



**Report Reference Number ST/11/10**

**Agenda Item No: 6**

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**To:** Council  
**Date:** April 2012  
**Author:** Jonathan Lund, Monitoring Officer  
**Lead Officer:** Jonathan Lund, Monitoring Officer

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**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 current indications are that the changes will be effective from 1 July 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 some of the actions required for the Council to implement the new regime. The report presents Council with the option of whether or not to have a Standards Committee and subsequent recommendations in the report have been drafted in a way which accommodates either option. Matters contained in square brackets [ ] would not apply if the Council decided not to establish a Standards Committee

**Recommendations:**

- 1) To consider whether or not to establish a Standards Committee comprising 4 Councillors of the District Council, appointed proportionally; [ and whether to :**
  - b. Ask the Leader of the Council to nominate to the Committee not more than one member who is a member of the Executive;**
  - c. Invite Parish Councils to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members of the Committee;**
  - d. Co-opt the two existing independent members as co-opted non voting members of the Committee**
  - e. Seek to establish a Joint Standards Committee with the parish and town councils in Selby District]**

**And to construe all subsequent recommendations in a way which is consistent with this recommendation/resolution**

- 2) 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**
- 3) 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.**
- 4) To appoint the Monitoring Officer as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- 5) To give delegated power to the Monitoring Officer, after consultation with the Independent Person, to determine whether a complaint merits further action or investigation and, where appropriate, to arrange such a hearing or investigation. To instruct the Monitoring Officer to seek resolution of complaints without formal action wherever practicable and grant the Monitoring Officer discretion to refer decisions on further action to Council [the Standards Committee ] where he feels that it is inappropriate for him to take the decision, and to report regularly on the discharge of this function;**
- 6) Where a hearing finds no evidence of failure to comply with the Code of Conduct, to require the Monitoring Officer to close the matter, providing details of the findings to the complainant and to the member concerned, and to the Independent Person, [ and reporting the findings to the Standards Committee for information ];**
- 7) Where a hearing 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 findings of the hearing, together with a recommendation on sanctions to the Council for determination [ Where such local resolution is not appropriate or not possible, the Hearings Panel shall determine the appropriate sanction to impose or make a recommendation to the Parish/Town Council] ;**
- 8) To authorise the Monitoring Officer to make recommendations to the Council [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.**
- 9) To adopt the "Arrangements for dealing with standards allegations under the Localism Act 2011" set out at Appendix 1 [ 2 ] which reflect the principles set out above.**

- 10) To authorise the Monitoring Officer, after consultation with the Chair [ of Standards Committee and the Chair ] of Council, to set the allowances and expenses for the Independent Person and any Reserve Independent Persons, [ and this function subsequently be delegated to the Standards Committee ]**
- 11) To advertise a vacancy and begin the process of appointment of 1 Independent Person and 1 Reserve Independent Person**
- 12) To delegate to the Monitoring Officer [ Standards Committee ] authority to short-list and interview candidates, and to make a recommendation to Council for appointment.**
- 13) 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;**
- 14) To require the Monitoring Officer to ensure that all councillors and co-optees are informed of their duty to register interests;**
- 15) 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**
- 16) To ask the Monitoring Officer to make arrangements to inform and train Parish Clerks on the new registration arrangements.**
- 17) 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.**
- 18) To delegate the power to grant dispensations to the Monitoring Officer or [ –
  - 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 Monitoring Officer [Standards Committee ], after consultation with the Independent Person.]****
- 19) 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 Localism Act 2011 (the Act) repeals Section 55 of the Local Government Act 2000, which provides for a 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.

If the Council wishes to operate without a Standards Committee it will be necessary to delegate significant and potentially controversial matters to the Monitoring Officer, with the ultimate responsibility for imposing a very limited range of sanctions being reserved for Council upon the Monitoring Officer's recommendations.

Alternatively Council may wish to appoint a Standards Committee which would be a normal Committee of Council, without the unique features which were conferred by the previous Standards legislation. If this route was chosen –

- 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 as a statutory requirement but could be retained as a local limitation;
- 2.2 The current co-opted independent members will cease to hold office but could be considered for fresh co-option to the new 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 (such a Committee 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 (such a Joint Committee could then take operative decisions in respect of members of Parish Councils, where the Parish Council had delegated such powers to a Joint Standards Committee).

The existing Standards Committee have considered this matter and recommend the retention of a Standards Committee with Independent and Parish representation as a safeguard against the politicisation of the Monitoring Officer role and the retention of a representative role in maintaining standards. The Standards Committee also recommended that consideration be given to trying to establish the Standards Committee as a joint committee with Parish/Town Councils in the District to better involve local councils in the new standards framework.

### **Recommendations - The Standards Committee –**

- 1) To consider whether or not to establish a Standards Committee comprising 4 Councillors of the District Council, appointed proportionally; and whether to :**
  - b. Ask the Leader of the Council to nominate to the Committee not more than one member who is a member of the Executive;**
  - c. Invite Parish Councils to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members of the Committee;**
  - d. Co-opt the two existing independent members as co-opted non voting members of the Committee**
  - e. Seek to establish a Joint Standards Committee with the parish and town councils in Selby District.**

### **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 for the avoidance of doubt.

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; 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 DPIs, it is difficult to suggest what additional disclosure would be appropriate.

