



Standards Committee Hearing Panel

Date Monday 17 March 2025
Time 9.30 am
Venue Committee Room 1A, County Hall, Durham

Business

Part A

**Items during which the Press and Public are welcome to attend.
Members of the Public can ask questions with the Chairman's
agreement.**

1. Election of Chair
2. Declarations of Interest
3. Standards Committee Hearing Panel - FS-Case-479253074, FS-Case-479484178, FS-Case-479665269, FS-Case-480006325, FS-Case-480451746, FS-Case-482384231, COM 414 and FS-Case-511652546 (Pages 3 - 2850)
 - (i) To consider RESOLVING that in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the matter on the grounds that it involves the likely disclosure of exempt information, as defined in Paragraph 1 of Part 1 of Schedule 12A of the Act.
 - (ii) To consider the report of the Monitoring Officer and Director of Legal and Democratic Services in relation to FS-Case-479253074, FS-Case-479484178, FS-Case-479665269, FS-Case-480006325, FS-Case-480451746, FS-Case-482384231, COM 414 and FS-Case-511652546

Helen Bradley
Head of Legal and Democratic Services

County Hall
Durham
7 March 2025

To: **The Members of the Standards Committee Hearing Panel**

Councillors E Peeke, K Rooney and C Varty

Contact: Lucy Gladders

Tel: 03000 269712

FS-Case-479253074, FS-Case-479484178, FS-Case- 479665269, FS-Case-480006325, FS-Case-480451746, FS-Case-482384231, COM 414 and FS-Case-511652546

Report of Helen Bradley, Director of Legal and Democratic Services and Monitoring Officer

Electoral division(s) affected:

Romaldkirk Parish

Purpose of the Report

- 1 This report summarises the issues relating to eight Member Code of Conduct Complaints referred for determination by a Hearing Panel of the Standards Committee (the Panel) to take place on 17th and 19th March 2025.

Executive summary

- 2 During the period January 2023 and June 2023, the Monitoring Officer received nine complaints against Councillors Cutting, Carter, Nixon and Barningham (the Subject Member's). The complaints, following an initial assessment under the Procedure for Member Code of Conduct Complaints were referred for an investigation. The outcome of that investigation was a referral of eight of the complaints to a Hearing Panel of the Standards Committee for consideration and determination.
- 3 The complaints relate to allegations of misconduct of the Subject Member's in their capacity as a Romaldkirk Parish Councillor's which engage aspects of Romaldkirk Parish Council's Code of Conduct.

Recommendation(s)

4 The Panel is recommended to:

- a) Determine as a preliminary matter whether the Panel Hearing should be open to the Press and Public in full or in part; and
- b) Consider the investigation report dated and reach decisions in respect of the complaint on:
 - I. Factual Findings;
 - II. Whether and, if so, how the Code has been breached by the Councillor; and
 - III. If there has been a breach of the Code, what action, if any, is required.

Background

- 5 Councillors Cutting, Carter, Nixon and Barningham are Members of Romaldkirk Parish Council. As members of the Parish Council, they are expected to conduct themselves in accordance with the Parish Council's Member Code of Conduct (**Appendix 2**).
- 6 Between January 2023 and June 2023, the Monitoring Officer acknowledged receipt of thirteen Code of Conduct of complaints which were submitted by members of the public and other Members of the Parish Council.
- 7 On 25 October 2023, a combined decision notice (provided at **Appendix 5**) was issued and referred nine of the thirteen complaints for an investigation. The allegations related to the Subject Members conduct and alleged that a number of allegations which engaged all aspects of Romaldkirk Code of Conduct.
- 8 A summary of the complaints to be considered by the Hearing Panel of the Standards Committee (the Panel) is set out below.

Preliminary Consideration

- 9 As a preliminary consideration, the Hearing Panel are to determine whether the Hearing should be open to the public and press. There is a presumption that meetings of the Hearing Panel will be open to the public and press unless confidential information or exempt information (within the meaning of Schedule 12A to the Local Government Act 1972) is likely to be disclosed.
- 10 The Procedure for Member Code of Conduct Complaints shown at **Appendix 4** to this report sets out the circumstances in which hearings (or parts of hearings) can or should be held in private. These are:
 - (a) A hearing must be held in private where this is necessary to prevent confidential information being revealed. Confidential information means information that has been provided by a Government department under the condition that it must not be revealed, as well as information that cannot be revealed under any legislation or by a court order.
 - (b) The law also gives the Hearing Panel the power to hold a private meeting to prevent 'exempt information' being revealed to the public. The categories of exempt information are those set out in Schedule 12A to the Local Government Act 1972. However, regulations also provide for three additional categories of 'exempt information' in relation to the Hearing Panel:

- (i) Information which is subject to any obligation of confidentiality.
- (ii) Information which relates in any way to matters concerning national security.
- (iii) The deliberations of an Audit & Governance Committee or of a Sub-Committee of an Audit & Governance Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

- 11 The rules relating to confidential information are different from the rules relating to 'exempt information'. Hearing Panels must hold some parts of a meeting in private where confidential information is likely to be revealed. However, they have the discretion to decide whether or not to exclude the public if 'exempt information' may be revealed.
- 12 The Panel will need to have regard to Article 6 of the European Convention on Human Rights and to Section 6(1) of the Human Rights Act 1998, which place a duty to act fairly and in line with the rules of natural justice. Article 6 favours public hearings, except in specific circumstances.
- 13 If the Hearing Panel decides to exclude the public to prevent exempt information being revealed, it may decide to exclude the public for only part of the hearing. For example, if a witness' evidence is likely to reveal exempt information, the public will only have to be excluded while that witness is giving evidence. If evidence is heard in private, the Chair of the Hearing Panel will warn those present not to mention that evidence during the public parts of the hearing, or outside the hearing. The Hearing Panel may also need to use appropriate initials to protect the identity of witnesses during the hearing and in any public documentation.
- 14 The Panel, in accordance with the procedure, in considering whether the press and public should be excluded from the meeting, will take into account any representations from the Investigating Officer and, the Member concerned or his representative, and the Independent Person with reasons why the Panel should make such an exclusion.

Complaints (FS-Case-479253074, FS-Case-479484178, FS-Case-479665269, FS-Case-480006325, FS-Case-480451746, FS-Case-482384231, COM 414 and FS-Case-511652546)

- 15 The complaints to be considered by the Standards Hearing Panel were submitted from January 2023 to June 2023 and concern the period from October 2020 to March 2023.

- 16 The complaints can be summarised as follows:
- (a) The decision taken by all four Subject Members by all four Subject Members to pay a third party's legal fees was unlawful;
 - (b) Councillor Carter had an undisclosed interest in Land Registry applications;
 - (c) Information relevant to the applications, and cost thereof, was withheld from the Councillor Complainants and/or misleading and inaccurate information provided;
 - (d) Councillors Cutting and Nixon provided false information to a meeting of the Parish Council on 13 December 2022 in relation to whether or not a cap had been placed on the Council's liability to pay the legal expenses associated with the applications to register the village green.
 - (e) All four Subject Members were dismissive and disrespectful of their fellow Councillors and members of the public attending meetings of the council, from time to time, engaging in behaviour that may be characterised as bullying.
- 17 During the assessment stage and the investigation, the Subject Members were asked for their views in relation to the complaints. Throughout the assessment and investigation, the Subject Members have denied any wrongdoing. Detailed responses to the complaints can be found in the investigation report and relevant appendices (**Appendices 5 and 7**).
- 18 In respect of the allegations summarised at paragraph 15 above the Investigating Officer considers that there have been breaches of the following paragraphs of Romaldkirk Parish Council's code of conduct:

Allegation (a) – In respect of all Subject Members

4.2 Behave in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in the Council:

(a) Selflessness: act solely in terms of the public interest and not act in such a way as to gain financial or other material benefits for themselves, their family or friends;

(b) Integrity: not placing themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;

(c) Objectivity: make choices on merit, in carrying out public business, including when making public appointments, awarding contracts, or recommending individuals for rewards and benefits;

(d) Accountability: be accountable to the public for their decisions and actions and must submit themselves to whatever scrutiny is appropriate to their office;

(e) Openness: be as open as possible about all the decisions and actions they take, and give reasons for decisions and restrict information only when the wider public interest or the law clearly demands;

(f) Honesty: declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

(g) Leadership: promote and support these principles by leadership and example

4.3 Act in accordance with the principles in paragraph 4.2 and, in particular:

(a) Champion the needs of residents — the whole community and all constituents, including those who did not vote for them — and put the public interest first;

(f) Be accountable for decisions and co-operate when scrutinised internally and externally, including by local residents;

(h) Behave in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources;

Allegation (b) – In respect of all Councillor Carter

9. Other Relevant Interests

9.1 Members may have an Other Relevant Interest (which is not a disclosable pecuniary interest) in any matter to be considered or being considered at the meeting) where: (a) decision in relation to that matter might reasonably be regarded as affecting the well-being or financial standing of them or a member of their family or a person with whom they have a close association, or an organisation or body under paragraph 5.1(b), 5.1(c) or 5.1(d) above, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which they have been elected or otherwise of the authority's administrative area; and (b) the

interest is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest.

