

North Lincolnshire Council's 'Arrangements' for dealing with standards allegations under the Localism Act 2011

1 Context

These "Arrangements" set out how to make a complaint that an elected or co-opted Member of this Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.

Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a Member or co-opted Member of the Council or of a Parish or Town Council in the area has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a Member or co-opted Member of a Parish or Town Council in the area against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for its Members, which is attached at Appendix 2 to these arrangements and is available for inspection on the Council's Website and on request from Reception at the Civic Offices.

Each Parish and Town Council is also required to adopt a Code of Conduct. (*The Parish and Town Councils within North Lincolnshire have all adopted the Council's Code of Conduct as at Appendix 2: to be determined*).

3 Making a complaint

If you wish to make a complaint, please complete the Model Complaint Form at Appendix 1 and send your completed form to:

"The Monitoring Officer"
North Lincolnshire Council
The Civic Centre
Ashby Road
SCUNTHORPE
DN16 1AB

Or -

standards@northlincs.gov.uk

The Monitoring Officer is a Senior Officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and is responsible for administering the system in respect of complaints of Member misconduct and is the Council's Proper Officer for such matters.

In order to ensure that we have all the relevant information which we need to be able to process your complaint, please complete the Model Complaint Form at Appendix 1, which can be downloaded from the Council's Website, next to the Code of Conduct, and is available on request from Reception at the Civic Offices. At this stage, we would ask that you confine your comments to the Model Complaint Form and limit the amount of supporting documents (if any) to those that are directly relevant and material to the complaint. If, on consideration of your complaint, further information/documentation is thought necessary, you will be asked to provide it and, if your complaint is the subject of investigation, the Investigating Officer will afford you the opportunity to provide further information/documentation in support of your complaint.

Please provide us with your name and a contact address or email address so we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this and the reason why, in the space provided on the Model Complaint Form.

As a matter of fairness and natural justice, a Member should usually be told who has complained about them. However, there may be exceptional circumstances where a complainant's identity should be withheld from disclosure such as where the complainant has reasonable grounds for believing they will be at risk of physical harm if their identity is disclosed or their employment may be placed at risk or there is a risk that any investigation may be impeded or interfered with. In such cases, the Monitoring Officer will refer the issue of disclosure to the Assessment Panel who, in reaching a decision on the issue, will carefully balance the public interest in ensuring that the Member complained of is aware of who has complained against them against the complainant's wish that their identity be withheld. The Council does not normally investigate anonymous complaints save where it considers the provisions in the Assessment Criteria at Appendix 3 on such complaints are met.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it. A full copy of your complaint will, subject to any ruling on disclosure, ordinarily be sent to the Member complained of inviting their written comments within 10 working days. Thereafter, arrangements will be made for your complaint to be assessed as soon as practicable in accordance with the procedures detailed in paragraph 4.

It should be noted that complaints which allege that Members may have committed a criminal offence in breaching the 'disclosable pecuniary interest' provisions under Section 34 of the Localism Act 2011, will be referred by the Monitoring Officer to Humberside Police for consideration, in accordance with the Protocol at Appendix 8.

4 Will your complaint be investigated?

For complaints concerning Members of Parish and Town Councils, where those Members are not also Members of North Lincolnshire Council, ordinarily the Monitoring Officer will assess such complaints against the Assessment Criteria at Appendix 3 and, after consultation with the Independent Person, take a decision as to whether a formal investigation is merited.

The Monitoring Officer may, however, in his discretion refer complaints to an Assessment Panel to assess where he feels it reasonable and appropriate to do so such as where the Monitoring Officer has had prior involvement in the complaint.

For complaints concerning Members of North Lincolnshire Council (or where the Monitoring Officer has exercised his discretion to refer a Parish and Town Council related complaint) either in their capacity as Parish or Town Council Members or as Members of the Council, an Assessment Panel will be convened to assess whether the complaint should be investigated. In considering the matter, the Assessment Panel shall consult and consider the views of the Independent Person and apply the Assessment Criteria.

Decisions on whether a complaint will be investigated will normally be taken within 28 days of receipt of the complaint. A formal notice of decision will be issued in each case. The decision of the Monitoring Officer or Assessment Panel is final and is not subject to a right of appeal.

Where the Monitoring Officer or the Assessment Panel requires additional information in order to come to a decision, you may be contacted to provide such further information, as may the Member against whom your complaint is directed.

Where your complaint relates to a Member of a Parish or Town Council, the Monitoring Officer may also inform the Clerk of the Parish or Town Council concerned of your complaint and seek the views of the Parish or Town Council before deciding whether the complaint merits formal investigation

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

5 How is the investigation conducted?

If the Monitoring Officer or Assessment Panel decides that a complaint merits formal investigation, the Monitoring Officer will appoint an Investigating Officer, who may be another Senior Officer of the Council, an Officer of another Council or an external investigator.

The Council has adopted a model procedure for the investigation of complaints, which is attached at Appendix 4 together with explanatory flowchart. Ordinarily the

Council would hope that investigations will take no more than 6 months to complete from the date the decision to investigate is taken. This will very much depend on the facts of each complaint and some investigations may be concluded earlier and others may take longer.

