

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

15 January 2024

Revised Member’s Code of Conduct and Arrangements for dealing with councillor conduct complaints

Timetable	
Meeting	Date
Audit, Governance and Standards Committee	15 January 2024
Democracy and General Purposes Committee	31 January 2024
Council	21 February 2024

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	AUDIT, GOVERNANCE AND STANDARDS COMMITTEE
Lead Head of Service	Russell Fitzpatrick, Monitoring Officer
Lead Officer and Report Author	Russell Fitzpatrick, Monitoring Officer
Classification	Public
Wards affected	All

Executive Summary

This report provides an update on a review of Local Government Ethical Standards and in accordance with that review proposes various changes to Maidstone Borough Council’s Member’s Code of Conduct and arrangements for dealing with Councillor conduct complaints, which form part of the Council’s Constitution.

Purpose of Report

Recommendation to Council

This report makes the following recommendation to the Committee:

THAT

1. The proposed update to the Member Code of Conduct at Appendix 3, be noted.
 2. The proposed update to the arrangements for dealing with councillor conduct complaints at Appendix 4, be noted.
 3. The Democracy & General Purposes Committee recommend to Council that the Constitution be updated to include the Member Code of Conduct at Appendix 3, and the arrangements for dealing with councillor conduct complaints at Appendix 4.
 4. The Council be recommended to adopt the Member Code of Conduct at Appendix 3, and the arrangements for dealing with councillor conduct complaints at Appendix 4.
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Revised Member's Code of Conduct and Arrangements for dealing with councillor conduct complaints

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</p>	Monitoring Officer
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>We do not expect the recommendations will by themselves materially affect achievement of the cross-cutting objectives</p>	Monitoring Officer
Risk Management	<p>The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed accordingly.</p>	Monitoring Officer
Financial	No implications identified.	Monitoring Officer
Staffing	We will deliver the recommendations with our current staffing.	Monitoring Officer
Legal	It is a requirement under the Localism Act 2011 that all Councils adopt a Code of Conduct and that the Code adopted must be based upon the Nolan Principles of Conduct in	Monitoring Officer

	Public Life. The extant Members' Code of Conduct adopted 2012 can be found within Part D (Codes) of the Council's Constitution. Pursuant to s. 28(5) of the Localism Act 2011 the Council may revise its existing code of conduct adopt a code of conduct to replace its existing code of conduct.	
Information Governance	The recommendations will impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes. The Information Governance Team have reviewed the processing of personal data affected and the associated documentation has been updated accordingly.	Information Governance Team
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	Monitoring Officer
Public Health	No implications identified.	Monitoring Officer
Crime and Disorder	There are no implications to Crime and Disorder	Monitoring Officer
Procurement	No implications identified.	Monitoring Officer
Biodiversity and Climate Change	There are no implications on biodiversity and climate change.	Monitoring Officer

2. INTRODUCTION AND BACKGROUND

- 3.1 Pursuant to section 27 of the Localism Act 2011, all Councils are under a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the Council "*must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity*". The council's Code of Conduct, when viewed as a whole, must be consistent with the seven principles of public life of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership (known as "the Nolan Principles"). In addition, the Code must include provision for the registration and disclosure of pecuniary interests and other relevant interests. There is no mandatory Code of Conduct.
- 3.2 Maidstone Borough Council (**the Council**) adopted its current Code of Conduct on 5 July 2012 (**the extant Maidstone Code of Conduct**). The extant Maidstone Code of Conduct is contained within the Maidstone Borough Council's Constitution at Part D1 (Members' Code of Conduct) with the arrangements for dealing with Councillor conduct complaints being contained

in Part D2 (Code Complaints) and associated Appendices. This code of conduct is based on the Kent County Council Code, a practice which is considered good practice to promote consistency for the authorities.

- 3.3 On 30 January 2019, the Committee on Standards in Public Life (**CSPL**) produced a report on Local Government Ethical Standards. The report found that there was considerable variation in the length, quality, and clarity in local authority Codes of Conduct. A link to the full report has been provided in the Background Papers (**CSPL January 2019 Report**). A summary of the highlights of the Report and the Government's response is attached as Appendix 1. It is important to note that notwithstanding the issues raised by the CSPL, the only recommendation from CSPL effectively taken forward by the government was the model Code of Conduct recommendation.
- 3.4 To this end, the CSPL recommended that the Local Government Association (**LGA**) should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government. At its meeting on 29 July 2020, this Committee noted a report on the Consultation on the LGA Draft Model Code of Conduct Code. In December 2020, the LGA issued the "Local Government Association Model Councillor Code of Conduct 2020". This was updated on 19 January and 17 May 2021. A link to the Model Code is provided below and is also attached at Appendix 2:

<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020>

The LGA subsequently published "Guidance on the Local Government Association Model Councillor Code of Conduct" in July 2021. The LGA also published a "Guidance on Member Model Code of Conduct Complaints Handling" in September 2021. Links to these guidance documents are provided in the Background Papers.

- 3.5 The Government's response to the CSPL January 2019 Report was finally published in March 2022. A summary of the Government's response is included in Appendix 1. The full response can be accessed via the link contained in the Background Papers.
- 3.6 The Kent Secretaries Group, a forum for Heads of Legal Services and Monitoring Officers across Kent, set up an officer's working group to review all the reports and guidance documents referred to above. MKLS was represented on that group. This resulted in the production of a recommended Kent Member's Code of Conduct and arrangements for dealing with councillor conduct complaints (**the Kent Code**). This has the advantage in seeking to ensure (so far as possible) a consistent approach to Code of Conduct complaints across Kent. This also assists dual hatted members to ensure that they can work within the same/similar Code of Conduct framework and assist Monitoring Officers and Independent Persons to try, so far as possible, to adopt a consistent approach to dealing with Code of Conduct complaints. As various Heads of Legal and Monitoring Officers across the County had input into the Kent Code, any issues arising for one authority can be raised within the Kent Secretaries group and solutions sought to amend the code to ensure (so far as possible) consistency and lead to further improvements. Ultimately

it is for each authority to adopt their own Code of Conduct and arrangements for dealing with complaints.

3.7 That said, the Kent Secretaries group adopted the majority of the LGA's Model Code of Conduct save for the following provisions:

3.7.1 some of the introductory and explanatory paragraphs as these were considered to be verbose, and

3.7.2 the civility/respect provisions. This was included in a previous Model Code but later removed due to concerns that the definition of "disrespectful" was subjective and resulted at the time in an increase in the number of petty complaints. There was concern expressed that this would be repeated, and the Kent Secretaries group considered it would suffice for this aspect to be covered by the existing sections of the Code relating to bullying and harassment and bringing the Council into disrepute.

This approach has been approved by Kent County Council's Standards Committee.

3.8 The proposed changes to the Maidstone Code of Conduct and arrangements for dealing with code of conduct complaints have been informed by the work of the Kent Secretaries Group. The amendments proposed by the Kent Model Code of Conduct and arrangements have been incorporated as track changes to the extant Maidstone Code of Conduct at Appendix 3 (Code of Conduct) and Appendix 4 (Arrangements for dealing with councillor conduct complaints).

3.9 With specific reference to the Code of Conduct, save for formatting issues (which are not shown as track changes), by way of summary, the proposed principal changes to the extant Maidstone Code of Conduct are:

3.9.1 Part D1. Paragraph 1, sub-paragraph 1.1 "Associated Person" - The words "or body" have been added, these were not included in the code but have been incorporated in other codes and therefore to ensure consistency this has been suggested as being incorporated into the code by Kent Secretaries Group.

3.9.2 Part D1. Paragraph 2, sub-paragraph 2.1- Additional wording has been included to reference social media. The LGA Model Code recommended including a long list of different types of communication and interaction. The form of words suggested here is simpler and reduces the risk of an unintended gap due to the list missing something. The current Code was adopted prior to the rapid growth in social media and this section recognises this.