9.2 Where a member has an Other Relevant Interest in an item of business as described in 9.1, the member shall declare it at the earliest opportunity. The member may make a representation on the item but will not be permitted to participate in any discussion or vote taken on the matter at the meeting. The member must leave the meeting once the representation has been made to avoid influence on those making the decision.

- 19 The investigating officer also considers that there is breach of the previous code of conduct (which was in force prior to 14 December 2021 and can be found at **Appendix 3**) in relation to a failure to declare an interest at meetings by Councillor Carter.

Allegation (c) – in respect of all Subject Members

4.2 Behave in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in the Council: [...]

4.3 Act in accordance with the principles in paragraph 4.2 and, in particular:

(b) Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially;

(g) Contribute to making the Authority's decision-making processes as open and transparent as possible to ensure residents understand the reasoning behind those decisions and are informed when holding the Authority to account but restricting access to information when the wider public interest or the law requires it;

Allegation (d) – In respect of all Councillors Nixon and Cutting

4.2 Behave in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in the Council: [...]

4.3 Act in accordance with the principles in paragraph 4.2 and, in particular:

(d) Exercise independent judgement and not compromise their position by placing themselves under obligations to outside individuals or organisations who might seek to influence the way they perform their duties as a Member / Co-opted Member of the Council;

(e) Listen to the interests of all parties, including relevant advice from statutory and other professional officers, take all relevant information into consideration, remain objective and make decisions on merit;

(g) Contribute to making the Authority's decision-making processes as open and transparent as possible to ensure residents understand the reasoning behind those decisions and are informed when holding the Authority to account but restricting access to information when the wider public interest or the law requires it;

Allegation (e) – In respect of all Subject Members

(a) Champion the needs of residents — the whole community and all constituents, including those who did not vote for them — and put the public interest first;

(b) Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially; (i) Value colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government;

(m) Not to bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of the code of conduct.

(n) Not to bring the role of Member or the local authority into disrepute and be aware that the actions and behaviour of a Member are subject to greater scrutiny than that of ordinary members of the public;

- 20 Detailed reasoning by the Investigating Officer can be found in their report in **Appendix 7**.
- 21 Following receipt of the investigation report and the Investigating Officer's findings, the Monitoring Officer, in consultation with the Independent Person has recommended that the complaints outlined are considered by the Standards Hearing Panel for determination. A copy of that decision notice can be found at **Appendix 9**.
- 22 On receipt of the decision notice to refer the complaints to the Standards Hearing Panel, the Subject Members have submitted further documentation detailing their disagreements of the findings of fact within the Investigating Officer's report and what they consider to be procedural errors. Using the headings above, in summary the Subject Members disagree and consider the following:

Allegation (a) – In respect of all Subject Members

- The Investigating Officer has failed to provide any rationale or evidence that they have breached the Code of Conduct, breaching Article 6 of the European Convention on Human Rights Act and the Common Law principle of Natural Justice.
- The Investigating Officer has failed to substantiate the claim that the expenditure was unlawful and has failed to fully consider the extent of the Parish Council's statutory powers.
- The Investigating Officer has failed to consider the Subject Member's intentions when they voted on the payment of fees.

Allegation (b) – In respect of Councillor Carter

- The Investigating Officer has unfairly interpreted the history and timeline involving Councillor Carter's legal proceedings and effect of registrations applications.
- The Investigating Officer has failed to properly interpret the caselaw they rely on and have failed to substantiate that Councillor Carter would have benefitted from, and therefore held an interest in either registration.
- That there has been a misrepresentation of Councillor Carters words and actions relating to the investigation.

Allegation (c) – In respect of all Subject Members

- The Investigating Officer has failed to highlight the specific evidence upon which they rely to find the Subject Members in breach of the code of conduct in paragraphs 4.2, 4.3(b) and 4.3(g). As a result, the Subject Members consider they are unable to provide a detailed rebuttal to these matters.

Allegation (d) – In respect of Councillors Nixon and Cutting

- The Investigating Officer has failed to explain, provide evidence or clarify how the Subject Members have provided false information.
- The Investigating Officer has elected not to consider Article 10 of the ECHR or inform the Committee of its existence and relevance in deciding this complaint.

Allegation (e) – In respect of all Subject Members

- The Investigating Officer has failed to provide any rationale or evidence that they have breached the Code of Conduct, breaching Article 6 of the European Convention on Human Rights Act and the Common Law principle of Natural Justice.
- The Investigating Officer has failed to establish any evidence of bullying or disrespect.
- The Investigating Officer has failed to consider Article 10 of the ECHR and enhanced protections for political debate.

23 The detailed responses and supporting information submitted by the Subject Members can be found at **Appendix 10**.

Role of the Panel

24 The pre-hearing process has been followed with a view to limiting the issues for decision by the Panel. The pre-hearing process can be found within section 7 of the Procedure for Member Code of Conduct Complaints. A copy of the Procedure can be found at **Appendix 4**.

25 Where the assessment or investigation of a complaint finds evidence of a failure to comply with the Code of Conduct and informal resolution is not appropriate or possible, the findings will be reported to a Hearing Panel of the Standards Committee for local determination.

26 The role of the Panel is to consider each of the complaints and allegations separately. The Panel will need to consider the evidence presented by the Investigating Officer and the Subject Members.

27 Having heard from the Investigating Officer and the Subject Members, it is the role of the Panel to make findings of fact in relation to the conduct complained of and determine whether or not they consider that the Subject Members have breached the Code of Conduct. The Panel is entitled to reach a different conclusion to the Investigating Officer.

28 Before reaching a decision on the allegations, the Panel must consider representations from the Independent Person as to whether or not there has been a breach of the Code.

29 If the Panel conclude that there has been a breach of the Code of Conduct it must decide what action, if any, should be taken. The Panel will consider representations from the Investigating Officer, Subject Members and Independent Person on the issue of sanctions.

- 30 The Localism Act 2011 provides the following sanctions for current Councillors, which are set out in the Procedure for Member Code of Conduct Complaints and are as follows:
- (a) Censure of the Member;
 - (b) Recommending to Full Council, or to the Town or Parish Council that the Member be removed from any or all Committees or Sub-Committees;
 - (c) Recommending to Full Council, or to the Town or Parish Council, that the Member be removed from all outside appointments to which s/he has been appointed or nominated by the authority;
 - (d) Recommending to Full Council, or to the Town or Parish Council, that the Member's access and use of resources of the Authority be restricted for a maximum period of six months, provided that any such restrictions imposed upon the Member:
 - (i) are reasonable and proportionate to the nature of the breach; and
 - (ii) do not unduly restrict the Member's ability to perform his functions and duties as a Member;
 - (e) A requirement that the Member submit a written apology;
 - (f) A requirement that that Member undertake training as specified by the Hearing Panel;
 - (g) A requirement that that Member undertake conciliation as specified by the Hearing Panel.
- 31 The Hearing Panel will announce its decision at the end of the Hearing and, as soon as practicable after the hearing, the Hearing Panel provide a written decision notice which will be sent to the Complainant, the Subject Members and the Clerk to the Parish Council, and published on the Council's website.

Background papers

- None

Author(s)

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Appendix 1: Implications

Legal Implications

The Council has a duty under s. 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a code of conduct that is consistent with the Nolan Principles.

Finance

None.

Consultation

None.

Equality and Diversity / Public Sector Equality Duty

None.

Climate Change

None

Human Rights

In deciding whether the Hearing should be held publicly, or in private, the Panel will need to have regard to Article 6 of the European Convention on Human Rights, and Section 6(1) of the Human Rights Act 1998 which places a duty to act fairly and in line with the rules of natural justice. Article 6 favours public hearings, except in specific circumstances.

