

## NORTH YORKSHIRE COUNTY COUNCIL

## STANDARDS COMMITTEE

29 October 2012

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

- 1.1 To update Members regarding work undertaken in relation to the development of the new ethical framework required in accordance with the Localism Act 2011 ('the 2011 Act' and to seek Members' views on further appropriate arrangements for the Authority's new local standards framework.

**2.0 BACKGROUND**

- 2.1 The 2011 Act abolished the previous standards regime (including the Members' Code of Conduct and Standards Committee arrangements) and made provision for a new ethical framework which was adopted by the Authority at its July meeting on the recommendations of the former Standards Committee and after consultation with the Members' Working Group on the New Ethical Framework.
- 2.2 The implications of the Act for the standards regime was the focus of the former Standards Committee's work programme for some time, and there is further work to be done by this new Standards Committee to fully embed the new regime within the Authority.
- 2.3 A resume of the agreed new ethical framework is set out below.

**3.0 NEW ETHICAL FRAMEWORK**

- 3.1 The Standards Committee is requested to note the new ethical framework for the Authority, set out in the paragraphs below, agreed by the Authority on 18 July 2012.
- 3.2 Further action points, detailed below, are also recommended to the Committee for progression.

**4.0 STANDARDS COMMITTEE**

- 4.1 The 2011 Act removed the *requirement* for authorities to have statutory standards committees, although they could choose to establish non-statutory standards committees should they so wish. On 18 July 2012, the Authority agreed to establish a politically balanced non-statutory Standards Committee (with one Substitute from each Political Group represented on the Committee) comprising not more than five Members, with a panel of three Members from the Committee meeting on an ad hoc basis to deal with any alleged breach of the new Members' Code of Conduct.
- 4.2 The Authority also agreed that the new Standards Committee should
- (a) meet twice per annum to ensure that the Authority's statutory duties under the Act in relation to promotion and maintenance of high standards of conduct by Members are fulfilled (see below);

- (b) meet on an ad hoc basis to deal with any alleged breach of the new Members' Code of Conduct; and
  - (c) have a role in relation to issues raised by or in relation to persistent and/or vexatious complainants.
- 4.3 In relation to (b) above, a draft Complaint Form proforma for complainants to complete in order for their complaint to be assessed is attached at **Appendix 1** for Members' comments.
- 4.4 In relation to (c) above, a draft framework for a Protocol for dealing with persistent and/or vexatious complainants is attached at **Appendix 2** for Members' consideration. Officers are mindful of the amount of time spent by Officers and Members in dealing with persistent and/or vexatious complainants in relation to repeated complaints (against both Officers and Members) in relation to the same issue. The former Standards Committee and Council agreed that there was scope to review processes surrounding the handling of such complaints and to incorporate any elements within the role of the new Standards Committee 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. Members are therefore requested to consider the draft Protocol and also in which the Committee could contribute to work in this area in order to inform the drafting of the Protocol.

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

- 5.1 The Authority is obliged, in accordance with the 2011 Act, to demonstrate how it will continue to promote and maintain standards of conduct. The Authority has agreed that the Authority's duty to promote and maintain high standards of conduct be discharged as set out below and from time to time in such other ways as the Monitoring Officer, in consultation with this Committee 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.
  - (h) Work together with neighbouring authorities, where possible and appropriate, in order to discharge the statutory duty.
- 5.2 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 Committee. It is anticipated that the input from officers and Members to this process will be significantly reduced whilst enabling the demonstration of the Authority's maintenance of good standards.

- 5.3 This is also an area where authorities can work together to reduce duplication and the Yorkshire Standards Officer Group will continue to meet on a regular basis.

### **Ethical Statements**

- 5.4 In relation to paragraph 5.1 (b) above, the current ethical statements are set out below for ease of reference:

#### **CEO and Leader general ethics statement**

**Standards of behaviour within the Council are regulated by national Codes of Conduct and the ethical framework introduced in 2002. The Council is proactive in promoting and maintaining high standards of conduct through its Standards Committee, which has a wide remit and full work programme.**

**Whilst standards of behaviour within the Council are excellent, there is no room for complacency. We fully subscribe to the principles underpinning the ethical framework and expect all Members and Officers to do the same. We are both committed to working together to lead by example and upholding the ethical wellbeing and effective governance of the Council.**

***Leader of the Council***

***Chief Executive Officer***

#### **Council's statement re standards**

**North Yorkshire County Council believes in a strong ethical organisational culture. It aims to promote the highest levels of conduct by its members and officers, to increase public trust in the delivery of its vision and its objectives, by:**

- (i) maintaining openness and transparency in conducting its business;**
- (ii) being accountable for all it says and does;**
- (iii) ensuring that everyone knows what is expected of them;**
- (iv) offering appropriate training and development programmes; and**
- (v) promoting the work of its Standards Committee.**

#### **Council's ethical statement for stakeholders**

**North Yorkshire County Council believes in a strong ethical culture. The conduct of its members and officers in fulfilling their roles is regulated by national Codes of Conduct and a comprehensive complaints framework.**

**Standards of behaviour within the Council are generally excellent: the Council continues, however, to promote the ethical agenda to ensure the existing high standards are maintained; and the Leader and Chief Executive Officer are committed to working together to lead by example**

**and to uphold the ethical wellbeing and effective governance of the Council.**

**In working with partners and service providers on Council business, the Council requires similarly high standards from those with whom it works.**

Statement re role of senior managers in ethical framework

**The Council's senior managers recognise the importance of the ethical agenda within the authority: they will ensure that those whom they manage are clear about their respective roles and what is expected of them; managers will also encourage and promote the highest standards of conduct amongst their staff, at all times leading by example. Managers will have due regard to the advice of the Monitoring Officer and the Standards Committee, and will seek such advice where necessary.**