3.9.3 Part D1. Paragraph 3, sub-paragraph 3.2.1 - This has been expanded to include reference to "harassment" and provide definitions as to what constitutes "bullying" and "harassment".

3.9.4 Part D1. Paragraph 3, sub-paragraph 3.2.5 - This section provides a direct cross-reference between the sections in the Constitution

referring to information that is classified as exempt in Committee papers.

- 3.9.5 Part D1. Paragraph 3, sub-paragraph 3.3 – A new section has been suggested to include training. The LGA Model Code recommended including a requirement to undertake Code of Conduct training. Rather than mandate it, the approach taken here is to establish the principle that not undertaking training cannot be used as an excuse for breaching the Code.
 - 3.9.6 Part D1. Paragraph 3, sub-paragraph 3.4 – A new section has been added to promote cooperation by members subject to a Code of Conduct complaint. The LGA Model Code recommended including a requirement to cooperate with any investigation and/or subsequent determination.
- 3.10 The arrangements for dealing with councillor conduct complaints contained at Appendix 4 is procedural in nature and reflects cumulative Monitoring Officer/Head of Legal Services experience.
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3. AVAILABLE OPTIONS

3.1 The Committee has the following options available:

- 3.1.1 **Option 1:** To recommend to Council that the proposed amendments to the Member's Code of Conduct (at Appendix 3) and arrangements for dealing with councillor conduct complaints (at Appendix 4) be adopted and the Constitution updated accordingly. This option is recommended on the basis that members are familiar with this layout of the code, the changes to be considered are not extensive and this is consistent with the position of the principal authority. This is also the preferred option so as to provide consistency with other Kent authorities.
- 3.1.2 **Option 2:** To recommend to Council that alternative proposed amendments to the Member's Code of Conduct and arrangements for dealing with councillor conduct complaints be adopted and the Constitution updated accordingly. The Localism Act 2011 provides local authorities with the freedom to create their own Code of Conduct and arrangements for dealing with councillor conduct complaints, so it is open to the Audit, Governance and Standards Committee to make alternative proposed amendments having considered the various reports, government responses and LGA guidance. This is not a recommended course of action as the Council could inadvertently create a "third" Code of Conduct in circumstances where various options have already been considered and assessed extensively by both the LGA and separately by the Kent Secretaries group.
- 3.1.3 **Option 3:** To recommend to Council to adopt the LGA Model Code of Conduct (at Appendix 2). This option is not recommended as the Monitoring Officer on review of the existing code considers that the majority of the points set out in the LGA Model Code are captured in the Kent Code. The LGA will continuously review the model code and the Monitoring Officer (and Kent Secretaries group) will in turn continuously review the changes and

update members to determine whether further changes need to be made to the local code. The majority of the LGA Model Code has been incorporated within a code that Councillors are au fait with.

- 3.1.4 **Option 4:** Do nothing and make no changes to the existing Maidstone Code of Conduct so the Member's Code of Conduct and arrangements for dealing with Councillor conduct complaints remain as they are currently. This option would run counter to the recommendations of the Committee in Standards in Public Life whose intention was to strengthen the position regarding ethical standards.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1 is the recommended option as this would reflect most of the LGA's proposals and the CSPL's best practice recommendations for local authorities and also reflects the recommendations of the Kent Secretaries group. Furthermore, Members are familiar with this layout of the code, the changes to be considered are not extensive and this is consistent with the position of the principal authority.
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5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed accordingly.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The consultation on the LGA Model Code of Conduct was presented to and noted by Audit, Governance and Standards Committee on 29 July 2020 where the contents of the then LGA Model Code of Conduct were noted.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The recommendations of the Audit, Governance and Standards Committee will be put to Full Council. The Democracy & General Purposes Committee will be consulted on Appendices 3 and 4 prior to Full Council's consideration given the constitutional changes that would be required to give effect to this Committee's recommendation.
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Summary of Highlights of CSPL Report & Government Response
 - Appendix 2: LGA Model Councillor Code of Conduct (December 2020 as updated on 19 January and 17 May 2021)
 - Appendix 3: Proposed updated Maidstone Borough Council Member's Code of Conduct
 - Appendix 4: Proposed updated Maidstone Arrangements for dealing with councillor conduct complaints
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9. BACKGROUND PAPERS

- 9.1 [Committee on Standards in Public Life - Local Government Ethical Standards - A Review by the Committee on Standards in Public Life \(30 January 2019\)](#)
- 9.2 [Guidance on LGA Model Councillor Code of Conduct \(July 2021\)](#)
- 9.3 [Guidance on Member Model Code of Conduct Complaints Handling \(September 2021\)](#)
- 9.4 [Local government ethical standards: government response to the Committee on Standards in Public Life report \(March 2022\)](#)

APPENDIX 1 TO REPORT

Committee on Standards in Public Life – Review of Local Government Ethical Standards (January 2019)

&

Government Response (March 2022)

Highlights and recommendations

This summary is comprised of 3 sections:

- A) highlights of the review,
- B) recommendations to Government and other responsible bodies to bring about change and
- C) best practice recommendations to local authorities.

A. Highlights of the review

1. This is the 20th report of the Committee and was not prompted by any specific allegations of misconduct, but to assure the committee that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.
2. The following paragraphs provide a summary of the findings and an overview of discussions on particular areas including Code of Conduct, Independent Persons, sanctions, register of interests and parish councils.
3. The findings are summarised below:
 - a. The vast majority of councillors and officers want to maintain the highest standards of conduct.
 - b. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour.
 - c. A small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.
 - d. Concerns arose about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.
 - e. Whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.
 - f. The Committee have made a number of recommendations to government and identified best practice to improve ethical standards in local government. This includes recommendations that a number of

changes should be made to primary legislation, which would be subject to Parliamentary timetabling.

- g. The Committee will review the implementation by local authorities of the best practice recommendations in 2020.

4. Code of Conduct:

- a. Local Authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct creating confusion among the public and councillors. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities to enhance the consistency and quality of local authority codes.
- b. There are benefits to local authorities being able to amend and have ownership of their own codes of conduct so the updated model code should be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.
- c. Several new provisions are recommended to be included in the new model code of conduct:
 - i. Cllrs must not participate in a discussion or vote in a matter at a meeting if they have **any** interest, whether registered or not, "*if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter*".
 - ii. prohibitions on bullying and harassment, including a definition of bullying and harassment (plus list of examples of the sort of behaviour covered).
 - iii. Councillors must comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.
- d. Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source.
- e. The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.
- f. The Code of Conduct should be reviewed annually and council should seek the views of the public, community organisations and neighbouring authorities.
- g. The Code of Conduct should be readily accessible – in prominent position on website and available in council offices.

- h. Straightforward and accessible guidance on how to make a complaint, the process for handling complaints and estimated timescales for investigations and outcomes should be on website.

5. **Register of Interests:** The following recommendations were made regarding Register of Interests:

- a. Cllrs should not be required to register their home address.
- b. Cllrs should register unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.
- c. Publish gifts and hospitality register at least quarterly and in an accessible format.

6. **Independent Persons (IP):**

- a. IP should be consulted on whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations the MO is minded to dismiss as being without merit, vexatious, or trivial.
- b. Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed.
- c. IPs to be appointed for two year fixed term, renewable once.
- d. The view of the IP in relation to a decision on which they are consulted should be published in any formal decision notice.

7. **Sanctions**

- a. The current sanctions available to local authorities are insufficient which damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.
- b. Local authorities should be given the power to suspend councillors, without allowances, for up to six months **but** only where the IP agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.
- c. Government to clarify (and legislate if necessary) whether councils may lawfully bar councillors from council premises or withdraw facilities as sanctions.
- d. Councillors (including parish Cllrs) should be given the right to appeal to the LGO if suspended (but not for lesser sanctions). The LGO should be given the power to investigate and decide upon an allegation

of a code of conduct breach and the appropriate sanction - including the ability to overturn the suspension. The Ombudsman's decision to be binding on the local authority.

