



Standards Committee

Date Monday 2 September 2013
Time 10.00 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. Apologies for Absence
2. Minutes of the Meeting held on 25 June 2013 (Pages 1 - 4)
3. Declarations of Interest, if any
4. Annual Report of the Standards Committee - Report of the Head of Legal and Democratic Services and Monitoring Officer (Pages 5 - 40)
5. Such other business as in the opinion of the Chairman of the Meeting is of sufficient urgency to warrant consideration.
6. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information.

Part B

Items during which it is considered the meeting is not likely to be open to the public (consideration of exempt or confidential information)

7. Update on the handling of Current Complaints - Report of Head of Legal and Democratic Services and Monitoring Officer (Pages 41 - 50)
8. Such other business as in the opinion of the Chairman of the Meeting is of sufficient urgency to warrant consideration.

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham
22 August 2013

To: The Members of the Standards Committee

Councillors J Armstrong, E Bell, J Clark, M Dixon, B Graham, G Holland,
E Huntington, I Jewell, W Stelling, B Stephens and M Williams

Parish and Town Council Representatives – Town Councillor AJ Cooke and
Town Councillor T Batson

Contact: Jocasta Lawton

Tel: 03000 269707

**DURHAM COUNTY COUNCIL
STANDARDS COMMITTEE**

At a Meeting of **Standards Committee** held in Committee Room 1A - County Hall, Durham on **Tuesday 25 June 2013** at **9.30 am**

Present: **Councillor J Armstrong(Chairman)**

Members of the Standards Committee:

Councillors J Clark, B Graham, E Huntington, I Jewell, B Stephens and M Williams.

Town Councillor A Cooke.

Apologies:

Mr J Dixon-Dawson and Councillors E Bell, M Dixon and G Holland.

Also in Attendance:

Mr P Jackson

1 Minutes of the Meeting held on 15 February 2013

The Minutes of the Meeting held on 15 February 2013 were confirmed as a correct record and signed by the Chairman.

2 Declarations of Interest

There were no declarations of interest.

3 Future Reporting Arrangements for Complaints, Compliments and Suggestions

Consideration was given to the report of the Assistant Chief Executive and the Corporate Director, Neighbourhood Services. The report outlined proposals for aligning the reporting of complaints, compliments and suggestions from Standards Committee to Corporate Issues Scrutiny Committee, linked to wider performance management reporting and following consideration by Constitution Working Group (for copy see file of Minutes).

The Deputy Monitoring Officer detailed the report, advising that the Standards Committee would continue to hold responsibility for Code of Conduct complaints, as well as continuing to be responsible for approving and making payments or provide other benefits in cases of maladministration as determined by the Local Government Ombudsman.

Resolved:

That the report be noted.

4 Changes regarding the Local Government Ombudsman

Consideration was given to the report of the Head of Legal and Democratic Services, which detailed the new operational arrangements which were to be implemented by the Local Government Ombudsman (for copy see file of Minutes).

Resolved:

That the report be noted.

5 Members Acting for Developers

The Committee considered a report of the Head of Legal and Democratic Services which sought the approval of a briefing note to be circulated to all Councillors which provided advice to Members acting for developers (for copy see file of Minutes).

Resolved:

That the briefing note be approved for circulation to all Members.

6 Probity in Planning – New Guidance issued by the Local Government Association

Consideration was given to the report of the Head of Legal and Democratic Services which informed Members of guidance recently published by the Local Government Association relating to Probity in Planning (for copy see file of Minutes).

The Deputy Monitoring Officer presented the report, highlighting key areas where the new guidance would require the current Code of Practice within the Council's Constitution, to be revised.

Resolved:

That the report be noted.

7 Other Business

The Chairman advised the Committee that Article 9 of the Council's Constitution provided for the Standards Committee to appoint a Parish and Town Councils Sub Committee. The remit of the Sub Committee was to support Parish and Town Councillors and their Clerks in maintaining high standards of conduct, whether through training or otherwise, and for this purpose to maintain close links with the County Durham Association of Local Councils.

The Sub Committee was to comprise of 3 Members from the Standards Committee and as such nominations to the Sub Committee were sought.

