



Meeting: **STANDARDS COMMITTEE**
Date: **23 JANUARY 2012**
Time: **5.00PM**
Venue: **COMMITTEE ROOM**

Agenda

1. Apologies for absence

2. Disclosures of Interest

Members of the Standards Committee should disclose personal or prejudicial interest(s) in any item on this agenda.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meetings of the Standards Committee held on 26 September 2011, the Local Assessment Sub Committee meeting held on the 5 December 2011 and Standards Review Sub Committee meeting also held on the 5 December 2011. (Pages 3 to 8 attached)

4. Chair's Address to the Standards Committee

5. The Localism Act 2011 – The Amended Standards Regime

A copy of a draft report ST/11/7 for consideration by the Council is attached. The report outlines the implications of the Localism Act 2011 on the future standards regime and makes recommendations for the Council to consider. The Standards Committee is invited to comment on the report before it is considered by the Council. (Pages 9 to 33 attached)

6. Case Monitoring Report

Report ST/11/8 of the Monitoring Officer (Pages 34 to 44 attached).

7. Private Session

To exclude the press and public from the meeting for the following items of business in accordance with Section 100(A)(4) of the Local Government Act 1972 because of the likely disclosure of confidential or exempt information as described in Part 1 of Schedule 12(A) of the Act.

8. Complaint SDC2011010

Report ST/11/9 of the Monitoring Officer (Pages 45 to 57 attached).

Jonathan Lund
Deputy Chief Executive

Dates of next meetings
19 March 2012

Enquiries relating to this agenda, please contact Karen Mann on:
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Minutes

Standards Committee

Venue: Committee Room

Date: 26 September 2011

Present: Councillor B Crossdale, Councillor Mrs M Davis, Councillor C Lunn, Councillor Mrs K McSherry, Councillor R Parker, Miss H Putman (Chair) and Mrs W Stables

Apologies for Absence: None

Officers Present: Caroline Fleming - Senior Solicitor and Karen Mann, Democratic Services Officer

10. DECLARATIONS OF INTEREST

There were no declarations of interest.

11. MINUTES

The minutes from the meeting on the 20 June were discussed. Matters arising were discussed.

Localism Bill

The Monitoring Officer updated that the Localism Bill is currently with the House of Lords for consideration. A cross party group of peers had suggested that Local Authorities should retain an obligation to keep a code of conduct with some mandatory elements however it was not yet clear to what extent the Government would accommodate these suggestions. The Localism Bill was still due to be enacted in November with implementation in April 2012.

Representation from Town/Parish Councillors on Standards Committee

Due to the changes expected from the Localism Bill no further recruitment has taken place.

Parish Council Training

The Monitoring Officer wrote to all parish councils explaining that members of the Parish Council could be part of other bodies including CEF Partnership Boards as long as they acknowledged at the meetings their personal and any prejudicial interest, at the start of the meeting. The Monitoring Officer would circulate the letter to the committee members for information.

The minutes of the Local Assessment Sub Committee, 12 September 2011, were tabled for approval.

RESOLVED:

- i) To receive and approve the minutes of the Standards Committee held on 20 June 2011 and they are signed by the Chair.**
- ii) To approve the minutes of the Local Assessment Sub Committee dated 12 September 2011**

12. CHAIR'S ADDRESS TO THE STANDARDS COMMITTEE

The Chair thanked everyone for attending but made no address.

13. DATES OF FUTURE STANDARDS LOCAL ASSESSMENT SUB COMMITTEE MEETINGS

The Monitoring Officer presented the report which detailed dates for potential future meetings. The committee was informed that the date of the 24 October would be changed to the 17 October as a complaint has been received and to respond within the 21 day deadline this date would have to be moved forward.

RESOLVED:

- i) To receive and note the report**
- ii) To approved the proposed dates of future meetings**

14. CASE MONITORING REPORT

The Monitoring Officer presented the current case monitoring report up to the end of August 2011.

Several of the outstanding reports were coming to a conclusion.

RESOLVED:

That the report be noted.

15. PRIVATE SESSION

To exclude the press and the public from the meeting in accordance with Section 100(A)(4) of the Local Government Act 1972 because, in view of the nature of the business to be transacted, there is likely to be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 1 of Part 1 of Schedule 12(A) of the Act.

16. COMPLAINTS SDC2011001/SDC2011002 AND SDC2011003 – REPORT BACK ON ‘OTHER ACTION’

The Monitoring Officer reported that mediation between the parties had taken place.

RESOLVED:

- (i) To take no further action in this case;**
- (ii) To write to the complainants explaining the Committee’s grounds for deciding to take no further action.**

The Chair thanked all members for attending.

The meeting closed at 5.37pm.

LOCAL ASSESSMENT SUB COMMITTEE
Standards Committee
5 December 2011 – 4.00pm
MINUTES

Present:

Hilary Putman (Chair)
Councillor Cliff Lunn
Councillor Roderic Parker

Officers:

Jonathan Lund, Monitoring Officer
Caroline Fleming, Senior Solicitor
Karen Mann, Democratic Service Officer

19. Apologies for Absence

None

20. Disclosure of Interests

None

21. Private Session

RESOLVED - To exclude the Press and Public from the meeting in accordance with the Access to Information provisions under Part 5 of the Local Government Act 1972.

22. Minutes

Resolved:

That the minutes from the meeting held on the 17 October were agreed as a correct record.

23. Complaint SDC2011013

A report was presented by the Senior Solicitor setting out a summary of complaint SDC 2011013 received from the complainant, Mr Mark Harrison.

Further correspondence had been received from the complainant and Senior Solicitor which the committee considered.

The Local Assessment Sub-Committee considered the initial tests and found that all three tests were satisfied in relation to the allegations and could be a potential breach of the code of conduct, however there was insufficient information to determine whether the matter should be taken further.