- e. After a decision has been made on an allegation of misconduct, should publish a decision notice asap on website - including brief statement of facts, the provisions of the code engaged by the allegations, the view of the IP, the reasoning of the decision-maker and any sanction applied.
- f. Requirement to publish annual report on number of complaints, what they relate to, outcomes and any sanctions applied.
- g. The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.

8. Parish Councils:

- a. Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.
- b. Parish Councils should be required to adopt the code of conduct of their principal authority and a principal authority's decision on sanctions for a parish councillor should be binding.
- c. Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.
- d. Complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

9. Miscellaneous

- a. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.
- b. Councils should report, as part of their annual governance statement, on separate bodies they have set up or which they own, and give a full picture of their relationship with those bodies.
- c. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

B. Recommendations

This section sets out the full list of recommendations. The responsible body for the majority of these recommendations is central government.

1. The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government

Government Response (GR) – The Local Government Association published the updated Code of Conduct in January 2021 however, it remains a local decision on whether this model code is adopted (Localism Act 2011).

2. The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

GR – The Government agrees with the principle behind this recommendation – which safeguards elected representatives – and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it. The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

3. Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

GR – The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media. It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

4. Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

GR – The LGA's Model Code of Conduct provides the following suggested wording on this matter: the code applies when "[a member's] actions could give the impression to a reasonable member of the public with knowledge of all the facts they [they] are acting as a [member]".

It is for individual local authorities to ensure that their codes of conduct are regularly updated and elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government has no immediate plans to amend the regulations.

5. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.

GR – The government has no immediate plans to amend the regulations. Unpaid roles need to be declared if it is relevant to council business and recuse themselves if appropriate. Councillors have a right to a private life and be involved in local organisations outside of their role as councillors.

6. Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

GR - The LGA's Model Code of Conduct provided for members to record any gifts or hospitality with an estimated value of at least £50 but contained nothing re a cumulative amount.

Local authorities have the autonomy to set the requirements in their own codes of conduct. The Government accepts there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that the register should be publicly available.

7. Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".

GR – No immediate plans to repeal s31 Localism Act 2011. The principle of integrity requires that any such interests should be declared and resolved.

8. The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

GR – This would be unworkable and was not accepted. In practice most local authorities would find this rate of turnover unachievable.

9. The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.

GR – The Government does not agree with this. The Transparency Code is a statutory requirement to publish information, it does not regulate the content of council's minutes or decision notices. It should not be necessary to publish details of an unfounded complaint.

10. A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.

GR – These proposals would effectively reinstate the previous flawed regime which allowed politically motivated and vexatious complaints and it was a deliberate policy decision to differentiate from the previous regime and have no provision for a sanction to suspend a councillor.

The government will engage with all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity.

This response also applies to recommendations 12, 13, 14 and 16.

11. Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.

GR – The government endorses this as local authority best practice but sees no need to amend secondary legislation.

12. Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.

GR – See 10 above.

13. Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.

GR – see 10 above.

14. The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

GR – see 10 above.

15. The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

GR – This is better addressed through a best practice of an annual report of the cases and complaints handled and there is no need to prescribe the form and content of such reports.

16. Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

GR - See 10 above.

17. The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.

GR – The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment. The government will consider this further.

18. The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

GR – It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption. The high bar of police involvement has served to discourage politically motivated and unfounded complaints. The Govt does not therefore agree with this recommendation.

19. Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.

GR – There was no comment re this recommendation within the Government's response.

20. Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.

GR – The government does not agree and has no plans to repeal s27(3) Localism Act 2011. It is a matter for local determination.

21. Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

GR – There are no current plans to repeal s28(11) Localism Act 2011 but the govt will give this matter further consideration.

22. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

GR – the government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England) (Amendment) Regulations to provide disciplinary protections for statutory officers.

23. The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.

GR – Most local authorities already publish their whistleblowing policy, procedure and a named contact on their websites

24. Councillors should be listed as ‘prescribed persons’ for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. Local councillors would not meet the criteria of being external to an individual’s workplace in relation to matters affecting the council and could therefore not be considered as a ‘prescribed person’ for the purposes of the Public Interest Disclosure Act 1998. However, the govt is open to further representations on the matter on how local accountability can be strengthened in this regard.

25. Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.
26. Local Government Association corporate peer reviews should also include consideration of a local authority’s processes for maintaining ethical standards.

C. Best Practice Recommendations for local authorities

This section sets out the best practice recommendations that are directed to local authorities. The Committee expects local authorities to fully implement them and intends to review the implementation of these in 2020.

1. Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.
2. Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.
3. Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.
4. An authority’s code should be readily accessible to both councillors and the public, in a prominent position on a council’s website and available in council premises.
5. Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

6. Councils should publish a clear and straightforward public interest test against which allegations are filtered.
7. Local authorities should have access to at least two Independent Persons.
8. An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.
9. Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.
10. A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.
11. Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.
12. Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.
13. A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.
14. Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.
15. Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.



Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

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 of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

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

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. 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**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or 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.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

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 councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, 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 councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor’s knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor’s knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to 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

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

D1. MEMBERS' CODE OF CONDUCT

PREAMBLE

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest it is a criminal offence if, without reasonable excuse, you:
 - (a) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a Member.
 - (b) Fail to disclose the interest at Meetings where the interest is not entered in the Authority's register.
 - (c) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the Authority's register and is not the subject of a pending notification.
 - (d) Take part in discussion or votes, or further discussions or votes, at Meetings on matters in which you have the interest which are being considered at the meeting.
 - (e) Fail to notify the Authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you

become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority.

- (f) Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
 - (g) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

THE CODE

1. Interpretation

1.1. In this Code:

“Associated Person” means (either in the singular or in the plural):

- (a) a family member or any other person or body with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) 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; or
- (c) 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
- (d) any body of which you are in a position of general control or

management and to which you are appointed or nominated by the Authority; or

- (e) any body in respect of which you are in a position of general control or management:
 - (i) exercising functions of a public nature; or
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

“Authority” means Maidstone Borough Council.

“Authority Function” means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) 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 your child attends; [or](#)
- (c) 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; [or](#)
- (d) an allowance, payment or indemnity given to Members of the Authority; [or](#)
- (e) any ceremonial honour given to Members of the Authority; [or](#)
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not an elected Member of

the Authority but who is a member of:

- (a) any Committee or Sub-Committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

"Disclosable Pecuniary Interest" means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest; or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

"Interests" means Disclosable Pecuniary Interests and Other Significant Interests.

"Meeting" means any meeting of:

- (a) the Authority;
- (b) any of the Authority's committees, sub-committees, joint committees and/or joint sub-committees.

"Member" means a person who is an elected Member of the Authority and includes a Co-opted Member.

"Other Significant Interest" means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of: -
 - (i) other council tax payers, ratepayers or inhabitants of the

electoral division or ward, as the case may be, affected by the decision; or

(ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or

(b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgement of the public interest.

"Register of Members' Interests" means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

"Sensitive Interest" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

2. Scope

2.1. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

2.2. [This Code applies to all forms of communication and interaction including social media.](#)

3. General Obligations

3.1. You must, when using or authorising the use by others of the resources of the Authority:

3.1.1. act in accordance with the Authority's reasonable requirements;
and

3.1.2. ensure that such resources are not used improperly for political

purposes (including party political purposes).

