

## NORTH YORKSHIRE COUNTY COUNCIL

## STANDARDS COMMITTEE

23 April 2012

**Local Ethical Framework Developments****1.0 PURPOSE OF REPORT**

- 1.1 To update Members regarding proposed changes to the national standards regime arising out of the Localism Act 2011 and to seek Members' further views on appropriate arrangements for the Authority's future local standards framework.

**2.0 BACKGROUND**

- 2.1 The Localism Act 2011 ("the Act") abolishes the current standards regime and makes provision for a new framework, which will come into effect on 1 July 2012. The County Council will need to consider the issues raised in this report to ensure that a new ethical framework, compliant with the Act, is in place by that date.
- 2.2 The implications of the Act for the standards regime has been the focus of the Standards Committee's work programme for some time. At the Committee's last meeting in January, the Committee agreed various recommendations to full Council in relation to the standards regime. A resume of those recommendations and the impact of the Act upon the current ethical framework is attached at **Appendix 1** to this report.
- 2.3 The County Council, on 15 February 2012, received a report in relation to the Standards Committee's recommendations for development of a new ethical framework for the Council. The Council deferred consideration of the proposals pending more detailed consideration of the matter by a Members' Working Group on the New Ethical Framework. The Council was also advised of work to be undertaken by the Monitoring Officer in conjunction with the Monitoring Officers for the District Authorities and the City of York Council ('the Officer Group'), which aimed to achieve a consistent approach to the ethical framework. The aim was that Members working with different Authorities should not be subject to different requirements in relation to ethical standards in their various roles.
- 2.4 The Officer Group met on 27 February 2012 and work is being undertaken as far as possible to develop a common approach, particularly in relation to a new Members' Code of Conduct. It is, however, evident that the Authorities will have different preferences and approaches in a number of areas. A note of the meeting is attached at **Appendix 2** and work between officers is ongoing in relation to some aspects.
- 2.5 The Members' Working Group on the New Ethical Framework ("the Member Group") met on 28 March 2012 to discuss the proposals for a new standards regime for the Council. Their views are set out in this report.

**3.0 NEW ETHICAL FRAMEWORK**

- 3.1 The standards provisions are contained in Chapter 6 (Predetermination) and Chapter 7 (Standards) of the Act. The implications of the Act for the standards regime are fully set out in the paper attached at **Appendix 1**.

#### **4.0 DUTY TO PROMOTE AND MAINTAIN HIGH STANDARDS OF CONDUCT**

4.1 The County Council is obliged in accordance with the 2011 Act to demonstrate how it will continue to promote and maintain standards of conduct. The Committee previously felt that it would be appropriate for the Authority's duty to promote and maintain high standards of conduct to be discharged as listed below and from time to time in such other ways as the Monitoring Officer, in consultation with any Standards Committee established by the Authority, may deem appropriate:-

- (a) Appoint a non-statutory Standards Committee.
- (b) Adopt new/revise existing, ethical statements.
- (c) Continue to promote ethical issues through planned and monitored Member training, including Member induction training.
- (d) Continue to produce Standards Bulletins.
- (e) Continue to monitor wider policies, protocols and indicators which point to the ethical health of the Authority.
- (f) Use of the Authority's website to promote the standards regime ultimately put in place.
- (g) Publicise when the new/revised Code and supporting standards regime is established by the Authority and from time to time as appropriate.

4.2 The above are already largely in place and can be maintained with minimum input and a low key, proportionate approach, on the basis that the issue is considered twice annually at the meeting of the new Standards Committee. It is anticipated that the input from officers and Members in to this process will be significantly reduced whilst enabling the demonstration of the Council's maintenance of good standards.

4.3 This is also an area where authorities can work together to reduce duplication. The Officer Group agreed that authorities could look to share training and other materials (eg Standards Bulletins), but agreed that there was probably limited scope for joint training given the size of the area.

4.4 The Member Group was happy with this approach. **The Standards Committee is therefore requested to recommend the approach set out in paragraphs 4.1 to 4.3 of this report to full Council for approval, subject to any further comments the Committee may have.**

#### **5.0 STANDARDS COMMITTEE**

5.1 The Act has removed the requirement for authorities to have statutory standards committees, however authorities may choose to establish a standards committee which would be a committee of the authority rather than a mandatory statutory committee. The usual proportionality and access to information requirements will therefore apply to any new standards committee established. The County Council will therefore need to decide whether it wishes to establish a Standards Committee.

5.2 Authorities are approaching this issue in a variety of ways, some replicating the current arrangements with the Standard Committee and co-opted Independent Members, others are establishing a Standards Committee without Independent Members, and others are arranging for the ethical standards requirements under the new legislation to be undertaken by a Sub-Committee of another Committee e.g. Audit. The prospect of working with a joint committee between authorities is not considered feasible other than between parish councils and the district authorities for their area. It is considered, on balance, preferable that authorities should be directly involved in the handling of complaints against members of their authority.

5.3 In initial discussions about this matter, views expressed by Standards Committee Members favoured the establishment of a Standards Committee, as there will still be a need to deal with standards issues and complaint handling case-work, but the Committee also considered that the processes of a Standards Committee should be much less bureaucratic and more proportionate than those currently followed.

5.4 The Member Group considered that:

- (a) the Council should establish a Standards Committee under the new regime, comprising not more than five Members, the Committee being necessarily subject to the rules in relation to proportionality (therefore 3 Conservative Members, 1 Liberal Democrat Member and 1 Independent Member);
- (b) there should be no substitutes on the Standards Committee (but this could be reviewed if necessary in the future);
- (c) the Standards Committee should meet twice per annum to ensure that the Council's statutory duties under the Act in relation to promotion and maintenance of high standards of conduct by Members are fulfilled;
- (d) a panel of Members from the new Committee (which could be the whole Committee) should meet on an ad hoc basis to deal with any alleged breach of the new Members' Code of Conduct.

**5.5 The Standards Committee is therefore requested to recommend the approach set out in paragraph 5.4 of this report to full Council for approval, subject to any further comments the Committee may have.**

## **6.0 MEMBERS' CODE OF CONDUCT**

6.1 The Authority's current Code of Conduct for Members is attached at **Appendix 3** to this report.

6.2 The current ten General Principles of Conduct and national model Members' Code of Conduct (on which the Authority's current Code is based) will be repealed, and Members will no longer have to give an undertaking to comply with the Code of Conduct. However, the Authority will be required to adopt a new Code governing elected and (voting) co-opted members' conduct when acting in that official capacity (not conduct in private life). The new Code must, viewed as a whole, be consistent with the following seven principles:

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

and contain such provision as the Council thinks appropriate in relation to the registration of interests in the Register of Members' Interests and the disclosure of pecuniary and non-pecuniary interests. That apart, the scope and content of the Code is a matter for the Council, although nothing in an authority's code will prejudice the operation of the Act's provisions regarding the registration and disclosure of interests, dispensations and offences.