Resolved:

- i) To note the report;**
- ii) To authorise the Senior Solicitor to request further information from the complainant in respect of the actual words used and their context and confirmation that the witness would be willing to be interviewed on record if the complaint was investigated, giving a deadline to return the information of 5 January 2012**
- iii) To defer further consideration until the further information is received; and**
- iv) If the additional information is not received by the deadline date, to take no further action on the complaint on the grounds that the complainant had not submitted enough information to satisfy the Sub-Committee that the complaint should be referred for investigation or other action**

The meeting closed at 4.35pm.

STANDARDS REVIEW SUB COMMITTEE
5 December 2011 – 4.35pm
MINUTES

Present:

Hilary Putman (Chair)
Councillor Cliff Lunn
Councillor Roderic Parker

Officers:

Jonathan Lund, Monitoring Officer
Caroline Fleming, Senior Solicitor
Karen Mann, Democratic Service Officer

19. Apologies for Absence

None

20. Disclosure of Interests

None

21. Private Session

RESOLVED - To exclude the Press and Public from the meeting in accordance with the Access to Information provisions under Part 5 of the Local Government Act 1972.

22. Minutes

The minutes of the Review Sub Committee meeting held on the 17 October 2011 were agreed as a correct record.

23. Complaint SDC2011007

A report was presented by the Senior Solicitor setting out a summary of complaint SDC2011007 received from the complainant, Greig Markham.

The Review Sub-Committee considered the initial tests and found that all three tests were satisfied in relation to the allegations and could be a potential breach of the code of conduct.

Resolved:

To refer the complaint to the Monitoring Officer for Investigation.

The meeting closed at 4.55pm.



Public Session

Report Reference Number ST/11/7

Agenda Item No: 5

To: Council
Date: 28 February 2012
Author: Jonathan Lund, Monitoring Officer
Lead Officer: Jonathan Lund, Monitoring Officer

Title: THE LOCALISM ACT 2011 – THE AMENDED STANDARDS REGIME

Summary:

The Localism Act 2011 makes fundamental changes to the system of regulation of standards of conduct for councillors and co-optees. The date for implementation of these changes was proposed to be 1st April 2012, but may yet be effective from the Annual Meeting of Council in May 2012.

This report is based on a draft report prepared for Monitoring Officers by Peter Keith-Lucas, Local Government Partner at Bevan Brittan LLP and describes the changes and recommends the actions required for the Council to implement the new regime.

Recommendations:

- 1) To establish a Standards Committee comprising 4 Councillors of the District Council, appointed proportionally;**
- 2) To ask the Leader of the Council to nominate to the Committee not more than one member who is a member of the Executive;**
- 3) To invite Parish Councils to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members of the Committee;**
- 4) To instruct the Monitoring Officer to draft, for consideration and approval by Council, a Code of Conduct for Councillors and Co-opted Members which complies with the Localism Act 2011**
- 5) To authorise the Monitoring Officer, after consultation with the Chair of Standards Committee and the Chair of Council, to amend the draft Code where he considers it to be necessary or appropriate following publication of the Disclosable Pecuniary Interests Regulations.**

- 6) To appoint the Monitoring Officer as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- 7) To give delegated power to the Monitoring Officer, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and, where appropriate, to arrange such investigation. To instruct the Monitoring Officer to seek resolution of complaints without formal investigation wherever practicable, and grant the Monitoring Officer discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report regularly to Standards Committee on the discharge of this function;**
- 8) Where the investigation finds no evidence of failure to comply with the Code of Conduct, to require the Monitoring Officer to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;**
- 9) Where the investigation finds evidence of a failure to comply with the Code of Conduct, to authorise the Monitoring Officer, after consultation with the Independent Person and in appropriate cases, to seek local resolution of the complaint to the satisfaction of the complainant, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to the Standards Committee (or a Hearings Panel established for the purpose) for local hearing;**
- 10) To delegate to the Standards Committee (or a Hearings Panels established for the purpose) such of the Council's powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct as set out in part 3.5 of this report.**
- 11) To adopt the "Arrangements for dealing with standards allegations under the Localism Act 2011" set out at Appendix 1 which reflect the principles set out above.**
- 12) To authorise the Monitoring Officer, after consultation with the Chair of Standards Committee and the Chair of Council, to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the Standards Committee**
- 13) To advertise a vacancy and begin the process of appointment of 1 Independent Person and 1 Reserve Independent Person**

- 14) To delegate to the Standards Committee authority to short-list and interview candidates, and to make a recommendation to Council for appointment.**
- 15) To authorise the Monitoring Officer to prepare and maintain a new register of councillors interests to comply with the requirements of the Act and the Council's Code of Conduct, and ensure that it is available for inspection as required by the Act;**
- 16) To require the Monitoring Officer to ensure that all councillors and co-optees are informed of their duty to register interests;**
- 17) To authorise the Monitoring Officer to prepare and maintain new registers of councillors' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and**
- 18) To ask the Monitoring Officer to make arrangements to inform and train Parish Clerks on the new registration arrangements.**
- 19) To amend the Council procedure Rules to require that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a Declarable Pecuniary Interest, except where he is permitted to remain as a result of the grant of a dispensation.**
- 20) To delegate the power to grant dispensations –
 - a. on grounds set out in Paragraphs 9.3.1 and 9.3.4 of this report to the Monitoring Officer with an appeal to Standards Committee, and**
 - b. on grounds 9.3.2, 9.3.3 and 9.3.5 to the Standards Committee, after consultation with the Independent Person.****
- 21) To authorise the Monitoring Officer to make any necessary or consequential changes to the Constitution to ensure compliance with these recommendations**

Reasons for recommendation

To enable the Council to respond to its statutory obligations to establish local arrangements to promote and maintain high standards of conduct for its Councillors and co-opted members.

