also consider any practical action suggested by the complainant.

### 8.2 Compensation as a remedy

The service director (at any stage) may, where appropriate, authorise the payment of compensation to the complainant, up to a maximum of £500, payable from the relevant service department’s budget.

The investigating officer should ensure that local procedures for the raising of cheques are initiated without delay.

In certain circumstances where the complainant owes money to the department (for example, for local tax arrears), it would usually be appropriate for the compensation to be offset against the debt. In such a case the complainant should be clearly informed in the response to their complaint that the compensation will be offset against the debt.

In a case where compensation has been awarded, with £x amount specified for redecoration and £y amount specified as a time and trouble payment, it would usually be reasonable for the time and trouble element to be offset against the debt.

**Appendix E** gives further guidelines on the circumstances in which compensation may be paid. Advice on the amount of appropriate compensation can be obtained from the Complaints Co-ordinator. **It should also be noted that when offering compensation it should actually be awarded and not offered.** The wording on the letter should thus read “I therefore award you £XXX”. Payment should then follow without undue delay.

## **9.0 Complaints Officer co-ordination of follow up action**

The Complaints Officers will take a pivotal role in ensuring that recommendations from the Stage 2 investigation, as well as any necessary changes that become known through the monitoring of the Stage 1 investigations, are implemented by the department. This will require liaison between the Complaints Officers, service team staff, heads of service, directors and Customer Services Manager.

In some instances it may be appropriate that the investigation, either at Stage 1 or Stage 2, be conducted by a Head of Service nominee from outside the service that is the subject of the complaint. This will occur when the circumstances of the complaint are such that the complaint could not be investigated otherwise: for example when the nature of the complaint precludes any officers of the service area complained of from investigating.

All staff will be required to assist the Head of Service nominee in their investigations. The appropriate time limits and procedure as outlined above will be followed.

## **10.0 Departmental monitoring**

The Complaints Officers will use the complaints database to produce regular reports for Departmental Management Teams, regarding the number of complaints received, the nature of the complaints, numbers upheld, time taken to respond and how this matches with target response time. The Complaints Officers will also monitor the action taken in the case of justified complaints and customer response. All equalities issues will be monitored.

The Complaints Officers will also provide information to the Complaints Co-ordinator for the corporate annual report on complaints (and comments/compliments) for Management Team, Members, and the public.

## **11.0 Complaints under the Freedom of Information Act**

Anyone who has requested information from the Council under the Freedom of Information Act and is dissatisfied with the Council's response, is entitled to make a formal complaint. Any complaint of this nature will be dealt with through the Council's complaints procedure, i.e. Stage 1, then Stage 2 if the complainant is still dissatisfied. If, after exhausting the Council's complaints procedure the complainant wishes to take their complaint further, it should be addressed to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

**If you have any queries or suggestions, please contact the following staff:**

<b>Brian Hatt</b>	<b>Customer Services Manager</b>	<b>x7280</b>
<b>Julie Heather</b>	<b>Complaints Co-ordinator</b>	<b>x7125</b>

**Specimen documentation  
(CTRL & click to follow the link)**

**[Specimen Holding Letter / Acknowledgement](#)**

**[Specimen Memo for Stage 1 Complaint](#)**

**[Specimen Wording to include in a Stage 1 Response](#)**

## Guidance on compensation payments

Final reports finding maladministration and injustice (Local Government Ombudsman)

If an investigating officer finds maladministration and injustice, he or she should always consider making a compensation payment to the complainant for their time and trouble in making the complaint.

The investigating officer may include a time and trouble element unless the time and trouble and minor associated costs are insignificant or the time and trouble element would be inappropriate given the facts of the case.

A time and trouble payment should be some compensation for time and trouble reasonably and legitimately expended by the complainant in having to pursue the complaint with the council and the Local Government Ombudsman. The payment may also include minor items of expenditure and financial loss that are not otherwise taken into account in the compensation recommended.

A guideline figure for a time and trouble payment is £250. However, the amount should be determined given the facts of the case and may, depending on the circumstances, differ significantly from the guideline. A lower amount may be appropriate but would not normally be below £25. In exceptional cases, a higher amount could be recommended, up to a normal maximum of £500.

The investigating officer should consider all relevant factors including, for example:

- the passage of time, including response times by the council related to the nature of the problem
- amount of time expended by the complainant
- difficulty experienced by the complainant in dealing with the council
- the degree of inadequacy of the council's responses to letters, phone calls and visits
- whether the inadequate response of the council resulted to any extent from wilful action, as opposed to poor administration
- the level of minor or generally unquantified expenses incurred by the complainant (such as significant postage or telephone costs, travel costs, loss of earnings) excepting significant quantified expenses (such as legal or other professional fees) which are separate elements of compensation
- the complainant is acting on behalf of others (such as a secretary of a tenants' association or one complainant pursuing a complaint on behalf of a group of complainants)

## Agenda Item 5

The investigating officer may separately specify a time and trouble payment or the compensation recommended may be a composite sum including time and trouble. If a composite sum is recommended, the investigating officer should clearly state that time and trouble has been taken into account.