- 6.3 In relation to interests (and also dispensations), regulations pursuant to the 2011 Act are still awaited. 'Disclosable Pecuniary Interests' ("DPIs") are to be defined in the regulations and will be required to be registered and disclosed. As the relevant definitions are not yet available, it is not yet possible to fully draft new Code provisions covering the new interests regime. Given the timescales involved, some authorities are considering the continuation of the current Code of Conduct until such time as the regulations are forthcoming to enable the final determination of a Code suitable for adoption.
- 6.4 The Member Group was asked to consider whether the Council should, in that event, continue with the current Code until it is possible to produce the fully drafted revised Code. The Group considered an initial draft of a new Code for the Council prepared by the Monitoring Officer on the basis of models from other authorities and the two initial (but unfinalised) model drafts produced by the Local Government Association ("LGA").
- 6.5 The Member Group considered the following in relation to a proposed new Members' Code of Conduct for the Council:
- (a) there was discussion by Members over whether it would be more appropriate to refer to 'harass' rather than 'bully' in the new Code, however Members felt the draft Code should remain as drafted for now and that this could be reviewed in the future;
  - (b) regarding paragraph 5 of the draft new Code (re disclosure of confidential information), Members felt that it may be worth considering whether or not to add in a provision requiring consultation with the Chief Executive Officer and/or Monitoring Officer before any such disclosure of information. **The Standards Committee's views would be particularly welcome on this point;**
  - (c) that the draft new Code for the Council should retain the current Code's provisions re interests and that further work be undertaken to update the Code when the relevant regulations in relation to interests were forthcoming;
  - (d) that provisions re predetermination should not be included in the Code (a view supported by the discussions of the Officer Group);
  - (e) that the new Code should include provision for Members to keep the Register of Members' Interests up to date (under the Localism Act, Members must register their interests within 28 days of election/appointment but there is no specific provision under the Act for them to register any changes within 28 days of the change occurring);
  - (f) that, subject to the above comments, the draft new Code be recommended to Council for approval. When the new regulations are available, the Code should be amended to reflect the new statutory interests regime;

The Committee's further views on any of these issues are most welcome.

- 6.6 The Member Group further considered that:
- (a) contrary to the view of the Officer Group, but in accordance with the previous view of the Standards Committee, Members *should* be required to sign an undertaking to comply with the Code: the Member Group felt that this demonstrated a willingness on the part of the Member to comply with high

ethical standards. **The Standards Committee is therefore requested to recommend this approach to full Council for approval;**

(b) opportunities for joint publicity post adoption of new Codes is probably limited, but the wording of a statement for all authorities to include on their websites could be developed jointly and the Monitoring Officer will undertake work in relation to this. This corresponds with the Standards Committee's earlier views that the Council should publicise its adoption/revision of the Code on the Council's website and Intranet and in any other ways the Standards Committee deems appropriate. **The Standards Committee is therefore requested to recommend this approach to full Council for approval.**

6.7 The Monitoring Officer subsequently amended the draft new Code to reflect the Member Group discussions and a revised draft is attached at **Appendix 4** for the Committee's comments.

6.8 Subsequently, on 10 April 2012, the Association of Council Secretaries and Solicitors ("ACSeS") circulated a 'Template Code and Guidance Note on Conduct' produced by the LGA, a copy of which is attached to this report at **Appendix 5**. In circulating the LGA template Code, ACSeS have stated that:

*... ACSeS members may be surprised that the product of much effort on many sides is not in a format that they might have expected. It should be appreciated that this is a politically owned document that is supported by all political groups in the LGA.*

*Members will, however, recognise that the template contains two parts of a principles based, outcomes focussed code of conduct (not dissimilar to the code of conduct for solicitors produced by the SRA). Page 1 provides the principles and page 2 provides the outcomes the principles seek to achieve.*

*Absent are the 'indicative behaviours' that are required to produce the outcomes. However, it will occur to members that many 'indicative behaviours' are already incorporated in their existing documentation, for example, dealing with member-officer relations, use of council resources, information management, standing orders etc.*

*It may well be that some Councillors (and indeed, some Monitoring Officers) would prefer the more traditional code of conduct model with more precise do's and don'ts. The changes to the ethical framework to local government do, however, afford a developmental approach to the modelling of the code of conduct, and it will perhaps be appreciated that a principles based outcomes focussed model would provide more flexibility for responding to rapid changing times.*

*It remains, of course, a matter for local authorities to decide on their own codes under the Localism Act 2011.*

*The interests part of the code cannot yet be completed until further information is available from CLG on the content of the descriptions of interests regulations to be applied to 'disclosable pecuniary interests' under the Localism Act.*

At the time of writing this report the Monitoring Officer is considering the impact of this template Code upon the current draft new Code for the Council and is also seeking the views of the Officer Group. An update will be given to the Committee at its meeting.

6.9 **The Standards Committee is therefore requested to recommend the approach set out in paragraphs 6.5 to 6.7 of this report to full Council for approval, subject to any further comments the Committee may have following the further discussion on this matter at the meeting.**

6.10 The decision to adopt a new/revise the existing Code can only be taken by full Council and all standards functions are to be non-executive functions.

#### **Disclosable Pecuniary Interests**

6.11 The Act prohibits Members with a DPI from participating in Authority business. The Act does not allow Members with such an interest to speak, where a member of the public can (as under the current Code), before ending their participation, however there is a relaxation under the Act's provisions in that there is no requirement on a Member with such an interest to withdraw from the meeting room. However, the Authority can adopt a Standing Order (Council Procedure Rule) requiring Members to withdraw from the meeting room. Should there be no such provision included in Standing Orders, then it would be open to a Member with a DPI (the equivalent of a current prejudicial interest ie a more significant interest) to remain in the meeting room during the discussion and vote and potentially able to influence those Members participating in the discussion and vote. The Standards Committee previously considered that such a recommendation should be made to full Council and the Member Working Group agreed, as did the Officer Group. **The Standards Committee is therefore requested to recommend this approach to full Council for approval.**

#### **7.0 REGISTER OF MEMBERS' INTERESTS**

7.1 The Code must also include the provision the Authority considers appropriate in respect of the registration in its Register of Members' Interests, and disclosure, of pecuniary interests and interests other than pecuniary interests. As mentioned above, further detail on interests will be provided in regulations. Until such time as the regulations are available, the draft new Code attached to this report proposes that the current Code's interests provisions prevail (which covers registration of interests requirements).

#### **8.0 COMPLAINT HANDLING**

8.1 Authorities must put in place arrangements for the investigation of allegations of breaches of the Code of Conduct and to decide upon allegations. These arrangements must, as indicated above, involve the appointment of at least one Independent Person. The Council must therefore consider arrangements enabling written allegations of a breach of the Code to be investigated, and under which decisions on allegations can be made.

8.2 If an authority finds that a Member has failed to comply with its Code of Conduct (whether or not the finding is made following an investigation) it may have regard to the failure in deciding—

- (a) whether to take action in relation to the Member, and, if so;
- (b) what action to take.

8.3 The Independent Person's views:

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

➤ *may be sought—*

- ❖ by the authority in relation to an allegation in circumstances other than where being investigated;
- ❖ by a subject member or co-opted member.