- 5.5 The Council's statement on ethical standards for stakeholders has previously been published on the Council's website and Intranet and also incorporated, where appropriate, into contractual and procurement documentation. It has been fully incorporated into work practices and has been included in the Council's Procurement Manual and in some of the precedent procurement documentation.
- 5.6 The Council's statement re standards is periodically published in the Council's weekly email newsletter 'Key Messages', is used in training sessions and was previously published at the start of the 'Councillor Conduct' page on the website. The Monitoring Officer will arrange for its re-publication on the website as soon as possible. The general Council statement is also included on Intranet.
- 5.7 Similar publicity has also been given to the Council's standards statement for senior managers and the joint statement of the Chief Executive Officer and Leader, with the statements appearing on the Council's website and Intranet and the latter statement appearing in ad hoc editions of the Standards Bulletin.
- 5.8 The statements are still relevant to the Authority and it is suggested that the Council's general statement re standards and statement re the role of senior managers in the ethical framework require no revision and should be continued to be used as they stand, however the two statements set out below require refreshing. It is therefore recommended to the Committee that subject to any comments Members wish to make, and consultation with the Leader and Chief Executive regarding their joint statement, the particular statements set out below be updated as drafted below and that the revised Authority statement re stakeholders be recommended to the Authority for adoption:

CEO and Leader general ethics statement

**Standards of behaviour within the Council are regulated by Codes of Conduct and the ethical framework introduced under the Localism Act 2011. The Council is proactive in promoting and maintaining high standards of conduct through its Standards Committee.**

**Whilst standards of behaviour within the Council are excellent, there is no room for complacency. We fully subscribe to the principles underpinning the ethical framework and expect all Members and Officers to do the same. We are both committed to working together to lead by**

**example and upholding the ethical wellbeing and effective governance of the Council.**

*Leader of the Council*

*Chief Executive Officer*

Council's ethical statement for stakeholders

**North Yorkshire County Council believes in a strong ethical culture. The conduct of its members and officers in fulfilling their roles is regulated by Codes of Conduct and the ethical framework introduced under the Localism Act 2011.**

**Standards of behaviour within the Council are generally excellent: the Council continues, however, to promote the ethical agenda to ensure the existing high standards are maintained; and the Leader and Chief Executive Officer are committed to working together to lead by example and to uphold the ethical wellbeing and effective governance of the Council.**

**In working with partners and service providers on Council business, the Council requires similarly high standards from those with whom it works.**

- 5.9 The Sub-Committee will be periodically updated in the future as to the use made of the statements.
- 5.10 A copy of the Authority's current Protocol re the roles of the Leader and Chief Executive Officer in relation to the ethical framework is attached at **Appendix 3** to this report. The Protocol requires some updating in order to reflect the new standards regime and draft amendments for this purpose are set out by way of tracked changes on the version attached at **Appendix 3**. This will also be the subject of consultation with the Leader and Chief Executive Officer. It is therefore recommended to the Committee that, subject to any comments Members wish to make, and consultation with the Leader and Chief Executive, that the Protocol be updated as set out in **Appendix 3** to this report and recommended to full Council for approval (as it forms part of the Constitution).

**Standards Bulletin**

- 5.11 The next edition of the Standards Bulletin is the subject of a separate report to the Sub-Committee.

**6.0 MEMBERS' CODE OF CONDUCT**

- 6.1 The Authority, on 18 July 2012, adopted its new Members' Code of Conduct and a copy is attached to this report at **Appendix 4**.
- 6.2 The Authority further agreed that the adoption of the new Code should be published on the Authority's website and Intranet and in any other ways the Standards Committee deems appropriate. Subject to any other specific publicity the Committee may wish to suggest, the Monitoring Officer will ensure that suitable publicity is undertaken.

## **Disclosable Pecuniary Interests**

- 6.3 The Act prohibits Members with a Disclosable Pecuniary Interest (“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 previous 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.
- 6.4 However, as permitted under the legislation, authorities can adopt a Standing Order 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 former 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.
- 6.5 At its July meeting the Authority therefore agreed that provision should be made in the Authority’s Council Procedure Rules in the Constitution requiring Members to withdraw from the meeting room where they have a disclosable pecuniary interest. Amendments to the Constitution to reflect the changes to the ethical framework arising out of the Localism Act, as agreed by the Authority, are currently being drafted.

## **7.0 REGISTER OF MEMBERS’ INTERESTS**

- 7.1 Under the Act, the Code of Conduct must also include the provision the Authority considers appropriate in respect of the registration in its new Register of Members’ Interests, and disclosure, of pecuniary interests and interests other than pecuniary interests.
- 7.2 The new Code adopted by the Authority requires Members to only register the statutory categories of disclosable pecuniary interest (Members are referred to the Code of Conduct in **Appendix 4**) and no wider, non-pecuniary, interests but this can be reviewed in the future.

## **8.0 COMPLAINT HANDLING**

- 8.1 On 18 July 2012, the Authority agreed a new, simplified, procedure setting out the Authority’s arrangements for the handling of allegations of breaches of the Code of Conduct. A copy of the agreed arrangements is set out at **Appendix 5** to this report.

## **9.0 INDEPENDENT PERSONS**

- 9.1 Under the Act, each authority must appoint at least one “Independent Person”. As the Independent Person could be involved in more than one role, which could give rise to conflicts of interests, the Authority agreed that two Independent Persons should be appointed, to be involved on a rota basis.
- 9.2 Following a recruitment process for the appointment of the two Independent Persons for the Authority, the Authority has appointed Mrs Hilary Gilbertson MBE (a former Independent Member on the Authority’s former Standards Committee) and Ms Louise Holroyd.

