

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO ACCOUNTS AND AUDIT COMMITTEE

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Agenda Item No.

meeting date: 22 AUGUST 2012  
title: THE COUNCIL'S CODE OF CONDUCT IMPLEMENTATION  
submitted by: CHIEF EXECUTIVE  
principal author: DIANE RICE

### 1 PURPOSE

1.1 To enable Committee to make arrangements to finalise implementation of those provisions of the Localism Act 2011 which relate to issues of Member conduct.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives –        }
  - Corporate Priorities –         }
  - Other Considerations –        }
- The Council has a duty to promote and maintain high standards of Member conduct – this duty will be supported by the arrangements the Committee make to investigate complaints about breaches of the Council's Code of Conduct and to train, inform and engage Members.

### 2 BACKGROUND

2.1 The new provisions about Member conduct have been considered by the Council's Standards and Policy and Finance Committees culminating in a referral to Full Council on 17 July 2012. Council confirmed that responsibility for matters relating to the conduct of Members should be included within the Terms of Reference of Accounts and Audit Committee, a copy of these are set out at Appendix 1.

2.2 Committee must now decide on the steps necessary to implement the provisions of the Localism Act, and in particular will have to consider the following:

1. Registration of a disclosable pecuniary interests (d.p.i.) namely
  - making arrangements for Members to disclose their pecuniary interests,
  - informing Members about the different rules which apply when decisions are made where they have a disclosable pecuniary interest, as compared to the previous Code of Conduct obligations.
2. Standing Orders – Changes will be necessary to reflect the new requirements
3. Dispensations – a procedure must be put in place.
4. Complaints – Committee must decided how complaints will be submitted to the Council, the procedure by which complaints will be considered and how the role of the independent Member will be incorporated into the process.

### 3 ISSUES

3.1 Set out below is further information and recommended action in respect of each of these matters.

#### 1. Registration of interest

##### Duty to Register

Guidance has been provided by the Department for Communities and Local Government for Members about the requirements to register disclosable pecuniary interests (d.p.i's.).

The Council's Administration Officer will shortly write to all Members to supply them with the following.

- A copy of the Code of Conduct as approved at Council on 17 July 2012.
- A form to register their interests, as part of the annual review endorsed by Council.
- A copy of the guidance (see Appendix 2) 'Openness and transparency on personal interests – a guide for Councillors'.
- A copy of a flowchart which will assist Members in deciding how to apply the new provisions when they are present when an item of business relates to a d.p.i (see Appendix 3).

In addition, Provision will be made on the council's website to publish the register information for all Members (and Parish Council Members) and training is being arranged about Standing Orders, Committee procedures and the new provisions about Member conduct.

#### 3.2 Standing Orders

- i) Policy and Finance Committee has responsibility for amendments to Standing Orders. However, prior to consideration by Policy and Finance Committee, Committee may wish to consider and comment on the following proposal.
- ii) The current Standing Order relating to disclosure, Standing Order 21, is set out below:

#### 21. INTERESTS OF MEMBERS IN CONTRACTS AND OTHER MATTER

- 21.1 Where a member has a personal interest in any business of the Council and attends a meeting of the Council at which the business is considered, s/he must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 21.2 Where a member has a personal interest in any business of the Council which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa) of the Council's Code of Conduct, the member

need only disclose to the meeting the existence and nature of that interest when they address the meeting on that business.

21.3 Where a member has a personal interest in any business of the Council of the type mentioned in paragraph 8(1)(a)(viii) of the Council's Code of Conduct, s/he need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

21.4 Sub-paragraph 21.1 only applies where the member is aware or ought reasonably to be aware of the existence of the personal interest.

21.5 Where the member has a personal interest but, sensitive information relating to it is not registered in the Council's register of members' interest, s/he must indicate to the meeting that they have a personal interest, but need not disclose the sensitive information to the meeting.

