

A meeting of the above Committee will be held in the Town Hall, Royal Leamington Spa on Thursday 5 May 2022, at 6.00pm and available for the public to watch via the Warwick District Council [YouTube channel](#).

Councillor R Margrave (Chairman)

Councillor M Ashford
Councillor A Dearing
Councillor J Dearing
Councillor K Dickson
Councillor C Gifford

Councillor G Illingworth
Councillor T Morris
Councillor P Redford
Councillor J Tracey
Vacancy – Labour Group

Although not members of the Committee, Ms Pyke and Mr Tomkinson, the Council's Independent Persons for Standards matters, normally attend.

Agenda

1. Apologies & Substitutes

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

2. Declarations of Interest

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. Minutes

To confirm the minutes of the meeting held on 16 February 2022. **(Pages 1 to 3)**

4. LGA Model Councillor Code of Conduct-Ancillary Documents

To consider a report from Democratic Services.

(Pages 1 to 4 and Appendices 1 to 8)

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 456114

E-Mail: committee@warwickdc.gov.uk

For enquiries about specific reports, please contact the officers named in the reports.

You can e-mail the members of the Committee at

standardscommittee@warwickdc.gov.uk

Details of all the Council's committees, councillors and agenda papers are available via our website on the [Committees page](#)

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The agenda is available in large print on request,
prior to the meeting, by telephoning (01926)
456114

Title: LGA Model Councillor Code of Conduct-Ancillary Documents
Lead Officer: Graham Leach Democratic Services Manager & Deputy
Monitoring Officer (01926 456114)
Portfolio Holder: Councillor Andrew Day
Wards of the District directly affected: None

Summary

To seek approval of documents necessary for administering the Local Government Association (LGA) Councillor Code of Conduct in compliance with the Localism Act 2011.

Recommendations

- (1) That the Standards Committee approve documents set out in Appendices 1 to 7 to the report, as listed below, be approved;
Appendix 1 - Declaration of Interests Form
Appendix 2 - Gifts and Hospitality Form
Appendix 3 - Complaint Form
Appendix 4 - Complaints Procedure
Appendix 5 - Hearing Procedure
Appendix 6 - Independent Person Role and Protocol
Appendix 7 - Police Protocol
- (2) The Standards Committee endorses the approach of co-opting two Parish/Town Council representatives to the new Audit & Standards Committee and recommends to the new Committee the approach for appointment of the representatives as set out at Appendix 8; and
- (3) That the Standards Committee recommends to Council that the Monitoring Officer be authorised to make any future changes to the Appendices as may be necessary, in consultation with the Chairman of the Audit & Standards Committee, and that the Constitution be amended accordingly.

1 Background/Information

- 1.1 At its meeting on 23 February, Council adopted the latest version of the LGA Model Code of Conduct for Councillors, to come into operation on 1 May 2022. It also agreed to promote the Code for adoption by all town and parish councils in the District.
- 1.2 Since then, three training sessions have been successfully delivered to members of Stratford-on-Avon District Council (SDC), Warwick District Council (WDC) and Chairmen and Clerks of town and parish councils within the two districts, which attracted over 150 attendees.
- 1.3 Meanwhile, at its meeting on 16 February, the Standards Committee approved administrative forms for declaring interests, gifts and hospitality and making complaints. Those documents are now set out in Appendices 1-3 for approval.
- 1.4 The report for the meeting on 16 February explained that further procedural documents would be reviewed with the aim of combining them into a single set

of standard documents for both Councils. Those documents are now set out in Appendices 4-7 for approval.

- 1.5 At the 16 February meeting, the Committee was informed that the further documents would be reviewed by a small working party consisting of an Independent Person from Stratford and Warwick and the Chairs of the relevant Committees. The documents forming Appendices 1 to 7 were subject to review and minor amendments made as a result. These were based on procedures in place at both Stratford and Warwick, where there were generally minimal differences in approach, with the more significant changes being for Stratford with the greater emphasis on earlier resolution of a complaint.
- 1.6 Appendix 8 was not considered by the Working Group as this was not produced until after it met. During discussions over recent months, Councillors have been keen to enhance working relationships with Parish & Town Councils. Officers considered a small step towards this would be to provide them with the opportunity to be represented on the Audit & Standards Committee. This would enable direct input for Parish & Town Councils on matters relating to the Code of Conduct for Councillors but also enables them a voice on other matters within the remit of the Committee. However, as they will be co-opted to the Committee they will not be permitted, by law, to vote on any item. The procedure outlined is the approach used by Warwick previously.
- 1.7 To save having to bring these administrative documents back to the Committee on future occasions, Members are requested to authorise the Monitoring Officer to make any future changes to the documents within the appendices as may be necessary, in consultation with the Audit & Standards Committee Chairman.