1 Duty to promote and maintain high standards of conduct

The Council will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

2 Standards Committee

The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee. So, there will be no requirement for a Standards Committee. However, there will still be a need to deal with standards issues and case-work, so that it is likely to remain convenient to have a Standards Committee, it will be a normal Committee of Council, without the unique features which were conferred by the previous legislation. As a result –

- 2.1 The composition of the Committee will be governed by proportionality, unless Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply;
- 2.2 The current co-opted independent members will cease to hold office. The Act establishes a new category of Independent Persons (see below) who must be consulted at various stages, but provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years. The new Independent Persons may be invited to attend meetings of the Standards Committee, but are unlikely to be co-opted onto the Committee;
- 2.3 The District Council will continue to have responsibility for dealing with standards complaints against elected and appointed members of Parish and Town Councils, but the current Parish Council representatives cease to hold office. The District Council can choose whether it wants to continue to involve Parish Council representatives and, if so, how many Parish Council representatives it wants. The choice is between establishing a Standards Committee as a Committee of the District Council, with co-opted but non-voting Parish Council representatives (which could then only make recommendations in respect of Parish Council members), or establishing a Standards Committee as a Joint Committee with the Parish Councils within the District (or as many of them as wish to participate) and having a set number of Parish Council representatives as voting members of the Committee (which could then take operative decisions in respect of members of Parish Councils, where the Parish Council had delegated such powers to such a Joint Standards Committee).

Recommendations - The Standards Committee –

- 1) To establish a Standards Committee comprising 4 Councillors of the District Council, appointed proportionally;**
- 2) To ask the Leader of the Council to nominate to the Committee not more than one member who is a member of the Executive;**

3) To invite Parish Councils to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members of the Committee.

3 The Code of Conduct

The current ten General Principles and Model Code of Conduct will be repealed, and members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Council will be required to adopt a new Code of Conduct governing elected and co-opted members' conduct when acting in that capacity. The Council's new Code of Conduct must, viewed as a whole, be consistent with the following seven principles –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Council has discretion as to what it includes within its new Code of Conduct, provided that it is consistent with the seven principles. However, regulations still to be made under the Act will require the registration and disclosure of "Disclosable Pecuniary Interests" (DPIs), broadly equating to the current prejudicial interests. The provisions of the Act also require a Council's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The result is that it is not possible yet to draft Code provisions which reflect the definition of DPIs which will appear in regulations, but it is possible to give an indicative view of what the Council might consider appropriate to include in the Code in respect of DPIs, other pecuniary interests and non-pecuniary interests. Accordingly, it is sensible at this stage to prepare a draft Code which requires the registration and disclosure of those interests which would today amount to personal and/or prejudicial interests, but only require withdrawal as required by the Act for DPIs.

The Act prohibits members with a DPI from participating in Council business, and the Council can adopt a Standing Order requiring members to withdraw from the meeting room.

So the Council's new Code of Conduct will have to deal with the following matters –

- General conduct rules, to give effect to the seven principles. This corresponds broadly with Paragraphs 3 to 7 of the current Code of Conduct. In practice, the easiest course of action would be simply to re-adopt Paragraphs 3 to 7 of the existing Code of Conduct. The Council can amend its Code of Conduct subsequently if the need arises; and
- Registration and disclosure of interests other than DPIs – effectively, replacing the current personal interests provisions. The Act requires that

the Code contains “appropriate” provisions for this purpose, but, until the regulations are published, defining DPs, it is difficult to suggest what additional disclosure would be appropriate.

Recommendation - Code of Conduct

- 4) To instruct the Monitoring Officer to draft, for consideration and approval by Council, a Code of Conduct for Councillors and Co-opted Members which complies with the Localism Act 2011**
- 5) To authorise the Monitoring Officer, after consultation with the Chair of Standards Committee and the Chair of Council, to amend the draft Code where he considers it to be necessary or appropriate following publication of the Disclosable Pecuniary Interests Regulations.**

Dealing with Misconduct Complaints

3.1 “Arrangements”

The Act requires that the Council adopt “arrangements” for dealing with complaints of breaches of the Code of Conduct both by District Council members and by Parish Council members, and such complaints can only be dealt with in accordance with such “arrangements”. So the “arrangements” must set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct. A proposed set of “arrangements” is attached at Appendix 1.

The advantage is that the Act repeals the requirements for separate Local Assessment, Review and Consideration and Hearings Sub-Committees, and enables the Council to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Council to delegate appropriate powers to any Standards Committee and to the Monitoring Officer.

3.2 Decision whether to investigate a complaint

In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. It is sensible to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where he feels that it would be inappropriate for him to take a decision on it, for example where he has previously advised the member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on

whether the complaint merits formal investigation. If this function is delegated to the Monitoring Officer, it is right that he should be accountable for its discharge. For this purpose, it would be appropriate that he make a regular report to Standards Committee, which would enable him to report on the number and nature of complaints received and draw to the Committee's attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs.

3.3 "No Breach of Code" finding on investigation

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to a Considerations and Hearings Sub-Committee and the Sub-Committee take the decision to take no further action. In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to Standards Committee if he feels it appropriate. It would be sensible if copies of all investigation reports were provided to the Independent Person to enable him or her to get an overview of current issues and pressures, and that the Monitoring Officer provide a summary of each such investigation to Standards Committee for information.

3.4 "Breach of Code" finding on investigation

Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a local hearing. Sometimes the investigation report can cause a member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. However, it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to summary report for information to the Standards Committee.