3.2. You must not:

- 3.2.1. [bully any person or carry out any act of harassment. For the purposes of this paragraph bullying and harassment shall be construed as follows:-](#)
- (a) [the Advisory, Conciliation and Arbitration Service \(ACAS\) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Their website contains examples;](#)
 - (b) [harassment will have the meaning set out in The Protection from Harassment Act 1997 and other relevant legislation.](#)
- 3.2.2. intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- 3.2.3. do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- 3.2.4. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (a) you have the written 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
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the Authority;
- 3.2.5. [disclose information which is exempt information within the meaning of Part VA Local Government Act 1972 or The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012;](#)
- 3.2.6. prevent another person from gaining access to information to which that person is entitled by law;
- 3.2.7. conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- 3.2.8. use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- 3.3 [Where you have not undertaken training relating to conduct matters, you shall not be able to use this as a defence where a complaint has been made.](#)
- 3.4 [You must co-operate with any Code of Conduct investigation and/or determination.](#)

4. Registering Disclosable Pecuniary Interests

- 4.1.** You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- 4.2.** In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.

- 4.3.** Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members’ Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

5. Declaring Interests

- 5.1.** Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members’ Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.

- 5.2.** Where you are present at a meeting and have a Disclosable Pecuniary Interest or Other Significant Interest in any matter to be considered, or being considered, at the meeting, you must:

- 5.2.1. disclose the Interest; and
- 5.2.2. explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6~~7~~ below); and unless you have been granted a dispensation or are acting under para 5(4):
- 5.2.3. not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- 5.2.4. withdraw from the Meeting room in accordance with the Authority’s Procedure Rules whenever it becomes apparent that the business is being considered; and
- 5.2.5. not seek improperly to influence a decision about that business.

- 5.3.** Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority [\(including making an executive decision\)](#), you must:

- 5.3.1. notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
 - 5.3.2. not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
 - 5.3.3. not seek improperly to influence a decision about the matter.
- 5.4.** Where you have an Other Significant Interest in any business of the 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. Having made your representations, given evidence or answered questions you must:
 - 5.4.1. not participate in any discussion of, or vote taken on, the matter at the Meeting; and
 - 5.4.2. withdraw from the Meeting room in accordance with the Authority's Procedure Rules.
- 6. Sensitive Interests**
 - 6.1.** Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
 - 6.2.** You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6.1 is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
 - 6.3.** The rules relating to disclosure of Interests in paragraphs 5.2 and 5.3 will apply, save that you will not be required to disclose the nature of the

Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

7. Gifts & Hospitality

- 7.1.** You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.
- 7.2.** Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- 7.3.** You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality
- 7.4.** The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

8. Dispensation

- 8.1.** [The Audit, Governance and Standards Committee, or any sub-committee of that Committee, or the Monitoring Officer \(where authorized\)](#) may, on a written request [made to the Monitoring Officer \(as appointed Proper Officer for the receipt of applications for dispensation\)](#) by a Member with

an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

8.2. A dispensation may be granted only if, after having had regard to all relevant circumstances, [the Audit, Governance and Standards Committee, its sub-committee, or](#) the Monitoring Officer [where authorized](#)) considers that:

8.2.1. without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or

8.2.2. without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or

8.2.3. granting the dispensation is in the interests of persons living in the Authority's area; or

8.2.4. [without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or](#)

8.2.5. it is otherwise appropriate to grant a dispensation.

8.3. A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

8.4. Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

ANNEX 1**THE SEVEN PRINCIPLES OF PUBLIC LIFE*****Annex 1: Nolan Principle***

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached. [The definitions of the Principles are as below, or as set out on the website of the Committee on Standards in Public Life.](#)

SELFLESSNESS: Holders of public office should act solely in terms of the public interest.

INTEGRITY: Holders of public office must avoid placing themselves under any obligation to people or organisations ~~that might try inappropriately~~ to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

OBJECTIVITY: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

ACCOUNTABILITY: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

OPENNESS: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

HONESTY: Holders of public office should be truthful.

LEADERSHIP: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

ANNEX 2**DISCLOSABLE PECUNIARY INTERESTS****~~Annex 2+ Disclosable Pecuniary Interests~~**

Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:

The descriptions on Disclosable Pecuniary 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 the 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 (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

“securities” means shares, debentures, debenture stock, loan stock, bonds,

units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>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:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
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.

Interest	Description
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <ul style="list-style-type: none"> (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"> (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either <ul style="list-style-type: none"> (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.

D2. CODE COMPLAINTS

1. Context

1.1. These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that Maidstone Borough Council has adopted for dealing with complaints that an elected Member or co-opted Member or Parish/Town Councillor or co-opted member has failed to comply with the Code of Conduct.

2. Interpretation

2.1. '**Borough Council**' means Maidstone Borough Council.

2.2. '**Code of Conduct**' means the Code of Conduct, which the Borough and Parish/Town Council have adopted under section 27(2) of the Localism Act 2011.

2.3. '**Complainant**' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.

2.4. '**Disclosable Pecuniary Interest**' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Members' Code of Conduct.

2.5. '**Hearing Panel**' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.

2.6. '**Independent Person**' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:

2.6.1. whose views are to ~~must~~ be sought and taken into account by the Borough Council before it makes its a decision ~~is made~~ on an allegation that it has decided to investigate and whose views may be sought by the Borough Council at any other stage ~~any complaint alleging a breach of the Code of Conduct by a Subject~~

~~Member;~~

2.6.2. who may be consulted by the Subject Member about the complaint.

2.7. 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior Officer of the [Borough Council](#), an Officer of another authority or an external investigator.

2.8. The **'Monitoring Officer'** is a senior Officer ~~appointed by~~ of the [Borough Council](#) who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other Officer ~~or other person~~ of the Borough Council nominated by the Monitoring Officer to act on their behalf.

2.9. '[Parish/Town Council](#)' means the relevant ~~p~~[Parish/Town](#) ~~c~~[Council](#) within the Borough of Maidstone.

2.10. 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.

2.11. 'Subject Member' means an elected member or co-opted member of the Borough or [Parish/Town Council](#) against whom a complaint has been made alleging a breach of the Members' Code of Conduct.

3. Appointment of Independent Person

3.1. The [Borough Council](#) shall appoint the Independent Person (and any substitute) in accordance with the requirements of section 27 of the Localism Act 2011 upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.

3.2. The Independent Person (and any substitute) shall be treated as if they were a Member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members ~~and in respect of the receipt of allowances.~~

4. Making a complaint

4.1. A complaint alleging a breach of the Code of Conduct by a Subject Member must be made [either](#)

4.1.1. in writing and addressed to the Monitoring Officer using the Complaint Form [included within](#) ~~at the end of~~ Annex 1 to these Arrangements [or](#).

4.1.2. [via the Council's website using the on-line complaint form provided there.](#)

Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), [should inform the Monitoring Officer of any such difficulty and the Monitoring Officer will arrange for assistance to be offered](#) ~~will be offered assistance.~~

4.2. The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 1 to these Arrangements).

4.3. The Monitoring Officer will normally acknowledge receipt of a complaint within [15](#) working days of receiving it. At the same time (and subject to ~~paragraph~~ 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph [12](#) of Annex 1 to these Arrangements.

5. Criminal conduct

5.1. In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

5.1.1. fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;

5.1.2. fail to notify the Monitoring Officer of a Disclosable Pecuniary

Interest before the end of 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;

- 5.1.3. fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- 5.1.4. fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- 5.1.5. take part in discussions or vote at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- 5.1.6. knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

5.2. Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4.4 of Annex 1 to these Arrangements.

6. Anonymous complaints

6.1. Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer, ~~in consultation with the Independent Person,~~ providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint. [The Monitoring Officer may consult the Independent Person.](#)

7. Role of Independent Person

The Independent Person must be consulted and have their views taken into account before the [Borough Council Authority](#) makes a finding as to

whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

8. Preliminary tests

8.1. The Monitoring Officer will, ~~in consultation with the Independent Person,~~ put the complaint through a number of preliminary tests, in accordance with paragraph ~~2~~¹ of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

8.2. In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph ~~2~~¹ of Annex 1 may either be extended by the Monitoring Officer or the Monitoring Officer may act alone in taking the decision or action.