9.3 The Authority previously agreed that whilst the Independent Persons should not be formally co-opted on to the new Standards Committee, they should be invited to its meetings.

## **10.0 DISPENSATIONS**

10.1 The former provisions on dispensations are amended and extended by the Localism Act.

10.2 At the Authority's last meeting in July, the Monitoring Officer was designated by the Authority as Proper Officer to receive written dispensation requests. The power to grant dispensations to Members and Co-opted Members under the new framework was also delegated by the Authority to this Committee, after consultation with the Independent Person. Power was also 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.

## **11.0 CONCLUSION**

11.1 Members are requested to consider the issues raised in this report.

## **12.0 RECOMMENDATIONS**

12.1 That the Committee notes the contents of this report.

12.2 That, subject to any comments Members may have, the draft Complaint Form proforma attached at **Appendix 1** be approved.

12.3 That Members consider the draft framework for a Protocol for dealing with persistent and/or vexatious complainants in relation to the standards regime attached at **Appendix 2** to this report and consider ways in which the Committee could contribute to the work in this area.

12.4 That the Council's general statement re standards and statement re the role of senior managers in the ethical framework require no revision and should continue to be used in their current form.

12.5 That, subject to any comments Members have, and consultation with the Leader and Chief Executive regarding their joint ethical statement, the Chief Executive Officer and Leader general ethics statement be updated as drafted in paragraph 5.8 of this report and that the revised Authority statement re stakeholders as set out in paragraph 5.8 of the report be recommended to the Authority for adoption.

12.6 That, subject to any comments Members wish to make, and consultation with the Leader and Chief Executive, the Protocol re the roles of the Leader and Chief Executive Officer in relation to the ethical framework be updated as set out in **Appendix 3** to this report and recommended to full Council for approval.

Background Papers:

- The Localism Act 2011

County Hall  
NORTHALLERTON

19 October 2012



# NORTH YORKSHIRE COUNTY COUNCIL

## ETHICAL FRAMEWORK

### **COMPLAINT FORM – Members’ Code of Conduct**

If you consider that there has been a breach of the Members’ Code of Conduct by a County Councillor or voting co-opted member (“Members”) on one of the County Council’s committees, and you wish to make a complaint, please complete this form and then send or email it 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)

Please note that the Standards Committee can only consider complaints about the behaviour of individual Members and has no jurisdiction to consider complaints about the Council as a whole or Council employees. If you wish to make a complaint about the Council as a whole, or one of its services, please send your complaint to the Chief Executive Officer at the above address.

#### **Your Details**

1. Please provide us with your name and contact details:

<b>Title:</b>	
<b>First Name:</b>	
<b>Last Name:</b>	
<b>Address:</b>	
<b>Contact telephone number:</b>	
<b>Email address:</b>	

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

The Member(s) who is/are the subject of your complaint ('the subject Member(s)') will be advised of the complaint and copied into any relevant correspondence (including this completed complaint form) received from you.

2. Please confirm the status in which you are making this complaint:

- Member of the public;
- An elected or co-opted Member of the Authority;
- Member of Parliament;
- Local Authority Monitoring Officer;
- Other Council Officer or Authority employee; or
- Other (please specify)

3. Please provide us with the name(s) of the Member(s) you believe to have breached the Members' Code of Conduct:

Title	First name	Last name

4. A copy of the Code is attached for reference. Please indicate which paragraphs of the Code of Conduct you believe the Member(s) to have breached:

Councillor	Code paragraph alleged to have been breached

5. Please explain in this section (or on a separate sheet) **what the Member has done** which you believe breaches the Code of Conduct.

If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code.

It is important that you provide all the information you wish the Monitoring Officer to take into account when deciding, in consultation with the Authority's Independent Person for standards, whether to take any action in respect of your complaint.

**Please provide us with the details of your complaint. Continue on a separate sheet if necessary.**

Signed:.....Date:.....

**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. This Code also applies to any person appointed as a co-opted member with voting rights on any Committee of the County Council and references in this Code should be construed accordingly.

You must sign an Undertaking to comply with this Code of Conduct before acting as a Councillor or voting co-opted Member ("Members").

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 Council, 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.

Before disclosing any information under this paragraph, you must consult the Monitoring Officer and/or the Chief Executive Officer.

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 Member into disrepute.
8. You must not use your position as a Member 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 Member. 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 sections of this Code, which relate to registering and declaring in meetings certain interests you may have. This includes complying with any procedure rule adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a disclosable pecuniary interest is being discussed.

## **INTERESTS**

### ***Disclosable Pecuniary Interests***

14. (1) A pecuniary interest is a "disclosable pecuniary interest" in relation to you if it is of a description specified in regulations (and listed in Appendix 1) and either:
  - (a) it is your interest; or
  - (b) it is an interest of:
    - (i) your spouse or civil partner;
    - (ii) a person with whom you are living as husband and wife;  
or
    - (iii) a person with whom you are living as if you are civil partners;

and you are aware that that other person has the interest.

***Disclosure of pecuniary interests on taking office***

15. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given.
- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards disclosable pecuniary interests not entered in the Council's register when the notification is given.
- (3) Where you give a notification for the purposes of sub-paragraph (1), the Monitoring Officer is to cause the interests notified to be entered in the Council's Register of Members' Interests ("the Register") (whether or not they are disclosable pecuniary interests).
- (4) Subject to paragraph 17 (regarding sensitive interests), you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.