The Association of Council Secretaries and Solicitors, in partnership with the National Association of Local Councils, is currently preparing a model draft local code which should be suitable for all tiers of authorities. Monitoring Officers across North Yorkshire have agreed to try to base their local code on this model once a copy is available.

### **Recommendation - Code of Conduct**

- 2) 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**
- 3) 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 (without a Standards Committee) and Appendix 2 (with a Standards Committee).

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/or to the Monitoring Officer.

### 3.2 Decision whether to pursue or 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 further consideration, 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 action. 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 Council [Standards Committee], which would enable him to report on the number and nature of complaints received and draw attention to areas where training or other action might avoid further complaints, and keep the Councillors advised of progress on investigations and costs.

### 3.3 Investigation or Hearing

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.

The new legislation does not require an investigation stage and it would be possible to move straight to a hearing where a complaint progresses beyond the first stage. The hearing would provide an opportunity for the complainant to explain their complaint and for the subject member to respond before the hearing reaches a decision on whether there was a breach of the code of conduct or not. If the Council chose not to appoint a Standards Committee the hearing would be conducted by the Monitoring Officer. His findings and a recommendation on the appropriate sanction would be submitted to Council for consideration and a decision. If a Standards Committee was appointed the hearing would be conducted by a Panel of Members drawn from the Committee and the Committee would have delegated authority to impose a sanction on behalf of the Council or make a recommendation to a parish or Town Council.

Where a hearing 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 sanction. The Hearing might 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 with a subsequent summary report for information to the Standards Committee.]

#### 3.4 Action in response to a 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 very 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 –

- 3.4.1 Reporting its findings to Council [*or to the Parish Council*] for information;
- 3.4.2 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;



- 3.4.3 Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular lead responsibilities;
- 3.4.4 Instructing the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the member;
- 3.4.5 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]*;
- 3.4.6 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
- 3.4.7 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 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. The current Standards Committee has recommended that the Council explore the possibility of establishing a Joint Committee system.]

### 3.5 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.

The current Standards Committee considered this matter and recommended that there should be a right of appeal to the Standards Committee against a decision of the Monitoring officer that a complaint should not progress to a hearing/investigation and a right of appeal to the Council against the findings of a hearing/investigation by the Standards Committee.

## **Recommendation - Complaints of Misconduct**

- 4) To appoint the Monitoring Officer as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
- 5) To give delegated power to the Monitoring Officer, after consultation with the Independent Person, to determine whether a complaint merits further action including a hearing or formal investigation and, where appropriate, to arrange such a hearing or investigation. To instruct the Monitoring Officer to seek resolution of complaints without formal action wherever practicable, and grant the Monitoring Officer discretion to refer decisions on further action to the Council [ Standards Committee ] where he feels that it is inappropriate for him to take the decision, and to report regularly on the discharge of this function;
- 6) Where a hearing 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 findings to the complainant and to the member concerned, and to the Independent Person, [and reporting the findings to the Standards Committee for information; ]
- 7) Where the hearing 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 findings of the hearing together with a recommendation on sanctions to the Council for determination. [Where such local resolution is not appropriate or not possible the Hearings Panel shall determine the appropriate sanction to impose or make a recommendation to the Parish/Town Council];
- 8) To authorise the Monitoring Officer to make recommendations to the Council [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 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;
  - 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.**

**9) To adopt the “Arrangements for dealing with standards allegations under the Localism Act 2011” set out at Appendix 1 or 2 both of 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 co-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**

- 10) To authorise the Monitoring Officer, after consultation with the Chair [ of Standards Committee and the Chair ] of Council, to set the allowances and expenses for the Independent Person and any Reserve Independent Persons, [ and this function subsequently be delegated to the Standards Committee ]**
- 11) To advertise a vacancy and begin the process of appointment of 1 Independent Person and 1 Reserve Independent Person**
- 12) To delegate to the Monitoring Officer [ 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" (DPs). 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**

**13) 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;**

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

**15) 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**

**16) 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**

- 17) 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 would be uncontroversial 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 if the Council was minded to establish a Standards Committee it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee, after consultation with the Independent Person, otherwise it would be necessary to delegate to whole matter to the Monitoring Officer.

### **Recommendation – Dispensations**

- 18) 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 Monitoring Officer [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. In 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 without a Standards Committee

Appendix 2 – Proposed “Arrangements” under the 2011 Act with a Standards Committee

# Arrangements for dealing with standards allegations under the Localism Act 2011 – without a Standards Committee

## 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 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 further formal action. 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 further formal action. 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 further formal action.

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 further formal action taken?

The Council has adopted the following procedure to deal with misconduct complaints.