It is vital to the timely completion of investigations that you, as the complainant, and the subject Member under investigation, comply with the reasonable requirements of the Investigating Officer in terms of interview attendance and supplying relevant documents. If you, as the complainant, do not the Investigating Officer may deem that you no longer wish to proceed with the complaint and refer the matter back to the Monitoring Officer or Assessment Panel for direction as to whether the investigation should be terminated. Similarly if the subject Member does not comply, the Investigating Officer will proceed to determine the investigation in the absence of their contribution and may draw an adverse inference from their non-cooperation.

The Investigating Officer will normally carry out the investigation in accordance with the model procedure detailed at Appendix 4 although may decide to depart from this if the circumstances of the complaint warrant it.

As an initial step, and subject to any ruling on disclosure, the Investigating Officer may write to the subject Member at the beginning of the investigation to see if the subject Member still wishes to contest the complaint. Subject to this the investigation will ordinarily follow the model procedure at Appendix 4.

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

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

It should be noted that at any time during an investigation, the Investigating Officer may, following consultation with the Independent Person, refer the matter back to an Assessment Panel for re-consideration as to whether the investigation should proceed if the Investigating Officer considers that the Re-consideration Criteria in Appendix 3 are satisfied.

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

The Monitoring Officer will review the Investigating Officer's report and consult with the Independent Person thereon. If having done so the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned and to the Parish or Town Council on which the Member serves, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to re-consider his/her report.

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

The Monitoring Officer will review the Investigating Officer's report and after consulting the Independent Person will consider whether Local Resolution should be attempted or the matter proceed direct to hearing before the Hearings Panel.

7.1 Local Resolution

The Monitoring Officer will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Member's Council for information but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate or the Member concerned does not accept that the matter should be resolved in such a manner, the Monitoring Officer will refer the matter for a hearing before the Hearings Panel.

7.2 Hearings Panel

If the Monitoring Officer considers that Local Resolution is not appropriate or you are not satisfied by the proposed resolution, or the Member concerned does not accept that the matter should be resolved in such a manner, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the failure.

In readiness for the convening of the Hearings Panel, the Monitoring Officer will conduct a written "pre-hearing process", requiring the Member concerned to give their response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing.

If, through the "pre-hearing process", the Member concerned accepts the Investigating Officer's report, they will be given the opportunity to provide a statement of mitigation which they may invite the Hearings Panel to consider in their absence. Alternatively, they may elect to attend a Hearings Panel to present their mitigation. In either case, the 'uncontested' hearing procedure will be followed as set out at Appendix 5.

Where, following the "pre-hearing process", the Investigating Officer's report remains in contention, the matter will be set down for a 'contested' hearing before the Hearings Panel. The 'contested' hearing procedure will be followed as set out at Appendix 6. In essence, at the Hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you, as the complainant, to attend and give evidence to the Hearings Panel. Unless called to do so by the Investigating Officer, you do not have the right to address the Hearings Panel of your own volition. The Member will then have an opportunity to give his/her

evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct. The Member may be represented legally or otherwise at the Hearings Panel.

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

8 What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Panel may -

- 8.1 Write to the Member over their conduct;
- 8.2 Publish its findings in the local media in respect of the Member's conduct;
- 8.3 Report its findings to the Council or to the Parish or Town Council concerned;
- 8.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- 8.6 Instruct the Monitoring Officer to, or recommend to the Parish or Town Council concerned that it, arrange training for the Member;
- 8.7 Recommend removal, or recommend to the Parish or Town Council concerned removal, of the Member from all outside appointments to which he/she has been appointed or nominated by the Council or the Parish or Town Council;
- 8.8 Withdraw, or recommend to the Parish or Town Council concerned that it withdraws, facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- 8.9 Exclude, or recommend to the Parish or Town Council concerned that it excludes, the Member from the Council's Offices or other premises

with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee Meetings.

The Hearings Panel has no power to suspend or disqualify the Member or to withdraw a Member's basic allowance or any special responsibility allowances.

9 What happens at the end of the Hearing?

At the end of the Hearing, the Chair will state the decision of the Hearings Panel as to whether the Member has failed to comply with the Code of Conduct and as to any action which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel and send a copy to you, to the Member and to any Parish and Town Council concerned and make such decision notice available for public inspection and report the decision to the next convenient Meeting of the Standards Committee.

The decision of the Hearings Panel is final and is not subject to a right of appeal.

10 Who are the Assessment and Hearings Panel?

The Assessment Panel and the Hearings Panel are Sub-Committees of the Council's Standards Committee. The Standards Committee has decided that each of those Panels will comprise a maximum of 3 elected Members of the Council's Standards Committee drawn from at least 2 different political Parties. Subject to those requirements, they are appointed on the nomination of Party Group Leaders in proportion to the strengths of each Party Group on the Council. Co-opted, non-voting Members of the Standards Committee may be asked to sit on such Panels.

The Independent Person is invited to attend all Meetings of the Assessment Panel and the Hearings Panel and his/her views are sought and taken into consideration before the Monitoring Officer or Assessment Panel takes any decision on whether a complaint should be investigated. The Hearings Panel will seek the Independent Person's views on whether a Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the Post following advertisement of a vacancy for the Post and is then appointed by a positive vote from a majority of all the Members of the Council.