***Pecuniary interests in matters considered at meetings***

16. (1) Sub-paragraphs (2) to (4) apply if you:
  - (a) are present at a meeting of the Council or Executive, or of any committee, sub-committee, joint committee or joint sub-committee of the Council or Executive;
  - (b) have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
  - (c) are aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the Council's Register, you must disclose the interest to the meeting, but this is subject to this Code's provisions on sensitive interests.
- (3) If the interest is not entered in the Council's Register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) You may not:
  - (a) participate, or participate further, in any discussion of the matter at the meeting; or

- (b) participate in any vote, or further vote, taken on the matter at the meeting;

but this is subject to this Code's provisions on dispensations.

### ***Pecuniary interests in matters considered by a single member***

- (5) Sub-paragraphs (6) and (7) apply if:
  - (a) a function of a relevant authority may be discharged by a member of the authority acting alone;
  - (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
  - (c) the member is aware that the condition in paragraph (b) is met.
- (6) If the interest is not entered in the Council's Register and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in sub-paragraph (5)(b) is met in relation to the matter.
- (7) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (8) Where you give a notification for the purposes of sub-paragraph (3) or (6), the Monitoring Officer is to cause the interest notified to be entered in the Register (whether or not it is a disclosable pecuniary interest).
- (9) The Council's Constitution provides for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of sub-paragraph (4), the member or co-opted member may not participate.
- (10) An interest is "subject to a pending notification" if:
  - (a) the interest has been notified to the Monitoring Officer, but
  - (b) has not been entered in the Register in consequence of that notification.

### ***Sensitive interests***

- 17.(1) Sub-paragraphs (2) and (3) apply where:
  - (a) you have an interest (whether or not a disclosable pecuniary interest); and
  - (b) the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest

could lead to you, or a person connected with you, being subject to violence or intimidation.

- (2) If the interest is entered in the Register, copies of the Register that are made available for inspection, and any published version of the Register, must not include details of the interest (but may state that you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011).
- (3) If paragraph 16(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

### **DISPENSATIONS FROM NON-PARTICIPATION**

18. (1) The Council may, on a written request made to the Monitoring Officer by you, grant a dispensation (in accordance with the relevant statutory provisions) relieving you from either or both of the restrictions in paragraph 16(4) in cases described in the dispensation.
- (2) Paragraph 16(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

### **OFFENCES**

19. (1) You commit a criminal offence if, without reasonable excuse, you:-
    - (a) fail to comply with an obligation imposed on you by paragraph 15(1) or 16(2), (3) or (6);
    - (b) participate in any discussion or vote in contravention of paragraph 16(4); or
    - (c) take any steps in contravention of paragraph 16(7).
  - (2) You commit an offence if under paragraph 15(1) or 16(2), (3) or (6) you provide information that is false or misleading and you:
    - (a) know that the information is false or misleading; or
    - (b) are reckless as to whether the information is true and not misleading.
  - (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
20. **If you are in any doubt as to your position under the Code of Conduct, please consult the Monitoring Officer.**



**DISCLOSABLE PECUNIARY INTERESTS**

The pecuniary interests which are specified in regulations as disclosable pecuniary interests are the interests specified in the second column of the Schedule below:

## SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's

knowledge)—

(a) the landlord is the relevant authority; and

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

## Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For these purposes:-

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member (entitled to vote);

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case

may be, of the Act (the corresponding provisions in this Code are paragraphs 15(1) and 16(6));

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (corresponding provision in this Code is paragraph 14(1)(b)), namely:

- M's spouse or civil partner;
- a person with whom M is living as husband and wife; or
- a person with whom M is living as if they were civil partners;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **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 behave improperly, should not place yourself in situations where your honesty and integrity may be questioned; 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.

**NORTH YORKSHIRE COUNTY COUNCIL**

**STANDARDS COMMITTEE**

**PROTOCOL FOR DEALING WITH UNREASONABLY PERSISTENT/VEXATIOUS  
COMPLAINANTS UNDER THE ETHICAL FRAMEWORK**

The County Council has published a Policy on Unreasonably Persistent Complainants, with supporting Procedure and Checklist. Copies are attached in the Appendix to this Protocol.

In adopting a new local ethical framework for the Council under the Localism Act 2011, the Council agreed that it would be appropriate for the Standards Committee to have a role in dealing with persistent and/or vexatious complainants and the handling of the complaints raised by them, 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 Council.

The Standards Committee is the appropriate body to give Member-level approval to the designation of a complainant as unreasonably persistent or vexatious: the Committee has a key role in relation to conduct and propriety matters and the Council's statutory Independent Persons for standards are invited to all meetings of the Committee and provide an independent viewpoint on all key standards issues.

The Standards Committee will also consider whether any restrictive action needs to be taken in each particular case presented to it for designation.

The fact that a complainant has been identified as an unreasonably persistent/vexatious complainant, may be taken into account in determining the action taken in response to a complaint.

This Protocol has been instigated by the Council in good faith and aims to address issues with, and relating to, such complainants in a manner which is fair to all concerned.

## Policy on Unreasonably Persistent Complainants

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### Status of Policy

Implemented July 2009

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North Yorkshire County Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them.

We are accountable for the proper use of public money and must ensure that that money is spent wisely and achieves value for complainants and the wider public.

As part of the complaints service we do not normally limit the contact complainants have with our offices. However, there are a small number of complainants who, because of the frequency of their contact with our offices, hinder our consideration of their or other people's complaints, or delivery of services. We refer to such complainants as 'unreasonably persistent complainants' and, exceptionally, we will take action to limit their contact with our offices.

The decision to restrict access to our offices will be taken at a senior level and will normally follow a warning to the complainant. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- requesting contact in a particular form (for example, in writing only);
- requiring contact to take place with a named officer;
- restricting telephone calls to specified days and times; and/or
- asking the complainant to enter into an agreement about their future contacts with us.