If the Monitoring Officer decides that a complaint merits further formal action s/he will arrange a Hearing. The Monitoring Officer will make reasonable efforts to ensure that the date for the hearing is suitable to all parties but will not tolerate unreasonable delay.

The Hearing will be conducted by the Monitoring Officer.

The Complainant will be invited to set out their complaint and show why they think the action(s) complained of represent a breach of the Code of Conduct) The Complainant may call witnesses to support their arguments. The Subject Member will have an opportunity to respond to the Complaint and call witnesses to support their arguments. Both sides may question the evidence and the witnesses.

The Monitoring Officer will seek to establish the facts and may take reasonable steps to ensure that the evidence presented is relevant and pertinent to the matters under consideration.

The Monitoring Officer will then decide whether a breach has occurred and announce his findings. If the Monitoring Officer finds no breach of the Code of Conduct he will close the hearing and close the complaint.

If the Monitoring Officer finds a breach of the Code of Conduct he may, after consulting the Independent Person, seek a local resolution. S/he will consult with the Independent Person and with the 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 Council [Standards Committee] [and the Parish or Town Council] for information, but will take no further action. However, if the Complainant tells the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter to the Council with a recommendation on the appropriate sanction.

**6** What action can the Monitoring Offer recommend the Council to take where a member has failed to comply with the Code of Conduct?

6.1 Publish its findings in respect of the member's conduct;

- 6.2 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;
- 6.3 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 6.4 Arrange training for the member;
- 6.5 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];
- 6.6 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
- 6.7 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 Council has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## 7 What happens at the Council Meeting?

At the Council Meeting the Monitoring Officer will state his decision as to whether the member failed to comply with the Code of Conduct and his recommendation to Council as to any actions which it ought to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice, and send a copy to you, to the member [and to the Parish or Town Council], make that decision notice available for public inspection.

## 8 Who is the Monitoring Officer?

The Monitoring Officer is a senior officer of the Council who is appointed to act as Monitoring Officer in addition to his/her other duties. The Monitoring Officer has an independent statutory duty to report on any action or proposal by Selby District Council which would be unlawful, in breach of a statutory code or give rise to maladministration or injustice.

The Monitoring Officer at Selby District Council is also the Council's Deputy Chief Executive

In addition, the Monitoring Officer has responsibilities in connection with the Councillor Code of Conduct and enacting the arrangements (these arrangements) for dealing with allegations under the Localism Act 2011.

## 9 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 –

- 9.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council;
- 9.2 [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
- 9.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
  - 9.3.1 Spouse or civil partner;
  - 9.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 9.3.3 Grandparent of the other person;
  - 9.3.4 A lineal descendent of a grandparent of the other person;
  - 9.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 9.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 9.3.7 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.

## 10 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer 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.

## 11 Appeals

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

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



Appendix One      The Council's Code of Conduct

# Arrangements for dealing with standards allegations under the Localism Act 2011 with a Standards Committee

## 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 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 further formal action. 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 further formal action. 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 further formal action.

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 further formal action taken?

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

If the Monitoring Officer decides that a complaint merits further formal action, s/he will arrange a hearing. The Monitoring Officer will make reasonable efforts to ensure that the date for the hearing is suitable to all parties but will not tolerate unreasonable delay.

The Hearing will be conducted by a Panel of Members drawn from the Council's Standards Committee.

The Complainant will be invited to set out their complaint and show why they think the action(s) complained of represent a breach of the Code of Conduct) The Complainant may call witnesses to support their arguments. The Subject Member will have an opportunity to respond to the Complaint and call witnesses to support their arguments. Both sides may question the evidence and the witnesses.

Panel Chair will seek to establish the facts and may take reasonable steps to ensure that the evidence presented is relevant and pertinent to the matters under consideration.

The Panel will then decide whether a breach has occurred and announce their findings. If the Panel finds no breach of the Code of Conduct the Chair will close the hearing and the Monitoring Officer will close the complaint.

If the Panel finds a breach of the Code of Conduct the Monitoring Officer may, after consulting the Independent Person, seek a local resolution. S/he will consult with the Independent Person and with the 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 the Complainant tells the Monitoring Officer that any suggested resolution would not be adequate, the Panel will decide what sanction to impose against the Subject Member.

**6** What action can the 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 –

- 6.1 Publish its findings in respect of the member's conduct;
- 6.2 Report its findings to Council [or to the Parish or Town Council] for information;
- 6.3 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;
- 6.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 6.5 Instruct the Monitoring Officer to [or recommend that the Parish or Town Council] arrange training for the member;
- 6.6 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];
- 6.7 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
- 6.8 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.

## 7 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.

## 8 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, two co-opted members (non-

voting) nominated by Parish and Town Councils and two independent co-opted members. 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.

## **9** 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 –

- 9.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Council;
- 9.2 [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
- 9.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
  - 9.3.1 Spouse or civil partner;
  - 9.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 9.3.3 Grandparent of the other person;
  - 9.3.4 A lineal descendent of a grandparent of the other person;
  - 9.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 9.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 9.3.7 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.

## **10** 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.

## **11 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.