In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee (or a Hearings Panel constituted as a Sub-Committee of Standards Committee) to hold a hearing at which the member against whom the complaint has been made can respond to the investigation report, and the Hearing Panel can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

3.5 Action in response to a Hearing finding of failure to comply with Code

The Act does not give the Council or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology on members. So, where a failure to comply with the Code of

Conduct is found, the range of actions which the Council can take in respect of the member is limited and must be directed to securing the continuing ability of the Council to continue to discharge its functions effectively, rather than “punishing” the member concerned. In practice, this might include the following –

- 3.5.1 Reporting its findings to Council [*or to the Parish Council*] for information;
- 3.5.2 Recommending to the member’s Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 3.5.3 Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular lead responsibilities;
- 3.5.4 Instructing the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the member;
- 3.5.5 Removing [*or recommend to the Parish Council that the member be removed*] from all outside appointments to which he/she has been appointed or nominated by the Council [*or by the Parish Council*];
- 3.5.6 Withdrawing [*or recommend to the Parish Council that it withdraws*] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 3.5.7 Excluding [*or recommend that the Parish Council exclude*] the member from the Council’s offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

There is a particular difficulty in respect of Parish Councils, as the Localism Act gives the Standards Committee no power to do any more in respect of a member of a Parish Council than make a recommendation to the Parish Council on action to be taken in respect of the member. Parish Councils will be under no obligation to accept any such recommendation. The only way round this would be to constitute the Standards Committee and Hearings Panels as a Joint Committee and Joint Sub-Committees with the Parish Councils, and seek the delegation of powers from Parish Council to the Hearings Panels, so that the Hearings Panels can effectively take decisions on action on behalf of the particular Parish Council.

3.6 Appeals

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the Council had no power to impose.

Recommendation - Complaints of Misconduct

- 6) To appoint the Monitoring Officer as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- 7) To give delegated power to the Monitoring Officer, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and, where appropriate, to arrange such investigation. To instruct the Monitoring Officer to seek resolution of complaints without formal investigation wherever practicable, and grant the Monitoring Officer discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report regularly to Standards Committee on the discharge of this function;**
- 8) Where the investigation finds no evidence of failure to comply with the Code of Conduct, to require the Monitoring Officer to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;**
- 9) Where the investigation finds evidence of a failure to comply with the Code of Conduct, to authorise the Monitoring Officer, after consultation with the Independent Person and in appropriate cases, to seek local resolution of the complaint to the satisfaction of the complainant, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to the Standards Committee (or a Hearings Panel established for the purpose) for local hearing;**
- 10) To delegate to the Standards Committee (or a Hearings Panels established for the purpose) such of the Council's powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –**
 - Reporting its findings to Council [or to the Parish Council] for information;**
 - Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;**

- **Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;**
- **Instructing the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the member;**
- **Removing *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the Council *[or by the Parish Council]*;**
- **Withdrawing *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or**
- **Excluding *[or recommend that the Parish Council exclude]* the member from the Council’s offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.**

11) To adopt the “Arrangements for dealing with standards allegations under the Localism Act 2011” set out at Appendix 1 which reflect the principles set out above.

4 Independent Person(s)

The “arrangements” adopted by Council must include provision for the appointment by Council of at least one Independent Person.

4.1 “Independence”

The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the District Council (not just of those present and voting).

A person is considered not to be “independent” if –

- 4.1.1 he is, or has been within the last 5 years, an elected or co-opted member or an officer of the District Council or of any of the Parish or Town Councils within its area;
- 4.1.2 he is, or has been within the last 5 years, an elected or co-opted member of any Committee or Sub-Committee of the District Council or of any of the Parish or Town Councils within its area (which would preclude any of the current co-opted independent members of Standards Committee from being appointed as an Independent Person); or

- 4.1.3 he is a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish or Town Council within its area, or of any elected or cop-opted member of any Committee or Sub-Committee of such Council.

For this purpose, “relative” comprises –

- (a) the candidate’s spouse or civil partner;
- (b) any person with whom the candidate is living as if they are spouses or civil partners;
- (c) the candidate’s grandparent;
- (d) any person who is a lineal descendent of the candidate’s grandparent;
- (e) a parent, brother, sister or child of anyone in Paragraphs (a) or (b);
- (f) the spouse or civil partner of anyone within Paragraphs (c), (d) or (e); or
- (g) any person living with a person within Paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

4.2 Functions of the Independent Person

The functions of the Independent Person(s) are –

- They must be consulted by the Council before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);
- They may be consulted by the Council in respect of a standards complaint at any other stage; and
- They may be consulted by a member or co-opted member of the District Council or of a Parish Council against whom a complaint has been made.

This causes some problems, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint.

4.3 How many Independent Persons?

The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, there would appear to be little advantage in appointing more than one Independent Person, provided that a reserve candidate is

retained and can be activated at short notice, without the need for re-advertisement, in the event that the Independent Person is no longer able to discharge the function.

4.4 Remuneration

As the Independent Person is not a member of the Council or of its Committees or Sub-Committees, the remuneration of the Independent Person no longer comes within the scheme of members' allowances, and can therefore be determined without reference to the Independent Remuneration Panel.

In comparison to the current Chair of Standards Committee, the role of Independent Person is likely to be less onerous. He/she is likely to be invited to attend all meetings of the Standards Committee and Hearings Panels, but not to be a formal member of the Committee or Panel (he/she could be co-opted as a non-voting member but cannot chair as the Chair must exercise a second or casting vote). He/she will need to be available to be consulted by members against whom a complaint has been made, although it is unclear what assistance he/she could offer. Where he/she has been so consulted, he/she would be unable to be involved in the determination of that complaint. This report suggests that the Independent Person also be involved in the local resolution of complaints and in the grant of dispensations. However, it would be appropriate to undertake a proper review of the function before setting the remuneration.

Recommendation – Independent Persons

- 12) To authorise the Monitoring Officer, after consultation with the Chair of Standards Committee and the Chair of Council, to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the Standards Committee**
- 13) To advertise a vacancy and begin the process of appointment of 1 Independent Person and 1 Reserve Independent Person**
- 14) To delegate to the Standards Committee authority to short-list and interview candidates, and to make a recommendation to Council for appointment.**

5 The Register of Members' Interests

5.1 The register of members' interests

The Localism Act abolishes the concepts of personal and prejudicial interests. Instead, regulations will define "Disclosable Pecuniary Interests" (DPIs). The Monitoring Officer is required to maintain a register of interests, which must be available for inspection and available on the Council's website. The Monitoring Officer is also responsible for

maintaining the register for Parish Councils, which also have to be open for inspection at the District Council offices and on the District Council's website.