9. Informal resolution

9.1. The Monitoring Officer, ~~in consultation with the Independent Person,~~ may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

10. Investigation

10.1. If the Monitoring Officer, ~~in consultation with the Independent Person,~~ decides that the complaint merits formal investigation, they will, normally within ~~1~~³⁰ working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

10.2. The Investigating Officer will investigate the complaint in accordance with Annex 2 to these Arrangements.

11. Hearing

12. If the Monitoring Officer, in consultation with the Independent Person, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 3 to

these Arrangements.

13. Sanctions

- 13.1.** Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 124 of Annex 3 to these Arrangements.

14. Appeal

- 14.1.** There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

15. Discontinuance of Action

- 15.1.** In the event that the Subject Member has died, is seriously ill or has ceased to be an elected member or co-opted member of the Borough or Parish/Town Council the Monitoring Officer may determine to end the complaints process.

16. Revision of these Arrangements

- 16.1.** The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter, ~~in accordance with the principles of natural justice.~~

Annexes

[Annex 1 - Procedure on Receipt of A Complaint](#)

[Annex 2 - Procedure For Investigating The Complaint](#)

[Annex 3 - Hearing Panel Procedure](#)

ANNEX 1:**PROCEDURE ON RECEIPT OF A COMPLAINT**

~~Para. **Annex 1: Procedure on receipt of a complaint**~~

- 1. Notification of Complaint to Subject Member**
 - 1.1.** Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member and, if applicable, the Parish/Town Clerk of the complaint.
 - 1.2.** The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish/Town Clerk] to submit initial views on the complaint, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below).
- 2. **Preliminary Tests****
 - 2.1.** The complaint will be assessed by the Monitoring Officer ~~in consultation with the Independent Person~~ against the legal jurisdiction test in paragraph ~~12.2~~ and, if applicable, the local assessment criteria test in paragraph ~~12.4~~ below. The Monitoring Officer may assess the complaint in consultation with the Independent Person.
 - 2.2.** Legal jurisdiction criteria test:
 - 2.2.1.** Did the alleged conduct occur before the adoption of the Code of Conduct? If the answer to this is 'Yes' the test is failed.
 - 2.2.2.** Was the person complained of a member of the Borough or Parish/Town Council at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
 - 2.2.3.** Was the person complained of acting in an official capacity at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
 - 2.2.4.** Did the alleged conduct occur when the person complained of

was acting as a member of another authority? If the answer to this is 'Yes' the test is failed.

- 2.2.5. If the facts could be established as a matter of evidence, could the alleged conduct be capable of supporting of a breach of the Code of Conduct? If the answer to this is 'No' the test is failed.
- 2.2.6. Is ~~the~~ complaint ~~is~~ about dissatisfaction with the Borough or Parish/Town Council's decisions, policies, ~~and~~ priorities, processes and governance etc.? If the answer to this is 'Yes' the test is failed and the matter should be raised by the complainant directly with the Borough or Parish/Town Council, via their general complaints process.

~~If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.~~

2.3. Local assessment criteria test:

If the complaint satisfies the legal jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- 2.3.1. The complaint is substantially the same as a complaint which has previously been made. ~~a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;~~
- 2.3.2. The complaint is anonymous, unless the Monitoring Officer is of the view, on the basis of corroborating evidence that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person. ~~supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;~~
- 2.3.3. No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;

- 2.3.4. The complaint is malicious or relatively minor, and, in the view of the Monitoring Officer, the public interest would not be served by taking further action., ~~trivial, politically motivated or 'tit for tat';~~
- 2.3.5. The Complainant is unreasonably persistent , ~~malicious~~ and/or vexatious .
- 2.3.6. The alleged misconduct happened more than 3 months prior to the submission of the complaint. ~~is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;~~
- 2.3.7. Dealing with the complaint would have a disproportionate effect on both public money and/or officers' and Members' time. ~~The circumstances have changed so much that there would be little benefit arising from an investigation or other action;~~
- 2.3.8. The circumstances have changed so much that there would be little benefit arising from an investigation or other action. ~~The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken; or the alleged misconduct took place so long ago that the complaint should not be pursued;~~
- 2.3.9. The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken
- 2.3.10. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- 2.3.11. The complaint is about a deceased person;
- 2.3.12. The complaint is about a person who is no longer a Borough or Parish/Town Councillor or Co-opted Member.
- 2.4.** If the complaint fails one or more of the jurisdiction tests ~~local assessment criteria applies to the complaint~~, no further action will be taken by the

Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within ~~160~~ 60 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

~~Notification of complaint to Subject Member~~

~~Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish Clerk] of the complaint.~~

~~The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish Clerk] to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below). Views received from the Subject Member [and/or Parish Clerk] after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the Monitoring Officer issues their written decision on how the complaint will be dealt with.~~

3. Asking for additional information

- 3.1.** The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish/Town Clerk] for additional information before deciding how to deal with the complaint.

4. What process to apply - informal resolution or investigation and/or no action?

- 4.1.** The Monitoring Officer may at any stage seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the Borough or Parish/Town Councillor make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 4.2.** The Monitoring Officer ~~in consultation with the Independent Person~~ may refer the complaint for investigation when:

- 4.2.1. It is serious enough, if proven, to justify the range of sanctions available to the Audit, Governance and Standards Committee (see paragraph [124](#) of Annex [3.4](#) to these Arrangements) ~~or~~;
- 4.2.2. The Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough or Parish/[Town](#) Council and there is no other avenue left to deal with it short of investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.3.** Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.4.** If the complaint identifies potential criminal conduct or a potential breach of other regulations by the Subject Member or any other person, the Complainant ~~may~~ will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. Alternatively, the Monitoring Officer will consider the complaint against the legal jurisdiction criteria test and if the complaint passes that test the Monitoring Officer may pass the complaint to the police. Where a complainant has been advised to refer a matter to the police or the Monitoring Officer has referred the matter to the police ~~In such cases,~~ the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and ~~, in consultation with the Independent Person,~~ will apply the local assessment criteria test in paragraph ~~12.4~~ 2.4 above.
- 4.5.** The Monitoring Officer may decide to ~~in consultation with the Independent Person,~~ will take no action or to defer further action on the complaint ~~when~~ whilst one or more of the following apply:
- 4.5.1. On-going criminal proceedings or a police investigation into the Subject Member's conduct ~~or where the complaint is suspended in accordance with paragraph 4.4 above;~~

- 4.5.2. Investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings.
- 4.5.3. The investigation might prejudice another investigation or court proceedings.
- ~~On-going investigation by another prosecuting or regulatory authority;~~
- 4.5.4. Genuine long term (3 months or more) unavailability of a key party.
- 4.5.5. Serious illness of a key party.
- 4.6.** Normally ~~W~~within 290 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member ~~and~~, if applicable, the Parish/~~Town~~ Clerk ~~of~~ their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 12):
- 4.6.1. Not to refer the complaint for investigation.
- 4.6.2. ~~To~~ Refer the complaint for investigation.
- 4.6.3. ~~To~~ Apply the informal resolution process either before or after an investigation.
- ~~Following investigation, to refer the complaint to the Hearing Panel; or~~
- ~~To take no action and close the matter; or~~
- 4.6.4. To refer the complaint to the relevant political group leader for action.
- 4.7.** ~~The decision notice will be published on the Borough Council's website.~~ There is no right of appeal against the Monitoring Officer's decision. ~~However, in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case~~

~~it shall be treated as a fresh complaint.~~

5. Confidentiality

5.1. If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer ~~in consultation with the Independent Person~~ when they initially assess the complaint (see paragraph ~~1~~2 above). The Monitoring Officer may consult the Independent Person.