Resolved:

That the Chairman of the Committee (Councillor J Armstrong), Councillor I Jewell and Town Councillor AJ Cooke, be appointed to the Parish and Town Council Sub Committee, to discharge duties in accordance with section 9.04 of Article 9 of the Council's Constitution.

8 Exclusion of the Public

Resolved:

That under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the said Act.

9 Monitoring Officer Other Action – Complaints involving Members at a Town Council

The Committee considered a report of the Head of Legal and Democratic Services which informed of the outcome of action taken following the determination of several complaints against Members at a Town Council (for copy see file of Minutes).

Resolved:

That the report be noted.

10 Local Investigation – Case Reference LA175

The Committee considered the report of the Head of Legal and Democratic Services which detailed the investigation conducted into an allegation that a Town Councillor had breached the Code of Conduct and informed of the outcome of the subsequent hearing (for copy see file of Minutes).

Resolved:

That the report be noted.

11 Update on the Handling of Current Complaints

The Committee considered a report of the Head of Legal and Democratic Services which provided an update report in respect of complaints of alleged breaches of the Code of Conduct (for copy see file of Minutes).

Resolved:

That the report be noted.

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Standards Committee

2 September 2013

Annual Report of the Standards Committee



Report of Colette Longbottom, Head of Legal and Democratic Services

Purpose of the Report

1. To reflect and report on the work of the Standards Committee from July 2012 to July 2013.

Background Information to the Annual Report

2. Although there is no legislative requirement for Standards Committees to produce an Annual Report, doing so is recognised as good practice. Not only does the report publicise the work of the Committee to the wider general public, it is also a means for the Authority itself to monitor the Committee's work.
3. The particular purpose of this report is to reflect on the changes to standards arrangements from July 2012 and to review the work undertaken by the standards committee since those changes were implemented.

Localism Act 2011

4. The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors and all necessary changes to standards arrangements were required to be implemented by local authorities from July 2012.
5. This report describes the changes and recommends the actions required for the Council to implement the new regime.
6. Although Local Authorities remain under a statutory duty to promote and maintain high standards of conduct, the Act has removed key elements from the then current system, including:-
 - (a) The ten Principles of Conduct heading the Code.
 - (b) The statutory model Code of Conduct.
 - (c) The Code of Conduct that the Council had adopted in its constitution.
 - (d) The requirement for members to give an undertaking to observe the authority's Code of Conduct.

- (e) The Standards Board and Ethical Standards Officers.
 - (f) The requirement to have a Standards Committee.
 - (g) Provision for independent membership of the Standards Committee.
 - (h) The menu of sanctions allowed under the existing standards framework.
 - (i) The then current Members' Interest Register.
 - (j) The requirement for Assessment Review and Hearing Committees to deal with complaints.
 - (k) All provisions for appeal against decisions in Standards Committee.
7. As the Act removed the obligation to have a Standards Committee, Councils needed to consider how they would oversee and implement the ethical agenda which replaced the statutory framework.

Following due consideration, Council resolved that a standards committee of a smaller size should be established.

Membership of the Committee

8. The membership of the new Standards Committee comprises 11 elected members of the Council, appointed proportionally. In addition, Parish and Town Councils were invited to nominate a maximum of 2 Parish Councillors to be co-opted as non-voting members of the Committee. Following the May 2013 elections the membership of the Standards Committee is as follows:-

Chair of the Standards Committee – County Councillor Joe Armstrong

Vice Chair of the Standards Committee – County Councillor Mac Williams

Members of the Standards Committee - County Councillors E Bell, J Clark, M Dixon, B Graham, G Holland, E Huntington, I Jewell, W Stelling and B Stephens.

Co-opted Members – Councillor T Batson of Tow Law Town Council and Councillor AJ Cooke of Barnard Castle Town Council and Stainton & Streatlam Parish Council.

Independent Persons

9. Under the Localism Act 2011, the Council was required to appoint one or more Independent Persons to assist in the standards process.
10. The functions of the Independent Persons are:

- i. They must be consulted by the authority before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decide on action to be taken in respect of that member.
 - ii. They may be consulted by the authority in respect of a standards complaint at any other stage and they may be consulted by a member or a co-opted member of the authority.
11. Further to a recruitment exercise the following 2 persons were appointed to the role of Independent Person:-
 - i. John Dixon Dawson. He is from Peterlee in County Durham. He is currently Head of Post Graduate Programmes at the University of Sunderland Business School.