A person cannot be “independent” if he/she -

- 11.1 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of the Council;
- 11.2 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of a Parish or Town Council within the Council's area; or
- 11.3 Is a relative or close friend of a person defined at paragraph 11.1 or 11.2 above. For this purpose, “relative” means –
 - 11.1.1 Spouse or civil partner;
 - 11.1.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.1.3 Grandparent of the other person;
 - 11.1.4 A lineal descendent of a grandparent of the other person;
 - 11.1.5 A parent, sibling or child of a person defined at paragraphs 11.3.1 or 11.3.2;
 - 11.1.6 A spouse or civil partner of a person defined at paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.1.7 Living with a person defined at paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Standards Committee may amend these arrangements.

The Chair of any Assessment Panel or Hearings Panel may, following consultation with the Independent Person, depart from the procedures detailed herein where he/she considers it is expedient to do so in order to secure the effective and fair consideration of any matter, including the convention of an external panel where Members are conflicted.

For the avoidance of doubt, Members who have sat on an Assessment Panel are not precluded from sitting on a subsequent Hearings Panel called to determine the same complaint as considered by the Assessment Panel.

If the Monitoring Officer considers that he may be conflicted in the discharge of these arrangements, he may delegate such matters to a Deputy Monitoring Officer to discharge.

13 Appeals

There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer, the Assessment Panel or the Hearings Panel.

If you feel that the Council has failed to deal with your complaint in accordance with these arrangements, you may make a complaint to the Local Government Ombudsman.

Appendix 1	Model Complaint Form
Appendix 2	The Council's Code of Conduct
Appendix 3	Assessment Criteria
Appendix 4	Procedure for Investigations
Appendix 5	'Uncontested' hearing procedure
Appendix 6	'Contested' hearing procedure
Appendix 7	Overview of process
Appendix 8*	Protocol reporting potential criminal offences

Will Bell
Monitoring Officer
April 2012

* as amended on 27 March 2013 by the Standards Committee

**COMPLAINT FORM
MEMBER(S) 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
- the monitoring officer of the authority
- the parish or town clerk (if applicable)
- the council's Independent Person (if required)
- members of the Assessment Panel or Hearings Panel convened to consider your complaint
- **officers involved in mediation (if applicable)**

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 5 of this form.

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

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

Making your complaint

Once your complaint has been received a decision will be taken in accordance with the council’s published arrangements as to what action, if any, should be taken on it. You will not have the opportunity to attend a meeting at this stage. It is important that you provide information that you want taken into account as part of your complaint.

Please refer to the council’s published arrangements under the heading “Making a complaint” which explains how your complaint will be dealt with.

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

Title	First name	Last name	Council or authority name

It is important that you provide a summary of the information you wish to have taken into account (within the space provided below) so a decision can be made, in accordance with the published arrangements, whether to take any action on your complaint. For example:

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

Please indicate which paragraphs of the Code of Conduct you consider the member(s) to have breached by ticking the appropriate box(es).

- 3.1** “ You must treat others with respect and courtesy”
- 3.2** “You must not bully or intimidate any person”.
- 3.3** “You must not do anything which may cause the Council to breach any equality laws.”
- 3.4** “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. “
- 3.5** “You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law”.
- 3.6** “You must act solely in the public interest and not use or attempt to use your position as a Member improperly to confer or secure for yourself or any other person an advantage or disadvantage”.
- 3.7** “You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council”.
- 3.8** “You must only use, or authorise the use of the Council’s resources for proper purposes (regard being had to any applicable Local Authority Code of Publicity) and in accordance with the Council’s procedural and policy requirements”.
- 3.9** “You must not disclose information which is given to you in confidence, or information which you believe, or ought to be aware, is of a confidential nature, except where:

- a) You have the consent of the person authorised to give it;
- b) You are required to do so by law;
- c) The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that third party agrees not to disclose the information to any other person;
- d) The disclosure is reasonable in the public interest, made in good faith, and that you have consulted the Monitoring Officer.”

Interests. Tick this box if you believe that the member(s) either did not declare an interest, or has declared the wrong type of interest. (Interest requirements re Personal, Prejudicial or Disclosable Pecuniary Interests are outlined in paragraphs 4, 6 and 7 of the Code of Conduct). If you are unsure, please tick the box, adding an explanation in section 4 below.

4. Please explain in this section what the member has done that you believe breaches the Code of Conduct. Please enclose any supporting documents but limit these to those that are directly relevant and material to the complaint (see paragraph 3 of the Arrangements).

If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

Please provide us with details of your complaint (within the space provided)

Please explain what steps, if any, you have taken to resolve this complaint directly with the member concerned?

Would you be prepared to engage in mediation with the member concerned, if considered appropriate, to try and resolve the complaint?

Yes

No

If you answered no please state reason why below:

Just call the hotline number for your language. This connects you to an interpreter who will speak to the council for you and tell you what they say.

No English?