At present we do not know what Disclosable Pecuniary Interests will comprise, but they are likely to be broadly equivalent to the current financial prejudicial interests.

The intention of the Localism Bill was to simplify the registration requirement, but in fact the Act extends the requirement for registration to cover not just the member's own interests, but also those of the member's spouse or civil partner, or someone living with the member in a similar capacity.

The provisions of the Act in respect of the Code of Conduct require a Council's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests.

The Monitoring Officer is required by the Act to set up and maintain registers of interest for each Parish Council, available for inspection at the District Council offices and on the District Council's website and, where the Parish Council has a website, provide the Parish Council with the information required to enable the Parish Council to put the current register on its own website.

5.2 Registration on election or co-option

Each elected or co-opted member must register all DPis within 28 days of becoming a member. Failure to register is one of a number of criminal offences created by the Act, but a breach of the law would not prevent the member from acting as a member.

Where the Council's locally adopted Code of Conduct requires registration of other interests, failure to do so would not be a criminal offence, but would be a failure to comply with the Code of Conduct.

There is no continuing requirement for a member to keep the register up to date, except on re-election or re-appointment, but it is likely that members will register new interests from time to time, as this avoids the need for disclosure in meetings. When additional notifications are given, the Monitoring Officer has to ensure that they are entered into the register.

The preparation and operation of the register, not just for Selby District Council but also for each Parish Council, is likely to be a considerable administrative task, especially where different Parish Councils adopt different Code requirements for registration and disclosure in respect of interests other than DPis. There is no provision for the District Council to recover any costs from Parish Councils.

Recommendation – Registration of Councillors' Interests

15) To authorise the Monitoring Officer to prepare and maintain a new register of members interests to comply with the requirements of the Act and the Council's Code of Conduct, and ensure that it is available for inspection as required by the Act;

16) To require the Monitoring Officer to ensure that all members are informed of their duty to register interests;

17) To authorise the Monitoring Officer to prepare and maintain new registers of members' interests for each Parish Council to comply with the Act and any Code of Conduct adopted by each Parish Council and ensure that it is available for inspection as required by the Act; and

18) To ask the Monitoring Officer to make arrangements to inform and train Parish Clerks on the new registration arrangements.

6 Disclosure of Interests and Withdrawal from Meetings

As set out above, DPIs are expected to be broadly equivalent to financial prejudicial interests, but with important differences. So –

6.1 The duty to disclose and withdraw arises whenever a member attends any meeting of Council, a committee or sub-committee, or of Cabinet or a Cabinet committee, and is aware that he/she has a DPI in any matter being considered at the meeting. So it applies even if the member would be absent from that part of the meeting where the matter in question is under consideration.

6.2 Where these conditions are met, the member must disclose the interest to the meeting (i.e. declare the existence and nature of the interest). However, in a change from the current requirements, the member does not have to make such a disclosure if he/she has already registered the DPI, or at least sent off a request to the Monitoring Officer to register it (a "pending notification"). So, members of the public attending the meeting will in future need to read the register of members' interests, as registered interests will no longer be disclosed at the meeting.

6.3 Where the member does make a disclosure of a DPI, he/she must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.

6.4 If a member has a DPI in any matter, he/she must not –

6.4.1 Participate in any discussion of the matter at the meeting. The Act does not define "discussion", but this would appear to preclude making representations as currently permitted under paragraph 12(2) of the model Code of Conduct; or

6.4.2 Participate in any vote on the matter,

unless he/she has obtained a dispensation allowing him/her to speak and/or vote.

- 6.5 Failure to comply with the requirements (in paragraphs 6.2, 6.3 or 6.4 above) becomes a criminal offence, rather than leading to sanctions;
- 6.6 The Council's Code of Conduct must make "appropriate" provisions for disclosure and withdrawal for interests which are not DPIs, but failure to comply with these requirements would be a breach of the Code of Conduct, not a criminal offence.

Recommendation – Amendment to the Council Procedure Rules

19) To amend the Council procedure Rules to require that a member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he is permitted to remain as a result of the grant of a dispensation.

7 Disclosure and Withdrawal in respect of matters to be determined by a Single Member

- 7.1 Matters can be decided by a single member acting alone where the member is an Executive Member acting under Portfolio powers.
- 7.2 The Act provides that, when a member becomes aware that he/she will have to deal with a matter and that he/she has a DPI in that matter –
 - 7.2.1 Unless the DPI is already entered in the register of members' interests or is subject to a "pending notification", he/she has 28 days to notify the Monitoring Officer that he/she has such a DPI; and
 - 7.2.2 He/she must take no action in respect of that matter other than to refer it another person or body to take the decision.
- 7.3 Standing Orders can then provide for the exclusion of the member from any meeting while any discussion or vote takes place on the matter.
- 7.4 Note that the Act here effectively removes the rights of a member with a DPI to make representations as a member of the public under Paragraph 12(2) of the current Code of Conduct

8 Sensitive Interests

The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests.

So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he/she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with him/her being subject to violence or intimidation, he/she may request the Monitoring Officer to agree that the interest is a "sensitive interest".