Staffing

None

Accommodation

None

Risk

None

Procurement

None

Appendix 2: Romaldkirk Parish Council Code of Conduct

Appendix 3: Romaldkirk Parish Council – Previous Code of Conduct

Appendix 4: Procedure for Member Code of Conduct Complaints

Appendix 5: Decision Notice Investigation – Romaldkirk PC

Appendix 6: Appendices to Decision Notice

Appendix 7: Romaldkirk Standards Investigation Report

Appendix 8: Appendices to Investigating Officers Report

Appendix 9: Decision Notice Romaldkirk Hearing

Appendix 10: Subject Member's Responses

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ROMALDKIRK PARISH COUNCIL

Code of Conduct for Members

1. Romaldkirk Parish Council ('the Council') has adopted the following code which has effect from 14 December 2021 and will be reviewed annually from May 2023. The Code sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.
2. This means the Code applies whenever you:
 - a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member); or
 - b) act, claim to act or give the impression you are acting as a representative of the Council.
3. 'Co-opted member' means any person who is a member of any committee or sub-committee of the Council with a right to vote but is not one of its elected members.

Part 1 – General Conduct

4. Members and co-opted members of Romaldkirk Parish Council ('the Council') are expected to undertake their duties as follows:

4.1 Represent the community and work constructively with employees and partner organisations to ensure the area is a safer place to live, work and visit.

4.2 Behave in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in the Council:

- | | |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) Selflessness: | act solely in terms of the public interest and not act in such a way as to gain financial or other material benefits for themselves, their family or friends; |
| (b) Integrity: | not placing themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties; |
| (c) Objectivity: | make choices on merit, in carrying out public business, including when making public appointments, awarding contracts, or recommending individuals for rewards and benefits; |
| (d) Accountability: | be accountable to the public for their decisions and actions and must submit themselves to whatever scrutiny is appropriate to their office; |
| (e) Openness: | be as open as possible about all the decisions and actions they take, and give reasons for decisions and restrict information only when the wider public interest or the law clearly demands; |
| (f) Honesty: | declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest. |
| (g) Leadership: | promote and support these principles by leadership and example. |

4.3 Act in accordance with the principles in paragraph 4.2 and, in particular:

- (a) Champion the needs of residents — the whole community and all constituents, including those who did not vote for them — and put the public interest first;
- (b) Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially;
- (c) Not allow other pressures, including the financial interests of themselves or others connected to them, to deter them from pursuing the interests of the Council or the good governance of the Council in a proper manner;
- (d) Exercise independent judgement and not compromise their position by placing themselves under obligations to outside individuals or organisations who might seek to influence the way they perform their duties as a Member / Co-opted Member of the Council;
- (e) Listen to the interests of all parties, including relevant advice from statutory and other professional officers, take all relevant information into consideration, remain objective and make decisions on merit;
- (f) Be accountable for decisions and co-operate when scrutinised internally and externally, including by local residents;
- (g) Contribute to making the Authority's decision-making processes as open and transparent as possible to ensure residents understand the reasoning behind those decisions and are informed when holding the Authority to account but restricting access to information when the wider public interest or the law requires it;
- (h) Behave in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources;
- (i) Value colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government;
- (j) Always treat people with respect, including the organisations and public they engage with and work alongside;

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. Members should express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Members must not, however, subject individuals, groups of people or organisations to personal attack.

Members should treat members of the public politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members. Members equally have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, Members may stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where appropriate action could then be taken under the Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's relevant protocols;

- (k) Provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority;

- (l) Not disclose information given to them in confidence by anyone or information acquired, which they believe, or ought reasonably to be aware, is of a confidential nature, without express authority and/or unless the law requires it.
- (m) Not to bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of the code of conduct.

Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.

Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Bullying and/or harassment may take many forms, it could include but is not limited to age, disability, gender reassignment, race, religion, belief, sex and/or sexual orientation.

- (n) Not to bring the role of Member or the local authority into disrepute and be aware that the actions and behaviour of a Member are subject to greater scrutiny than that of ordinary members of the public;
- (o) To hold the local authority and fellow Members to account and constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

4.4 It is expected that Members will at all times comply with requests as part of Code of Conduct investigations and any arising outcomes. Members will not submit malicious or trivial complaints.

4.5 Where it is alleged that a Member has failed to act in accordance with the Code, a complaint will be presented to the Monitoring Officer for consideration in accordance with the Local Assessment Procedure and where necessary the Local Determination Procedure.

Part 2 - Registration of interests

Register of Interests

5.1 Members must:

- (a) register and, where appropriate, disclose those disclosable pecuniary interests that they are obliged to declare under the Localism Act and associated regulations; and
- (b) register any body of which they are a member (or in a position of general control or management) to which they were appointed or nominated by the Council; and
- (c) register details of their membership of any organisation or body whose rules or requirements of membership could be regarded as suggesting a degree of loyalty to that organisation or body. This could arise by reason of an organisation having an obligation of secrecy about its rules, its membership or conduct and/or a commitment of allegiance or support to that organisation or body. Such organisations or bodies may or may not be charitable concerns and they may also have a local, regional, national or international aspect; and

(d) register details of my membership of any trade union within the meaning of Section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992.

5.2 Registration of interests shall be completed by provision of details upon a signed prescribed form which is submitted to the Monitoring Officer at Durham County Council. Members must ensure they keep the register updated and acknowledge that its contents will be published on the Authority's website and will be open to the public to inspect.

6. **Disclosable Pecuniary Interests entered on the Register**

If Members are present at a meeting of the Authority and:

- (a) they are aware that they have a disclosable pecuniary interest under paragraph 5.1(a) above in any matter to be considered or being considered at the meeting; and
- (b) the interest is entered in the Authority's register,

they may not participate in any discussion or further discussion of an item of business or in any vote or further vote taken on that item which affects or relates to the subject matter in which they have such an interest; and they must leave the room where the meeting is held while any discussion and or voting takes place.

7. **Disclosable Pecuniary Interests NOT entered on the Register**

7.1 If Members are present at a meeting of the Authority and:

- (a) aware that they have a disclosable pecuniary interest under paragraph 5.1(a) above in any matter to be considered or being considered at the meeting; **and**
- (b) the interest is not entered in the Authority's register,

they must disclose the interest to the meeting. Furthermore, they may not participate or further participate in any discussion of the matter at the meeting or participate in any vote or further vote taken on the matter at the meeting and must leave the room where the meeting is held while any discussion and or voting takes place.

7.2 If an interest referred to in 5.1(a) above is not entered on the Authority's register and is not the subject of a pending registration, Members must notify the Authority's Monitoring Officer of the interest within 28 days of the date of the disclosure.

7.3 Members with the power to discharge an Authority function acting alone will have a disclosable pecuniary interest in any matter to be dealt with or being dealt with by them in the course of discharging that function:

- (a) they may 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 them); **and**
- (b) if the interest is not entered on the Council's register and is not the subject of a pending registration, they must notify the Council's Monitoring Officer of the interest within 28 days of becoming aware of the interest.

8. **Sensitive Interests**

8.1 This applies to a situation where a Member considers that the disclosure of the details of their interest — including that of their spouse or partner — could lead to them, or a person connected with them, being subject to violence or intimidation.

8.2 In such circumstances the Member should share their concerns with the Council's Monitoring Officer. If the Monitoring Officer agrees with them, then the details of the interest will not be included in the Council's published Register of Interests, but the Register may state that they had

registered an interest the details of which had been withheld under Section 32 of the Localism Act 2011.

- 8.3 If the Monitoring Officer has accepted that a Member has a sensitive interest under Section 32 of the Localism Act 2011, they should declare the existence of the interest at any meeting at which they are present but they need not declare the details of the interest.
- 8.4 If circumstances change and the information excluded from the Register on the grounds of sensitivity is no longer sensitive information, the Member must notify the Monitoring Officer within 28 days.

9. **Other Relevant Interests**

- 9.1 Members may have an Other Relevant Interest (which is not a disclosable pecuniary interest) in any matter to be considered or being considered at the meeting) where:
- (a) decision in relation to that matter might reasonably be regarded as affecting the well-being or financial standing of them or a member of their family or a person with whom they have a close association, or an organisation or body under paragraph 5.1(b), 5.1(c) or 5.1(d) above, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which they have been elected or otherwise of the authority's administrative area; and
 - (b) the interest is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest.
- 9.2 Where a member has an Other Relevant Interest in an item of business as described in 9.1, the member shall declare it at the earliest opportunity. The member may make a representation on the item but will not be permitted to participate in any discussion or vote taken on the matter at the meeting. The member must leave the meeting once the representation has been made to avoid influence on those making the decision.