The considerations in relation to the appointment of the Independent Person(s) are set out at 9.0 below.

8.4 The arrangements for the investigation and determination of complaints under the current regime have been the subject of much criticism because of the bureaucracy involved from prescribed processes. This is an opportunity to redesign the process so that they are fairly and effectively dealt with in a timely manner. The Monitoring Officer is undertaking work on the drafting of a process for the handling of complaints with the following features and a first draft of the procedure is set out at **Appendix 6** for Members' views:

- (a) On the receipt of a written complaint, initial assessment by the Monitoring Officer in consultation with the Independent Person as to whether the complaint requires investigation or whether it could be resolved informally. This would enable the filtering out of vexatious and trivial matters and enable matters where, for example, there has been a misunderstanding, or the need for a simple apology, to be dealt with swiftly and effectively. This would apply to the majority of the complaints that have been received by the Council to date.
- (b) The procedure at (a) would be subject to the matter being referred to the Committee if the Monitoring Officer considered it inappropriate that s/he should deal with the matter at that stage, for example if there was a conflict of interest.
- (c) If it is considered that the matter merits investigation, the complainant be invited within a set timescale to submit all information they wish to submit. The Member subject to the complaint would then be invited to submit all information they wish to be considered in response. The Monitoring Officer would consider whether any further information is needed and take steps so far as possible to secure its production. A report would be prepared.
- (d) The report would be referred to the Committee or a smaller Sub-Committee from the Committee, of say three Members. They would consider whether there has been a breach of the Code. The Independent Person's views would need to be taken into account at this stage and the Monitoring Officer or her representative would advise. The Panel may consider that the complainant and subject Member could be invited to attend the meeting of the Committee or Sub-Committee to make a statement or representations. The Committee would then decide upon the matter.

8.5 The Member Working Group considered that the framework at (a) to (d) above could provide a satisfactory basis for the handling of complaints. Members felt that should there be any disagreement between the Independent Person and the Monitoring Officer as to whether a matter should be investigated, then the matter would be referred to the Standards Committee. The Monitoring Officer will develop draft criteria for the initial filtering and assessment of complaints. **Subject to any comments Members may have, the Standards Committee is requested to recommend the approach and procedure set out in paragraphs 8.4 and 8.5 to full Council for approval.**

## 9.0 **INDEPENDENT PERSONS**

- 9.1 Under the Act there is no longer a requirement to have Independent Members of the Standards Committee under the new regime, but each authority must appoint at least one “Independent Person”. There is no requirement that they should be co-opted on to the Committee: they may simply be called upon to undertake the functions set out in the Act in relation to potential breaches of the Code of Conduct as and when the circumstances arise.
- 9.2 The Independent Person’s role is set out at paragraph 8.3 above. As the Independent Person could be involved in more than one role, which could give rise to conflicts of interests, the Member Group considered that two Independent Persons should be appointed, to be involved on a rota basis. **The Standards Committee is therefore requested to recommend this approach to full Council for approval.**
- 9.3 The Member Group noted that the possibility of appointing Independent Persons in conjunction with other authorities in the area has been explored but it was concluded that the process would be very complex. Each authority must appoint at least one independent person and appointment from the general trawl would be complex and involve the expression of preferences by candidates etc. There is still a problem, until the transitional provisions are clarified, of potentially not being able to appoint from existing independent Members of the Standards Committee. Government has issued notification (see the letter from Bob Neill MP at **Appendix 7**) that transitional arrangements will follow to allow current Standards Committee independent Members to be appointed as Independent Persons (provided that they are no longer independent Members at time of appointment), but there are, as yet, no revised arrangements.
- 9.4 The Member Group further considered that:
- (a) the new Independent Persons should be invited to Standards Committee meetings but should not be formally co-opted on to the Committee;
  - (b) that the Independent Persons should be paid expenses in accordance with the Council’s Members’ Allowances Scheme and that this be considered by the Independent Remuneration Panel in due course;
  - (c) an effective and timely approach to advertising the Independent Person vacancies would be for the Council to advertise on the Council website and through a press release via the Council’s arrangements with the local press (and in any other way the Council considers appropriate);
  - (d) the tasks in relation to the short listing and interviewing of Independent Person candidates be delegated to the Standards Committee;
  - (e) the draft Independent Person role description attached at **Appendix 8** to this report could be used in relation to the recruitment process. **Subject to any comments Members may have, the Standards Committee is recommended to agree to the role description** – it is not necessary for full Council to approve this document;
- 9.5 The Member Group further noted that the Monitoring Officer had had discussions with North Yorkshire Fire and Rescue Authority which was willing to join with the County Council in measures to recruit Independent Persons for the two authorities, however the different proposed approaches to remuneration may make this impractical. The Monitoring Officer agreed to liaise further with the Chair of the



Member Group in relation to this matter, after further discussions with the Fire Authority.

**9.6 Subject to any comments Members may have, the Standards Committee is therefore requested to recommend the following to full Council for approval in accordance with this approach:**

- (a) that all functions in respect of the publication of Standards Committee Independent Person vacancies be delegated to the Standards Committee and that the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee;
- (b) that the power to assist in the recruitment of Standards Committee Independent Persons (but not to approve individual appointments) be delegated to the Standards Committee;
- (c) that the independent person vacancy/vacancies be published on the Council's website (and publicised in any other ways the Monitoring Officer and Chair of the Committee deem suitable), and that the Chairman of the Standards Committee with the Monitoring Officer should undertake short-listing of applicants. Subsequently a meeting of a panel of Members of this Committee should be held to interview appropriate candidates and report back to the Standards Committee with a recommended candidate for appointment. The Standards Committee would then recommend to the Authority which candidate should be appointed.

**10.0 DISPENSATIONS**

10.1 The current provisions on dispensations are changed by the Localism Act.

10.2 At present, a Member who has a prejudicial interest may apply to the Standards Committee for a dispensation on two grounds:

- (a) That at least half of the Members of a decision-making body have prejudicial interests; or
- (b) 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.

10.3 Under the new provisions, the *Authority* may, on a written request made to the proper officer of the Authority by a Member, grant him/her a dispensation relieving him/her from either or both of the restrictions upon participation in the discussion and/or participation in the vote only if, after having had regard to all relevant circumstances, the Authority:

- considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- considers that granting the dispensation is in the interests of persons living in the authority's area;

- considers that without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
- considers that it is otherwise appropriate to grant a dispensation.

The dispensation must specify the period for which it has effect (the maximum period is four years, as now).