5.2. As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity and/or details of the complaint if they are satisfied that there are reasonable grounds for believing that the Complainant or any other person (e.g. a witness):

5.2.1. Is either vulnerable or at risk of threat, harm or reprisal.~~†~~

5.2.2. May suffer intimidation or be victimised or harassed.~~†~~

5.2.3. Works closely with the Subject Member and is afraid of the consequences, e.g. fear of losing their job.~~†~~

5.2.4. Suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this).~~†~~

5.2.5. May receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish/Town Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish/Town Council.

OR where early disclosure of the complaint:

5.2.6. May lead to evidence being compromised or destroyed; or

5.2.7. May impede or prejudice the investigation; or

5.2.8. Would not be in the public interest.

5.3. Relevant public interest factors favouring disclosure (not an exhaustive list) include:

5.3.1. To facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;

5.3.2. To raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;

5.3.3. Justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;

5.3.4. Bringing out in the open serious concerns about the behaviour/conduct of an individual.

5.4. ~~The Monitoring Officer, in consultation with the Independent Person, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member.~~ If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, ~~within 15 working days of receipt of the complaint~~ by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

6. Informal resolution

6.1. ~~These Arrangements enable t~~The Monitoring Officer, ~~in consultation with the Independent Person,~~ may seek to resolve complaints informally at any stage in the process, whether without the need for an investigation, either or before or after investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and

the Subject Member to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

6.2. Informal resolution may be the simplest and most cost-effective way of resolving the complaint and may be appropriate where:

6.2.1. The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough or Parish/[Town](#) Council procedures; or

6.2.2. There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or

6.2.3. The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to lead to further misconduct or allegations of misconduct; or

6.2.4. The conduct complained of appears common to a number of members of the Borough or Parish/[Town](#) Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Borough or Parish/[Town](#) Council procedures etc.; [or](#)

6.2.5. The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or

6.2.6. The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough or Parish/[Town](#) Council; or

6.2.7. The Complainant and the Subject Member are amenable to engaging in an informal resolution; or

6.2.8. The complaint consists of allegations and retaliatory allegations between Members; or

6.2.9. The complaint consists of allegations about how formal meetings are conducted; or

6.2.10. The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.3. Informal resolution may consist of one or more of the following actions,

which do not have to be limited to the Subject Member, but may extend to other Members including the whole Borough or Parish/[Town](#) Council where it may be useful to address systemic behaviour:

- 6.3.1. Training~~..7~~
 - 6.3.2. Conciliation/mediation~~..7~~
 - 6.3.3. Mentoring~~..7~~
 - 6.3.4. Apology~~..7~~
 - 6.3.5. Instituting changes to the Borough or Parish/[Town](#) Council's Procedures~~..7~~
 - 6.3.6. Conflict management~~..7~~
 - 6.3.7. Development of the Borough or Parish/[Town](#) Council's protocols~~..7~~
 - 6.3.8. Other remedial action by the Borough or Parish/[Town](#) Council~~..7~~
 - 6.3.9. Other steps (other than investigation) if it appears appropriate to the Monitoring Officer ~~in consultation with the Independent Person.~~
- 6.4.** If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer ~~may will~~ report the matter to the Audit, Governance and Standards Committee ~~[and, if applicable, the Parish/[Town](#) Council]~~ for information, but will take no further action [against the Subject Member](#).
- 6.5.** Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Audit, Governance and Standards Committee.

COMPLAINT FORM

[To be completed]

*[**NOTE:** To be finalised and circulate as Urgent Update. This is also in the process of being digitised.]*

EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g., REFERRAL FOR INVESTIGATION

Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature or may be personal information.

Complaint No: *[insert]*

Complaint

On *[insert date]*, the Monitoring Officer considered a complaint from *[insert name of complainant]* concerning the alleged conduct of *[insert name of councillor]*, a member of *[insert authority name]*. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Decision

[Having consulted and taken into account the views of the Independent Person], the Monitoring Officer decided to refer the complaint for investigation.

Potential breaches of the Code of Conduct identified

At this stage, the Monitoring Officer is not required or able to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed *[insert name]* as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant.
- Member against whom the complaint was made.
- [Clerk to the relevant Parish/Town or Town Council].
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both ~~District~~ Borough and County level*).

What happens now

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Additional Help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

Signed:**Date****Print name:**

Monitoring Officer of ~~xxxxxx District~~ [Maidstone Borough](#) Council

Address:

[Maidstone Borough Council](#)

[Maidstone House](#)

[King Street](#)

[Maidstone](#)

[Kent ME15 6JQ](#)

ANNEX 2**PROCEDURE FOR INVESTIGATING THE COMPLAINT****~~Para. ———— Annex 2: Procedure for Investigating the Complaint~~****1. Preliminaries**

- 1.1.** The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under [UK General Data Protection Regulation and](#) the Data Protection Act ~~2018~~1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2.** The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3.** The Subject Member and the Complainant will be advised that the investigation is for ~~fact finding purposes only~~ [the purposes of establishing facts and making recommendations as to whether the facts disclose a breach of the relevant code of conduct.](#)
- 1.4.** Witnesses will be identified at the investigation stage and [wherever possible](#) their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5.** The Investigating Officer will not make recommendations on sanctions.
- 1.6.** ~~Within 10 working days of being appointed, t~~[The Investigating Officer will notify the Subject Member and the Complainant of their appointment,](#)
[normally within 20 working days of being appointed](#) and:
 - 1.6.1. Provide details of the complaint to the Subject Member;
 - 1.6.2. Detail the procedure to be followed in respect of the investigation

and the relevant timescales for responses and concluding the investigation;

- 1.6.3. Detail the sections of the Code of Conduct that appear to be relevant to the complaint;
 - 1.6.4. Request contact details of any potential witnesses;
 - 1.6.5. Require that confidentiality is maintained [throughout the duration of the investigation and the procedures contemplated by this Annex](#) and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7.** It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8.** The Investigating Officer may [conclude](#) ~~terminate~~ their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the ~~[Monitoring Officer]~~ ~~[Hearing Panel]~~.
- 2.** [Evidence of New Breaches](#)
- 2.1.** [The Investigating Officer may find evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to them. Their powers as an Investigating Officer relate only to the allegation that they been given. While that means that the Investigating Officer may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, they may also find evidence of a possible breach that does not directly relate to the allegation being investigated. If this happens, the Investigating Officer should tell the person they obtained the information from that they cannot investigate the possible breach as part of their existing investigation. The Investigating Officer should advise them that they are able to make a separate complaint to the Monitoring Officer.](#)
- 3.** [Referring Cases Back to the Monitoring Officer](#)

- 3.1.** During the course of an investigation, it may be necessary for the Monitoring Officer to consider whether the investigation should continue, for example, if:
- 3.1.1. Evidence suggests a case is less serious than may have seemed apparent originally and that a different decision might therefore have been made about whether to investigate it or not.
 - 3.1.2. It emerges during the investigation that the conduct under investigation was not conduct by the Subject Member in their role as a councillor but rather in a private capacity.
 - 3.1.3. Evidence indicates something which is potentially more serious which should be referred to the police.
 - 3.1.4. The Subject Member has died, is seriously ill, has resigned from the authority, or is otherwise reasonably unable to take part in the process for the foreseeable future and it is considered that it is no longer appropriate to continue with the investigation.
 - 3.1.5. The Subject Member has indicated that they wish to make a formal apology or take other action which should resolve the matter.
- 3.2.** In this context 'seriously ill' means that the councillor has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition. The Investigating Officer would be expected to establish this from a reliable independent and authoritative source other than the Subject Member. This would include where a councillor claims they are suffering from stress brought on by the investigation.
- 3.3.** Ultimately it will be for the Monitoring Officer to conclude whether the investigation should continue. In reaching that decision, the Monitoring Officer may consult with the Independent Person before deciding to defer or end the investigation.
- 3.4.** If the investigation has been deferred or ended the Subject Member and the complainant should be notified of the decision and where possible provided with timescales within which the matter will be dealt with if it has been deferred. This would not always be possible, however, particularly if the matter has been referred to the police.