### **Local settlements (Local Government Ombudsman)**

Council officers may consider a time and trouble payment to achieve a local settlement of a complaint. Generally, time and trouble payments are less likely to be recommended for a local settlement but should be considered when sufficiently justified.

The time and trouble payment is likely to be lower than a payment recommended in a formal report finding maladministration and injustice.

### **Stage 1 and 2 (Council's complaints policy)**

Service directors may consider a time and trouble payment after a full investigation of a complaint at stages 1 or 2 of the complaints policy. Generally, time and trouble payments are less likely to be recommended but should be considered when sufficiently justified.

The time and trouble payment is likely to be lower than a payment recommended by the Local Government Ombudsman.

### **Penalty payments (Council's complaints policy)**

Service directors may award a penalty payment of £10 per month from the relevant service department's budget to complainants where unreasonable delay in replying to a complaint has occurred.

## How we deal with complaints: summary

- The Council defines a complaint as any expression of dissatisfaction with our services, whether justified or not.
- This summary is intended for staff use.
- A separate *Comments, compliments & complaints* leaflet is available for members of the public.

**Stage 1:  
Service  
department**

Complaint to be investigated by the Service Manager within 15 working days and reply to be signed by the Head of Service.

**Stage 2:  
Chief Executive  
review**

Complaint will be investigated by a Head of Service (independent to the service being complained about) within 20 working days and reply to be signed by the Director on behalf of the Chief Executive

**Ombudsman  
Complaint**

If still not satisfied, the complainant can refer the complaint to the Local Government Ombudsman, who then considers the complaint. The Chief Executive will be the contact with the Ombudsman.

We need to ensure:

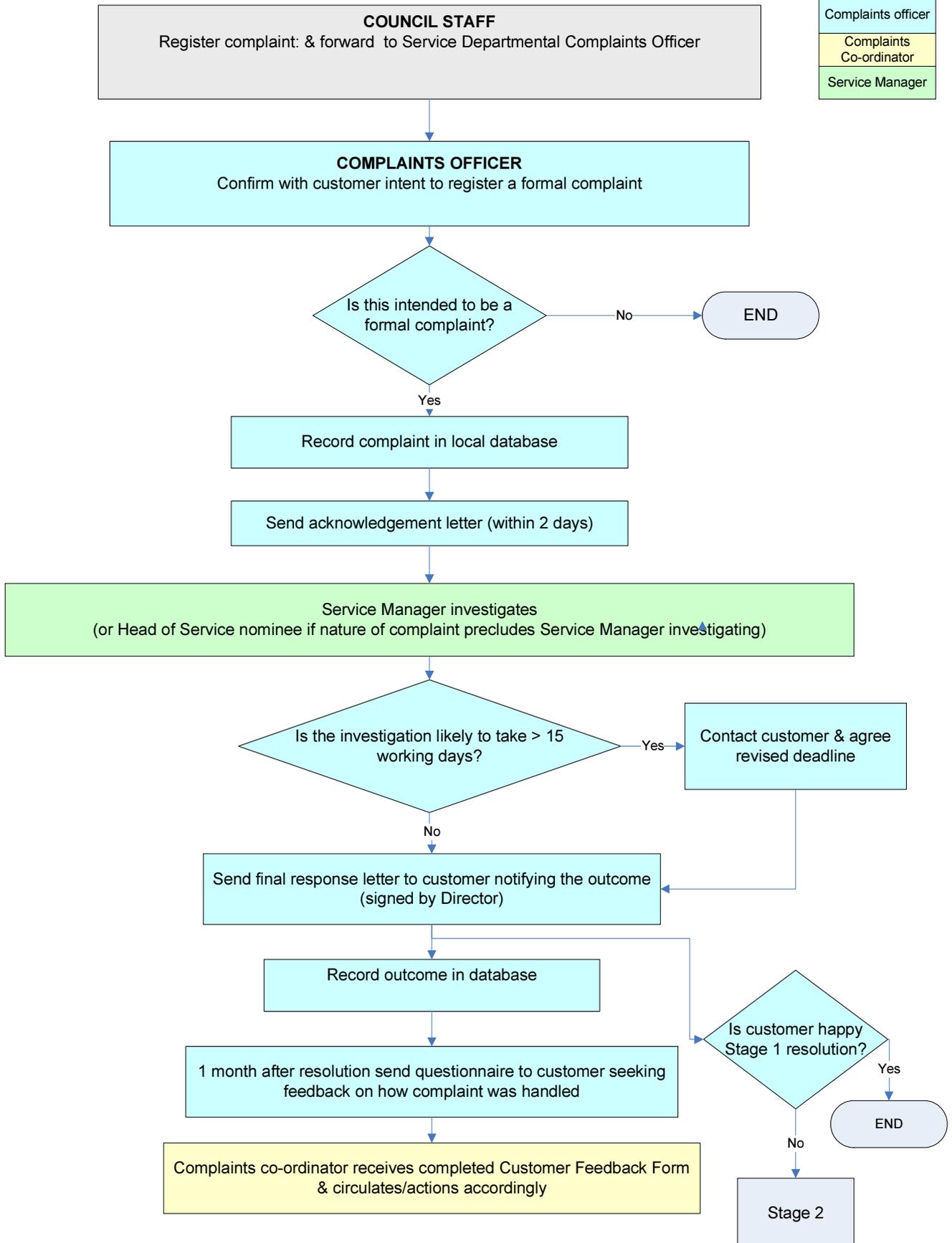
- the complaint gets to the person who needs to deal with it as soon as possible;
- the complaint is logged and acknowledged within **2** working days;
- if the complaint is justified, the matter is put right and an apology is given;
- the reply is helpful, understanding, clear, on time and concise;
- records of justified (and unjustified) complaints are kept, so we can learn from them and improve services; and
- an annual report on complaints is made available to the public.