10. **Gifts and Hospitality**

- 10.1 Members must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which they have been offered as a member from any person or body other than the Authority, whether the offer is accepted or declined.
- 10.2 The Monitoring Officer will place any notification received under paragraph 10.1 on a public register of gifts and hospitality.
- 10.3 The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality has been approved by the Authority for this purpose.

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ROMALDKIRK PARISH COUNCIL

CODE OF CONDUCT

Introduction

Pursuant to section 27 of the Localism Act 2011, **Romaldkirk Parish Council** ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

Registration of interests

Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register with the Monitoring Officer the interests which fall within the categories set out in Appendices A and B.

Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register with the Monitoring Officer any interests in Appendices A and B.

A member shall register with the Monitoring Officer any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.

A member need only declare the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

Declaration of interests at meetings

Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.

Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.

Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting.

A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter. If he/she holds an interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.

Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate (other than an interest of a person in Appendix A), the member shall disclose the nature of the interest and not vote on the matter. He/she may speak on the matter only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Dispensations

On a written request made to the Council's proper officer, the Council may grant a

Appendix A

Interests described in the table below.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain by the member or by his/her spouse or civil partner or by the person with whom the member is living as if they were spouses/civil partners.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the member during the 12 month period ending on the latest date referred to in paragraph 6 above for expenses incurred by him/her in carrying out his/her duties as a member, or towards his/her 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.
Contracts	Any contract made between the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the Council — (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 held by the member or by his/her spouse or civil partner or by the person with whom the member is living as if they were spouses/civil partner which is within the area of the Council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the member or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
Licences	Any licence (alone or jointly with others) held by the member or by his/her spouse or civil partner or by the person with whom the member is living as if they were spouses/civil partners to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge)— (a) the landlord is the Council; and (b) the tenant is a body that the member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest held by the member or by his/her spouse or civil partner or by the person with whom the member is living as if they were spouses/civil partners in securities* of a body where— (a) that body (to the member's knowledge) has a place of business or land in the area of the Council; 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 member, or his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'director' includes a member of the committee of management of an industrial and provident society.

**'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

member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.

Appendix B

An interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;
- (iii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.

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1. Definitions

Authority - The Subject Member's Council at the time of an allegation.

Code of Conduct - The relevant Code or Codes of Conduct adopted by the Subject Member's council or councils.

Complainant(s) - The person(s) making the complaint that a Subject Member has breached the Code of Conduct.

Director of Legal and Democratic Services - The designated Proper Officer for the determination of "exempt information" as defined in Schedule 12A to the Local Government Act 1972.

Independent Person - The person appointed by the County Council under section 28(7) of the Localism Act 2011 whose views may, and sometime must, be sought.

Informal Resolution - An informal resolution of a complaint including the matters set out at paragraph 5 of this Procedure.

Investigating Officer - The person appointed by the Monitoring Officer to undertake the investigation of an allegation.

Investigation - An investigation undertaken by the Investigating Officer.

Legal Advisor to the Hearing Panel - The Monitoring Officer, or in their absence the Deputy Monitoring Officer or their representative.

Monitoring Officer - The person appointed in accordance with section 5 of the Local Government and Housing Act 1989 who oversees investigations into complaints made against Subject Members under the Code of Conduct. For the purposes of this Procedure, Monitoring Officer may include a person deputising on their behalf.

Subject Member(s) - The person(s) whom the complaint has been made against.

2. Introduction

- 2.1. The Localism Act 2011 requires that the Council adopt arrangements for dealing with complaints of breach of the Code of Conduct by both County Council Members and Parish Council Members.
- 2.2. This document sets out the procedure that will apply when complaints are made about Members.
- 2.3. Where the Code of Conduct is engaged and it is considered that there may have been a breach of the Code, the Council's Monitoring Officer will seek to resolve it swiftly to the satisfaction of the complainant using Informal Resolution whenever possible. Only the most serious complaints will be referred for investigation in view of the disproportionate resources required to investigate complaints when compared with the potential outcomes and sanctions available to the Standards Committee.
- 2.4. Any person may make a written complaint to the Council's Monitoring Officer alleging that a Councillor has acted in breach of the Code of Conduct for Members.

3. How to make a complaint

- 3.1. Complaints must be submitted via the online [Code of Conduct complaint form](#). However, if you require assistance to make your complaint or you would prefer the form to be provided by post or email, please email democraticservices@durham.gov.uk or telephone 03000 269712.
- 3.2. When making your complaint you should include the following information:
 - (a) Your name, address, and other contact details
 - (b) The name(s) of the Subject Member(s) who the complaint is against and the name of the Council that they represent.
 - (c) Details of the complaint including, where possible, date(s) of the alleged misconduct (if you cannot provide exact dates, it is important to give a general timeframe), witnesses and their details and any other supporting information.
- 3.3. Your address and contact details will not usually be released unless necessary to deal with the complaint. However, we will tell the following people that you have made a complaint:
 - the Subject Member(s) whom the complaint is about.
 - the Clerk of the relevant Parish/ Town council where applicable.
 - the relevant Group Leader of a County Councillor where applicable.
 - any other person whom we consider it necessary to inform to properly investigate your complaint.
- 3.4. We will tell the Subject Member(s), your name and give them a summary or a copy of your complaint. We will give them full details of the complaint where necessary or appropriate to be able to deal with it. We will not withhold your identity, or a summary or the details of your complaint, unless you have exceptional reasons why we should do so. If you have serious concerns about your name and the details of your complaint being released, please state these on the complaint form. Please be aware that any decision notice on a complaint will identify the complainant (i.e. you) and will usually be available for inspection by any member of the public for a period of six years following the decision. Where a decision notice contains sensitive information (e.g. personal information relating to third parties who are not party to a complaint) the Monitoring Officer may decide that a decision notice should not be available for public inspection or shared by the parties to the complaint without the Monitoring Officers consent.
- 3.5. Where the Monitoring Officer does not agree to keep your identity confidential, you will be given the opportunity to seek to withdraw your complaint. Complaints

made anonymously will warrant consideration only if sufficient information is provided to enable them to be considered. They will usually need to be accompanied by evidence indicating an exceptionally serious or significant matter.

- 3.6. Your identity may be withheld from the Subject Member(s) if the Monitoring Officer considers that disclosure might prejudice any future investigation.
- 3.7. If you wish to withdraw your complaint before the Monitoring Officer has made a decision on it, then the Monitoring Officer will decide whether to grant that request.
- 3.8. In making that decision the following considerations will be taken into account:
 - Is the complaint such that action can be taken on it, for example, an investigation without the complainant's participation?
 - Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the Subject Member who is the subject of the complaint, or an associate of theirs, to withdraw the complaint?

4. Assessment of complaint

- 4.1. The Monitoring Officer, in consultation with the Independent Person where appropriate, will, as soon as reasonably practicable, and normally within 20 working days of receipt of the complaint, consider and decide if any action should be taken on it. Assessment may in some circumstances be delayed if a police or other (for example, internal Audit) investigation is first warranted.
- 4.2. For a complaint to be considered it must fall within the jurisdiction of the Monitoring Officer. The Monitoring Officer can only consider complaints where a Subject Member was acting as a Councillor or giving the impression that they were acting as a Councillor, or a representative of the Council and that the member was in office at the time of the alleged conduct.
- 4.3. The Monitoring Officer will also take into account the following considerations before deciding if a complaint warrants further consideration under the procedure:
- Where the Member Code of Conduct is not engaged or, the conduct is unlikely to amount to a breach of the Code of Conduct, e.g. where the complaint relates to a dissatisfaction with a Council decision or a neighbour dispute where it is evident the Subject Member is acting in their personal capacity.
 - Where a complaint is more than 3 months old and there is no good reason for the delay.
 - Where multiple complaints have been submitted of a similar nature.
 - Where the complaint has already been subject of an investigation or other action either at the Council or another regulatory authority in the last 3 years.
 - Where the complaint appears to be malicious, politically motivated or tit-for-tat.
 - Where the Subject Member has already apologised or offered a remedy.
- 4.4. Once an initial assessment has taken place, the Monitoring Officer will decide either:
- (a) That no action should be taken in respect of the complaint;
 - (b) To seek informal resolution;