21.6 Where a member has interest in any business of the Council:

- a) the member must withdraw from the room or chamber where a meeting considering the business is being held:
  - (i) in a case where sub-paragraph 21.2 applies, immediately after making representations, answering questions or giving evidence;
  - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless s/he has obtained a dispensation from the Council's Standards Committee;

- b) s/he must not exercise executive functions in relation to that business; and
- c) s/he must not seek improperly to influence a decision about that business.

21.7 Where a member has a prejudicial interest in any business of the Council, the member may attend a meeting (including a meeting of the overview and scrutiny Committee of the Council or of a sub-committee of such a Committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

21.8 Personal and prejudicial interests referred to above are as defined in the Council's Code of Conduct.

iii) The proposed revised Standing Order based on the model suggested by ACSES (Association of Council Secretaries and Solicitors) is as follows:

## Standing Order 21 - Conflicts of Interest

1. Members of the Council are under a duty to base their decision making on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public.
2. A Member has a potential conflict of interest where any business of the meeting relates to or is likely to affect the subject matter of:
  - a) a disclosable pecuniary interest as described in the Members Code of Conduct and section 30(3) of the Localism Act 2011;
  - b) other pecuniary interest as described in the Members Code of Conduct; or
  - c) private interest as described in the Members Code of Conduct;held by a member and, when prompted by the agenda item, at the commencement of that consideration or when the interest becomes apparent, the Member must disclose to the meeting the existence and nature of that interest.
3. Where an interest is disclosed arising from
  - a) a disclosable pecuniary interest; or
  - b) other interest where that interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that is likely to prejudice the member's judgement of the public interestthe Member
  - i) may not participate in any discussion of the matter at the meeting
  - ii) may not vote on the matter at the meeting
  - iii) must retire to the public gallery or other area set aside from the meeting.
4. Where a Member holds a conflict of interest described at (3) above, before retiring he or she may first exercise the ability to address the meeting as a member of the public in accordance with the procedure rules.
5. Where a member is present at a meeting where that member is to be called upon to make a decision in the public interest, and that member considers they have fettered their discretion in some other way, that member may exercise any separate speaking rights as a ward member or member of the public but should not take part in the discussion or vote as a member of the meeting,

### 3.3 Dispensations

The Council may grant a dispensation to permit a Member to take part in the business of the Council even if the Member has a d.p.i. where

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

Committee is asked to endorse the following procedure for granting dispensations.

The Act requires a written request from the member seeking the dispensation to the 'proper officer' of the Authority. Committee is asked to confirm the Monitoring Officer will be the proper officer for these purposes. Committee is also asked to consider whether the grant of a dispensation should be a matter for Committee, a sub-Committee or an officer.

Under the previous provisions there were no applications for dispensations. Therefore, the Council has no relevant experience on which to draw in determining its procedure.

Committee is requested to delegate the function of granting dispensations to a sub-Committee similar to the sub-Committee which consider complaints, details of which are set out in Appendix 6. The sub-Committee would be easier to convene than the full Committee in the event of the need for a dispensation arising.

Delegation to Monitoring Officer could be problematic due to potential conflicts where, as at RVBC, a small team of officers attend Committee, advise Members and investigate complaints.

A form for use by Members is attached as Appendix 4.

### 3.4 Complaint Form, Complaint Procedure, Role of Independent Members

The Council has only had to determine a small number of complaints about its Members and/or Parish Council Members.

Based on this limited experience Members have, as evidenced by recent changes to the previous Code of Conduct procedure, been dissatisfied with the transparency and complexity of the process.

The proposed procedure has therefore been modified, i.e. as compared to the previous procedure. The initial assessment stage has been removed – this is replaced by a first stage where the Monitoring Officer, in conjunction with one or other Independent Person, will decide whether the complaint should either be rejected, investigated, or an attempt made to mediate to seek local resolution. In addition, the Member who is the subject of the complaint will be involved in the process from the outset, ie informed of the substance of the complaint and able to comment. Save in exceptional circumstances, the process will be one where information, including about the identity of the complainant and witnesses is shared to assist in ensuring the process is comprehensive and transparent.