He has a career going back to 1986 which has involved various placements at universities in the North East, four years as a non-Executive Director at an NHS Trust and seven years as a Deputy Town Clerk.
 - ii. Peter William Jackson. He is from Newton Hall in Durham City. He is retired, originally from the private sector having fulfilled the roles of Factory Manager, General Manager, Managing Director, Group Technical Executive and Sales Manager.

He has also served on the Youth Employment Committee of the Council and the Police Consultative Committee for Durham County Council.
12. Since their appointment, both Independent Persons have been consulted on Code of Conduct complaints and have regularly attended the plenary sessions of the Standards Committee.

Code of Conduct

13. The Localism Act repealed the ten General Principles and Model Code of Conduct, however the Council was required to adopt a new Code of Conduct governing elected and co-opted member's conduct when acting in that capacity. The Council's new Code of Conduct was required to be consistent with the following seven principles:-
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
14. The Council had discretion as to what it chose to include within its new Code of Conduct, provided that it was consistent with the seven principles.

However, regulations made under the Act required the registration and disclosure of “Disclosable Pecuniary Interests” (DPIs). The provisions of the Act also required an authority’s code to contain appropriate requirements for the registration (and disclosure) of other pecuniary interests and non-pecuniary interests. The Act prohibits members with a DPI from participating in authority business, and the Council can adopt a Standing Order requiring members to withdraw from the meeting room.

15. Following due consideration, the Council adopted a new Code of Conduct, which was prepared by the Monitoring Officers representing Principal Councils within Tyne and Wear, Durham and Northumberland. A copy is attached at Appendix 2.
16. Furthermore the National Association of Local Councils prepared a Model Code of Conduct, based on the same principles, for parish and town councils. This was subsequently adopted by the majority of the Council’s constituent local authorities, a copy of which is attached at Appendix 3.

Consideration of complaints

17. In July 2012 an updated Local Assessment Procedure was introduced which sets out the new arrangements for the handling of Code of Conduct complaints. Responsibility for the assessment and determination of such matters is now the responsibility of the Monitoring Officer, thus removing the need for the Assessment and Review Sub Committee arrangements of the old regime. The Act repealed the requirements for these separate Sub-Committees, enabling the Council to establish its own process, which could include delegation of decisions on complaints.
18. The Monitoring Officer now has delegated authority to make the initial decision on whether a complaint requires investigation or other action. These arrangements also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation. The Monitoring Officer now reports quarterly to the Standards Committee on the number and nature of complaints received, enabling her to draw to the Committee’s attention areas where training or other action might avoid further complaints, and keep the Committee advised of progress on investigations and costs.
19. In cases where a formal investigation finds evidence of a failure to comply with the Code of Conduct, it will still be necessary to involve a Panel selected from the Members of the Standards Committee in order to facilitate a hearing.

A copy of the updated Local Assessment Procedure is attached at Appendix 4.

Code of Conduct complaints – July 2012 – July 2013

20. In the 12 months since the implementation of the updated Local Assessment procedure, a total of 52 Code of Conduct complaints have been received by the Monitoring Officer. These complaints can be summarised as follows:-

32 of the complaints were against Town Councillors, 11 against County Councillors and the remaining 9 were against Parish Council Members.

9 of the complaints were concluded as requiring a Local Resolution while the remaining complaints were all determined as No Further Action required.

16 of the complaints were made by Elected Members while 6 were made by staff from the same authority as the Member being complained about.

Conclusion

21. This is the first Annual Report since the implementation of the Localism Act and it is clear that the Act has had a tremendous impact on Code of Conduct and Standards arrangements.
22. While the Standards Committee continues to be committed to promoting the principles and values of good governance within the Council, the scope of the changes has seen the role of the Committee become increasingly limited. Nevertheless, the efficient handling of Code of Conduct complaints continues to be the priority and the Committee will continue to have oversight of such complaints activity.