- (c) To refer the complaint for investigation; or
 - (d) To refer the complaint to the Standards Committee.
- 4.5. Where multiple complaints are submitted concerning the same Subject Member(s) and/or are similar in nature, the Monitoring Officer may decide to consider the complaints under one decision notice.
 - 4.6. Where the complaint is against a person who is no longer a Member of the Council, but is a member of another relevant authority, the Monitoring Officer may instead refer the complaint to the Monitoring Officer of that other relevant authority if they think it more appropriate to do so.
 - 4.7. Where the Monitoring Officer requires further information they may contact the complainant, the Subject Member(s), any witnesses to the complaint or the Clerk (where applicable). The complainant's and the Subject Member's identity may be disclosed to any such witnesses.
 - 4.8. The Subject Member(s) will be notified that a complaint has been made against them and they will be given 10 working days from the date of the notification to submit any comments they may have. If the Subject Member(s) requires an extension of time to provide their response, they must submit their reasons in writing to the Monitoring Officer who will decide if it is appropriate to grant the extension.
 - 4.9. Where appropriate the Monitoring Officer will notify the relevant political Group Leader of the Subject Member(s) of the complaint and the outcome.
 - 4.10. The Monitoring Officer will produce a written decision which will include the main points considered, the conclusion and the reasons for that conclusion. The decision will be sent as soon as possible to the complainant and to the Subject Member(s) who is the subject of the complaint.
 - 4.11. The decision will usually be available for inspection by the public at the offices of the Council for 6 years beginning with the date of the decision. However, the decision will not be made available for inspection until the Subject Member who was the subject of the complaint has received a copy of the decision. A copy of the decision will also be sent to the clerk of the relevant Parish/Town council where applicable. Where a decision notice contains sensitive information (e.g. personal information relating to third parties who are not party to a complaint) the Monitoring Officer may decide that a decision notice should not be available for public inspection or shared by the parties to the complaint without the Monitoring Officers consent.

5. Informal Resolution

- 5.1. The Monitoring Officer will establish whether a complaint is suitable to be resolved informally before or as an alternative to deciding whether the complaint merits formal investigation, this is called informal resolution. Informal resolution may involve:
- (a) Exploring whether the Subject Member(s) are prepared to apologise for the act or omission complained of;
 - (b) Arranging for the Subject Member(s) who is the subject of the complaint to attend a training course;
 - (c) Arranging for the Subject Member(s) and the complainant to engage in a process of mediation;
 - (d) Such other steps (not including an investigation), as appear appropriate to the Monitoring Officer.
- 5.2. In some circumstances, it may be inappropriate to pursue informal resolution of a complaint. The Monitoring Officer has the discretion (where appropriate in consultation with the Independent Person) to determine whether it would be inappropriate to pursue informal resolution. Listed below are examples of circumstances where informal resolution may be deemed inappropriate:
- (a) The Subject Member(s) maintains that they have not engaged in wrongdoing;
 - (b) The allegations against the Subject Member(s) are serious, such as accusations of bullying or misusing their position to gain or confer advantage/disadvantage;
 - (c) The allegations against the Subject Member(s) are numerous and/ or complex;
 - (d) Either the Complainant or the Subject Member(s) do not wish to engage in informal resolution.

6. Investigations

- 6.1. The Monitoring Officer will consider the following questions before referring the complaint to an investigation:
- Has the complainant submitted enough information?
 - How long ago the alleged behaviour/ conduct or incident occurred?
 - Has the complaint already been the subject of an investigation or other action either by the Council or another regulatory authority in the last 3 years?
 - Does the complaint appear to be malicious, politically motivated or tit-for-tat?
 - Has the Subject Member(s) already apologised or offered a remedy?
 - Does the complaint justify the resources required of an investigation?
- 6.2. The Monitoring Officer will consult the Independent Person when deciding whether a complaint should be referred for investigation. They will appoint an Investigating Officer who may be another officer of the council, an officer of another Council or an external investigator.
- 6.3. The Investigating Officer will follow any guidance issued by the Monitoring Officer on the investigation of complaints. The Investigating Officer should aim to complete the investigation within 3 months of being appointed and will consider all matters on the balance of probabilities.
- 6.4. The Investigating Officer will normally write to the Subject Member(s) and the complainant, and they may also ask to speak or meet with them. This will be to gain a greater understanding of the nature of the complaint and find out who they need to interview as part of their investigation.
- 6.5. At the end of the investigation, the Investigating Officer may produce a draft report and send copies to the complainant and to the Subject Member(s) for comments on matters of fact. The Investigating Officer will take any such comments received during a period to be specified by the Investigating Officer into account before issuing the final report to the Monitoring Officer.
- 6.6. Where the Investigating Officer finds that the Subject Member(s) has not failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.

- 6.7. Where paragraph 6.6 applies, the Monitoring Officer will write to the complainant and the Subject Member(s) (and to parish clerk, if relevant) with a copy of the decision and the Investigating Officer's report.
- 6.8. If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the Investigating Officer may be asked to reconsider the report and the conclusions.
- 6.9. Where the Investigating Officer's report finds that the Subject Member(s) has failed to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then, having consulted the Independent Person, either send the matter for hearing before the Hearing Panel or seek Informal Resolution in appropriate cases. Where such Informal Resolution is not appropriate or possible the Investigating Officer's findings shall be reported to a Hearing Panel of the Standards Committee for local determination.
- 6.10. The Monitoring Officer may reconsider the complaint at any time if:
- (a) As a result of new evidence or information presented by the Investigating Officer, they are of the opinion:
 - i) The matter is materially more or less serious than may have seemed apparent when they referred it for investigation and
 - ii) The Monitoring Officer would have made a different decision had they been aware of that new evidence or information; OR
 - iii) The person who is the subject of the complaint has died; or is seriously ill; or has resigned from the Council, and the Monitoring Officer considers that in the circumstances it is no longer appropriate to continue with an investigation.
- 6.11. If a matter is referred back to the Monitoring Officer, they will reconsider and make one of the decisions set out in paragraph 6.10 above. In forming an opinion for the purposes of paragraph 6.10(a) above, the Monitoring Officer may take account of:
- i) The failure of any person to co-operate with an investigation; OR
 - ii) An allegation that the Subject Member(s) concerned has engaged in a further breach of the Council's Code of Conduct or that of another relevant authority; OR
 - iii) An allegation that another member has engaged in a related breach of the Council's Code of Conduct or that of another relevant authority.

7. Hearings

- 7.1. Where the assessment of the complaint or where an investigation finds evidence of a failure to comply with the Code of Conduct and informal resolution is not appropriate or possible, the outcome of the assessment or investigation findings will be reported to a Hearing Panel of the Standards Committee for local determination. The purpose of the hearing is to decide whether or not the Subject Member(s) have failed to follow the Code of Conduct and, if so, to decide whether or not any sanction should be applied and what form any sanction should take.
- 7.2. The Hearing Panel will usually be convened within three months beginning on the date on which the Monitoring Officer receives the Investigating Officers report or the date of the decision notice recommending that the complaint be referred to hearing.
- 7.3. The hearing shall not be held until at least fourteen days after the date on which the report or the decision notice recommending that the complaint be referred to hearing was sent to the Subject Member(s), unless they agree to the hearing being held earlier.
- 7.4. The Hearing Panel will usually aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total.
- 7.5. The Hearing Panel will comprise three Members of the Standards Committee. A quorum of the Hearing Panel will be three Members. If the complainant(s) or Subject Member(s) is a Member of the Standards Committee, they will not sit on the Hearing Panel.
- 7.6. The Hearing Panel will act in an inquisitorial, rather than an adversarial manner, seeking the truth in relation to the conduct of the Subject Member(s) on the balance of the information available to it. The Hearing Panel can commission further investigation or information where it needs to do so in order to come to a decision.
- 7.7. It is expected that the Hearing Panel will reach a decision by consensus. In the absence of a consensus, each Member of the Hearing Panel will have one vote and all matters/issues will be decided by a simple majority of votes cast.
- 7.8. Meetings of the Hearing Panel will be open to the public and press unless confidential information or exempt information (within the meaning of Schedule 12A to the Local Government Act 1972) is likely to be disclosed.