For information please call:

08000 193530 للحصول على المزيد من المعلومات اتصل بـ: (Arabic)

তথ্যগুলি বাংলায় জানতে হলে এই নম্বরে ফোন করুন: 08000 193531 (Bengali)

欲知粵語版的消息, 請致電: 08000 193532 (Cantonese)

हिन्दी में जानकारी के लिये 08000 193533 पर फोन करें (Hindi)

08000 193537 به کوردی سۆزانی تهلهفۆن بۆ ژماره (Kurdish Sorani)

Para mais informação em português contacte-nos através do telefone 08000 193538 (Portuguese)

ਪੰਜਾਬੀ ਵਿਚ ਜਾਣਕਾਰੀ ਲਈ 08000 193539 'ਤੇ ਫੋਨ ਕਰੋ (Punjabi)

"Warbixinta oo af Soomaali ah wac 08000 193540" (Somali)

08000 193541 اردو میں انفارمیشن کے لیے اس ٹیلیفون نمبر پر رابطہ کریں۔ (Urdu)

For information in large print, audio, Braille or to request a signer to speak to us please contact 01724 296296

If you call in person at Local Links, libraries and leisure venues, staff can also contact a network of interpreters available 24 hours a day, seven days a week. They will also be able to arrange for translation of documents, publications and other information.

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

North Lincolnshire Council is committed to treating everyone equally irrespective of gender, age, responsibility for dependants, creed, race, religion or ethnic origins, sexuality or disability.

NORTH LINCOLNSHIRE COUNCIL

CODE OF CONDUCT

1. INTRODUCTION

- 1.1 This Code of Conduct ('Code') has been adopted by North Lincolnshire Council ('Authority') as required by Section 27 of the Localism Act 2011 ('Act').
- 1.2 The Authority has a statutory duty under the Act to promote and maintain high standards of conduct by its Members.
- 1.3 This Code is not intended to be an exhaustive list of all the obligations that are placed on Members. It is the responsibility of individual Members to comply with the provisions of the Code as well as such other legal obligations as may apply from time to time. Members should also comply with the following "Nolan" principles:

Selflessness
Integrity
Objectivity
Accountability
Openness
Honesty
Leadership

2. WHO DOES THIS CODE APPLY TO AND WHEN DOES IT APPLY?

- 2.1 This Code applies to all Members of the Authority and to all co-opted Members of any committee, sub-committee or joint committee of the Authority.
- 2.2 This Code applies whenever a person is acting in his/her official capacity as a Member of the Authority or co-opted Member in the conduct of the Authority's business, or acting as a representative of the Authority, including -
- 2.2.1 at meetings of the Authority, its Committees and Sub-Committees, its Cabinet and Cabinet Committees;
- 2.2.2 when acting as a representative of the Authority;
- 2.2.3 in discharging their functions as a ward Councillor or as a member of the Executive;
- 2.2.4 at briefing meetings with officers; and
- 2.2.5 at site visits.

2.3 Any allegation received by the Authority that a Member has failed to comply with this Code will be dealt with under the Arrangements which the Authority has adopted for such purposes.

3. WHAT STANDARDS OF CONDUCT ARE MEMBERS EXPECTED TO OBSERVE?

3.1 You must treat others with respect and courtesy.

3.2 You must not bully or harass any person, as further defined in Appendix 2.

3.3 You must not do anything which may cause the Authority to breach any equality laws.

3.4 You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a Member of the Authority, into disrepute.

3.5 You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.

3.6 You must act solely in the public interest and not use, or attempt to use, your position as a Member improperly to confer or secure for yourself or any other person an advantage or disadvantage.

3.7 You must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Authority.

3.8 You must only use, or authorise the use of, the Authority's resources for proper purposes (non political with regard being had to any applicable Local Authority Code of Publicity) and in accordance with the Authority's procedural and policy requirements.

3.9 You must not disclose information which is given to you in confidence, or information which you believe, or ought to be aware, is of a confidential nature, except where:

3.9.1 you have the consent of the person authorised to give it;

3.9.2 you are required to do so by law;

3.9.3 the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

3.9.4 the disclosure is reasonable in the public interest, made in good faith, and that you have consulted the Monitoring Officer.

4. DISCLOSABLE PECUNIARY INTERESTS ('DPI')

- 4.1 You have a Disclosable Pecuniary Interest (DPI) in any business of the Authority if that interest falls under any of the descriptions at Appendix 1 of this Code.

Disclosure Requirement

- 4.2 You must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer of any DPI as defined in Regulations made by the Secretary of State and set out in Appendix 1 of this Code, where the DPI is yours or your partner's (which means spouse or civil partner, a person with whom you are living with as husband or wife or a person with whom you are living with as civil partners). You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs.
- 4.3 You must make verbal declaration of the existence and nature of any DPI at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" (see paragraph 4.5), you need only declare the existence of the DPI but not the detail.
- 4.4 If you are present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, and you have a DPI in any matter to be considered or being considered at the meeting, unless a dispensation has been granted,
- 4.4.1 you must not participate in any discussion of the matter at the meeting.
- 4.4.2 you must not participate in any vote taken on the matter at the meeting.
- 4.4.3 you must withdraw from the room or chamber whilst the matter is being discussed and voted on.
- 4.4.4 if the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Sensitive Interest

- 4.5 Where you consider that disclosure of the details of a DPI could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a DPI, the details of which are withheld under Section 32(2) of the Act.