Recommendations

23. The Committee is asked to note the report and approve that it be submitted to Council.

Contact: Jocasta Lawton Tel: 03000 269707

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Appendix 1: Implications

Finance: None

Staffing: None

Equality and Diversity: None

Accommodation: None

Crime and Disorder: None

Human Rights: None

Consultation: None

Procurement: None

Disability Discrimination Act: None

Legal Implications: None

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The County Council of Durham Code of Conduct for Members

The County Council of Durham (“the Council”) has adopted the following code which has effect from 26th July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

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.

‘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

The code is intended to be consistent with Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

Part 1 - General Conduct

1. You must treat others with respect, including Council officers and other elected members.
2. You must not bully 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 this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted

members and which the Council has specifically declared should fall within the provisions of this code of conduct and which is listed in Annex 4 to this Code.

7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
 - (a) You have the consent of a person authorised to give it; or
 - (b) You are required by law to do so; or
 - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - (d) The disclosure is reasonable and in the public interest and made in good faith.
10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

Part 2 - Registration of interests

11. You must register in the Council's Register of Members Interests information about your registerable personal interests. In this code of conduct 'your registerable personal interests' means:
 - (a) any Disclosable Pecuniary Interest as set out in Annex 2; or
 - (b) any other interest held by you as set out in Annex 3.

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Council; and
- any change taking place in your registerable personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)

12. Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

Part 3 – Non-registerable interests

13. You will have a non-registerable personal interest when you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 14 to a greater extent than most inhabitants of the area affected by the decision.
14. The persons referred to in paragraph 13 are:
 - (a) a member of your family;
 - (b) any person with whom you have a close association;
 - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

- (a) "A member of your family" means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
 - (b) You have a "close association" with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).
15. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a non-registerable interest in an item of business (as defined in paragraph 13) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

Part 4 - Non-Participation in Council Business

16. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that the criteria set out in paragraph 17 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must :
 - (a) Declare that fact to the meeting;
 - (b) Not participate (or further participate) in any discussion of the matter at the meeting; and
 - (c) Not participate in any vote (or further vote) taken on the matter at the meeting;
 - (d) Leave the room whilst the matter is being discussed.

17. The criteria for the purposes of paragraph 16 are that:
- (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest; and either
 - (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 14 or in any of your register entries; or
 - (c) The matter concerns a request for any permission, licence, consent or registration which relates to or affects any of the persons referred to in paragraph 14 or in any of your register entries.
18. If a Council function can be discharged by you as a member acting alone and you are aware you have a registerable or non-registerable personal interest in any matter to be dealt with by in that way which meets the criteria set out in paragraph 17, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).
- (Note: Failure, without reasonable excuse, to comply with paragraph 16 to 18 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)
19. Paragraphs 16 to 18 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 or (ii) the matter in question relates to any of the following functions of the Council:
- (a) housing, where you are a Council tenant provided the matter does not relate particularly to your tenancy or lease;
 - (b) school meals or school transport, where you are a parent or guardian of a child in full-time education or a parent governor of a school, unless the matter relates particularly to the school your child attends;
 - (c) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
 - (d) an allowance, payment or indemnity given to members;
 - (e) any ceremonial honour given to members; and
 - (f) setting council tax or a precept under the Local Government Finance Act 1992.

Annex 1 to Code of Conduct

Nolan's Seven Principles of Public Life

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

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

Leadership

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

Annex 2 to Code of Conduct

Disclosable Pecuniary Interests

(as defined by Regulations made by the Secretary of State under section 30 Localism Act 2011)

Please Note: The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) **yourself**, or (b) **your spouse or civil partner**, or (c) **a person with whom you are living as husband and wife**, or (d) **a person with whom you are living as if you were civil partners** (all of whom are referred to as “relevant persons”):-

Employment, office, trade, profession or vocation - Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member, or towards your election expenses.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) 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 which is within the area of the Council.

Licences - Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

Corporate tenancies - Any tenancy where (to your knowledge)—
(a) the landlord is the Council; and
(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities - Any beneficial interest in securities of a body where—
(a) that body (to your 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 relevant

person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

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

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

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

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

Annex 3 to Code of Conduct

Other Registerable Personal Interests

The other interests which you must register under paragraph 11(b) of the code are:

1. Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Council;
2. Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
3. Any person from whom you have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to your position as an elected or co-opted member of the Council.