If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

9 Dispensations

- 9.1 The provisions on dispensations are significantly changed by the Localism Act.
- 9.2 At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –
 - 9.2.1 That at least half of the members of a decision-making body have prejudicial interests (this ground is of little use as it is normally only at the meeting that it is realised how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of Standards Committee); and
 - 9.2.2 That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter (this ground would require that the members concerned were entirely predetermined, in which case the grant of a dispensation to allow them to vote would be inappropriate).
- 9.3 In future, a dispensation will be able to be granted in the following circumstances –
 - 9.3.1 That so many members of the decision-making body have DPIs in a matter that it would "impede the transaction of the business". In practice this means that the decision-making body would be inquorate as a result;
 - 9.3.2 That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
 - 9.3.3 That the Council considers that the dispensation is in the interests of persons living in the Council's area;
 - 9.3.4 That, without a dispensation, no member of the Cabinet would be able to participate on this; or

- 9.3.5 That the Council considers that it is otherwise appropriate to grant a dispensation.
- 9.4 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.
- 9.5 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by Standards Committee, the Localism Act gives discretion for this power to be delegated to Standards Committee or a Sub-Committee, or to the Monitoring Officer. Grounds 9.3.1 and 9.3.4 are pretty objective, so it may be appropriate to delegate dispensations on these grounds to the Monitoring Officer, with an appeal to the Standards Committee, thus enabling dispensations to be granted “at the door of the meeting”. Grounds 9.3.2, 9.3.3 and 9.2.5 are rather more subjective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person.

Recommendation – Dispensations

20) To delegate the power to grant dispensations –

- a. **on grounds set out in Paragraphs 9.3.1 and 9.3.4 of this report to the Monitoring Officer with an appeal to Standards Committee, and**
- b. **on grounds 9.3.2, 9.3.3 and 9.3.5 to the Standards Committee, after consultation with the Independent Person.**

10 Transitional Arrangements

Regulations under the Localism Act will provide for –

- a. transfer of Standards for England cases to local authorities following the abolition of Standards for England;
- b. a transitional period for the determination of any outstanding complaints under the current Code of Conduct. The Government has stated that it will allow 2 months for such determination, but it is to be hoped that the final Regulations allow a little longer;
- c. removal of the power of suspension from the start of the transitional period; and
- d. removal of the right of appeal to the First Tier Tribunal from the start of the transitional period.

11. Legal/Financial Controls and other Policy matters

11.1 Legal Issues – As set out throughout the report.

11.2 Financial Issues – The Council has a statutory obligation to make available to the Monitoring Officer the resources necessary to enable that officer to undertake their statutory duties. As set out in this report the District Council's Monitoring Officer will retain certain obligations regarding Parish Councils, but there is greater scope for Parish Councils to adopt their own Code of Conduct or depart in some way from the District's model. This could significantly increase the complexity of managing the Register of Interests or dealing with complaints of breaches of the Code. If the worst case does present itself it may be necessary to bring forward a request for additional resources to ensure compliance with the Act.

12. Background Documents

Draft Report on the Amended Standards Regime – Bevan Brittan 2011

Model Arrangements for dealing with standards allegations under the Localism Act 2011 – Bevan Brittan 2011

Contact Officer: Jonathan Lund, Monitoring Officer

Appendices: Appendix 1 – Proposed “Arrangements” under the 2011 Act

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

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

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

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

2 The Code of Conduct

Selby District Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the Council’s website and on request from Reception at the Civic Centre and at Access Selby in Selby Town Centre.

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

3 Making a complaint

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

The Monitoring Officer
Selby District Council
Civic Centre
Doncaster Road
Selby YO8 9FT

Or –
 [Insert e-mailbox address here]

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

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the standard complaint form, which can be downloaded from the Council's website, next to the Code of Conduct, and is available on request from Access Selby. If you choose not to use the standard form please ensure that you provide us with all of the equivalent information, otherwise we may not be able to deal with your complaint.

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

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

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 21 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

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

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

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

5 How is the investigation conducted?

The Council has adopted the following procedure for the investigation of misconduct complaints.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another Council or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

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

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

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

We will aim to complete a formal investigation within 56 days.

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

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

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

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

7.1 Local Resolution

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

7.2 Local Hearing

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

The Council has agreed the following procedure for local hearings:-

The Monitoring Officer will require the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Committee or Hearings Panel may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearing.

The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearing as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Committee or Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

If the Hearing concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearing will then consider what action, if any, the Hearing should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearing will give the member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

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

Selby District Council has delegated to the Standards Committee (or to a Hearings Panel established for the purpose) such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council [or to the Parish or Town Council] for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to [or recommend that the Parish or Town Council] arrange training for the member;
- 8.6 Remove [or recommend to the Parish or Town Council that the member be removed] from all outside appointments to which he/she has been appointed or nominated by the Council [or by the Parish or Town Council];
- 8.7 Withdraw [or recommend to the Parish or Town Council that it withdraws] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude [or recommend that the Parish or Town Council exclude] the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Standards Committee (or Hearings Panel) has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Standards Committee (or Hearings Panel) as to whether the member failed to comply with the Code of Conduct and as to any actions which it has resolved to take.

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

10 Who are the Standards Committee?

The Standards Committee comprises four members of the Council, including not more than one member of the Council's Executive and three co-opted members (non-voting) nominated by Parish and Town Councils. The four Selby District Councillors are appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

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

11 Who is the Independent Person?

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

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council;
- 11.2 [Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the Council's area], or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
 - 11.3.1 Spouse or civil partner;
 - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;

- 11.3.3 Grandparent of the other person;
- 11.3.4 A lineal descendent of a grandparent of the other person;
- 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
- 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
- 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Committee the discretion to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Standards Committee.

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

Report Reference Number: ST/11/8

Agenda Item No: 6

To: Standards Committee
Date: 23 January 2012
Author: Jonathan Lund, Monitoring Officer

Title: Case Monitoring Report

Summary:

The attached Appendix A sets out the cases current since before 8 May 2008 (when the complaints procedures changed) and those dealt with since 8 May.

Recommendation:

To receive and endorse the case monitoring report for the period ended December 2011.

1. Introduction and background

To present the current case monitoring report up to the end of December 2011.

2. The Report

The case monitoring report is set out at Appendix A.

3. Legal/Financial Controls and other Policy matters

None.