5. CRIMINAL SANCTIONS RELATING TO DISCLOSABLE PECUNIARY INTERESTS

- 5.1 A Member commits a criminal offence if, without reasonable excuse, you -
- 5.1.1 fail to notify the Monitoring Officer of any DPI within 28 days of election;
 - 5.1.2 fail to disclose a DPI at a meeting if it is not on the register;
 - 5.1.3 fail to notify the Monitoring Officer within 28 days of a DPI that is not on the register that you have disclosed to a meeting;
 - 5.1.3 participate in any discussion or vote on a matter in which you have a DPI (including taking a decision as an Executive Member acting alone);
 - 5.1.4 as an executive Member discharging a function acting alone, and having a DPI in such a matter, fail to notify the Monitoring Officer within 28 days of the interest; and
 - 5.1.5 knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.
- 5.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for a maximum of 5 years.

6. PERSONAL INTERESTS

- 6.1 You have a personal interest in any business of the Authority where either it relates to or is likely to affect -
- 6.1.1 any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority;
 - 6.1.2 any body -
 - exercising functions of a public nature;
 - directed to charitable purposes; or
 - 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.
 - 6.1.3 the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.
- 6.2 You have a personal interest in any business of the Authority where a decision in relation to that business might reasonably be regarded as affecting

your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, or relates to or is likely to affect any interests you have registered as a DPI.

6.3 *A relevant person is -*

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

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

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

6.3.4 any body of a type described in sub-paragraphs 6.1.1 and 6.1.2.

Disclosure Requirement

6.4 If you have a personal interest as defined in paragraph 6.1, you must, within 28 days of 1st July 2012 or of taking office as a Member or co-opted Member (where that is later), notify the Authority's Monitoring Officer in writing of such interest. You must also notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your personal interests defined in paragraph 6.1.

6.5 Subject to paragraph 6.6, you must make a verbal declaration of the existence and nature of any personal interest you have under this paragraph, at any meeting of the Authority at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent. Where the interest is deemed a "sensitive interest" (see paragraph 4.5), you need only declare the existence of the interest but not the detail.

6.6 Where you have a personal interest in any business of the Authority which relates to or is likely to affect a body defined in paragraphs 6.1.1 and 6.1.2 you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

6.7 Having disclosed a personal interest and providing it is not a prejudicial interest, you may still continue to participate and vote on the matter at that meeting.

6.8 Where you have a personal interest in any business of the Authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

7. PREJUDICIAL INTERESTS

7.1 Where you have a personal interest in any business of the Authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest (unless the matter falls within one of the exempt categories detailed in paragraph 8) and where that business -

7.1.1 affects your financial position or the financial position of a person or body described in paragraph 6.3; or

7.1.2 relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 6.3.

Disclosure Requirement

7.2 Subject to paragraph 7.3, where you have a prejudicial interest in any business of the Authority, you must make verbal declaration of the existence and nature of such interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent and, unless a dispensation has been granted, -

7.2.1 you must not participate in any discussion of the matter at the meeting.

7.2.2 you must not participate in any vote taken on the matter at the meeting.

7.2.3 you must, unless paragraph 7.3 applies, withdraw from the room or chamber whilst the matter is being discussed and voted on.

7.3 Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.

7.4 Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

8. EXEMPT CATEGORIES

8.1 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of the Authority in respect of -

- 8.1.1 housing, where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease;
- 8.1.2 school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- 8.1.3 statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- 8.1.4 an allowance, payment or indemnity given to Members;
- 8.1.5 any ceremonial honour given to Members; and
- 8.1.6 setting council tax or a precept under the Local Government Finance Act 1992.

9. **OVERVIEW AND SCRUTINY COMMITTEES**

- 9.1 In any business before an overview and scrutiny committee of the Authority (or of a sub-committee of such a committee) where –
 - 9.1.1 that business relates to a decision made (whether implemented or not) or action taken by an executive or another of the Authority's committees, sub committees, joint committees or joint sub-committees; and
 - 9.1.2 at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 9.1.1 and you were present when that decision was made or action was taken, you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room or chamber where the meeting is held immediately after making representations, answering questions or giving evidence.

10. **REGISTER OF INTERESTS**

- 10.1 Any interests notified to the Monitoring Officer will be included in the register of members' interests. A copy of this register will be available for public inspection and will be published on the Authority's website.
- 10.2 For the purposes of this Code a DPI is the subject of a 'pending notification' where it has been notified to the Authority's Monitoring Officer but has not yet been entered in the register of members' interests in consequence of that notification.

11. **EXPECTATION OF CO-OPERATION**

11.1 There is an expectation that all councillors will comply with requests from the Standards Committee (and its sub-committees) and the Monitoring Officer regarding allegations of breach of this Code of Conduct, including responding to allegations, preliminary evidence gathering before assessment or investigation, and formal standards investigations. Failure to do so may be regarded as a breach of this Code of Conduct for which sanctions may be applied.

APPENDIX 1

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

Interest	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 relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority - (a) Under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) - (a) the landlord is the relevant authority; and

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

Securities

Any beneficial interest in securities of a body where -

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

(b) either -

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

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

These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

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

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

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

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

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

"relevant person" means M or any other person referred to in section 30(3)(b) of the Act;

"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 2

Bullying and Harassment

The following should be read in conjunction with the paragraph 3.2 of this Code.

Bullying maybe characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, denigrate or injure the recipient.

Harassment maybe 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 that individual.