Note: These mean only your interests and not those of your spouse or civil partner

Annex 4 to Code of Conduct

Associated Protocols

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

Code of practice for members and officers dealing with Planning Matters
Protocol on Member/Officer Relations

Code of conduct for parish councils

Introduction

Pursuant to section 27 of the Localism Act 2011, X **[Parish/Town/Village/Community/Neighbourhood]** 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

6. 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.

7. 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.
8. 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.
9. 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

10. 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.
11. 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.
12. 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.
13. 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.
14. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate (other than an interest 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

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

Interests defined by regulations made under section 30(3) of the Localism Act 2011 and 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.
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 between his/her spouse or civil partner or the person with whom the member is living as if they were spouses/civil partners (or a body in which such a person is a partner in a firm, a director of an incorporated body or holds the beneficial interest in securities*) 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 which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge)—
	(a) the landlord is the Council; and
	(b) the tenant is a body in which the member, or his/her spouse or civil partner/ the person with whom the member is living as if they were spouses/civil partners has a beneficial interest.
Securities	Any beneficial interest 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.	

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

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.



PROCEDURE FOR LOCAL ASSESSMENT OF COMPLAINTS

1. Introduction

The Localism Act 2011 requires that the Council adopt arrangements for dealing with complaints of breach of the Code of Conduct both by Council members and Parish Council members.

The Council's Monitoring Officer will seek to resolve complaints swiftly to the satisfaction of the complainant using local resolution whenever possible. Complaints will only be referred for local investigation as a last resort in view of the disproportionate amount of time involved and the limited sanctions available to the Standards Committee under the new legislation.

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.

Any such complaint should be sent (using the Complaint Form at page 9) to **the Monitoring Officer, Durham County Council County Hall Durham DH1 5UL**

The following procedure will normally be followed on receipt of such a complaint.

This procedure should be read in conjunction with the Procedure for Local Determination of Complaints Against Members.

2. Initial Notification of Complaint

2.1 Unless paragraph 2.2 applies the member who is the subject of the complaint will as soon as practicable after the complaint is received be informed in writing by the Monitoring Officer of the nature of complaint, which paragraphs of the Code of Conduct have been allegedly breached and (unless the complainant has requested and been granted anonymity) the name of the complainant.

2.2 The Monitoring Officer may withhold this information from the member subject of the complaint if s/he considers that disclosure would be against the public interest or might prejudice any future investigation, or where non-disclosure has been specifically requested by the complainant for what the Monitoring Officer considers may be good reasons.

The Monitoring Officer, in consultation with the Independent Person may apply the habitual or vexatious complaints policy (see page 6) to a complaint where appropriate.

3. Initial Assessment

3.1 The Monitoring Officer, in consultation with the Independent person where appropriate, will as soon as reasonable, and normally within 20 working days of receipt of the complaint, consider and decide if any action should be taken on it.

3.2 The Monitoring Officer will decide either:

- (a) that no action should be taken in respect of it
- (b) to seek local resolution
- (c) to refer the complaint for investigation
- (d) to refer the complaint to the Standards Committee

3.3 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 s/he thinks it more appropriate to do so.

- 3.4 After making the decision, the Monitoring Officer will produce a written summary of the decision which will include the main points considered, the conclusion and the reasons for that conclusion..

The summary will be sent as soon as possible to the complainant and to the Member who is the subject of the complaint.

That summary will be available for inspection at the offices of the Council for 6 years beginning with the date of the decision. However, the summary will not be made available for inspection, until the member who was the subject of the complaint has received a written summary of the decision.

- 3.5 A written summary of the decision will also be sent to the clerk of the relevant parish/town council where applicable.

4. No action to be taken in respect of the complaint

- 4.1 Where the Monitoring Officer decides that no further action is warranted in relation to the complaint, the complaint will be closed and there is no appeal process.

5. Local Resolution

- 5.1 The Monitoring Officer will establish whether a complaint is suitable to be resolved informally before taking a decision on whether the complaint merits formal investigation. This may involve

- a) exploring whether the member is prepared to apologise for the act or omission complained of;
- b)arranging for the Member who is the subject of the complaint to attend a training course
- c)arranging for that Member and the complainant to engage in a process of conciliation
- d)such other steps (not including an investigation), as appear appropriate to the Monitoring Officer

6. **Referral by Monitoring Officer for investigation**

- 6.1 Where the Monitoring Officer refers the complaint for investigation, the procedure set out in paragraph 6.3 below will apply.