4. Background Documents

Contact Officer: Jonathan Lund (Monitoring Officer)
(jlund@selby.gov.uk)

Appendices: A – Monitoring Report

Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SBE17065.06	19/01/2007	Referred to MO for investigation by SBE	Investigation reported on 20/07/09	No breach of the Code of Conduct found.	20/07/2009	130	DISTRICT External investigator appointed by the MO. Investigator reported on 20 July 2009 and any outcome can be reported to the Committee.	Paragraphs 8, 9, 10 and 12 - interests; Paragraph 6 - conferring an advantage or disadvantage
SBE21937.08	25/04/2008	Referred to MO for investigation by SBE	Investigation reported on 02/12/08	No breach of the Code of Conduct found.	02/12/2008	32	PARISH Last SBE complaint under the old system; Passed to SDC for local assessment on the 25th April 08.	Paragraphs 8, 9, 10 and 12 - interests; Paragraph 6 - conferring an advantage or disadvantage;
SDC2008001	02/09/2008	Referred to MO for investigation on 22/09/08	Investigation found a potential breach of the code in respect of failures to declare personal or prejudicial interest	Breach of the Code of Conduct found but no further action taken as subject member had already participated in relevant training.	04/06/2010	91	PARISH Investigated alongside complaint SDC200809 due to similarity.	Paragraph 3 - treating others with respect; 8, 9, 10 and 12 - interests; 5 - bringing the authority into disrepute; 6 - conferring an advantage or disadvantage;
SDC2008002	08/09/2008	Referred to SBE for investigation on 22/09/08	SBE Investigation concluded and Hearing held on 12 June 2009	Breach of the Code of Conduct found and subject member censured	12/06/2009	40	PARISH Notices have been posted and relevant authorities and parties have been notified of the outcome	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute;

Grey Shading = Cases reported before the May 2008 procedure changes
MO = Monitoring Officer
SBE = Standards Board for England

Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SDC2008003	22/09/2008	Referred to MO for investigation on 13/10/08	Investigation completed	Breach of the Code of Conduct found suspended censure pending training	28/05/2009	35	PARISH Notices have been posted and relevant authorities and parties have been notified of the outcome	Paragraphs 8, 9, 10 and 12 - interests; Paragraph 6 - conferring an advantage or disadvantage;
SDC2008004	22/09/2008	Referred to MO for investigation on 13/10/08	Investigation completed	No breach of the Code of Conduct found.	27/04/2009	31	PARISH Notices have been posted and relevant authorities and parties have been notified of the outcome	Paragraphs 8, 9, 10 and 12 - interests; Paragraph 6 - conferring an advantage or disadvantage;
SDC2008005	22/09/2008	Referred to MO for investigation on 13/10/08	Investigation completed	No breach of the Code of Conduct found.	27/04/2009	31	PARISH Notices have been posted and relevant authorities and parties have been notified of the outcome	Paragraphs 8, 9, 10 and 12 - interests; Paragraph 6 - conferring an advantage or disadvantage;
SDC2008006	23/09/2008	Referred to MO for investigation on 13/10/08	Investigation Completed	No breach of the Code of Conduct found.	09/03/2009	24	PARISH Notices have been posted and relevant authorities and parties have been notified of the outcome	Paragraphs 8, 9, 10 and 12 - interests; Paragraph 6 - conferring an advantage or disadvantage;
SDC2008007	23/09/2008	No further action 13/10/08		No further action	13/10/2008	3	PARISH Relevant parties have been notified of the outcome	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute;

Grey Shading = Cases reported before the May 2008 procedure changes
MO = Monitoring Officer
SBE = Standards Board for England

Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SDC2008008	23/09/2008	Referred to MO to arrange mediation 13/10/08		Subject Member refused to participate in mediation. No further action.	26/10/2009	57	PARISH Subject Member not been willing to engage in mediation process. Resolved to take no further action	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute;
SDC2008009	02/12/2008	Referred to MO for investigation on 05/01/09	Investigation found a potential breach of the code in respect of failures to declare personal or prejudicial interest	Breach of the Code of Conduct found but no further action taken as subject member had already participated in relevant training.	04/06/2010	78	PARISH Investigated alongside complaint SDC200801 due to similarity.	Paragraphs 8, 9, 10 and 12 - interests; Paragraph 6 - conferring an advantage or disadvantage;
SDC2009001	20/03/2009	Referred to MO for investigation on 13/04/09	MO referred matter back to LA Sub due to subject member leaving parish council	No further action	26/10/2009	31	PARISH	Paragraph 3 - treating others with respect/bullying; 5 - bringing the authority/office into disrepute; 8, 9, 10 and 12 - interests;

Grey Shading = Cases reported before the May 2008 procedure changes
MO = Monitoring Officer
SBE = Standards Board for England

Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SDC2009002	03/04/2009	Referred to MO for investigation on 18/05/09	Completed	Breach of code of conduct found (failure to declare a personal interest) but no further action taken as subject member had already participated in relevant training.	31/01/2011	95	PARISH	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute; 8, 9, 10 and 12 - interests;
SDC2009003	22/04/2009	Referred to MO for investigation on 18/05/09	Completed	No breach of the Code of Conduct found.	20/12/2010	87	PARISH	Paragraph 3 - treating others with respect; 4 - preventing access to information; 5 - bringing the authority into disrepute;

Grey Shading = Cases reported before the May 2008 procedure changes
MO = Monitoring Officer
SBE = Standards Board for England

Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SDC2009004	01/06/2009	Adjourned to look into possibility of other action 29/06/09	None - referred for other action	On 20/07/08 referred to MO for other action - parish training	20/07/2009	7	PARISH Notices have been posted and relevant authorities and parties have been notified of the outcome	Paragraph 3 - treating others with respect/bullying; 5 - bringing the authority into disrepute;
SDC2009005	23/06/2009	Assessment report considered on 20/07/09	None - referred for other action	On 20/07/09 referred to MO for other action - parish training	20/07/2009	4	PARISH Notices have been posted and relevant authorities and parties have been notified of the outcome	Paragraph 5 - bringing the authority into disrepute;
SDC2009006	26/10/2009	Referred (in part) to MO for investigation on 26/10/09	Investigation Completed	No breach of the Code of Conduct found.	20/12/2010	60	PARISH Investigated alongside complaints SDC0009002 and SDC0009003	Paragraph 5 - bringing the authority into disrepute;
SDC2009007	26/10/2009	No further action 26/10/09 reviewed and confirmed 04/12/09		No further action	04/12/2009	6	PARISH Relevant authorities and parties have been notified of the outcome	Paragraph 5 - bringing the authority into disrepute;
SDC2010001	15/01/2010	No further action		No further action	26/04/2010	14	PARISH Relevant authorities and parties have been notified of the outcome	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2010002	22/01/2010	No further action		No further action	26/04/2010	13	PARISH Relevant authorities and parties have been notified of the outcome	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute; 6 - improper use of position

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Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SDC2010003	22/01/2010	No further action		No further action	21/06/2010	21	PARISH Relevant parties have been notified of the outcome	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2010004	07/04/2010	Referred to MO for Other Action (training)	None - referred for other action on 26/4/2010	Training undertaken and reported to committee on 22/11/10	26/04/2010	3	PARISH Relevant parties have been notified of the outcome	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2010005	04/06/2010	Referred to MO for investigation on 12/07/2010	Investigation ongoing			82	PARISH Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute; 8,9,10 &12 interests
SDC2010006	30/06/2010	Referred to MO for investigation on 12/07/2010	Investigation ongoing			78	PARISH Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute; 8,9,10 &12 interests
SDC2010007	06/08/2010	Referred to MO for investigation on 31/08/10	Investigation Completed	No breach of the Code of Conduct found.	31/01/2011	25	DISTRICT Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2010008	24/08/2010	Referred to MO for investigation	Investigation ongoing			71	PARISH Relevant parties have been notified	Paragraph 5 - bringing the authority into disrepute; 8,9,10 &12 interests

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Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SDC2010009	01/11/2010	No further action Decision reviewed		No further action	15/03/2011	19	PARISH Relevant parties have been notified	Paragraph 5 - bringing the authority into disrepute; 8,9,10 &12 interests
SDC2010010	08/11/2010	Referred to MO for investigation on 07/12/10	Investigation ongoing			60		Paragraph 5 - bringing the authority into disrepute; 8,9,10 &12 interests
SDC2010011	16/11/2010	No further action		No further action	07/12/2010	3	PARISH Relevant parties have been notified	Paragraph 5 - bringing the authority into disrepute; 6 - improper use of position
SDC2010012	25/11/2010	No further action		No further action	07/12/2010	2	PARISH Relevant parties have been notified	Paragraph 5 - bringing the authority into disrepute
SDC2010013	02/12/2010	No further action		No further action	20/12/2010	3	PARISH Relevant parties have been notified	Paragraph 5 - bringing the authority into disrepute; 10 &12 interests
SDC2010014	02/12/2010	No further action		No further action	20/12/2010	3	PARISH Relevant parties have been notified	Paragraph 4 - disclosing information given in confidence; 5 - bringing the authority into disrepute;
SDC2011001	07/03/2011	Referred to MO for Other Action (Mediation)		MO reporting to Standards Committee 26/9/11	28/04/2011	7	DISTRICT -Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute

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Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint
SDC2011002	09/03/2011	Referred to MO for Other Action (Mediation)		MO reporting to Standards Committee 26/9/12	28/04/2011	7	DISTRICT -Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2011003	25/03/2011	Referred to MO for Other Action (Mediation)		MO reporting to Standards Committee 26/9/13	28/04/2011	5	DISTRICT -Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2011004	18/04/2011	No further action		No further action	25/07/2011	14	PARISH - Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2011005	01/01/2011	Referred to Standards for England for investigation	With Standards for England		25/07/2011	29	DISTRICT -Relevant parties have been notified	Paragraph 5 - bringing the authority into disrepute; 8,9,10 &12 interests
SDC2011006	04/07/2011	No further action		No further action	25/07/2011	3	DISTRICT -Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2011007	22/06/2011	No further action - request for Review				27	PARISH - Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2011008	26/07/2011	No further action		No further action	12/09/2011	7	DISTRICT & PARISH -Relevant parties have been notified	Paragraph 4 - confidential information and 6 - conferring an advantage or disadvantage
Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint

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SDC2011009	18/07/2011	Referred to MO for investigation	Investigation ongoing			24	DISTRICT -Relevant parties have been notified	Paragraph 3 - treating others with respect; 5 - bringing the authority into disrepute
SDC2011010	12/08/2011	No further action re Para 3 - Other Action re Para 8/9		No further action re Para 3 - Other Action re Para 8/9	12/09/2011	4	PARISH - Relevant parties have been notified	Paragraph 3 - treating others with respect; 8,9 interests
SDC2011011	07/09/2011	No further action		No further action	26/09/2011	3	PARISH - Relevant parties have been notified	Paragraph 5 - disrepute Paragraph 6 - improper use of position Paragraphs 8,9,10 & 12 - interests
SDC2011012	14/09/2011	Referred to MO for investigation on 17/10/2011	Investigation ongoing			15		Paragraph 3 - disrespect, bullying and compromising the impartiality of officers of the authority Paragraph 4 - preventing access to information Paragraph 6 - improper use of position
Case Number	Date Received	Assessment	Investigation	Outcome	Date Concluded	Period Live (Weeks)	DISTRICT/PARISH COUNCIL & Notes	Aspects of the code involved in the complaint

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SDC2011013	13/10/2011	Adjourned further information requested				11		Paragraph 3 - disrespect, compromising the impartiality of officers of the authority Paragraph 4 - disclosing confidential information Paragraph 5 - disrepute
Average number of weeks per complaint since May 2008						30		
Average number of weeks per complaint 2008						43		
Average number of weeks per complaint 2009						41		
Average number of weeks per complaint 2010						28		
Average number of weeks per complaint 2011						13		

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