In all cases where we decide to treat someone as an unreasonably persistent complainant we will write to tell the complainant why we believe his or her behaviour falls into that category, what action we are taking and the duration of that action. We will also tell them how they can appeal against that decision if they disagree with it. If we decide to carry on treating someone as an unreasonably persistent complainant and we are still investigating their complaint six months later, we will carry out a review and decide if restrictions will continue.

Where a complainant whose case is closed persists in communicating with us about it, we may decide to terminate contact with that complainant. In such cases we will read all correspondence from that complainant, but unless there is fresh evidence which affects our decision on the complaint we will simply acknowledge it or place it on the file with no acknowledgement. The complainant will be informed that we will do this.

New complaints from people who have been identified as unreasonably persistent complainants in the past will be treated on their merits.

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# Complaints Procedure: Dealing with Unacceptable Behaviour Towards Staff and Unreasonably Persistent Complainants

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## Status of Procedure

Implemented July 2009

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## **Introduction**

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North Yorkshire County Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them.

Some complainants may be angry and upset, sometimes with good cause. However, we do not expect staff to tolerate unacceptable behaviour, for example that which is abusive offensive or threatening, and will take action to protect staff from such behaviour.

We will also address any persistent behaviour which may impede the investigation of complaints or have significant resource issues for the authority. This may be during the course of the investigation or following its conclusion.

Unreasonable behaviour may relate to one or two isolated incidents as well as an accumulation of incidents or behaviour over a period of time.

Complainants exhibiting this type of behaviour may sometimes also be referred to as vexatious complainants, where a person is not seeking to resolve a dispute between themselves and the Council, but is seeking to cause unnecessary aggravation or annoyance to the Council.

In reading this document it is important to note that its purpose in relation to persistent complainants is to address instances where the same complaint is continually raised by an individual in an unreasonable manner. If new issues or complaints arise these will be evaluated in the proper way and dealt with appropriately.

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## **Definitions**

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### *Unacceptable Behaviour Towards Staff*

North Yorkshire County Council is committed to a working environment throughout the organisation where harassment and threatening or abusive behaviour is deemed both unacceptable and intolerable.

The legal definition of harassment is “Unwanted conduct that violates a person’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment, having regard to all the circumstances and the perception of the victim.” (Employment Equality [Religion or Belief] Regulations December 2003)

Personal harassment is more difficult to describe, but can be defined as uninvited and unwanted actions or behaviour, by one or more individuals, which causes others offence or embarrassment.

### *Unreasonably Persistent Complainants*

Unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with us, hinder our consideration of their or other people’s complaints.

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## **Safeguarding the Council's Resources**

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It is important not to spend large amounts of time dealing with unacceptable behaviour or unreasonably persistent complainants. Inflaming an already difficult situation should be avoided. It may be worth spending some time defusing a situation, rather than taking a hard line and then spending much more time defending that position. Judgement and common sense are called for.

It is not necessary to meet a complainant's unreasonable demands, or to answer every single point in an unreasonable complaint. Again, judgement will be required to separate a complainant's legitimate queries from those that are unreasonable. Advice can be found with your Directorate Complaints Coordinator.

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## **Unacceptable behaviour**

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The Council will not tolerate unacceptable behaviour towards its staff, for example that which is abusive, offensive or threatening. Examples of such behaviour include:

- Offensive sexual or racial remarks or offensive remarks about a person's disability
- Inappropriate personal remarks
- Unwanted physical contact or assault
- Intimidation
- Threats
- Excessive swearing or foul language

This list is not exhaustive, but gives an indication of the type of behaviour which can cause distress to someone through offence, embarrassment or fear.

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## **What to do about unacceptable behaviour**

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### *Complaints on the telephone or in person*

If a complainant is rude or abusive it is perfectly acceptable to terminate the conversation. Staff should bring to the complainant's attention that their behaviour is unacceptable and why that is so, and that if the behaviour persists then the conversation will be terminated. If after being advised twice the behaviour continues then the conversation should be terminated.

A note of what has happened and what was said should be made and forwarded to your line manager and the Directorate Complaints Coordinator who may decide in consultation with their Director that, for a set period of time, the Council will not accept telephone calls from the complainant, or meet with them and will only deal with them in writing. If appropriate the Directorate Complaints Coordinator may also decide to involve the Police.

It is advisable not to meet a complainant alone, but to have at least two officers present at all times. This is not only a safeguard against abuse or even violence, but having a witness to the conversation can be very useful and the second officer could also take notes of the meeting. If you must meet someone alone ensure that the room is safe and appropriate and identify an 'escape route' (for example, sit near the door).

### *Written complaints*

If a written complaint is threatening or abusive it should be referred, via the Directorate Complaints Coordinator, to the Director for consideration. The Director may inform the complainant that the Council will not consider complaints that are threatening or abusive in tone and that the matter will be given no further consideration.

### *Conduct agreement*

If it is felt that poor behaviour can be stopped without restricting access, but with a formal document, you can ask the complainant to enter into an agreement about their conduct. This must be agreed and signed by both the complainant and a relevant senior officer of the directorate. If other directorates or agencies are involved include them too.

### *Extreme behaviour*

If a complainant's behaviour is so extreme it threatens the immediate safety and welfare of our staff other options will be considered, for example reporting the matter to the police or taking legal action. In such cases the complainant may not be given prior warning of this action.

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## **Is a complainant unreasonably persistent?**

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It is important to differentiate between persistent and unreasonably persistent complainants. It could be argued that the majority of complainants are persistent as they want their complaint dealt with properly and are intent on achieving this.

However, unreasonably persistent complainants may have justified complaints, but are pursuing them in inappropriate ways, or may be pursuing complaints which have no substance, or have already been investigated and determined. Their contacts may be amicable, but place very heavy demands on staff time, or may be very emotionally charged and distressing for all involved.

Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as an unreasonably persistent complainant. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled unreasonably persistent.