Attached as Appendix 5 and 6 respectively are the complaint form and a document setting out the proposed arrangements for dealing with complaints. If Committee endorses the procedure in Appendix 6, this will then be set out in the form of a procedure diagram to further clarify the procedure for investigation.

**4 RISK ASSESSMENT**

4.1 The approval of this report may have the following implications:

- Resources – }
  - Technical, Environmental and Legal – }
  - Political – }
  - Reputation – }
  - Equality & Diversity – {
- A robust complaints procedure relating to the conduct of Members should support the work of the Council across all areas.

**5 RECOMMENDED THAT COMMITTEE**

- 5.1 Endorse the arrangements set out at 3.1 (register).
- 5.2 Recommend the proposed amended Standing Order set out at 3.2(iii) to Policy and Finance Committee.
- 5.3 Delegate the grant of dispensations to a sub-Committee comprising 3 Members of the Accounts and Audit Committee convened by the proper officer – in this case the Monitoring Officer as set out at 3.3.
- 5.4 Authorise the use of procedure set out at 3.4 for complaint investigation.

DIANE RICE  
HEAD OF LEGAL AND DEMOCRATIC SERVICES

MARSHAL SCOTT  
CHIEF EXECUTIVE

For further information please ask for Diane Rice, extension 4418.

## **TERMS OF REFERENCE OF ACCOUNTS AND AUDIT COMMITTEE**

1. To review all matters relating to Internal and External Audit. The Committee will have the right of access to all information it considers necessary and can consult directly with Internal and External Auditors.
2. To monitor arrangements for discharging the Council's responsibilities for efficient and effective financial and operational resource management. In pursuing this aim, it will consider:
  - the soundness, adequacy and application of controls;
  - compliance with policies, procedures and statutory requirements;
  - arrangements for safeguarding the Council's assets and interests;
  - the integrity and reliability of management information and financial records;
  - the economic, efficient and effective use of resources.
3. To approve the annual Statement of Accounts and receive the External Auditor's Annual Governance Report.
4. To approve the Annual Audit Plan of the External Auditor.
5. To monitor the External Auditor's progress with the Annual Audit Plan.
6. To approve the Annual Internal Audit Plan.
7. To monitor Internal Audit progress with the Annual Audit Plan, evaluating the effectiveness of Internal Audit and the use of Audit resources and where necessary recommending adjustments to the Internal Audit Plan.
8. To review and comment upon liaison arrangements between Internal and External Audit with a view to optimising the effective deployment of Audit resources.
9. To evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management through discussions with the External Auditors, Internal Auditors, and appropriate officers.
10. To receive and review the findings of both External and Internal audit examinations and to ensure that management takes appropriate action to implement agreed recommendations and to remedy any internal accounting, organisational and operational control weaknesses identified.

11. To receive and comment upon the annual Internal Audit Report and accept the Annual Governance Statement.
12. To annually monitor the effectiveness of the Code of Corporate Governance.
13. With the Council's Monitoring Officer, to monitor and review the operation of the Constitution to ensure the aims and principles of the Constitution are given full effect.
14. To advise and assist the Council on the adoption and revision of the Members' Code of Conduct and monitor the operation of the members' Code of Conduct.
15. To make arrangements to fulfill the Council's duty to promote and maintain high standards of conduct by councilors.
16. To make arrangements to determine complaints relating to a breach of the Council's Code of Conduct or any matter which is referred by the monitoring officer.
17. To grant dispensations to Councillors from the requirements relating to interests set out in the Members' Code of Conduct;
18. To make arrangements to ensure Councillors receive training and advice relating to the Members' Code of Conduct;
19. To consider and approve any emergency variations from the Council's Financial Regulations and Contractual Standing Orders.
20. To oversee and then monitor the development and implementation of a comprehensive approach to Risk Management.
21. To review matters of local community concern including partnerships and services provided by 'other' organisations that do not fall within the remit of service committees.
22. To receive reports and other evidence from organisations, individuals and partnerships that the Committee or working groups consider relevant to their work.
23. To evaluate and monitor performance information and approve annual targets.
24. To refer directly to the Council any matters it shall see fit.