2 Alternative Options available

- 2.1 The Committee could make amendments to the documents if they were so minded but they are built upon work over a number of years.

3 Consultation and Members' comments

- 3.1 Appendices 1 to 7 have been approved by the Working Group set up to review them as set out at Paragraph 1.5.

4 Implications of the proposal

4.1 Legal/Human Rights Implications

- 4.1.1 The Localism Act 2011 provides the legal basis for the regulation of standards of conduct by councillors and co-opted members of local authorities in England. The documents set out in the appendices are considered to comply with these legal requirements.

4.2 Financial

- 4.2.1 There are no direct implications.

4.3 Council Plan

- 4.3.1 There are no direct implications.

4.4 Environmental/Climate Change Implications

- 4.4.1 There are no direct implications.

4.5 Analysis of the effects on Equality

- 4.5.1 There are no direct implications.

4.6 Data Protection

4.6.1 The Localism Act 2011 and related Regulations requires publication of certain personal information provided by councillors as part of the wider public interest for openness and transparency. However, by exception the Act also expects such information to be kept confidential in limited circumstances.

4.7 **Health and Wellbeing**

4.7.1 There are no direct implications.

5 Risk Assessment

5.1 The main risk is the not adoption of the documents to support that came into force on 1 May 2022. If these are not adopted the Council would need to fall back on its current documents that do not fully reflect the new Code..

Background papers: NONE

Supporting documents: LGA Code of Conduct and supporting guidance, which is accessible via the [LGA website](#).

Report Information Sheet

Please complete and submit to Democratic Services with draft report

Committee/Date	5 May 2022	
Title of report	LGA Model Councillor Code of Conduct-Ancillary Documents	
Consultations undertaken		
Consultee *required	Date	Details of consultation /comments received
Ward Member(s)	N	
Portfolio Holder WDC	Y	Leader
Financial Services *	N	
Legal Services *	Y	Phil Grafton
Other Services	N	
Chief Executive(s)	N	
Head of Service(s)	Y	Phil Grafton
Section 151 Officer	N	
Monitoring Officer	Y	Phil Grafton
CMT (WDC)	N	
Leadership Co-ordination Group (WDC)	N	
Other organisations	N/A	
Final decision by this Committee or rec to another Ctte/Council?		No, one recommendation to Council on the scheme of delegation.
Contrary to Policy/Budget framework		No
Does this report contain exempt info/Confidential? If so, which paragraph(s)?		No
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?		No
Accessibility Checked?		Yes

Public Register of Members' Interests

Important: Please

1. Read the notes below before completing each section of the form
2. Remember that the interests to be notified include those of your spouse/partner as detailed on page 1 of the notes (these will not be shown separately on the website that displays the public register)
3. Write Clearly
4. Do NOT include any abbreviations or acronyms
5. Ensure that you enter "None" in any of the boxes under headings where there is nothing to be registered
6. Ensure that you sign and date the notification
7. Remember to keep your register of interests up to date, as this is a legal duty. Inform the MO when your interests change and complete a new form if required to do so.
8. Be aware that it is an offence to fail to register interests in accordance with the Localism Act 2011

Notes and Guidance

When should the Monitoring Officer be notified of disclosable pecuniary interests?

As a member or co-opted member you must, before the end of 28 days beginning with the day on which you became a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which you or your spouse or civil partner or equivalent have at the time when the notification is given. It is important to keep your register of interests up to date.

On re-election or re-appointment as a member or co-opted member you should notify the Monitoring Officer of any disclosable pecuniary interests which you or your spouse or civil partner or equivalent have, and which you have not previously notified. You should do this before the end of 28 days beginning with the day on which you were re-elected or re-appointed.

Following any disclosure of an interest not on the council's register or the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure. (A pending notification is one where the Monitoring Officer has been notified of the interest but it has not yet been entered in the register).

Sensitive Information

If you have an interest the nature of which is that you and the Monitoring Officer considers that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, then details of that interest will be excluded from the public register. Instead, the register will state that you or your spouse or civil partner or equivalent have an interest, the details of which are withheld because of this provision.

Please contact the Monitoring Officer if you wish to discuss this subject.

Whose interests must be included?