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## **Actions and behaviours of unreasonably persistent complainants**

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These are some of the actions and behaviours of unreasonably persistent complainants. It is by no means an exhaustive list.

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from Council staff.
- Refusing to cooperate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of the Council's complaints procedure despite having been provided with information about the procedure's scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the Council's procedure.

- Refusing to communicate with the officer allocated to deal with their complaint unless there is a genuine and acceptable reason.
- Making what appear to be groundless complaints about the staff dealing with the complaint, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/our independent auditor/the Standards Committee/local police/solicitors/the Ombudsman; or a number of different officers/departments.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through our full complaints procedure.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.
- Combinations of some or all of these.

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### **Before designating someone as an unreasonably persistent complainant**

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Different considerations will apply depending on whether the investigation of the complaint is ongoing or whether it has been concluded.

The decision to designate someone as an unreasonably persistent complainant is onerous and could have serious consequences for the individual. Before deciding whether the policy should be applied you should be satisfied that:

- the complaint is being or has been investigated properly;
- any decision reached on it is the right one;
- communications with the complainant have been adequate;
- the complainant is not now providing any significant new information that might affect the authority's view on the complaint; and
- no one will be put at risk of neglect or significant harm if it is decided to stop contact with the complainant.

If the authority is satisfied on these points it should consider whether further action is necessary prior to taking the decision to designate the complainant as unreasonably persistent. For example:

- A meeting with an officer of appropriate seniority may dispel misunderstandings and move matters towards a resolution. This should only be considered where a meeting has not already taken place with an officer/officers and providing that the Council knows nothing about the complainant which would make this unadvisable.
- If the complainant has special needs, an advocate might be helpful to both parties. Consider offering to help the complainant find an independent one.

Before applying any restrictions you must give the complainant a warning that if his/her actions continue then we may decide to treat him/her as an unreasonably persistent complainant and explain why.

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### **What options for action are available?**

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The nature of the action decided to take should be appropriate and proportionate to the nature and frequency of the complainant's contacts with the Council at that time. The following list is of possible options from which one or more might be chosen and applied, if warranted. This is not exhaustive and other factors may result in other actions being taken.

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
- Limiting the complainant to one medium of contact (telephone, letter, email etc) and/or requiring the complainant to communicate only with one named member of staff. This is effective, for example, where a complainant telephones one or many members of staff on many occasions, or where they repeatedly give a different account of past conversations.
- Requiring any personal contacts to take place in the presence of a witness.
- Refusing to register and process further complaints about the same matter.
- Where a decision has been made, providing the complainant with acknowledgements only of letters, faxes or emails, or ultimately informing the complainant that future correspondence will be read and placed on file, but not acknowledged. An officer should be designated to read future correspondence for any significant new information or new complaints.

The decision to take any of the above action must be taken by an appropriately senior officer in consultation with the Directorate Complaints Coordinator. A letter should be sent to the complainant to inform them of:

- The decision that has been made and the reason for it
- Details of what restrictions will be placed on their contacts with us
- How long these restrictions will last
- How the complainant can appeal this decision

A copy of the Unreasonably Persistent Complainants policy should be enclosed with the letter.

There must never be any restriction of contact (of the complainant to us) for an unspecified period of time.

If the complainant continues to behave in an unacceptable way it may be decided to terminate all contact with them and to discontinue any investigations into their complaints.

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## **Right to Appeal**

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Complainants must be given the right to appeal any decision to take any of the above actions. They should contact the relevant Directorate Complaints Coordinator who will consult a senior officer (other than the one who made the initial decision) to review the decision. The complainant must then be advised of the outcome of this review. If restrictions are still to be made, reasons must be given and the date when it will be reviewed.

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## **Review**

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Whatever action is taken, this must be for a limited time. At the end of this period a review of the decision must be carried out. It should be carried out by a different and senior officer to that which made the initial decision. When it has been completed the complainant must be informed of the outcome and if restrictions are to continue the date when this will next be reviewed.

If the period the restrictions apply to is longer than six months, arrangements should be made for a check to be made every six months whether there has been any further contact from the complainant. If there has been no contact then the position should be reviewed and a decision taken on whether any restrictions should be lifted. The outcome should be noted on the records and if changes are to be made the complainant must be notified. If restrictions are lifted and the behaviour which led to the original decision recommences urgent consideration should be given to reintroduce the restrictions.

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## **Coordinating Contacts Across the Council**

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Unreasonably persistent complainants often contact many different people in the Council and can try to take advantage of the differing responses they may receive. It is helpful to provide one key officer (with perhaps a second name only for when they are not available) for the complainant to contact.

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## **Informing Relevant Officers**

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If restrictions are put in place any relevant officers should be informed. These should include:

- The Directorate Complaints Coordinator for any service involved, if they have not initiated the process themselves;

- The Corporate Complaints Coordinator if they have not initiated the process themselves;
- Customer Services Centre Manager; and
- Any officers involved in the complaint.

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## **Record Keeping**

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Records of all contacts with the complainant should be kept. Other records that should be kept include:

- when a decision is taken not to apply the policy when a member of staff asks for this to be done, or to make an exception to the policy once it has been applied;
- when a decision is taken not to put a further complaint from such a complainant through its complaints procedure for any reason;
- Key members of staff; and
- Records of reviews and decisions made.

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## **Future Contacts**

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Bearing in mind any restrictions still in place each further contact should be considered and assessed on its own merits. This need not be time consuming, but it must be done.