The exercise of (15) (16) and (17) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.





Department for  
Communities and  
Local Government

Openness and transparency on personal interests  
**A guide for councillors**

August 2012

# The Guide

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

## Why are there new rules?

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

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

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

## Does this affect me?

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

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority
- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

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

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

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

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

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

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

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

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

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of honesty - that **'holders of public office have a duty to declare any private interests**

<http://www.communities-gov.uk/publications/localgovernment/localcod>

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

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

relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest<sup>4</sup>.

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

All sitting councillors need to register their declarable interests. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose<sup>3</sup> this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint subcommittee of your authority.

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

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

## What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).

## Do I have any disclosable pecuniary interests?

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

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

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

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

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

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

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

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

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

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

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

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

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<sup>3</sup> If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[http://www.legislation.gov.uk/ukpga/zul\\_1 /zu/part/1 /chapter/ \(/enacted](http://www.legislation.gov.uk/ukpga/zul_1 /zu/part/1 /chapter/ (/enacted)

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

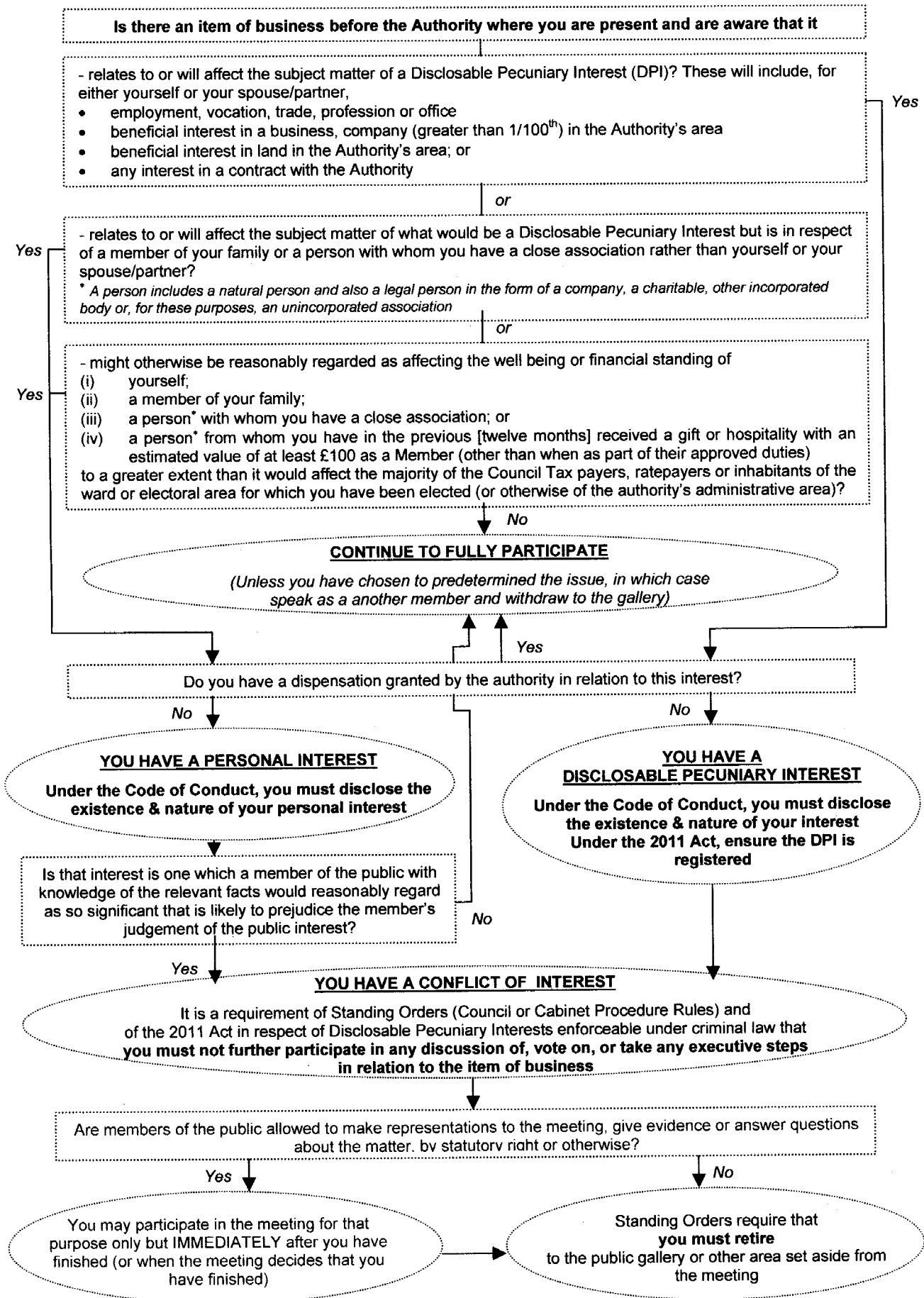
# Annex

## Description of disclosable pecuniary interests

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