10.4 The dispensation process commences with a written request by the Member to the proper officer. The Committee previously felt that it would be appropriate the Monitoring Officer to be designated as Proper Officer for this purpose, and the Member Working Group agreed. **The Standards Committee is therefore requested to recommend this approach to full Council for approval.**

10.5 Currently, the Local Government Act 2000 requires that dispensations be granted by Standards Committee, however the Localism Act provides for dispensations to be granted by the Authority but gives discretion for this power to be delegated. The Committee previously felt that the power to grant dispensations should be delegated to the Standards Committee (as currently), after consultation with the Independent Person. The Member Working Group agreed with this approach but also felt that power should be delegated to the Monitoring Officer to grant dispensations where the timescales were such that a Standards Committee meeting could not be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation. **The Standards Committee is therefore requested to recommend this approach to full Council for approval.**

## 11.0 **CONCLUSION**

11.1 Members are requested to consider the issues raised in this report and to determine the Committee's recommendations to full Council in respect of a new standards regime for the authority. The Monitoring Officer is continuing to draft documentation in relation to the new standards regime and any further drafts ready in time will be circulated for comment at the Committee's meeting.

11.2 The Standards Committee's final views on all these standards issues will be reported to the Executive and then onwards to full Council.

## 12.0 **RECOMMENDATIONS**

12.1 That the Committee notes and considers the issues raised in this report.

12.2 That, subject to any further comments Members may have, the Committee recommends to full Council that:

(a) the Authority's duty to promote and maintain high standards of conduct be discharged as listed below and from time to time in such other ways as the Monitoring Officer, in consultation with any Standards Committee established by the Authority, may deem appropriate:-

- (i) Appoint a non-statutory Standards Committee.
- (ii) Adopt new/revise existing, ethical statements.
- (iii) Continue to promote ethical issues through planned and monitored Member training, including Member induction training.
- (iv) Continue to produce Standards Bulletins.

- (v) Continue to monitor wider policies, protocols and indicators which point to the ethical health of the Authority.
  - (vi) Use of the Authority's website to promote the standards regime ultimately put in place.
  - (vii) Publicise when the new/revised Code and supporting standards regime is established by the Authority and from time to time as appropriate.
  - (viii) Work together with neighbouring authorities, where possible and appropriate, in order to discharge the statutory duty.
- (b) the Council establish a politically balanced Standards Committee (with no substitutes) comprising not more than five Members, meeting twice per annum, with a panel of Members from the Committee meeting on an ad hoc basis to deal with any alleged breach of the new Members' Code of Conduct (with effect from 1 July 2012);
- (c) the draft new Members' Code of Conduct for the Council attached at **Appendix 4** to this report be approved and effective from 1 July 2012; and that such Code be revised as necessary in the future once the relevant regulations are in force regarding the new statutory interests regime;
- (d) under the new standards regime effective from 1 July 2012, Members and voting co-opted Members should be required to sign an undertaking to comply with the Code before acting in such capacity;
- (e) the Council publicise its adoption of the new Code on the Council's website and Intranet and in any other ways the Standards Committee deems appropriate;
- (f) provision be included in the Council Procedure Rules requiring Members to withdraw from the meeting room where they have a disclosable pecuniary interest;
- (g) the complaint handling procedure attached to this report at **Appendix 6** be approved and effective from 1 July 2012;
- (h) two Independent Persons be appointed, to be involved on a rota basis;
- (i) the Independent Persons be invited to meetings of the new Standards Committee but not formally co-opted on to the new Committee;
- (j) the Independent Persons be paid expenses in accordance with the Council's Members' Allowances Scheme (1/2 unit plus travel expenses at Member rate) and that this be considered by the Independent Remuneration Panel in due course;
- (k) the Independent Person vacancies be advertised on the Council's website and through a press release via the Council's arrangements with the local press (and in any other way the Council considers appropriate) and that the Chairman of the Standards Committee with the Monitoring Officer should undertake short-listing of applicants;
- (l) all functions in respect of the publication of Standards Committee Independent Person vacancies be delegated to the Standards Committee and that the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee;
- (m) the power to assist in the recruitment of Standards Committee Independent Persons (but not to approve individual appointments) be delegated to the

Standards Committee;

- (n) the Monitoring Officer be designated as Proper Officer to receive written requests for a dispensation by Members and voting co-opted Members, effective from 1 July 2012;
- (o) the power to grant dispensations to Members and voting co-opted Members be delegated to the Standards Committee, after consultation with the Independent Person; and that power be delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Person) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation (all with effect from 1 July 2012).
- 12.3 That, subject to any comments Members may have, the Committee approves the draft Independent Person role description attached at **Appendix 8** to this report.
- 12.4 That, subject to any comments Members may have, the Committee agrees that once the Council has delegated all functions in respect of the publication of Standards Committee independent person vacancies to the Standards Committee, the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee;
- 12.5 That the Committee determines which of its Members should comprise a panel to interview appropriate Independent Person candidates and report back to the Standards Committee with a recommended candidate for appointment by full Council.

CAROLE DUNN  
Monitoring Officer

Background Papers:

- The Localism Act 2011
- Minutes of Standards Committee meetings

County Hall  
NORTHALLERTON

12 April 2012

**Standards Committee views on new ethical framework**

The Localism Act 2011 (“the Act”) abolishes the current standards regime and makes provision for a new framework, which will come into effect on 1 July 2012.

The Act provides for the following in relation to the ethical framework:

- the abolition of Standards for England (as from 31 March 2012) and the cessation of its regulatory role from end of January 2012);
- clarification of the rules on predetermination (which replicate the common law position re predisposition and predetermination).

The Act also:

- creates a statutory duty on relevant authorities to ‘promote and maintain high standards of conduct’ by members and voting co-opted members;
- removes the *requirement* for authorities to have standards committees:

Any standards committee established under the new regime will be a normal committee of the Authority, rather a mandatory, statutory committee. The composition of the committee will be subject to the usual rules on proportionality and access to information. The committee will be able to censure Members but will not have the powers of statutory standards committees (eg powers of suspension);

The current co-opted independent members of the Standards Committee will cease to hold office under the new arrangements. The Act establishes a new category of “Independent Persons” who must be consulted in certain circumstances and who will not carry voting rights if appointed to the new Standards Committee. The Act, as drafted, precludes existing Standards Committee independent members from serving as Independent Persons, although the Government has mentioned bringing in transitional arrangements so that they can, with the proviso that that person must cease being an independent member of the Committee at the date of appointment., however no regulations have yet appeared.

- revokes the statutory General Principles of conduct;
- requires a relevant authority to adopt a code (consistent with the Nolan principles below) dealing with the conduct that is expected of members and voting co-opted members of the authority when they are acting in that official capacity (not conduct in private life):

Selflessness  
Integrity  
Objectivity  
Accountability  
Openness  
Honesty  
Leadership

The decision to adopt a new/revise the existing Code can only be taken by full Council and all standards functions are to be non-executive functions.

The Authority must publicise its adoption/revision of the Code in such manner as it considers is likely to bring it to the attention of persons who live in its area.