The Act provides that the interests which must be notified are those of a member or co-opted member of the authority, **or**

- those of a spouse or civil partner of the member or co-opted member
- those of a person with whom the member or co-opted member is living as husband/wife
- those of a person with whom the member or co-opted member is living as if they were civil partners

in each case where the member or co-opted member is aware that the other person has the interest.

Part A – Disclosable Pecuniary Interests

Section 1: Employment etc.

You must include details of, **“any employment, office, trade, profession or vocation carried on for profit or gain”**.

Please ensure that

- you include a short description of the activity concerned: for example, "Computer Operator" or "Accountant"
- you give the name of any employer, e.g. the company which pays your salary or wages
- where an office is held, the name of the person or body who made the appointment is given

Please note that

- the Monitoring Officer does not consider that receiving a basic or special responsibility allowance further to council duties to be a disclosable pecuniary interest
- there is no need to enter (as examples) “retired” or “retired doctor” – if there is nothing which applies to you or your spouse/partner under this section, please simply enter “None”.

Section 2: Sponsorship

You must include details of, **“any payment or provision of any other financial benefit (other than from the Council of which you are a member or co-opted member) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member, or towards your election expenses. (The “relevant period” being the period of twelve months ending with the day when you make a notification). This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.”**

Please note

- the time period mentioned in the section “When should the monitoring officer be notified of disclosable pecuniary interests”
- allowances received or paid by other Council’s should be declared in this section

Section 3: Contracts

You must include details of, “any contract between you, or your spouse, civil partner or equivalent, or a body in which either of you have a beneficial interest, and the council of which you are a member or co-opted member:

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged”
 1. A body in which you or your spouse, civil partner or equivalent have a beneficial interest means a firm in which you/they are a partner, or a body corporate of which you/they are a director, or in the securities of which you/they have a beneficial interest).
 2. “Director” includes a member of the committee of management of an industrial and provident society.

Section 4: Land and Property

You must include details of,

“any land which is within the area of your Council in which you or your spouse, civil partner or equivalent have a beneficial interest.”

3. Land excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or your spouse, civil partner or equivalent (alone or jointly with another) to occupy the land or to receive income.

Please ensure that:

- you give the address or a brief description to identify the land and property
- if you live in the area of the Council of which you are a member or co-opted member, you include your home under this heading as owner, lessee or tenant

Please remember that:

- this provision is likely to include the address where you live
- the requirement relates only to land in the area of the Council in respect of which you are making the notification

Section 5: Licences

You must include details of, “any land which is within the area of your Council for which you or your spouse, civil partner or equivalent hold a licence (alone or jointly with others) to occupy for a month or longer.”

Please **ensure** that you give the address or a brief description to identify the land.

Section 6: Corporate Tenancies

You must include details of, **“any tenancy where (to your knowledge)**

- **the landlord is the Council of which you are a member or co-opted member** and;
- **the tenant is a body in which you or your spouse, civil partner or equivalent have a beneficial interest.”**

Please note

- A body in which you or your spouse, civil partner or equivalent have a beneficial interest means a firm in which you/they are a partner, or a body corporate of which you/they are a director, or in the securities of which you/they have a beneficial interest.
- “Director” includes a member of the committee of management of an industrial and provident society.

Section 7: Securities

You must include details of, “any beneficial interest of you or your spouse, civil partner or equivalent in securities of a body where:

That body (to your knowledge) has a place of business or land in the area of the council of which you are a member or co-opted member, and either,

- the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your spouse, civil partner or equivalent have a beneficial interest exceeds one hundredth of the total issued share capital of that class.”

Please note

- “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
- You do not have to show the extent of your interest.

Part B-Other Registerable Interests

Section 8

In this section of the form, you are required to disclose:

- 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

Register of Members' Interests

I,, a member of..... Council, give notice that I have set out below the Disclosable Pecuniary Interests which are required to be notified to the Monitoring Officer further to the provisions of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations, and other registerable interests as required by my code of conduct.

PART A

1. Employment, office, trade, profession or vocation

Member or co-opted Member	Spouse, civil partner or equivalent

2. Sponsorship

Member or co-opted Member	Spouse, civil partner or equivalent
	Not applicable

3. Contracts

Member or co-opted Member	Spouse, civil partner or equivalent

4. Land and Property

Member or co-opted Member	Spouse, civil partner or equivalent

5. Licences

Member or co-opted Member	Spouse, civil partner or equivalent

6. Corporate tenancies

Member or co-opted Member	Spouse, civil partner or equivalent

7. Securities

Member or co-opted Member	Spouse, civil partner or equivalent

Part B

8. Other Registerable Interests

Member or co-opted Member	Spouse, civil partner or equivalent
	Not applicable

Date received

Signed.....