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) -
  - the landlord is your council or authority; and
  - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.
- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -
  - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
  - (b) either -
    - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**



# Ribble Valley Borough Council

## Member's Application for Dispensation in respect of a Disclosable Pecuniary Interest

Note

Under Section 31 of the Localism Act 2011 ("the Act") a Member or co-opted Member who has a disclosable pecuniary interest (DPI) in a matter to be considered or being considered at a meeting of the authority at which that Member or co-opted Member is present and the DPI is one which the Member or co-opted Member is aware of, the Member or co-opted Member may not participate or participate further in any discussion or vote on the matter at the meeting unless he/she has first obtained a dispensation in accordance with the Council's dispensation procedure.

You may apply for a dispensation by completing this form and send it to the Monitoring Officer. The application will be referred to a sub-Committee of the Accounts and Audit Committee. Accordingly, you should allow sufficient time for a meeting of the Committee to be called and proper notice given. In those circumstances, the application should be sent to the Monitoring Officer not less than 14 days before the date when the matter is to be considered.

1.	Member's Name:	
2.	What is the matter which is shortly to be considered and in respect of which you seek a dispensation?	
3.	What body (Full Council, a Committee or sub-Committee) is this matter to be considered by?	
4.	What is the nature of your disclosable pecuniary interest?	
5.	What is the date of the meeting at which this matter is to be considered?	
6.	Under which of the following grounds do you seek this dispensation:	
	(i) That so many Members of the decision making body have disclosable pecuniary interests in a matter that it would 'impede the transaction of the business';	

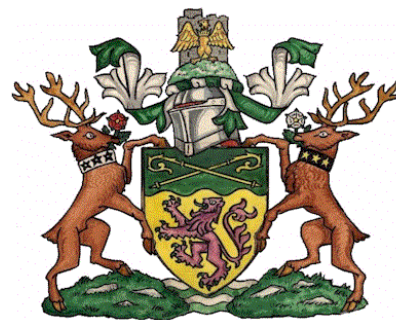
	(ii)	That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;	
	(iii)	That the authority considers that the dispensation is in the interests of persons living in the authority's area;	
	(iv)	That without a dispensation, no Member of the Committee would be able to participate on this matter; or	
	(v)	That the authority considers that it is otherwise appropriate to grant a dispensation.	
7.	Do you seek a dispensation just for the one meeting or for a longer period? If longer, please state a period not exceeding four calendar years. (Note: it is suggested that the period applied for should not be for a longer period than the remaining term of office of the relevant Councillor(s).		
8.	Please set out below the reasons why you consider that this dispensation ought to be granted:		

Signed ..... Date .....

\*Note: This application should be signed by the Member concerned. If there are a number of Members seeking a dispensation in respect of the same matter, each should complete and sign their own form.