- removes the requirement for Members to sign an undertaking to comply with the Code of Conduct;
- requires the monitoring officer to establish and maintain a Register of Interests of members and voting co-opted members, which must be available for public inspection and published on the Authority's website;
- provides for an interests and dispensations regime, the main detail of which is to be set out in future regulations. The regulations will set out further detail about "Disclosable Pecuniary Interests" ("DPIs"), which will be required to be registered and disclosed. The Act also requires an authority's code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. As the detail is not yet available, it is not yet possible to fully draft Code provisions covering the new interests regime;
- prohibits Members with a DPI from participating in Authority business. The Act does not allow Members with such an interest to speak where a member of the public can (as under the current Code), before ending their participation, however there is a relaxation under the Act's provisions in that there is no requirement on a Member with such an interest to withdraw from the meeting room. However, the Authority can adopt a Standing Order (Council Procedure Rule) requiring Members to withdraw from the meeting room;
- provides that failure to comply with the interests' requirements without reasonable excuse will constitute a criminal offence, punishable by a fine of up to £5,000. The court may also order the disqualification of the person from being a member/co-opted member of a relevant authority (the authority in question or any other relevant authority) for up to five years;
- requires the authority to have in place:
  - (a) arrangements under which allegations of a breach of the Code can be investigated, and
  - (b) arrangements under which decisions on allegations can be made,such arrangements to include provision for the appointment by the authority of at least one independent person.
  - (a) whose views must be sought, and taken into account, by the Authority before it makes its decision on an allegation that it has decided to investigate, and
  - (b) whose views may be sought —
    - (i) by the Authority in relation to an allegation not being investigated;
    - (ii) by a subject Member or subject co-opted member.

Throughout its consideration of the Act whilst at Bill stage, the Committee felt that:

- there should be a less bureaucratic regime in place to support the Code, but which still provided reassurance to the public;
- an independent view should be retained on the Standards Committee;
- the Standards Committee could meet less frequently but have a dedicated, experienced group of representatives to determine complaints and any transgressions in terms of the Code of Conduct;
- there was a need to protect Members and Officers from some aspects of conduct undertaken by members of the public, as had been experienced in recent times. Officers and Members can spend a great deal of time dealing with persistent and/or vexatious complainants in relation to repeated complaints (against both Officers and Members) in relation to the same issue. The Committee considered there may be scope to review processes surrounding the handling of such complaints and to incorporate any elements within the role of the new Standards Committee and/or new local standards regime, in order to provide increased support to Officers and Members who are the subject of such complaints and who are dealing with such complaints, and to minimise the administrative and financial burden such complaints can impose upon the Authority.

On 16 January 2012, following the coming into force of the Act, the Standards Committee agreed that the following might be a suitable standards framework for the Authority in the future:

- (a) That the Authority's duty to promote and maintain high standards of conduct be discharged as listed below and from time to time in such other ways as the Monitoring Officer, in consultation with any Standards Committee established by the Authority, may deem appropriate:-
  - (i) Appoint a non-statutory Standards Committee.
  - (ii) Adopt new/revise existing, ethical statements.
  - (iii) Continue to promote ethical issues through planned and monitored Member training, including Member induction training.
  - (iv) Continue to produce Standards Bulletins.
  - (v) Continue to monitor wider policies, protocols and indicators which point to the ethical health of the Authority.
  - (vi) Use of the Authority's website to promote the standards regime ultimately put in place.
  - (vii) Publicise when the new/revised Code and supporting standards regime is established by the Authority and from time to time as appropriate.
- (b) That a non-statutory Standards Committee be appointed and that further work be undertaken by the Monitoring Officer in consultation with the Standards Committee regarding an appropriate composition and appropriate terms of reference for the new Committee to be approved by full Council.
- (c) That the Authority publicise its adoption/revision of the Code on the Authority's website and Intranet and in any other ways the Standards Committee deems appropriate.

- (d) That all functions in respect of the publication of Standards Committee independent person vacancies be delegated to the Standards Committee and that the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee.
- (e) That the power to assist in the recruitment of Standards Committee independent persons (but not to approve individual appointments) be delegated to the Standards Committee.
- (f) That the Monitoring Officer advertise vacancies for the appointment of three Independent Persons and that they be co-opted members on the standards committee.
- (g) That the Monitoring Officer be designated as Proper Officer to receive written requests for a dispensation by Members and co-opted Members.
- (h) That the power to grant dispensations to Members and co-opted Members be delegated to the Standards Committee, after consultation with the Independent Person.
- (i) That paragraphs 3 to 7 of the existing Code of Conduct (general conduct obligations) should be replicated in any new Code.
- (j) That the General Principles, as listed in the Annex to the existing Code of Conduct, should be annexed to any new Code.
- (k) That the new provisions under the Act regarding predetermination should not be included in the new Code as it is not a Code issue.
- (l) That there should be a requirement for Members to sign an undertaking to comply with the Code of Conduct and agree to be bound by it, to be completed as part of the Acceptance of Office.
- (m) That there should be a requirement for Members to keep their registration of interests updated, in particular in response to annual reviews of Members' registrations or following reminders issued within Standards Bulletins (under the Localism Act, Members must register their interests within 28 days of election/appointment but there is no specific provision under the Act for them to register any changes within 28 days of the change occurring).
- (n) That the Monitoring Officer, within the further proposals she drafts, include provision in the Council Procedure Rules requiring Members to withdraw from the meeting room where they have a disclosable pecuniary interest. Should there be no such provision included, then it would be open to a Member with a DPI (the equivalent of a current prejudicial interest ie a more significant interest) to remain in the meeting room during the discussion and vote and potentially able to influence those Members participating in the discussion and vote.
- (o) That the independent person vacancies should be published on the Council's website (and publicised in any other ways the Monitoring Officer and Chair of the Committee deem suitable) and that the Chairman of the Standards Committee with the Monitoring Officer undertake short-listing of applicants.

CAROLE DUNN

22 March 2012



## Notes of meeting of North Yorkshire and York neighbouring authorities

27 February 2012, York

### re Standards Regime and Codes of Conduct under Localism Act 2011

Those present introduced themselves:

Moira Beighton, NYCC  
Clare Bevan, YDNPA  
Gill Cooper, Craven DC  
Andy Docherty, CYC  
Carole Dunn, NYCC  
Corinne Fairbank, Harrogate BC  
David Kitson (substitute for Ian Anderson), Scarborough BC  
Jonathan Lund, Selby DC  
Martyn Richards, Hambleton DC  
Anthony Windship, Ryedale DC

A round the table discussion took place regarding current thinking/proposals within each authority:

#### **NYCC**

- Smaller Standards committee
- Two independent persons
- Code of Conduct:
  - Simplified Code
  - Likely to reflect current Code provisions re general obligations (eg respect)
- Complaint handling:
  - Proportionate and simplified complaint handling procedures
  - MO to filter initially
  - Limited investigation
  - Emphasis on getting matters to a hearing panel for discussion
  - No right of appeal from that meeting

#### **Craven DC**

- Standards committee of 12
- Localism sub-committee
- Minded to adopt ACSeS draft documents

#### **Harrogate BC**

- Seeking views currently
- Parish reps want joint committee between districts and parishes
- Members' views – minimum involvement

#### **Selby DC**

- Standards committee
- Exploring joint committee with parishes
- Do bare minimum to comply eg very simple Code
- Bevan Brittan draft documents
- Complaint handling:

- Complaints to MO
- MO assess
- Only go to member panel after investigated and breach found