4. Deferring an Investigation

- 4.1.** An investigation should be deferred when any of the following conditions are met:
- 4.1.1. There are ongoing criminal proceedings or a police investigation into the Subject Member's conduct.
- 4.1.2. The investigation might prejudice another investigation or court proceeding.
- 4.2.** An investigation may also need to be deferred for any of the reasons set out in paragraph 4.5 of Annex 1.
- 4.3.** When it is clear that there is an ongoing police or other investigation, or related court proceedings, the Investigating Officer should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings.
- 4.4.** If at any time during the investigation the Investigating Officer becomes aware of any circumstances that might require the investigation to be deferred, the Investigating Officer should notify the Monitoring Officer who should determine whether there should be a deferral. The Monitoring Officer may also wish to consult with the Independent Person.
- 4.5.** In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another investigation or court proceedings. The Investigating Officer should highlight those areas where investigation may be possible in the investigation plan.
- 4.6.** The Monitoring Officer or the Investigating Officer should ask the police, other relevant organisation or individual, in writing to keep them informed of the outcome of any police or other investigation, court proceedings or other relevant matter. Any important dates, for example of committal hearings should be noted in the investigation plan review.
- 4.7.** A deferred investigation should be kept under regular review, in the interests of natural justice.
- 4.8.** Once a decision is taken to begin the investigation again the Investigating Officer should notify in writing: the Subject Member; the complainant; the

relevant Independent Person; and the relevant Parish/Town council if the Subject Member is a Parish/Town councillor.

- 4.9.** The investigation plan should be reviewed in the light of the outcome of any police investigation or court proceedings.

5. The draft report

- 5.1.** On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT' and 'CONFIDENTIAL') to the Monitoring Officer for review.

- 5.2.** Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'DRAFT' and 'CONFIDENTIAL' and will detail:

- 5.2.1. The relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- 5.2.2. A summary of the complaint;
- 5.2.3. The Subject Member's response to the complaint;
- 5.2.4. Relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- 5.2.5. A list of any documents relevant to the matter;
- 5.2.6. A list of those persons/organisations who have been interviewed;
- 5.2.7. A statement of the Investigating Officer's draft findings of fact and reasons;
- 5.2.8. The Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- 5.2.9. That the Investigating Officer will present a final report once they have considered any comments received on the draft.

- 5.3.** Once the Investigating Officer has received any responses from the

Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL' and 'CONFIDENTIAL'.

6. Consideration of Investigating Officer's final report

6.1. The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

6.2. Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

6.3. Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

6.3.1. Take no action; or

6.3.2. Seek informal resolution; or

6.3.3. Refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 2 to these Arrangements.

7. Confidentiality

7.1. The procedures detailed in this Annex are all treated as confidential to those involved in the process. Some details (which would include names and addresses) may be personal data, subject to data protection laws, some content of statements or reports may be otherwise private or confidential or, may be potentially defamatory if published.

7.2. Whilst non-members are not covered by the Code of Conduct (e.g., members of the public, witnesses and non-councillor complainants) if,

they do decide to publish details of the complaint they may expose themselves to liability in defamation (if information turns out to be untrue) or to other liabilities e.g., for breach of confidence, or for breach of data protection laws which could arise even where the information is true. Non-members may wish to seek their own legal advice.

ANNEX 3**HEARING PANEL PROCEDURE**

~~Para.~~ ~~Annex 3: Hearing Panel Procedure~~

1. Pre-Hearing Procedure

1.1. In order to allow the hearing to proceed fairly and efficiently, the Monitoring Officer may in appropriate cases use a pre-hearing procedure to identify:

1.1.1. Which facts in the investigation report are agreed and which are in dispute.

1.1.2. Whether there is fresh evidence not mentioned in the investigation report which will be put before the hearing.

1.1.3. Whether there is documentary evidence which a party intends to put before the hearing.

1.1.4. Whether the parties intend to attend, whether the parties intend to be represented in accordance with paragraph 3 and, if so, by whom, the number and identity of witnesses to be called.

1.1.5. Whether the Subject Member requests the whole or any part of the hearing to be held in private.

1.1.6. Whether the Subject Member requests the whole or any part of the investigation report or other relevant documents to be withheld from the public.

1.2. The Monitoring Officer will notify the parties of the date, time, and place for the hearing.

2. Rules of procedure

2.1. The Hearing Panel consists of three voting elected Members ~~plus one non-voting Parish Councillor when a Parish Councillor is the subject of a complaint~~ drawn from the Audit, Governance and Standards Committee, one of whom shall be elected as Chairman.

- 2.2.** The quorum for a meeting of the Hearing Panel is three elected Members ~~plus one non-voting Parish Councillor when a Parish Councillor is the subject of a complaint.~~
- 2.3.** The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.
- 2.4.** The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The [presumption is that the hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member.](#) Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from meetings of the Hearing Panel ~~where it is likely that confidential or exempt information will be disclosed.~~
- 2.5.** Once a hearing has started, the Borough Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.
- 2.6.** All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.
- 2.7.** Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is

in the public interest to hear the allegations expeditiously.¹

3. Right to be accompanied by a representative

- 3.1.** The Subject Member may choose to be represented by counsel, a solicitor, or by any other person they wish. The panel does, however, have the right to require a representative to leave if that representative disrupts the hearing. However, an appropriate warning will be given before requiring a representative to leave the hearing~~accompanied and/or represented at the Hearing Panel by a fellow-Member, friend or colleague.~~

4. Order of Business~~The conduct of the hearing~~

- 4.1.** Subject to paragraph ~~3~~4.2 below, the order of business will be as follows:

- 4.1.1. Elect a Chairman;
- 4.1.2. Apologies for absence;
- 4.1.3. Declarations of interests;
- 4.1.4. In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- 4.1.5. Introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- 4.1.6. To receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- 4.1.7. To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

- 4.2.** The Chairman may exercise their discretion and amend the order of

¹ [Janik v Standards Board for England & Adjudication Panel for England \(2007\)](#)

business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

4.3. The Hearing Panel may adjourn the hearing at any time.

5. Presentation of the complaint

5.1. [The Monitoring Officer, legal advisor, or chairman may make an introductory statement outlining the nature of the complaint and the purpose of the hearing, and the procedure to be followed.](#)

5.2. The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted.²⁷

5.3. The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer.²⁷

5.4. The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

6. Presentation of the Subject Member's case

6.1. The Subject Member or their representative presents their case and calls their witnesses.²⁷

6.2. The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.²⁷

6.3. The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

7. Summing up

7.1. The Investigating Officer sums up the complaint.²⁷

7.2. The Subject Member or their representative sums up their case.

8. Views/Submissions of the Independent Person

8.1. The Chairman will invite the Independent Person to express their view on

whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

9. Deliberations of the Hearing Panel to be in Private

9.1. The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.

9.2. The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

10. Announcing Decision on Facts Found

10.1. The Hearing Panel will reconvene the hearing in public ([if the public have not been excluded from the proceedings](#)) and the Chairman will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct

10.2. Where the Hearing Panel considers that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.

10.3. When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

10.3.1. What was the Subject Member's intention and did they know that they were failing to follow the Borough or Parish/[Town](#) Council's Code of Conduct?