### *Complaints about the same issue*

#### 1. No new information

- If the complaint has not already exhausted the Council's complaints procedure the complaint can be escalated in the normal way. Contact your Directorate Complaints Coordinator; or
- If the Council's complaints procedure has been exhausted, but the matter has not been to the Local Government Ombudsman (LGO), refer it there; or
- If it has been to the LGO and the complainant does not agree with the LGO's decision they should be referred back to the LGO

If the complainant persists in corresponding with no significant new information and declines to follow the complaints procedure, they should be warned that the Council will not enter into further correspondence on that issue as the matter has been dealt with appropriately. If they continue to contact the Council write to the complainant to say that any further correspondence that does not raise any significant new information will only be filed with no acknowledgement sent.

#### 2. New information

If new information is supplied this must be evaluated by the investigating officer dealing with the complaint. A response should be sent to the complainant informing them of what will happen next.

### *Complaints about similar matters*

Each complaint should be considered in the usual way and judged on its own merits. If the new complaints are about entirely trivial matters or matters that have clearly not caused the complainant any injustice it may be appropriate to close down the complaint. This must only be done by the Directorate Complaints Coordinator in agreement with their Director. The complainant needs to be informed and there is no right of appeal other than to the Ombudsman.

### *New complaints*

New complaints should be assessed in the usual way and dealt with as appropriate following Council procedures.

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### **Premature Referral to the Local Government Ombudsman**

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In some cases relations between the Council and unreasonably persistent complainants break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there is often little purpose in following through all stages of the complaints procedure and where this occurs the LGO may be prepared to consider complaints before the complaints procedure is exhausted. Contact your Directorate Complaints Coordinator for advice.

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### **Further Help and Information**

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For more help or information please contact your Directorate Complaints Coordinator. Details can be found on the intranet.



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## Checklist for how to deal with Unreasonably Persistent Complainants

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The following gives a brief outline of what should be done when considering how to deal with unreasonably persistent complainants.

- Identify whether the complainant is unreasonably persistent or not.
- Identify if there are any actions that can be taken to stop this, for example a conduct agreement.
- Designate the complainant as being unreasonably persistent. This must be decided by an appropriately senior officer and the Directorate Complaints Coordinator must be informed.
- Identify if any restrictive action needs to be taken and if so what this should be. This must be decided by an appropriately senior officer and the Directorate Complaints Coordinator must be informed.
- The complainant must be written to advising them of: the decision; the reasons for that decision; the length of time the restrictions will apply; and how they can appeal against that decision. A copy of the Policy on Unreasonably Persistent Complainants must be enclosed with this letter.
- Inform relevant officers of the decision.
- Review the decision at the end of the time period allocated or after six months, whichever is earliest. Keep the complainant informed of any decisions.
- Keep records of all contacts and decisions made.
- If relations become unworkable a complaint can be prematurely referred to the Local Government Ombudsman with their agreement.
- Even where contact is severely restricted all correspondence must be monitored for any relevant content. Any new complaints should be considered on its own merits.

For further advice please contact your Directorate Complaints Coordinator. Details can be found on the intranet.

**PROTOCOL****ROLE OF LEADER AND CHIEF EXECUTIVE OFFICER  
IN ETHICAL FRAMEWORK**

This Protocol sets out the roles of the Leader of the Council and the Chief Executive Officer in relation to the ethical framework. Both are committed to setting and encouraging high ethical standards and promoting the ethical agenda inside and outside the Authority. They will support and facilitate the work of the Standards Committee and Monitoring Officer in relation to the ethical framework in the following joint and individual ways:

**Jointly:**

1. publicly committing themselves to working together to uphold the ethical wellbeing of the Authority and affirming that each fully subscribes to the Authority's ethical agenda and expects all officers and members to do likewise;
2. leading by example, acting at all times with integrity, propriety and impartiality in the discharge of their roles;
3. helping to ensure that members and officers are clear about their respective roles and what is expected of them;
4. seeking the advice of the Monitoring Officer on declarations of interests and ethical issues where necessary;
5. having due regard to the advice of the Monitoring Officer and Standards Committee;
6. being available for consultation on key ethical issues;
7. taking appropriate action, where necessary, on particular ethical issues;
8. receiving and considering the agenda for, and minutes of, the Standards Committee's meetings;
9. attending Standards Committee to discuss relevant issues (at least once per year);
10. promoting the work of the Standards Committee;
11. where appropriate, including the Chair of the Standards Committee in the Authority's wider corporate governance meetings and activities;
12. holding an annual meeting with the Chair of the Standards Committee;
13. proactively supporting a member and officer ethical training and development programme;
14. supporting action taken by the Standards Committee and Monitoring Officer in furtherance of the Authority's Codes of Conduct, the ethical framework generally;
15. ensuring that support for the Authority's ethical agenda is adequately resourced;

Deleted: after the publication of the Committee's Annual Report

Deleted: and information/guidance provided by the Standards Board for England;

**Individually:**

Chief Executive Officer:

16. recognising the importance of the ethical and wider corporate governance agenda in the Authority's Management Board;
17. regularly meeting and directly supporting the Monitoring Officer on key issues and individual matters arising out of the ethical and governance agenda;

The Leader

18. holding regular Leader's Meetings where the Chief Executive Officer and/or Monitoring Officer may raise issues;
19. supporting the Monitoring Officer as necessary in reporting to Executive, full Council and other committees regarding the ethical agenda.

## **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. This Code also applies to any person appointed as a co-opted member with voting rights on any Committee of the County Council and references in this Code should be construed accordingly.

You must sign an Undertaking to comply with this Code of Conduct before acting as a Councillor or voting co-opted Member (“Members”).

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 Council, 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.

Before disclosing any information under this paragraph, you must consult the Monitoring Officer and/or the Chief Executive Officer.

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 Member into disrepute.
8. You must not use your position as a Member 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 Member. 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 sections of this Code, which relate to registering and declaring in meetings certain interests you may have. This includes complying with any procedure rule adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a disclosable pecuniary interest is being discussed.