- 6.2 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, s/he is of the opinion (i) the matter is materially more or less serious than may have seemed apparent when the s/he referred it for investigation and (ii) the Monitoring Officer would have made a different decision had s/he been aware of that new evidence or information; or
- (b) 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.

If a matter is referred back to the Monitoring Officer, s/he will reconsider and make one of the decisions set out in paragraph 3.2 above.

Note 1 In forming an opinion for the purposes of paragraph 6.2(a) above, the Monitoring Officer may take account of:

- (a) the failure of any person to co-operate with an investigation; or
- (b) an allegation that the Member concerned has engaged in a further breach of the Council's Code of Conduct or that of another relevant authority; or
- (c) an allegation that another member has engaged in a related breach of the Council's Code of Conduct or that of another relevant authority.

6.3 Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent person may seek local resolution to the satisfaction of the complainant in appropriate cases. Where such local resolution is not appropriate or possible the investigation findings will be reported to a Hearings Panel of the Standards Committee for local determination.

A Hearing Panel shall be convened to hear and determine any allegation that a councillor has failed or may have failed to comply with the Code of Conduct for Members. The procedure for Hearing Panels contained in the Local Determinations Procedure shall be complied with.

The Hearing Panel shall comprise three Members of the Standards Committee selected by the Monitoring Officer. A quorum of the Hearing Panel will be three Members.

The Hearing Panel shall make one of the following findings, namely:-

- (a) that the Member who was the subject of the Hearing had not failed to comply with the Code of Conduct of any authority concerned; or
- (b) that the Member who was the subject of the Hearing had failed to comply with the Code of Conduct of an authority concerned, but that no action needs to be taken in respect of the matters which were considered at the Hearing; or
- (c) that the Member who was the subject of the Hearing had failed to comply with the Code of Conduct of an authority concerned and that action should be taken.

7. **Decision to take no action in respect of allegation**

7.1 If the Hearing Panel decides that no action should be taken in respect of the complaint, it must take reasonable steps to give written notice of the decision and the reasons for it to:

- (a) the complainant,
- (b) the person who was the subject of the complaint.
- (c) The clerk of the relevant parish/town Council where applicable

It shall endeavour to send this notice within 5 working days of the Hearing Panel's decision.

8. **Withdrawing Complaints**

- 8.1 If a complainant requests to withdraw his/her complaint before the Monitoring Officer has made a decision on it, then the Monitoring Officer will decide whether to grant that request.

In making that decision s/he will take into account the following considerations:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- 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 member who is the subject of the complaint, or an associate of theirs, to withdraw the complaint?

HABITUAL OR VEXATIOUS COMPLAINTS TO STANDARDS COMMITTEE POLICY

1. Introduction

- 1.1 This policy identifies situations where complainants, either individually or as part of a group, or a group of complainants, might be considered to be “habitual or vexatious” and ways of responding to these situations.
- 1.2 In this policy the term habitual means “done repeatedly or as a habit”. The term vexatious is recognised in the dictionary of law and means “an action brought for the purpose of annoying the opponent and with no reasonable prospect of success”. This policy is intended to assist in identifying and managing persons who seek to be disruptive to the Monitoring Officer through pursuing an unreasonable course of conduct.
- 1.3 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 endeavours 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.

2. Habitual or Vexatious Complainants

- 2.1 For the purpose of this policy, the following definition of habitual or vexatious complainants will be used:

The repeated and/or obsessive pursuit of:

- (i) unreasonable complaints and/or unrealistic outcomes;
and/or
- (ii) reasonable complaints in an unreasonable manner.

- 2.2 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.
- 2.3 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.
- 2.4 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 Ward Member that a constituent has been designated as a habitual and vexatious complainant to Standards Committee.
- 2.5 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 complainants

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:

- 1) persist in pursuing a complaint where the local assessment process has been fully and properly implemented and exhausted.
- 2) 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.)
- 3) 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.
- 4) 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.
- 5) 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 criteria.
- 6) 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.
- 7) 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.
- 8) 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.
- 9) are known to have recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.