- 10.3.2. Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- 10.3.3. Has there been a breach of trust?
- 10.3.4. Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
- 10.3.5. What was the result/impact of failing to follow the Borough or Parish/[Town](#) Council's Code of Conduct?
- 10.3.6. How serious was the incident?
- 10.3.7. Does the Subject Member accept that they were at fault?
- 10.3.8. Did the Subject Member apologise to the relevant persons?
- 10.3.9. Has the Subject Member previously been reprimanded or warned for similar misconduct?
- 10.3.10. Has the Subject Member previously breached of the Borough or Parish/[Town](#) Council's Code of Conduct?
- 10.3.11. Is there likely to be a repetition of the incident?

10.4. [Mitigating factors may include:](#)

- 10.4.1. [An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.](#)
- 10.4.2. [A councillor's previous record of good service.](#)
- 10.4.3. [Substantiated evidence that the councillor's actions have been affected by ill-health.](#)
- 10.4.4. [Recognition that there has been a failure to follow the Code.](#)
- 10.4.5. [Co-operation in rectifying the effects of that failure.](#)
- 10.4.6. [An apology to affected persons where that is appropriate.](#)
- 10.4.7. [Self-reporting of the breach by the councillor.](#)

10.4.8. [Compliance with the Code since the events giving rise to the complaint.](#)

10.5. [Aggravating factors may include:](#)

10.5.1. [Dishonesty or breaches of trust.](#)

10.5.2. [Tying to gain an advantage or disadvantage for themselves or others.](#)

10.5.3. [Bullying.](#)

10.5.4. [Continuing to deny the facts despite clear contrary evidence.](#)

10.5.5. [Seeking unfairly to blame other people.](#)

10.5.6. [Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.](#)

10.5.7. [Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.](#)

10.6. [Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.](#)

~~If evidence presented to the Hearing Panel highlights other potential breaches of the Borough or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.~~ **Final**

Decision

10.7. Where the complaint has a number of [elements](#)~~aspects~~, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.

10.8. The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.

10.9. Having taken into account the Independent Person, the Subject Member and the Monitoring Officer's representations on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the

Chairman will announce:

- 10.9.1. ~~€~~The Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision.~~†~~
- 10.9.2. ~~€~~The sanctions (if any) to be applied.~~†~~
- 10.9.3. ~~€~~The recommendations (if any) to be made to the Borough or Parish/Town Council or Monitoring Officer.~~†~~
- 10.9.4. ~~€~~That there is no right of appeal against the Panel's decision and/or recommendations.

11. Range of possible sanctions

11.1. Where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:

- 11.1.1. Report its findings in respect of the subject member's conduct to the Council (or the relevant Parish Council).
- 11.1.2. Issue (or recommend to the Parish Council to issue) a formal censure (i.e., the issue of an unfavourable opinion or judgement or reprimand).
- 11.1.3. Recommend to the leader of the authority that the Subject Member be removed from positions of responsibility.
- 11.1.4. Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member.
- 11.1.5. Recommend to Council (or recommend to the Parish Council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish Council).
- 11.1.6. Recommend to Council (or recommend to the Parish Council) that it withdraws facilities provided to the Subject Member by the authority for a specified period, such as a computer, website and/or email and internet access.

- 11.1.7. Recommend to Council (or recommend to the Parish Council) that it excludes the Subject Member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings, and/or restricts contact with officers to named officers only.
- 11.1.8. If relevant recommend to Council that the Subject Member be removed from their role as leader of the authority.
- 11.1.9. If relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.
- 11.1.10. Recommend that the Subject Member make an apology in respect of the conduct or take some other action to resolve the matter.

~~Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:—~~

~~11.1.11. Censuring the Subject Member or;~~

~~11.1.12. Recommending to the Subject Member's Group Leader or Parish Council, or in the case of an ungrouped Subject Member, to the Borough or Parish Council that they be removed from committees or sub-committees of the Council;~~

~~11.1.13. Instructing the Monitoring Officer [or recommending to the Parish Council] to arrange training for the Subject Member;~~

~~11.1.14. Recommending to the Borough or Parish Council that the Subject Member be removed from one or more outside appointments to which they have been appointed or nominated by the Borough or Parish Council;~~

~~11.1.15. Recommending to the Borough or Parish Council that it withdraws facilities provided to the Subject Member by the~~

~~Council, such as a computer, website and/or email and internet access;~~

~~11.1.16. Recommending to the Borough or Parish Council the exclusion of the Subject Member from the Borough or Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending Borough or Parish Council committee and sub-committee meetings;~~

~~11.1.17. Reporting the Panel's findings to the Borough or Parish Council for information;~~

~~11.1.18. Instructing the Monitoring Officer to apply the informal resolution process;~~

~~11.1.19. Sending a formal letter to the Subject Member;~~

~~11.1.20. Recommending to the Borough or Parish Council to issue press release or other form of publicity;~~

~~11.1.21. Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.~~

11.2. Where the Subject Member is a Parish or Town councillor, the matter is referred back to their Council to say that a breach of the Code has been found and with a recommended sanction. The Town or Parish Council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has been a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the Monitoring Officer. The panel should also ask the Parish or Council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.

11.3. Note that under the Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.

11.4. The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

- 11.5.** The Hearing Panel may specify or recommend that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

~~**Publication and notification of the Hearing Panel's decision and recommendations**~~

~~Within 10 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the Borough Council's website.~~

~~Within 10 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:~~

~~11.5.1. The Subject Member;~~

~~11.5.2. The Complainant;~~

~~11.5.3. the Clerk to the Parish Council;~~

~~11.5.4. Kent County Council's Standards Committee (applicable only where the Subject Member is serving at both Borough and County level);~~

~~11.5.5. the Borough Council's Audit, Governance and Standards Committee (applicable only where the Subject Member is serving at both Borough and County level).~~

~~The Monitoring Officer will report the Hearing Panel's decision and recommendations to the next ordinary meeting of the Audit, Governance and Standards Committee for information.~~

~~[1] Janik v Standards Board for England & Adjudication Panel for England (2007)~~

12. Publicising the Findings

- 12.1.** The Monitoring Officer should arrange for a decision notice to be published on the website of any authorities concerned. A template decision notice is appended which may be used for these purposes.
- 12.2.** If the panel finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.
- 12.3.** If the panel finds that the Subject Member failed to follow the Code but that no action is needed, the public summary should:
- 12.3.1. Say that the councillor failed to follow the Code, but that no action needs to be taken.
 - 12.3.2. Outline what happened.
 - 12.3.3. Give reasons for the panel's decision not to take any action.
- 12.4.** If the panel finds that a councillor failed to follow the Code and it imposed or recommended a sanction or other action, the public summary should:
- 12.4.1. Say that the councillor failed to follow the Code.
 - 12.4.2. Outline what happened.
 - 12.4.3. Explain what sanction has been imposed.
 - 12.4.4. Give reasons for the decision made by the panel.
- 12.5.** The panel's reports and minutes should be available for public inspection in the same way as other local authority committee papers.
- 13.** **Appeals**
- 13.1.** Given that the framework and sanctions are meant to be light-touch and proportionate, there is no right of appeal against a decision on a Code of Conduct complaint.

TEMPLATE - DECISION NOTICE (of Hearing Panel)

Complaint No: [\[insert\]](#)~~xxxx~~

On *[insert date]*, the Hearing Panel of Maidstone Borough Council considered a report of an investigation into the alleged conduct of *[insert name of councillorMember]*, a member of *[insert authority name]*. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the *[insert authority name]* Code of Conduct warrants a *[detail sanctions applied]*.

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- [Councillor Member](#)–[name of [CouncillorMember](#)]
- Complainant
- Monitoring Officer
- [Clerk to the xxxx Parish/[Town](#) Council];

- Kent County Council's Monitoring Officer [*applicable only where the [Councillor Member](#) is serving at both Borough and County level*]

Additional help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [*insert telephone number*] or email [*insert email address*].

Signed:

[Date:](#)

Print name:

Chairman of the Hearing Panel