**A copy of the full complaints procedure and complaint forms can be obtained from the Complaints Co-ordinator ☎ 01732 227000.**



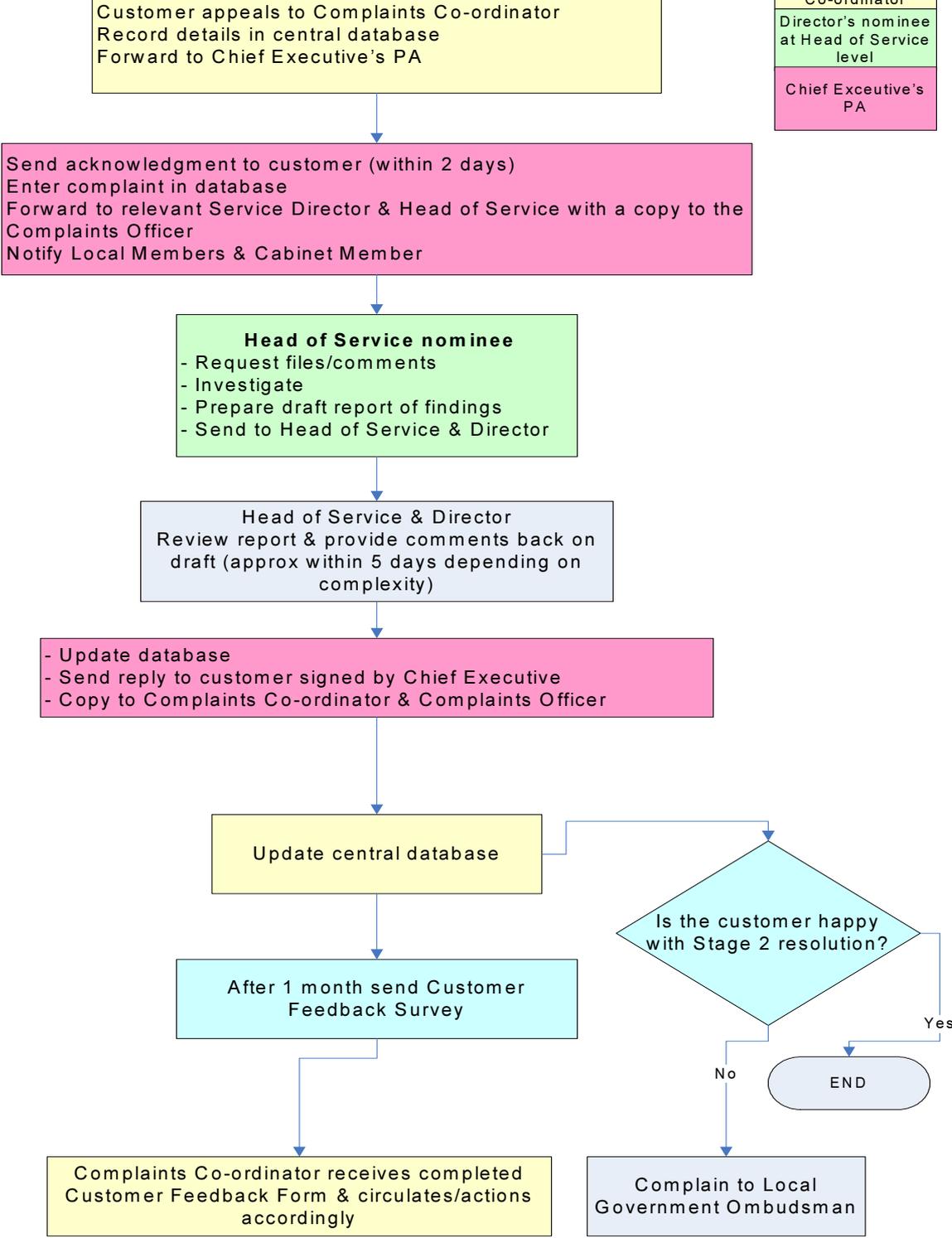
# Complaints Procedure Stage 1

Key
All Council Staff
Complaints officer