- 10) 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.
- 11) make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:
 - clearly does not have any serious purpose or value; or
 - is designed to cause disruption or annoyance; or
 - has the effect of harassing the Council; or
 - can otherwise fairly be characterised as obsessive or manifestly unreasonable
- 12) make repetitive complaints and allegations which ignore the replies which the Council has supplied in previous correspondence

Schedule B - Options for dealing with habitual or vexatious complainants

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.

- 1) 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.
- 2) 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.
- 3) 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.

Durham County Council

COMPLAINT FORM – Alleged Breach of Members’ Code of Conduct

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

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

- the member(s) you are complaining about
- any other person whom we consider it necessary to inform to properly investigate your complaint.

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details, of your complaint being released, please complete section 6 of this form.

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

- Member of the public
- An elected or co-opted member of an authority
-
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee

3. Equality monitoring questions

We have attached an Equality Monitoring Form to the back of this complaint form which you are invited to complete as well.

Making your complaint

Your complaint will initially be considered, usually within 20 working days, by the Council’s Monitoring Officer, in consultation with the Independent Person if appropriate. The Monitoring Officer will decide whether any action should be taken on your complaint. You will be advised of that decision. If the decision is to take action, the Monitoring Officer can appoint an Investigating Officer to investigate the complaint.

If your complaint is investigated and a breach of the Code of Conduct is found, the result will be reported to a Hearing Panel of the Council’s Standards Committee which will then decide if there has been a breach of the Members’ Code of Conduct and, if so, what action to take.

4. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of the authority of which they are a member

Title	First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the member has done which you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done which you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the assessment sub-committee when it decides whether to take any action on your complaint. For example:

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

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

Only complete this next section if you are requesting that your identity or details of your complaint is kept confidential

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint and then further details of it if there is a decision to investigate it or take other action on 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 think you have such reasons and want us to consider withholding your identity and/or any details of your complaint, either altogether or for some period of time, you must cross out the statement in the box below giving your consent to such

disclosure. You must also attach to this form a separate sheet which fully explains what information you want withheld and your reasons for your request to withhold it.

I understand and agree that my name and details of this complaint will be disclosed to the persons mentioned in paragraph 1 above.

If you do request confidentiality and this is not granted, we will usually allow you the option of withdrawing your complaint.

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

Additional Help

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

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

If you need any support in completing this form, please let us know as soon as possible. You should initially contact the Council's Monitoring Officer (whose contact details are given below) who will try to arrange appropriate assistance for you.

.....
Signed

.....
Dated

This form once completed should be sent, along with any supporting documents, to:

**Colette Longbottom
The Monitoring Officer
Durham County Council
County Hall
Durham
DH1 5UL**

Equality Monitoring Form

Durham County Council operates an Equality Policy. To help us make sure that everybody is treated fairly and equally we need to know who is making complaints. This information will help us to develop and change our policies and practices to ensure that no one is discriminated against.

To help us to do this we request that you complete the questions below. You do not have to do so but this information would be helpful to us. All of the information you give will be treated with the strictest of confidence and will be used for monitoring purposes only.

Are you:

Male
Female

What is your age group?

15 and under 16-24 25-39 40-59 60-64
65-74 75+

Do you have any long standing illness or disability?

(Long standing means anything that has troubled you over a period of time or that is likely to affect you over a period of time)

Yes
No

If yes, does this illness or disability limit your activities in any way?

Yes
No

Please state the impairment type(s) which applies to you:

Mobility
Visual impairment
Hearing Impairment/Deaf
Mental Health diagnosis
Other
Prefer not to say

What is your ethnic group?

A. White

British
Irish
Other Please state

B. Mixed

White and Black Caribbean

- White and Asian
- White and Black African
- Any other mixed background Please state

C. Asian or Asian British

- Indian
- Bangladeshi
- Pakistani
- Any other Asian background Please state

D. Black or Black British

- Caribbean
- African
- Any other Black background Please state

E. Chinese

F. Any other ethnic group

 Please state

What is your sexual orientation?

- Bisexual
- Gay Man
- Gay women/lesbian
- Heterosexual/straight
- Other
- Prefer not to say

What is your religion? (Tick one box only)

- None
- Christian
- Buddhist
- Hindu
- Jewish
- Muslim
- Sikh
- Any other religion Please state.
- Prefer not to say

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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