### **Scarborough BC**

- Members want similar arrangements to current ones

### **Ryedale DC**

- Exploring two options:
  - Keep a standards committee
  - Link standards with Audit and have corporate governance committee

### **YDNPA**

- Standards committee of 5 members
- Meet as and when required
- Drafted Code, circulated to NYCC
- Appointing 2 independent persons
- Complaint handling:
  - Complaints to standards committee for Members to assess
  - No appeal against assessment
  - No MO filtering
  - No officer involvement

### **CYC**

- May retain current Code pending new model
- Bevan Brittan model
- Consulting with parishes – too difficult to try to establish joint committee with all parish councils: need something similar to current arrangements whereby self select members and have small number of representative members
- 2 independent persons (need substitute)
- Complaint handling:
  - Right to bring investigation to end early

### **Hambleton DC**

- Waiting for model Code
- Current Standards Committee keen for standards committee
- Will probably combine standards with audit/governance committee
- Parish council representative
- Independent person required
- 6 people involved re standards, only 3 of them with voting rights
- Keen to retain use where possible of current independent members
- Complaint handling:
  - Members still have power to deal with investigation outcomes

### **Members' Code of Conduct**

Officers noted that timescales would be tight for all elements of the new regime to be in place by 1 July 2012, especially given that the model Code was not yet available, nor the draft Regulations governing the interests regime.

It was noted that some authorities within and outside the area were considering retaining current Codes post 1 July 2012 until proper alternatives were available. Any new or retained code could state that regarding interests, Members must comply with regulations.

Officers agreed that:

- predetermination matters were not Code of Conduct issues and the Localism Act's provisions regarding predetermination should not be included in new Codes;
- authorities should include provision in the new Code for Members to keep the Register of Members' Interests up to date;
- authorities should not include a requirement for Members to sign an undertaking to comply with the new Code;
- opportunities for joint publicity post adoption of new Codes was probably limited, but officers could agree the wording of a statement for all authorities to include on their websites. **CAD agreed to draft something and circulate it to everyone.**

YDNPA have drafted a new Code and had supplied a copy to NYCC. **CAD agreed to circulate round the Group,** for it to be considered in conjunction with the ACSeS model documentation.

**DK offered to circulate Scarborough BC's draft Code.**

**CAD offered to work up a draft Code and circulate it** amongst the Group, the aim being to achieve consistency where possible within the area.

### **Duty to promote and maintain high standards of conduct by Members**

Officers felt this duty would be discharged through the continuation of current practices eg promotional information on websites, standards bulletins, ethical statements. **CAD agreed to circulate NYCC's current ethical statements** for information.

Officers agreed that authorities could look to share training and other materials (eg Standards Bulletins), but agreed that there was probably limited scope for joint training given the size of the area.

### **New Register of Members' Interests**

Officers agreed that authorities should comply with the statutory minimum requirements and not look to voluntarily expand the regime by requiring the registration of interests of non-voting, other co-opted members. The regime should be kept simple.

### **Opportunities for joint working/ shared committees**

Officers felt that such opportunities were probably limited, given travelling distances and the fact that Members of different authorities would probably not want Members of other authorities sitting in judgment upon them.

Officers did, however, feel there was scope for Monitoring Officers to liaise and work together.

### **Persistent/vexatious complainants**

Officers agreed that there was merit in trying to find a common approach in relation to persistent/vexatious complainants. CAD confirmed that NYCC was considering whether there was a role for the new standards committee in backing decisions of officers designating complainants as vexatious.

### **Inclusion of Standing Order requiring withdrawal from meeting room of a member with a DPI?**

Officers agreed it was sensible to include such a provision: if there are potential criminal sanctions for breach of the interests regime, it would be safest for such a Member to remove themselves from the meeting room to avoid any appearance of impropriety.

### **Recruitment of independent person(s)**

Officers considered on balance that it would be very complex for multiple authorities to recruit together. Each authority must appoint at least one independent person and, unless and until any transitional provisions are introduced permitting it, there is still the complexity arising from the view that authorities are not able to appoint their own current standards committee independent members to that role. If they want to continue in the work, they are likely to apply to be involved in other authorities in the area and so a shared trawl is likely to present a group some of whom some authorities will not be able to appoint.

A joint advert was discounted due to timing issues and potential cost for a larger advert.

The general consensus was that the independent person would not be co-opted on to the committee dealing with standards functions.

The general consensus was that the independent person would be paid travel and subsistence only.

The Group agreed to share their arrangements with each other once confirmed.

### **Dispensations**

There was general consensus that Monitoring Officers would be the Proper Officer to receive requests for dispensations.

There was a varied approach to the delegation of the power to grant dispensations, with some authorities proposing to delegate the power to the Monitoring Officer and others to the committee dealing with standards functions.

### **Mutual support for Monitoring Officers**

The Group agreed it would be helpful to work alongside each other in implementing and maintaining the new ethical framework and agree to meet every quarter in York. **The next meeting is to take place at the end of May (NYCC to convene).**

Reciprocal arrangements could be explored as and when the need arises eg advising another authority's committee or undertaking an investigation where there is a conflict of interest.

### **Training**

The Group agreed to share training materials but felt it was best to deliver training locally themselves.

MOIRA BEIGHTON

23.3.12

## NORTH YORKSHIRE COUNTY COUNCIL

### MEMBERS' CODE OF CONDUCT

#### PART 1

#### GENERAL PROVISIONS

##### *Introduction and interpretation*

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (annexed to this Code).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:
  - “meeting” means any meeting of—
    - (a) the authority;
    - (b) the executive of the authority;
    - (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees, or area committees;
  - “member” includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

##### *Scope*

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are

convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

- (5) Where you act as a representative of your authority:
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### ***General Obligations***

3. (1) You must treat others with respect.
- (2) You must not:
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
4. You must not:
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is:
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or

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

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## **PART 2**

### **INTERESTS**

#### *Personal Interests*

8. (1) You have a personal interest in any business of your authority where either:
  - (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;

- (iv) any person or body who employs or has appointed you;
  - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).



### ***Disclosure of Personal Interests***

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### ***Prejudicial Interest Generally***

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of:
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### ***Prejudicial interests arising in relation to Overview and Scrutiny Committees***

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### ***Effect of prejudicial interests on participation***

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **PART 3**

### **REGISTRATION OF MEMBERS' INTERESTS**

#### *Registration of Members' Interests*

13. (1) Subject to paragraph 14, you must, within 28 days of:

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### *Sensitive Information*

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## **THE GENERAL PRINCIPLES**

### *Selflessness*

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### *Honesty and Integrity*

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### *Objectivity*

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### *Accountability*

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### *Openness*

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### *Personal Judgment*

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### *Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### *Duty to Uphold the Law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### *Stewardship*

9. Members should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.

### *Leadership*

10. Members should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.

**(DRAFT) CODE OF CONDUCT FOR MEMBERS OF NORTH YORKSHIRE COUNTY COUNCIL**

This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of North Yorkshire County Council.