Complaints Co-ordinator
Service Manager

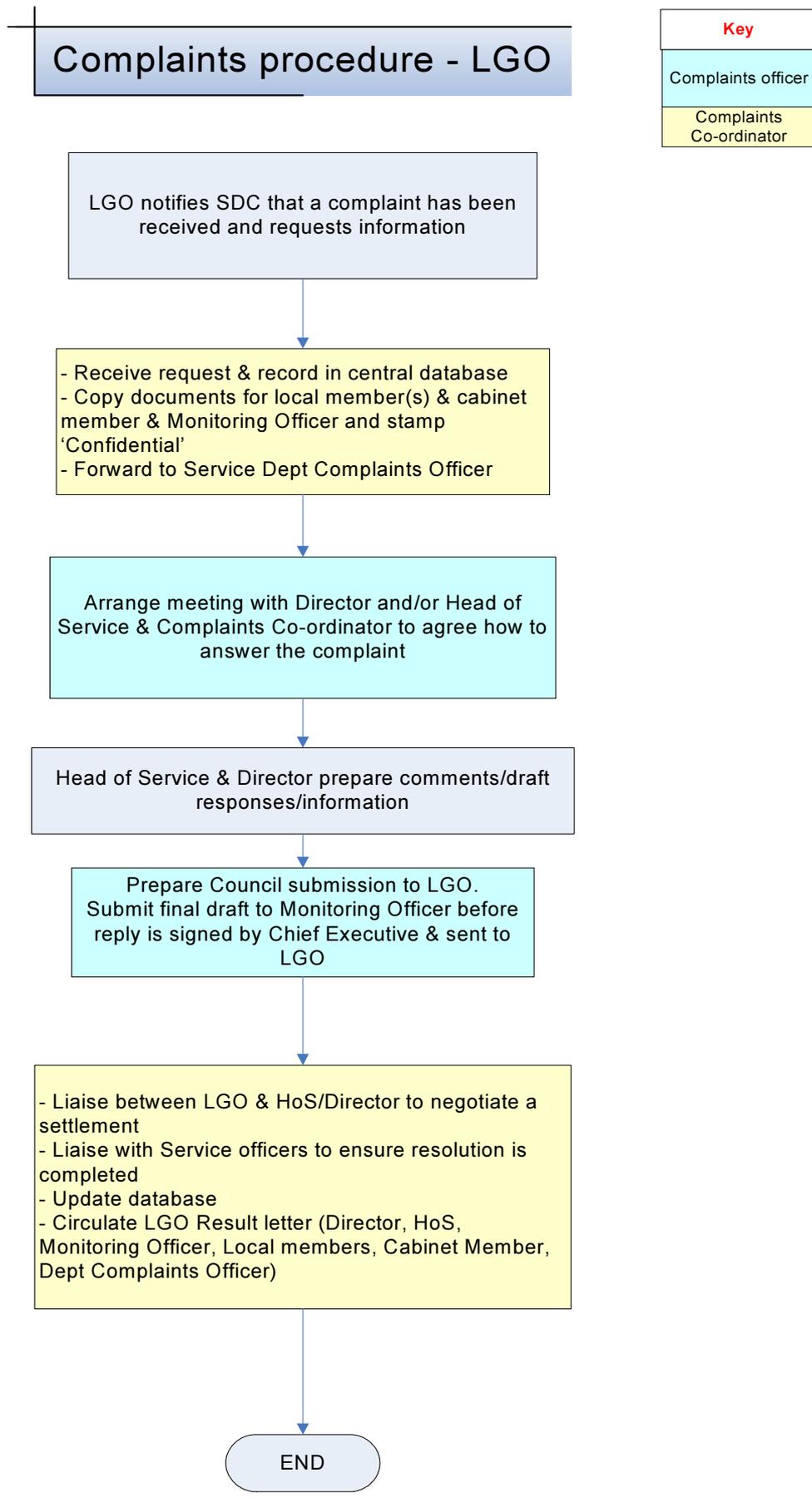


# Complaints procedure – stage 2

Key
Complaints officer
Complaints Co-ordinator
Director's nominee at Head of Service level
Chief Executive's PA



V4 Nov 2005



V2 July 2005