Bullying and harassment is not necessarily face to face, it may occur through written communications, visual images or by email and phone. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

Some examples of bullying and harassment include:

- Spreading malicious rumours, or insulting someone by word or behaviour
- Exclusion or victimisation
- Ridiculing or demeaning someone
- Unfair treatment
- Deliberately undermining the competence of an employee by constant criticism.
- Unwanted sexual advances
- Threats to a person's wellbeing, reputation or employment.

These examples are not exhaustive and due regard will be had to any guidance issued by ACAS, from time to time, on the definition of bullying and harassment in the application of paragraph 3.2 of this Code.

ASSESSMENT CRITERIA

Stage 1 Criteria

Before the assessment of a complaint begins, the Monitoring Officer or Assessment Panel must be satisfied that the complaint meets the following requirements:

- (i) It is a complaint against one or more named Members of the Council or a Parish or Town Council within the area;
- (ii) The named Member or Members were in Office at the time of the alleged conduct and acting in their official capacity; and
- (iii) The complaint, if proven, would be a breach of the Council's Code of Conduct in force at the relevant time.

If the complaint fails any one of these tests, it cannot be investigated as a breach of the Council's Code of Conduct and the complainant must be informed that no further action can be taken in relation to the complaint. If it passes all three tests then it can be assessed according to the criteria set out below.

Stage 2 Criteria

The Monitoring Officer or Assessment Panel is/are unlikely to refer a complaint for investigation where it falls into any of the following categories:-

- (a) The complaint appears to be vexatious, malicious, politically motivated, relatively minor, insufficiently serious, tit-for-tat, or there are other reasons why an investigation may not be in the public interest.
- (b) The same, or substantially similar, complaint has already been the subject of assessment or investigation and there is nothing more to be gained by further action being taken.
- (c) It appears that the complaint concerns or is really about dissatisfaction with a Council decision or policy rather than a breach of the Code of Conduct.
- (d) There is not enough information currently available to justify a decision to refer the matter for investigation.
- (e) The complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and therefore it is not in the public interest to pursue.

- (f) Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter and it is considered in the public interest that it be investigated.
- (g) Where the event/s or incident/s took place more than 6 months prior to the date of complaint being received or where those involved are unlikely to remember the event/s or incident/s clearly enough to provide credible evidence.
- (h) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain.
- (i) If it is considered that the subject Member has **offered** a satisfactory remedy to the complainant (for example by apologising) or the complaint is capable of other informal resolution **such as mediation** and the Member complained of is amenable to such approach.
- (j) If it is satisfied that having regard to the nature of the complaint and the level of its potential seriousness, the public interest in conducting an investigation does not justify the cost of such an investigation.
- (k) Where the allegation discloses a potential breach of the Code of Conduct but it is considered that the complaint is not serious enough to warrant any further action and:
 - the Member and Officer resource needed to investigate and determine the complaint is wholly disproportionate to the matter complained about; or
 - **in** all the circumstances there is no overriding public benefit or interest in carrying out an investigation.

RE-CONSIDERATION CRITERIA

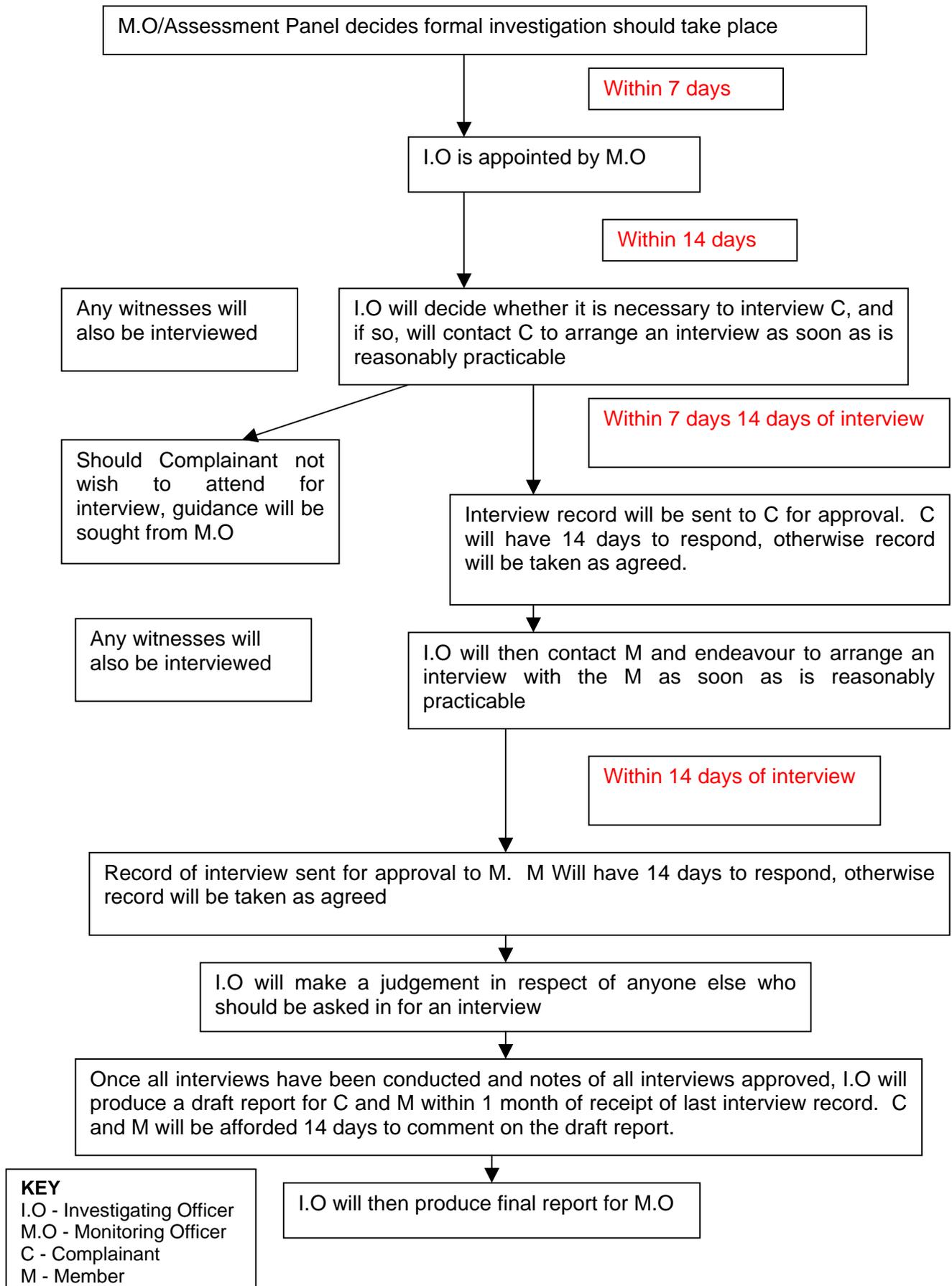
The Investigating Officer may, following consultation with the Independent Person, refer an investigation to an Assessment Panel for re-consideration as to whether the investigation should proceed where:

- As a result of new evidence or information, the Investigating Officer is of the opinion that the matter is materially less serious than may have seemed apparent to the Monitoring Officer or Assessment Panel when the decision was made to refer the complaint for investigation, and a different decision may have been made had either the Monitoring Officer or Assessment Panel been aware of the new evidence or information;

- The Member who is the subject of the allegation has died, is seriously ill or has resigned from the Council concerned and in the circumstances the Investigating Officer is of the opinion that it is no longer appropriate to proceed with the investigation; or

- Other circumstances arise, which in the reasonable opinion of the Investigating Officer, render it appropriate for the investigation to be referred to an Assessment Panel for re-consideration.

PROCEDURE FOR INVESTIGATIONS



**STANDARDS COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS PANEL (UNCONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Breach of the Code of Conduct

4. Monitoring Officer (or his/her representative) to present summary report, including the findings of fact made by the Investigating Officer, and refer to outcome of pre-hearing process.
5. Views of the Independent Person sought.
6. Members of the Panel to raise/clarify issues.
7. The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Action to be taken

8. Monitoring Officer (or his/her representative) to outline possible sanctions.
9. Investigating officer to make submissions on appropriate sanction, if any.
10. Member or (his/her representative) to present statement of, or provide oral, mitigation, including on what sanction, if any, should be imposed.
11. Views of the Independent Person sought.
12. Members of the panel to raise/clarify issues.
13. The Panel will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Close of Hearing

**STANDARDS COMMITTEE
OUTLINE PROCEDURE FOR HEARINGS PANEL (CONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Findings of Fact

4. Monitoring Officer (or his/her representative) to present summary report and refer to outcome of pre-hearing process.
5. Investigating Officer to present report and call such witnesses as he/she considers necessary to substantiate his/her conclusion(s) within the report.
6. Member (or his/her representative) to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
7. Members of the Panel to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
8. Member (or his/her representative) to present their case and call such witnesses as he/she considers necessary.
9. Investigating Officer to raise/clarify issues with the Member (or his/her representative), including the questioning of the Member's witnesses.
10. Members of the Panel to raise/clarify issues with the Member (or his/her representative), including the questioning of the Member's witnesses.
11. Views of the Independent Person sought.
12. Members of the Panel to raise/clarify issues with the Independent Person.
13. The Panel will retire, along with the Monitoring Officer, to determine its findings of fact. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Breach of the Code of Conduct

14. The Panel will need to consider whether or not, based on the facts it has found, the Member has breached the Code of Conduct.

15. Investigating Officer to address the Panel on whether the facts found constitute a breach of the Code of Conduct.
16. Member (or his/her representative) to address the Panel as to why the facts found do not constitute a breach of the Code of Conduct.
17. Views of the Independent Person sought.
18. Members of the Panel to raise/clarify issues.
19. The Panel will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