## **INTERESTS**

### ***Disclosable Pecuniary Interests***

14. (1) A pecuniary interest is a "disclosable pecuniary interest" in relation to you if it is of a description specified in regulations (and listed in Appendix 1) and either:
  - (a) it is your interest; or
  - (b) it is an interest of:
    - (i) your spouse or civil partner;

- (ii) a person with whom you are living as husband and wife; or
- (iii) a person with whom you are living as if you are civil partners;

and you are aware that that other person has the interest.

***Disclosure of pecuniary interests on taking office***

15. (1) You must, before the end of 28 days beginning with the day on which you become a member or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given.
- (2) Where you become a member or co-opted member as a result of re-election or re-appointment, sub-paragraph (1) applies only as regards disclosable pecuniary interests not entered in the Council's register when the notification is given.
- (3) Where you give a notification for the purposes of sub-paragraph (1), the Monitoring Officer is to cause the interests notified to be entered in the Council's Register of Members' Interests ("the Register") (whether or not they are disclosable pecuniary interests).
- (4) Subject to paragraph 17 (regarding sensitive interests), you must, within 28 days of becoming aware of any new disclosable pecuniary interest or change to any interest already registered, register details of that new interest or change by providing written notification to the Monitoring Officer.

***Pecuniary interests in matters considered at meetings***

16. (1) Sub-paragraphs (2) to (4) apply if you:
- (a) are present at a meeting of the Council or Executive, or of any committee, sub-committee, joint committee or joint sub-committee of the Council or Executive;
  - (b) have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
  - (c) are aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the Council's Register, you must disclose the interest to the meeting, but this is subject to this Code's provisions on sensitive interests.

- (3) If the interest is not entered in the Council's Register and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) You may not:
  - (a) participate, or participate further, in any discussion of the matter at the meeting; or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting;

but this is subject to this Code's provisions on dispensations.

***Pecuniary interests in matters considered by a single member***

- (5) Sub-paragraphs (6) and (7) apply if:
  - (a) a function of a relevant authority may be discharged by a member of the authority acting alone;
  - (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
  - (c) the member is aware that the condition in paragraph (b) is met.
- (6) If the interest is not entered in the Council's Register and is not the subject of a pending notification, the member must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in sub-paragraph (5)(b) is met in relation to the matter.
- (7) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (8) Where you give a notification for the purposes of sub-paragraph (3) or (6), the Monitoring Officer is to cause the interest notified to be entered in the Register (whether or not it is a disclosable pecuniary interest).
- (9) The Council's Constitution provides for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of sub-paragraph (4), the member or co-opted member may not participate.
- (10) An interest is "subject to a pending notification" if:

- (a) the interest has been notified to the Monitoring Officer, but
- (b) has not been entered in the Register in consequence of that notification.

### ***Sensitive interests***

- 17.(1) Sub-paragraphs (2) and (3) apply where:
- (a) you have an interest (whether or not a disclosable pecuniary interest); and
  - (b) the nature of the interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.
- (2) If the interest is entered in the Register, copies of the Register that are made available for inspection, and any published version of the Register, must not include details of the interest (but may state that you have an interest the details of which are withheld under section 32(2) of the Localism Act 2011).
- (3) If paragraph 16(2) applies in relation to the interest, that provision is to be read as requiring you to disclose not the interest but merely the fact that you have a disclosable pecuniary interest in the matter concerned.

### **DISPENSATIONS FROM NON-PARTICIPATION**

18. (1) The Council may, on a written request made to the Monitoring Officer by you, grant a dispensation (in accordance with the relevant statutory provisions) relieving you from either or both of the restrictions in paragraph 16(4) in cases described in the dispensation.
- (2) Paragraph 16(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

### **OFFENCES**

19. (1) You commit a criminal offence if, without reasonable excuse, you:-
- (a) fail to comply with an obligation imposed on you by paragraph 15(1) or 16(2), (3) or (6);



- (b) participate in any discussion or vote in contravention of paragraph 16(4); or
  - (c) take any steps in contravention of paragraph 16(7).
- (2) You commit an offence if under paragraph 15(1) or 16(2), (3) or (6) you provide information that is false or misleading and you:
  - (a) know that the information is false or misleading; or
  - (b) are reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**20. If you are in any doubt as to your position under the Code of Conduct, please consult the Monitoring Officer.**

**DISCLOSABLE PECUNIARY INTERESTS**

The pecuniary interests which are specified in regulations as disclosable pecuniary interests are the interests specified in the second column of the Schedule below:

## SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of

the relevant authority for a month or longer.

#### Corporate tenancies

Any tenancy where (to M's knowledge)—

(a) the landlord is the relevant authority; and

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

#### Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For these purposes:-

“the Act” means the Localism Act 2011;

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member (entitled to vote);

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act (the corresponding provisions in this Code are paragraphs 15(1) and 16(6));

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act (corresponding provision in this Code is paragraph 14(1)(b)), namely:

- M’s spouse or civil partner;
- a person with whom M is living as husband and wife; or
- a person with whom M is living as if they were civil partners;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **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 behave improperly, should not place yourself in situations where your honesty and integrity may be questioned; 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.

**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 relevant 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. Where there is a difference of opinion between the Monitoring Officer and the Independent Person, then the allegation will be investigated.

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.

The Standards Committee will be informed of the outcome of all complaints received.

## **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 working 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 working 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 consult the Independent Person upon it. Subsequently, 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 it so concludes, the Panel may determine whether any action is necessary and, if so, what sanction is appropriate.

## **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.

The Panel shall consult the Independent Person and decide what, if any, publicity should be undertaken regarding the outcome of the matter. Options for such publicity include a notice on the Council's website or a press release.

## **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 working 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