- 7.9. The Hearing Panel can make one of the following findings:
- that the Subject Member(s) has not failed to follow the Code of Conduct; or
 - that the Subject Member(s) has failed to follow the Code of Conduct, but no action needs to be taken; or
 - that the Subject Member(s) has failed to follow the Code of Conduct and should be sanctioned.
- 7.10. If the Hearing Panel finds that the Subject Member(s) has failed to follow the Code of Conduct and that they should be sanctioned, it may take any one or a combination of the following actions:
- (a) censure the Subject Member(s) (this is the only form of sanction available when dealing with a person who is no longer a Councillor);
 - (b) restriction to the access and use of resources of the Authority for a maximum period of six months, provided that any such restrictions imposed upon the Subject Member(s);
 - i. are reasonable and proportionate to the nature of the breach; and
 - ii. do not unduly restrict the person's ability to perform the functions of a Member.
 - (c) a requirement to give a written apology;
 - (d) recommending the removal of the Subject Member(s) from a committee;
 - (e) a requirement to undergo training.
- 7.11. The Hearing Panel will announce its decision at the end of the hearing. As soon as practicable after the hearing, the Hearing Panel will give its full written decision to the Complainant, the Subject Member(s) and (if applicable) the Group Leader or the Clerk to the Town or Parish Council.
- 7.12. A summary of the decision and reasons for that decision will be published on the Council's website which will include a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person and the reasoning of the decision maker and any sanction applied.

Pre-Hearing Process

Notification to the Subject Member(s)

7.13. Where a final report of an Investigating Officer which contains a finding of failure to comply with the Code of Conduct has been referred to a Hearing Panel for local determination, the Administrative Officer will write to the Subject Member(s) concerned to:

- (a) propose a date for a meeting of the Hearing Panel,
- (b) outline the hearing procedure,
- (c) outline the Subject Member's rights.

7.14. In addition, the Administrative Officer will ask the Subject Member(s) concerned to reply to the report (the reply) within 14 days to indicate whether or not they:

- (d) disagree with any of the findings of fact in the Investigating Officer's Report, including the reasons for any disagreement,
- (e) will attend the hearing in person,
- (f) wants to be represented at the hearing by a solicitor, barrister or any other person,
- (g) wants to give evidence to the Hearing Panel, either orally or in writing,
- (h) wants to call relevant witnesses to give evidence to the Hearing Panel, and if so, the Subject Member(s) must provide a summary of the evidence to be given by those witnesses,
- (i) wants any part of the hearing to be held in private, giving reasons under the relevant Article of the European Convention on Human rights or category of confidential or exempt information.
- (j) wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public, giving reasons under the relevant Article of the European Convention of Human Rights or category of confidential or "exempt information".

Subject Members' Response

7.15. In their reply, the Subject Member(s) must make clear all of their disagreements with the findings of fact in the Investigating Officer's report during this pre-hearing stage. This will allow the Chair of the Hearing Panel,

in consultation with the Monitoring Officer, to decide which witnesses will be needed. The Subject Member(s) will normally not be allowed to raise any new disagreements over findings of fact in the Investigating Officer's report at the Hearing Panel itself, unless there are good reasons for doing so, such as new evidence becoming available.

- 7.16. When the reply of the Subject Member(s) concerned has been received, or, if no response is received, once the 14-day period for responding has elapsed, the Monitoring Officer, in consultation with the Chair and if appropriate the Independent Person, will agree the date, time and place for the hearing.

Advance Notification of Hearing

- 7.17. At least 14 days before the hearing, the Administrative Officer will give notification of the date, time and venue set for the hearing to those involved. They will also inform the Subject Member(s) concerned of the membership of the Panel which will consider the matter.

Agenda for Hearing

- 7.18. At least 7 days before the day of the meeting of the Hearing Panel, the Administrative Officer will send the following papers to each Member of the Panel, to the Subject Member(s) concerned, to the Investigating Officer, to the Monitoring Officer and to the Independent Person:
- (a) the agenda for the meeting of the Hearing Panel;
 - (b) a copy of the Investigating Officer's report (unless already provided);
and
 - (c) where relevant, a copy of any written statement in response to the Investigating Officer's report received from the Subject Member(s) and the Investigating Officer's reply.
- 7.19. The provision of any such papers referred to in paragraph 7.18 may be made conditional upon an appropriate undertaking of confidentiality until such time as they are made available to the press and public or the Hearing Panel agrees at the commencement of the hearing that the press and public shall not be excluded from the meeting.
- 7.20. Any additional documents intended to be relied on and/or referred to at the hearing must be provided to the Administrative Officer at least 3 days before the date of the Hearing.

Public Access to Hearing and Documents

7.21. There is a presumption that hearings will be held in public and that reports for the Hearing Panel will be available before and during the hearing. However, there may be reasons, as detailed under 'Exclusion of Press and Public', which would prevent public access to the hearing (or part of the hearing) and documents (or parts of documents) to be considered by the Hearing Panel.

Confidentiality in advance of Hearing

7.22. Where the Director of Legal and Democratic Services considers that the Investigating Officer's report and/or Subject Member's written statement in response to the Investigating Officer's report and/or the Investigating Officer's reply to that response is likely to disclose "exempt information", and in consequence that it is likely that the Hearing Panel will not be open to the public during consideration of these papers, they shall not provide copies of these papers` to the press or public or permit inspection thereof by the press or public in advance of the meeting.

7.23. Where the Director of Legal and Democratic Services considers that the Investigating Officer's report and/or the Subject Member's written statement in response and/or the Investigating Officer's reply to that response is likely to disclose "exempt information" falling within Schedule 12A to the Local Government Act 1972, requests for exempt information by Members of the authority (but not party to the proceedings) will be considered in accordance with Part 4B of the Council's Constitution.

7.24. "Exempt information" is defined in Schedule 12A of the Local Government Act 1972.

Hearing Procedure

Legal Advice

7.25. The Hearing Panel may at any time seek legal advice from the Legal Adviser during the hearing or while the Hearing Panel considers the outcome. Such advice will on all occasions be given in the presence of the Investigating Officer and the Subject Member(s).

Member Attendance or Representation

7.26. The Subject Member(s) may arrange to be represented or accompanied at the hearing at their own expense by a solicitor, counsel or another person.

- 7.27. If the Subject Member(s) does not attend the hearing, the Hearing Panel may consider the Investigating Officer's report and the Independent Person's views in the Subject Member's absence. If the Hearing Panel is satisfied with the Subject Member's reason for not being able to attend the hearing, then it may arrange for the hearing to be held on another date.
- 7.28. Where the Hearing Panel proceeds in the absence of the Subject Member(s), the procedure for the meeting shall be adapted as necessary, giving any representative of the Subject Member(s) who may be present such rights as would otherwise be accorded to the Subject Member(s) concerned.

Order of Business

- 7.29. The order of business at the meeting shall be as follows:
- (a) Declarations of interest. The Chair will invite Members to declare any interest they may have in the matter.
 - (b) Introduction of Members of the Hearing Panel, the Investigating Officer, the Monitoring Officer, (or Legal Adviser), the Subject Member(s) against whom a complaint has been made, any representative of the Subject Member(s), any witnesses and, the Independent Person.
 - (c) If the Subject Member(s) are not present, consideration as to whether to adjourn or to proceed in their absence.
 - (d) Consideration as to whether the press and public should be excluded from the meeting. The Hearing Panel will take into account any representations from the Investigating Officer, the Subject Member(s) concerned or their representative and the Independent Person with reasons why the Panel should make such an exclusion.
 - (e) A note of the issues which the Hearing Panel will have to consider in deciding whether or not to exclude the press and public is set out in.
 - (f) The Hearing Panel will then make a determination on whether to exclude the press and public. Where the Panel decides not to exclude the press and public, the Administrative Officer will at this point provide copies of such relevant documentation to any members of the press and public who are present.
 - (g) The Investigating Officer will present their own report. The Investigating Officer will address only the issue of whether the Subject Member(s)

has acted in breach of the Code of Conduct. The Investigating Officer may introduce any witnesses required to substantiate any matter. Members of the Hearing Panel and the Independent Person may question the Investigating Officer and any witness on any matter within their competence. The Hearing Panel may give the Subject Member(s) an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer by the cross-examination of the witness either directly by the Subject Member(s) (or their representative) or through the Chair. The cross-examination must be conducted in an inquisitorial manner as opposed to adversarial.