# RIBBLE VALLEY BOROUGH COUNCIL



## COMPLAINT FORM

(ELECTED MEMBER – Breach of Code of Conduct)

### 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>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details may be released to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)
- any other person, where necessary, to investigate your complaint
- the Independent Person(s) appointed by the Authority

We will tell them your name and may give them a copy of your complaint. If you have serious concerns about your name and details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- Member of Parliament

- Local authority monitoring officer
- Other council officer or authority employee
- Other (please specify)

3. Equality monitoring questions

The information you provide on this form is CONFIDENTIAL and will only be used for equal opportunity monitoring purposes.

- 1 Gender:    Male                Female                Not given
- 2 Age:            16-19                20-29                30-29
- 30-39                50-59                60+

The Disability Discrimination Act defines disability as a physical or mental impairment that has a substantial and adverse effect on the ability to carry out normal day to day activities and which has a long term effect.

- 3 Disability:     Yes  
                        No  
                        My disability is .....

- 4 a) How would you describe your ethnic origin (not country of birth)
- White
  - British
  - Irish
  - Other white background, please state .....

- b) Mixed
- White and Black Caribbean
  - White and Black African
  - White and Asian
  - Other mixed background, please state .....

- c) Asian or Asian British
- Indian
  - Pakistani
  - Bangladeshi
  - Other Asian, please state .....

- d) Black or Black British
- Caribbean
  - African

- e)  Chinese  
 Other ethnic group

## Making your complaint

4. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the member has done that 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 that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the persons who decide whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide use with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**Only complete this next section if you are requesting that your identity is kept confidential**

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided details of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

You, (or a close associate) may be victimised or harassed by the member whom you are complaining (or by a person associated with them) or you believe your complaint may cause you to receive less favourable treatment from the Council because of the position of the member against whom you are complaining.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Council's Monitoring Officer, in consultation with an Independent Person, will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

## **Additional Help**

7. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

Please send this form to

Head of Legal and Democratic Services  
c/o Ribble Valley Borough Council  
Church Walk  
Clitheroe  
BB7 2RA

Tel 01200 425111



# Ribble Valley Borough Council Model Arrangements for dealing with standards allegations under the Localism Act 2011

## 1 Context

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

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

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

## 2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council Offices.

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

## 3 Making a complaint

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

Head of Legal and Democratic Services - Diane Rice  
Ribble Valley Borough Council  
Council Offices  
Church Walk  
Clitheroe BB7 2RA

Or – email [diane.rice@ribblevalley.gov.uk](mailto:diane.rice@ribblevalley.gov.uk)

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

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, and is available on request from Reception at the Civic Offices.

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

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

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. The Member will be informed that a complaint has been received and may request, and save in exceptional circumstances, will receive a copy of the complaint. *[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

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

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

#### **5 How is the investigation conducted?**

The Council's procedure for the investigation of misconduct complaints is as follows:

If the Monitoring Officer in consultation with the Independent Person, decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to

you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

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

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

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

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

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

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

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

**7.1 Local Resolution**

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



## 7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Sub-Committee comprising three Members of the Accounts and Audit Committee. Membership of the Sub-Committee will be ?????? which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and provide advice as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

## 8 **What action can the Sub-Committee take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council [*or to the Parish Council*] for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the member;

- 8.5 Remove *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- 8.6 Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.7 Exclude *[or recommend that the Parish Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

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

At the end of the hearing, the Chairman will state the decision of the Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Sub-Committee, and send a copy to you, to the member *[and to the Parish Council]*, make that decision notice available for public inspection and report the decision where the complaint relates to a Parish Council Member to the next convenient meeting of the Parish Council.

## **10 Who are the Hearings Panel?**

The Sub-Committee will be made up of 3 Members of the Accounts and Audit Committee and will be politically balanced subject to availability/Members having conflicting interests.

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

## **11 Who is the Independent Person?**

The Committee has 2 Independent Persons who applied for the post following advertisement of a vacancy for the post, and were appointed by a positive vote from a majority of all the members of Council on 17 July 2012.

## **12 Revision of these arrangements**

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

### **13 Appeals**

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

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

DER/MODEL ARRANGEMENTS