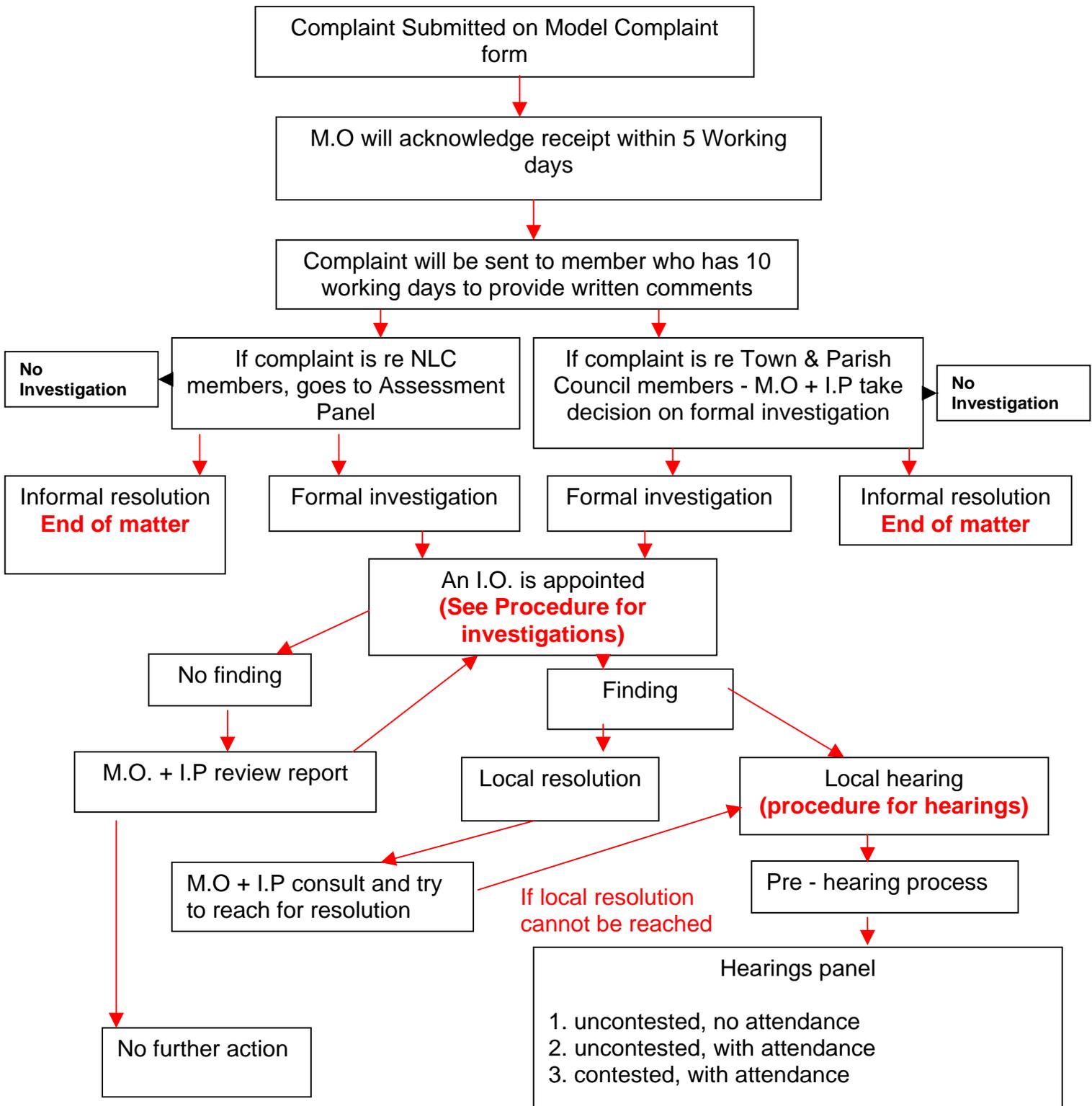
(If the Panel determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Panel determine that there has been a breach of the Code of Conduct, the procedure at paragraph 20 will apply).

Action to be taken

20. The Panel will need to determine what sanction, if any, should be imposed as a result of the Member's breach of the Code of Conduct.
21. Monitoring Officer (or his/her representative) to outline possible sanctions.
22. Investigating officer to make submissions on appropriate sanction, if any.
23. Member (or his/her representative) to make submissions on whether any sanction should be imposed.
24. Views of the Independent Person sought.
25. Members of the panel to raise /clarify issues.
26. The Panel will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Panel's decision will be reported back to the meeting by the Head of Democratic Services.

Close of Hearing

OVERVIEW OF NLC PROCESS



PROTOCOL

BETWEEN

**NORTH LINCOLNSHIRE AND NORTH EAST LINCOLNSHIRE COUNCIL
MONITORING OFFICERS**

AND

HUMBERSIDE POLICE

Purpose - To agree a protocol for the reporting of potential criminal offences arising under Section 34 of the Localism Act 2011 concerning the registration and/or disclosure of Disclosable Pecuniary Interests (DPIs) (as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012).

1. In the event that a Monitoring Officer receives a complaint regarding a potential DPI offence they will make immediate contact with Humberside Police through the nominated single point of contact.
2. Similarly if Humberside Police receives a complaint they will inform the relevant Monitoring Officer (each authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time).
3. Humberside Police will register the complaint and conduct an initial assessment of the complaint but may approach the relevant Monitoring Officer for background information on the complaint.
4. If Humberside Police decide not to prosecute the matter they will normally pass the relevant evidence to the relevant Monitoring Officer so that consideration can be given to a Code of Conduct breach being pursued. In the event that the relevant Council decides to pursue a Code of Conduct breach they will inform Humberside Police of their decision.
5. Both the relevant Monitoring Officer and Humberside Police will endeavour to keep complainants regularly updated as to the progress of complaints.