- (h) Presentation by the Subject Member(s). The Subject Member(s) (or their representative) will address only the issue of whether he/she has acted in breach of the Code of Conduct. The Subject Member(s) (or their representative) may introduce witnesses required to substantiate any matter contained in their written statement (where relevant). Members of the Hearing Panel and the Independent Person may question the Subject Member(s) and any witness on their evidence. The Hearing Panel may give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Subject Member(s) (or their representative) by the cross-examination of the witness either directly by the Investigating Officer or through the Chair. The cross-examination must be conducted in an inquisitorial manner as opposed to adversarial.
- (i) Where the Hearing Panel is dealing with an Investigating Officer's report and the Subject Member(s) seeks to dispute any matter in the report where they had not given notice of intention to dispute in their written statement, the Investigating Officer will draw this to the attention of the Hearing Panel. The Hearing Panel may then decide:
 - (i) not to admit such dispute but to proceed to a decision on the basis of the information contained in the report;
 - (ii) to admit the dispute, but invite the Investigating Officer to respond to it, recalling any witness as necessary; or
 - (iii) to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute and/or to arrange for the attendance of appropriate witnesses as to the disputed information.
- (j) Members of the Hearing Panel have to satisfy themselves that they have sufficient information upon which to take that decision, and they may question the Investigating Officer, the Subject Member(s)

concerned and any witnesses in order to obtain sufficient information to enable the Hearing Panel to come to a decision on the issue.

- (k) The Independent Person will be asked to provide their view about whether the Subject Member(s) have acted in breach of the Code of Conduct. The Independent Person may request an adjournment of the hearing if they require time to form their view before presenting it to the Hearing Panel.
- (l) The Hearing Panel will adjourn with the Monitoring Officer (or Legal Advisor), where it will consider in private session whether the Subject Member(s) have acted in breach of the Code of Conduct. At any stage in its consideration, the Hearing Panel may return to ask any further questions of the Investigating Officer or the Subject Member(s) or seek legal advice.
- (m) At the conclusion of its consideration, the Hearing Panel will return and the Chair will advise the Investigating Officer and the Subject Member(s) or their representative of its decision as to whether the Subject Member(s) have acted in breach of the Code of Conduct, and the reasons for that decision.
- (n) If the Hearing Panel concludes that the Subject Member(s) have acted in breach of the Code of Conduct, it will then hear representations from the Investigating Officer and then the Subject Member(s) or their representative as to whether the Hearing Panel should take any action against the Subject Member(s) and what form any action should take. Members of the Panel may ask questions of the Investigating Officer, the Subject Member(s) and the Independent Person and seek legal advice in order to satisfy themselves that they have the information upon which to take a proper decision.
- (o) The Hearing Panel will then adjourn together with the with the Monitoring Officer where they will consider in private session whether to take any action in respect of the Subject Member(s) and what form any such action should take.

Non-Co-operation

- 7.30. Where the Investigating Officer states that any Subject Member(s) or Officer of the Authority has failed to co-operate wholly or in part with the procedure, the Hearing Panel will consider whether to make a formal complaint to the Standards Committee or to the relevant authority, respectively, about such failure to co-operate.

Costs

- 7.31. Where the Investigating Officer secures the attendance of any person to give evidence to the Hearing Panel, the Council will reimburse any reasonable costs which the person may incur in so attending.

Additional Evidence

- 7.32. A Hearing Panel may at any stage prior to the conclusion of the hearing adjourn the hearing and require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Hearing Panel; but the Hearing Panel shall not adjourn the hearing on more than one occasion under these provisions.

Notice of Findings on Hearing Panel and Confidentiality of Information

Report to Standards Committee

- 7.33. As soon as reasonably practicable after the Hearing Panel has made its determination in respect of an allegation, the Monitoring Officer will give written notice of that determination and the reasons for such determination to:
- (a) the Subject Member(s);
 - (b) the Investigating Officer;
 - (c) the Standards Committee;
 - (d) the Independent Person;
 - (e) the Standards Committee of any other local authority of which the Subject Member(s) are, or was at the time of the alleged misconduct, a Subject Member;
 - (f) if applicable the Parish or Town Clerk;
 - (g) if applicable the Group Leader of a County Councillor;
 - (h) any person who made the allegation that gave rise to the investigation; and subject to paragraph 7.34 below, arrange for a summary of the finding to be published on the Council's website.
- 7.34. Where the Hearing Panel determines that there has not been a breach of the Code of Conduct:
- (a) the notice under paragraph 7.12 will state that the Hearing Panel found that the Subject Member(s) concerned had not failed to comply with the

Code of Conduct of the and will give its reasons for reaching that finding.

- 7.35. Where the Hearing Panel determines that there has been a failure to comply with the Code of Conduct the notice will:
- (a) state that the Hearing Panel found that the Subject Member(s) concerned had failed to comply with Code of Conduct of this or another Council but that no action needs to be taken in respect of that failure;
 - (b) specify the details of the failure;
 - (c) give reasons for the decision reached by Hearing Panel; and
- 7.36. Where the Hearing Panel determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice under paragraph 7.12 will:
- (a) state that the Hearing Panel found that the Subject Member(s) concerned had failed to comply with the Code of Conduct of this or the Code of Conduct of another Council;
 - (b) specify the details of the failure;
 - (c) give reasons for the decision reached by the Hearing Panel;
 - (d) specify the sanction imposed,

Confidentiality

- 7.37. No Member or Officer of the Authority shall disclose any information which they have obtained in the course of an investigation or in pursuance of this Procedure except in the circumstances set out below:
- (a) the disclosure is made for the purposes of enabling the Monitoring Officer or Investigating Officer to carry out their functions or the Hearing Panel to carry out its functions in relation to the matter;
 - (b) the disclosure is made in connection with the investigation and consideration of an allegation of a breach of an authority's code of conduct;
 - (c) the disclosure is made enabling a Standards Committee or sub-committee of a Standards Committee to perform any of its functions in connection with the investigation and consideration of an allegation of a breach of an authority's code of conduct;
 - (d) the person to whom the information relates had consented to the disclosure;

- (e) the disclosure is made in pursuance of a statutory requirement for disclosure;
- (f) the information has previously been disclosed to the public with lawful authority;
- (g) the disclosure is for the purpose of criminal proceedings and the information in question was not obtained as a result of personal enquiries of the person subject to the criminal proceedings.

Public Access to hearing and documents

7.38. Hearings will be held in public where possible to make sure that the hearing process is open and fair.

Confidential information and ‘exempt information’

- 7.39. There are two circumstances in which hearings (or parts of hearings) can or should be held in private:
- (a) A hearing must be held in private where this is necessary to prevent confidential information being revealed. Confidential information means information that has been provided by a Government department under the condition that it must not be revealed, as well as information that cannot be revealed under any legislation or by a court order.
 - (b) The law also gives the Hearing Panel the power to hold a private meeting to prevent 'exempt information' being revealed to the public. The categories of 'exempt information' are those set out in Schedule 12A to the Local Government Act 1972. However, regulations also provide for three additional categories of 'exempt information' in relation to the Hearing Panel:
 - (i) Information which is subject to any obligation of confidentiality.
 - (ii) Information which relates in any way to matters concerning national security.
 - (iii) The deliberations of an Audit & Governance Committee or of a Sub-Committee of an Audit & Governance Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.
- 7.40. The rules about confidential information are different from the rules about 'exempt information'. Hearing Panels must hold some parts of a meeting in

private where confidential information is likely to be revealed. However, they have the discretion to decide whether or not to exclude the public if 'exempt information' may be revealed.

Deciding to withhold 'exempt information'

- 7.41. The Hearing Panel will carefully consider any decision to withhold exempt information from the public. The Hearing Panel will follow Article 6 of the European Convention on Human Rights, as there is an obligation to do so under Section 6(1) of the Human Rights Act 1998. The Hearing Panel has a duty to act fairly and in line with the rules of natural justice.
- 7.42. Article 6 favours public hearings, except in specific circumstances, for example, in the interests of national security or to protect the private lives of everyone involved.
- 7.43. If the Hearing Panel decides to exclude the public to prevent 'exempt information' being revealed, it will only exclude the public for part of the proceedings. For example, if a witness' evidence is likely to reveal 'exempt information', the public will only have to be excluded while that witness is giving evidence.
- 7.44. If evidence is heard in private, the Chair of the Hearing Panel will warn those present not to mention that evidence during the public parts of the hearing, or outside the hearing. The Hearing Panel may also need to use appropriate initials to protect the identity of witnesses during the hearing and in any public documentation.

Access to documents

- 7.45. As a general principle, the agenda and reports to be discussed at a Hearing Panel will be available to the public before and during a hearing. The Investigating Officer's report will be one of the reports before the Hearing Panel.
- 7.46. However, the Director of Legal and Democratic Services has the power to prevent any part of a report being made public if it relates to a part of the meeting which, in his or her opinion, is likely to be held in private.
- 7.47. After a hearing, sections of the Hearing Panel's reports, which relate to parts of the hearing held in private, will not have to be made available for public inspection. The same principle applies to the minutes of any hearing.