The Code has been adopted by the County Council and also requires compliance with the general principles of public life set out at the end of the document. The Council has established a Standards Committee, consisting of Members of the Council, to deal with any allegations of breaches of the Code.

1. You must not treat others with disrespect.
2. You must not do anything which may cause the County Council to breach any equality enactment.
3. You must not bully or intimidate any person, or attempt to bully or intimidate them.
4. You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality.
5. You must not disclose information which is given to you in confidence or which you believe is of a confidential nature, or ought reasonably to be aware is of a confidential nature, unless:
  - You have the permission of a person authorised to give it; or
  - You are required by law to disclose the information; or
  - You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - The disclosure is reasonable; and is in the public interest; and is made in good faith; and is only made after having complied with any reasonable requirements of the Council to delay disclosure or to maintain confidentiality.
6. You must not prevent another person gaining access to information which that person is entitled to by law.
7. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a County Councillor into disrepute.
8. You must not use your position as a County Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.

9. You must not take part in the scrutiny of any decision you have been involved in making – except that you may provide evidence or opinion to those undertaking any scrutiny process.
10. You must not accept any gift or hospitality which could reasonably be perceived as creating an obligation upon the Council, or upon yourself as a County Councillor, If you do accept any gift or hospitality which might be attributable to your membership of the Council (other than the refreshments which might usually be expected at a Council meeting or civic function) you must disclose this, or any offer of such gift or hospitality, to the Monitoring Officer.
11. You must act in accordance with the Council's guidance or requirements when using the resources of the Council (such as officer time, IT and copying equipment, or physical materials), or when authorising others to use them, and must ensure that those resources are not used improperly for political or other purposes.
12. You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions, in accordance with any requirements imposed by statute or the Council.
13. You must comply with the following section of this Code, which relates to registering and declaring in meetings any personal and prejudicial interests you may have, until new statutory provisions relating to these matters come into force, as set out in Statutory Instruments under the Localism Act 2011. Thereafter you must comply with the requirements of those statutory provisions, until the County Council adopts and brings into force a revised Code which satisfies the requirements of the new statutory provisions.

## INTERESTS

### Personal Interests

14. (1) You have a personal interest in any business of your authority where either:
  - (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;

- (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) any employment or business carried on by you;
  - (iv) any person or body who employs or has appointed you;
  - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer;  
or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
    - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;



(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

#### Disclosure of Personal Interests

15. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 14(1)(a)(i) or 14(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 14(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 20, sensitive information relating to it is not registered in your

authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 18(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### Prejudicial Interest Generally

16. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business:

(a) does not affect your financial position or the financial position of a person or body described in paragraph 14;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 14; or

(c) relates to the functions of your authority in respect of:

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to  
Overview and Scrutiny Committees

17. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

18. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-

committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## REGISTRATION OF MEMBERS' INTERESTS

### Registration of Members' Interests

19. (1) Subject to paragraph 20, you must, within 28 days of:

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 14(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 20, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

### Sensitive Information

20. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 19.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## GENERAL PRINCIPLES OF PUBLIC LIFE

### Selflessness

1. You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### Honesty and Integrity

2. You should not place yourself in situations where your honesty and integrity may be questioned; should not behave improperly; and should on all occasions avoid the appearance of such behaviour.

### Objectivity

3. You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### Accountability

4. You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your office.

### Openness

5. You should be as open as possible about your actions and those of the County Council, and should be prepared to give reasons for those actions.

### Personal Judgment

6. You may take account of the views of others, including your political group, but should reach your own conclusions on the issues before you and act in accordance with those conclusions.

### Respect for Others

7. You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### Duty to Uphold the Law

8. You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

### Stewardship

9. You should do whatever you are able to do, to ensure that the County Council uses its resources prudently and in accordance with the law.

### Leadership

10. You should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.

## Template Code of Conduct

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

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

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

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

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

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

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

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

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.



**NORTH YORKSHIRE COUNTY COUNCIL**

**ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF  
BREACH OF THE MEMBERS' CODE OF CONDUCT**

These arrangements set out how a complaint can be made to North Yorkshire County Council that an elected or voting co-opted Member has failed to comply with the Council's Code of Conduct for Members. These arrangements are made under Sections 28(6) and (7) Localism Act 2011.

**1 Independent Person**

The Council has appointed an Independent Person whose views must be sought by the Council before it takes any decision on an allegation which has been decided should be investigated. The Independent Person's views can also be sought by the Council at any other stage or by a Member against whom an allegation has been made. In practice complaints are dealt with by the Monitoring Officer, and by the Standards Committee.

**2 Members' Code of Conduct**

The Council has adopted a Code of Conduct for Members, attached as an Appendix to these arrangements. It is also published on the Authority's website.

**3 Making a Complaint**

If someone considers there has been a breach of the Code of Conduct by a Member, and wants to make a complaint, they should write or send an email to:

Carole Dunn  
Monitoring Officer  
North Yorkshire County Council  
County Hall  
NORTHALLERTON  
North Yorkshire  
DL7 8AD

email: [carole.dunn@northyorks.gov.uk](mailto:carole.dunn@northyorks.gov.uk)

Where possible, the standard complaint form should be used. It can be downloaded from the Council's website, or is available from the Monitoring Officer at the above address.

It is important to provide a name and contact address. Please note that the Council will not investigate anonymous complaints unless there is a significant public interest in doing so.

**4 Timescales**

We aim to deal with any complaint, so far as possible, within 30 working days of receipt, or as soon as possible thereafter.

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

**5 Assessment for Investigation or Other Action**

Every complaint relating to the Code of Conduct will be received by the Monitoring Officer.

The Member who is the subject of a complaint ('the subject Member') will be advised of the complaint and copied into any correspondence or complaint form received from the Complainant. The

Monitoring Officer will review complaints and consult with the Independent Person in doing so, and will decide whether a complaint merits formal investigation.

This assessment will take place, where possible, within 15 working days of receipt of the complaint or as soon as possible thereafter. The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

The subject Member may also be requested to provide information about the matter.

The Monitoring Officer will advise you, in writing, of his/her decision about whether or not the matter should be investigated.

If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as he/she considers appropriate.

The Monitoring Officer will not refer for investigation matters which are, in his/her opinion, and after consultation with the Independent Person, vexatious, offensive, trivial or politically motivated.

If the Monitoring Officer has a conflict of interest or does not for any other reason consider it appropriate that s/he undertakes initial assessment of a complaint, it will be referred to the Standards Committee.

## **6 Informal Resolution**

Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Standards Committee.

This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Council.

If the Member or the Council make a reasonable offer of local resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take this into account in deciding whether a complaint merits formal investigation.

## **7 Investigation**

If the Monitoring Officer concludes that a matter merits investigation, the Complainant will be invited to submit all information they wish to submit in support of their allegation within 5 days of request.

Once the information is received it will be sent to the Member who is subject to the complaint, who would also be invited to submit all information they wish to be considered in response within 5 days.

Throughout the process the Monitoring Officer will ensure the subject Member and Complainant receive appropriate support and assistance.