- 7.48. When considering whether or not to exclude the public from a hearing, the Hearing Panel will also need to say which parts of the reports before the hearing are not to be made available for public inspection.
- 7.49. Copies of the agenda, reports and minutes of a hearing, as well as any background papers, will be available for public inspection (subject to confidential or exempt information) for a specific period of up to six years after that hearing has taken place.

Exclusion of Press and Public

Issues for Consideration

- 7.50. At the meeting, the Hearing Panel will consider as a preliminary point whether to exclude the press and public from the meeting, or any part of the meeting.
- 7.51. The Hearing Panel must act in accordance with Article 6 of the European Convention on Human Rights, which gives a right to a fair and public hearing by an independent and impartial tribunal. Article 6 provides that judgement shall be pronounced publicly, but that the press and public may be excluded from all or part of the "trial" in the interests of:
- (a) Morals
 - (b) public order
 - (c) national security in a democratic society
 - (d) where the interests of juveniles or the protection of the private life of the parties so require or
 - (e) in special circumstances where publicity would prejudice the interests of justice.
- 7.52. Accordingly, the presumption is in favour of a public hearing unless either the Subject Member(s) or Investigating Officer can demonstrate over-riding reasons within one of the five headings above for the press and public to be excluded.
- 7.53. Article 8 of the European Convention on Human Rights provides that everyone has the right to respect for their private and family life, home and correspondence. It provides that there shall be no interference by a public authority (such as the Hearing Panel) with the exercise of this right except such as is:

- (a) in accordance with the law (such as the requirements for publication of the agenda, reports and background papers set out in Section 100A to 100K of the Local Government Act 1972), and
- (b) necessary in a democratic society in the interests of:
 - (i) national security
 - (ii) public safety
 - (iii) the economic well-being of the country
 - (iv) the prevention of crime or disorder
 - (v) the protection of health and morals (which would include the protection of standards of conduct in public life) or
 - (vi) the protection of the rights and freedoms of others.

7.54. There is a clear public interest in promoting the probity of public authorities and public confidence, so that the presumption of a public hearing set out in Article 6 would appear to come within the exception set out in paragraph (b)(v) above, unless either the Investigating Officer or the Subject Member(s) demonstrates to the Hearing Panel's satisfaction that a public hearing is not necessary for that purpose and that the interest of protecting the privacy of the Subject Member(s) or of the should over-ride that public interest.

7.55. Where the Hearing Panel concludes that the interest of protecting the privacy of the Subject Member(s) or of the Council should over-ride the public interest in a public hearing, the Hearing Panel remains bound by the provisions of the Local Government Act 1972, as primary legislation, so that it may only exclude press and public from all or part of the meeting if it is satisfied that admitting the press and public would be likely to lead to disclosure of exempt information. In that case, the Hearing Panel has a discretion under Section 100A(4) of the Local Government Act 1972, and would need to resolve whether or not to exclude the press and public.

7.56. Where the Hearing Panel does not resolve to exclude the press and public from the meeting, the Director of Legal and Democratic Services will then be required to provide copies of the agenda and reports to the press and public and other members of the Authority, and to permit inspection of any background papers.

Sanctions available to the Hearing Panel

7.57. Sanctions available in respect of a Subject Member who has ceased to be a Member at the date of the Hearing Panel:

- Censure of the Member

7.58. Sanctions available in respect of a Subject Member who remains a Member at the date of the Hearing Panel. Any one, or a combination, of the following:

- Censure;
- Recommending to Full Council, or to the Town or Parish Council that the Subject Member be removed from any or all Committees or Sub-Committees;
- Recommending to Full Council, or to the Town or Parish Council, that the Subject Member be removed from all outside appointments to which they has been appointed or nominated by the authority.
- Recommending to Full Council, or to the Town or Parish Council, that the Subject Member's access and use of resources of the Authority be restricted for a maximum period of six months, provided that any such restrictions imposed upon the Subject Member:
 - (a) are reasonable and proportionate to the nature of the breach; and
 - (b) do not unduly restrict the Subject Member's ability to perform his functions and duties as a Member;
 - (c) A requirement that the Subject Member submit a written apology.
 - (d) A requirement that that Subject Member undertake training as specified by the Hearing Panel.
 - (e) A requirement that that Subject Member undertake conciliation as specified by the Hearing Panel.

8. Habitual or Vexatious Complaints

- 8.1. Habitual or vexatious complaints can be a problem for officers and Members. The difficulty in handling such complaints is that they are time consuming and wasteful of resources in terms of officer and member time and displace scarce human resources that could otherwise be spent on council priorities. Whilst the Monitoring Officer will endeavour to process all complaints under the local assessment procedure there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.
- 8.2. In this policy habitual means done repeatedly or as a habit. Vexatious means a complaint brought for the purpose of annoying another person and with no reasonable prospect of success.
- 8.3. For the purpose of this policy, the following definition of habitual or vexatious complainants will be used:
- (a) The repeated and/or obsessive pursuit of:
 - (i) Unreasonable complaints and/or unrealistic outcomes; and/or
 - (ii) Reasonable complaints in an unreasonable manner.
- 8.4. Prior to considering its implementation, the Monitoring Officer will send a summary of this policy to the complainant to give them prior notification of its possible implementation.
- 8.5. Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Schedule A, the Monitoring Officer will consult with the Independent Person to seek agreement to treat the complaint as habitual or vexatious and for an appropriate course of action to be taken. Schedule B details the options available for dealing with habitual or vexatious complaints.
- 8.6. The Monitoring Officer will notify complainants in writing of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. The Monitoring Officer will also notify the relevant local Member (if any) that a constituent has been designated as a habitual and vexatious complainant.
- 8.7. Once a complainant has been determined to be habitual or vexatious, their status will be kept under review after one year and monitored by the Monitoring Officer with reports being taken to Standards Committee as required. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed.

Schedule A – Criteria for determining habitual or vexatious complaints

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet one of the following criteria. Where complainants:

- (i) Persist in pursuing a complaint where the local assessment process has been fully and properly implemented and exhausted.
- (ii) Persistently change the substance of a complaint or frequently raise new issues or seek to prolong contact by frequently raising further concerns or questions whilst the complaint is being addressed. (Care must be taken however not to disregard new issues which are significantly different from the original complaint as they need to be addressed as a separate complaint.)
- (iii) Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- (iv) Repeatedly do not clearly identify the precise issues which they wish to complain about despite reasonable efforts of officers to help them specify their concerns and/or where the concerns identified do not fall within the remit of the local assessment process.
- (v) Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what a trivial matter is can be subjective and careful judgement will be used in applying this criterion.
- (vi) Has threatened or used physical violence towards employees at any time. This will itself cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, therefore, only be continued to be written communication. The Council must determine that any complainant who threatens or uses actual physical violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made.
- (vii) Have in the course of addressing a complaint to the Monitoring Officer had an excessive number of contacts with the Council, placing unreasonable demands on officers. A contact may be made in person by telephone, letter, email or fax. Judgment will be used to determine excessive contact taking into account a specific circumstance of each individual case.

- (viii) Have harassed or been verbally abusive on more than one occasion towards officers dealing with complaints. Officers recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. Some complainants may have a mental health disability and there is a need to be sensitive in circumstances of that kind.
- (ix) Are known or reasonably considered to have recorded meetings or face to face/telephone conversations without the prior knowledge or consent of the parties involved.
- (x) Make unreasonable demands on the Council and its employees and fail to accept these may be unreasonable, for example insist on an action being taken by Standards Committee which falls outside of its remit.
- (xi) Make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:
 - a) Clearly does not have any serious purpose or value; or
 - b) Is designed to cause disruption or annoyance; or
 - c) Has the effect of harassing the Council; or
 - d) Can otherwise fairly be characterised as obsessive or manifestly unreasonable
- (xii) Make repetitive complaints and allegations that ignore the replies the Council has supplied in previous correspondence

Schedule B – Options for dealing with habitual or vexatious complaints

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint is ongoing or completed.

- (i) A letter to the complainant setting out responsibilities for the parties involved if the Monitoring Officer is going to assess the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
- (ii) Decline any contact with the complainant, either in person, by telephone, by fax, by letter, by email or any combination of these provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact and the complainant is notified of this person.
- (iii) Notify the complainant in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.

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