The Monitoring Officer may also appoint a member of his/her staff to oversee the gathering of information relating to the matter which will comprise the investigation ('the Nominated Officer'). The Nominated Officer will consider whether any further information is needed and take steps so far as possible to secure its production.

A report containing the information provided by the Complainant and subject Member will be prepared by the Nominated Officer, and copied to both parties and sent to the Monitoring Officer. The report will conclude with a recommendation as to whether it is considered that there has been a breach of the Code.

## **8 Conclusion of no evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will receive and review the report and if satisfied that the report is sufficient, the Monitoring Officer will write to the Complainant and the subject Member notifying them that s/he is satisfied that no further action is required.

## **9 Conclusion that there is evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the report and consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Standards Committee for consideration.

If the matter can reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing he/she will consult the Independent Person, with the Complainant and subject Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

As with initial assessment this can include the Member accepting that conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution the matter will be reported to the Standards Committee but no further action will be taken.

## **10 Hearing**

If local resolution is not appropriate, or the Complainant or subject Member are not satisfied with the proposed resolution, or the subject Member is not prepared to undertake any proposed remedial action, the report will be reported to a Hearings Panel ('the Panel') of 3 Members from the Standards Committee. The Independent Person will attend all Panel meetings and will be consulted by the Panel in making its decision about whether there has been a breach of the Code and any action to be taken.

The Panel will meet to decide whether the Member has failed to comply with the Code of Conduct, and if so, whether to take any action.

The report will be presented to the Panel. The Complainant and the subject Member will be invited to attend the Panel to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be present. The Panel can proceed in the absence of either the subject Member or the Complainant where it deems this to be appropriate.

The Panel shall consult with the Independent Person and be advised by the Monitoring Officer. It may conclude:

- (a) that the Member did not fail to comply with the Code of Conduct;
- (b) that the Member did fail to comply with the Code of Conduct, and if so, the Panel may determine whether any action is necessary.

The Member will have an opportunity at this stage to make representations to the Panel and consult with the Independent Person. The Panel will then decide what action to take.

## **11 What action can the Panel take if there has been a breach of the Code of Conduct?**

The Panel may:

- (a) issue a letter of censure to the Member and where appropriate require an apology to be given to the Complainant;
- (b) recommend to the Member's Group Leader that he/she be removed from any or all committees or sub-committees of the Council;

(c) instruct the Monitoring Officer to arrange training for the Member.

The Panel has no power to suspend or disqualify the Member or to withdraw allowances.

## **12 What happens at the end of the hearing?**

The Chair of the Panel will announce the decision of the Panel as to whether the Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the subject Member and the Complainant within 5 days. The outcome will be reported to the next meeting of the Standards Committee.

## **13 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements and delegates to the Chair of the Panel the right to depart from these arrangements where he/she considers it expedient to do so to secure the effective and fair consideration of any matter.

## **14 Appeals**

There is no right of appeal for the Complainant or the subject Member against a decision of the Monitoring Officer or Panel.

If the Complainant feels that the Council has failed to deal with the complaint properly they may make a complaint to the Local Government Ombudsman.

1 July 2012



Kris Hopkins MP  
House of Commons  
London  
SW1A 0AA

Bob Neill MP  
Parliamentary Under Secretary of State

Department for Communities and Local  
Government  
Elard House  
Bressenden Place  
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www.communities.gov.uk

Our Ref: ER/BN/002872/12

*Dear Kris*

23 FEB 2012

### LOCALISM ACT: NEW STANDARDS ARRANGEMENTS

Thank you for your letter of 25 January to the Rt Hon Eric Pickles MP, Secretary of State for Communities and Local Government, on behalf of your constituent, [REDACTED] of [REDACTED], who is a member of Bradford Metropolitan District Council's Standards Committee. [REDACTED] is concerned about the exclusion, under the Localism Act, of certain people from being appointed as the independent person under the new standards arrangements. She is also concerned about the composition of standards committees under the new arrangements and the fact that co-opted members will no longer have a vote.

The exclusion of existing members of standards committees from being appointed as an Independent Person was put in place to provide a clear break with the old Standards Board regime, and ensures that no person who is an independent member or chair of a council's statutory standards committee can be appointed as the Localism Act's independent person while they continue to be a member of that committee.

The Department received a number of representations from councils about this matter, and after careful consideration, Ministers are minded that transitional provision should be made allowing a council to appoint a person as an independent person who, although not a member or chairman of a standards committee at the time of appointment (or thereafter), has held such a post within the last five years. This transitional provision would apply for the first year of the new arrangements, and any person appointed under the transitional provisions would be able to continue to hold office after the transitional period, for whatever term the council saw fit.

However, the Government has no plans to allow a relative or close friend of members, co-opted members or of an officer of a parish council within the council's area to be appointed as an independent person. Similarly, it has no plans to give co-opted members of non-statutory standards committees a vote, or to exclude them from the political balance rules.

BOB NEILL MP

## **APPENDIX 8**

### **NORTH YORKSHIRE COUNTY COUNCIL – APPOINTMENT OF TWO “INDEPENDENT PERSONS”**

North Yorkshire County Council is seeking to appoint two people to assist in maintaining and promoting the high ethical standards of the Council. The role of “independent person” has been created under the Localism Act 2011, which requires the Council, as with other local authorities, to adopt a code of conduct for its elected members and to appoint at least one independent person whose views are to be sought, and taken into account, by the Council before it makes its decision on any allegation of a breach of the code of conduct which it had decided to investigate. The Council may also seek the views of the independent person in relation to allegations where no decision to investigate has been made and any County Councillor, or co-opted member of the Council, who is the subject of an allegation may also seek the views of the independent person.

Because the independent person may be called upon to carry out more than one role in respect of any allegation made, and to provide for continuity when a particular independent person may be unavailable, the Council wishes to appoint two people to this role.

No specific qualifications or experience are essential and training will be provided, as required, but analytic and questioning/investigative skills and some understanding of the roles of elected representatives would be helpful. Applicants must not, however, currently be, or have been in the last five years, an elected member or co-opted member of North Yorkshire County Council, or be a relative or close friend of any person who is or has been an elected member or co-opted member of North Yorkshire County Council in the last five years.

When the County Council’s Monitoring Officer receives a written allegation of a breach of the Council’s code of conduct, she will decide whether the matter merits formal investigation or should be dealt with in some other way. If she considers it appropriate she will consult the independent person(s) at that stage, before deciding how to proceed and may consult the independent person at other stages of any subsequent process. The Monitoring Officer, or the Council’s Standards Committee, may also seek the views of the independent person(s) on other matters related to the ethical standards of the Council, such as its code of conduct or its procedures for dealing with allegations of misconduct by Councillors.

It is anticipated that the views of the independent person(s) will usually be sought by the Monitoring Officer by e-mail but, on occasions, contact may be by telephone and an independent person is likely to be asked to attend any meeting of the Standards Committee which is considering an allegation of a breach of the code of conduct. As indicated above, the independent person may also be consulted by a County Councillor who is alleged to have

breached the code of conduct. Such consultations may arise at any stage of the process and may be by telephone; e-mail; letter; or meeting in person.