Councillor

Date.....

Signed.....

Monitoring Officer

Date.....

Document Control

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Notification by a Member of the Council of the Receipt of a Gift or Hospitality over the value of £50.00

This form enables you to notify the Monitoring Officer where you have been offered a gift or hospitality over the value of £50, and to declare what action you have taken in respect of the offer. These details will be placed onto a public register held by the Monitoring Officer.

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 declare 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, please contact your Monitoring Officer for guidance.

I,

a Member ofCouncil, give notice that I have been offered the following gift(s) / hospitality (*delete whichever does not apply*) over the value of £50.00:

(a) *Date(s) of offer of gift(s) / hospitality*

(b) *Name(s) and address(es) of donor(s)*

(c) *Approximate value of gift(s)/hospitality*

(d) *Nature of gift(s) and / or hospitality*

(e) *Action taken and reason (Accepted/Refused/Passed to charity/etc.)*

Date:

Signed:

NOTE: This notification must be given by the Member to the Monitoring Officer of the District Council within 28 days of being offered any gift or hospitality over the value of £50.00



Warwick District Council Complaint of Councillor Misconduct

Warwick District Council has a Monitoring Officer. If you have any questions or difficulties filling in this form or you are in need of any support in completing your complaint, please email the monitoringofficer@warwickdc.gov.uk or call 01926 456114 and ask for the Monitoring Officer.

If you are completing this form in handwriting please write clearly and in ink.

Please note

1. Complaints can only be accepted in writing
2. An officer from the Council may contact you personally to go through the details of your complaint
3. The Council is unlikely to be able to keep your identity or the information you have provided confidential. If you have serious concerns about disclosure of your name and the details of your complaint, please complete Section Four on confidential information.

Section One - Your details

Please provide us with your name and contact details

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

Please tick the appropriate box to tell us which complainant type best describes you:

	Member of the public
	An elected or co-opted member of a Council (if applicable, please state which Council)
	Local authority monitoring officer
	Other council officer or authority employee
	Other (Please specify):

Section Two: Who and what are you complaining about?

If you are complaining about more than one person, please complete a separate form for each.

i. Who are you complaining about?

Full Name	
Name of Council	

ii. Please tick the relevant box(es) below to show which part(s) of the Code you feel has/have been breached.

	Respect
	Bullying, harassment and discrimination
	Compromising the impartiality of officers of the council
	Confidentiality and access to information
	Disrepute
	Use of position
	Use of local authority resources and facilities
	Complying with the Code of Conduct
	Declaration of Interests
	Gifts and hospitality

iii. What is the misconduct you are complaining about?

iv. On what date(s) did this happen and where?

--

v. Why do you believe the councillor was acting in their capacity as a councillor when the alleged misconduct happened?

--

vi. Evidence

Please attach to this form, copies of any correspondence, documents, or other evidence that you feel is relevant to your complaint. However, we do not need extensive background information; limit yourself to what is really relevant.

Please briefly describe the documents you are enclosing:

1.	
2.	
3.	

Tick this box if you would like us to return the evidence to you.

vii. Witnesses (if any)

Please tell us the names and details of any witnesses:

	First Name	Last Name	Address/Phone Number
1.			
2.			
3.			

Section Three: Settling of your complaint.

One option is an informal settlement of your complaint without the need for a formal investigation. Please use the box below to tell us whether you feel this might be possible in this case and, if so, could you suggest how?

--

Section Four: Confidential Information (this part only applies if you are asking for your identity to be kept confidential)

In the interests of fairness and natural justice, we believe Councillors who are complained about have a right to know who has made the complaint. We also believe that they have a right to be provided with a summary of the complaint that will contain your contact details and/or the contact details of any witness.

We are very unlikely to withhold your identity or the details of your complaint unless we have good reason to believe that if your identity is disclosed:

1. You have reasonable grounds to believe you will be at risk of physical harm or;
2. You are an officer working closely with the Member in question and you fear the employment consequences or,
3. It would create medical risks associated with a serious health condition.

Requests to keep your name confidential will not automatically be granted. However, if you have made such a request you will be contacted and advised of the decision and, if your request is not granted, we will allow you the option of requesting the withdrawal of your complaint.

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

Declaration

Please consider the complaint I have described above and the evidence attached. I understand and accept that the details will normally be disclosed to the Councillor and any parties involved in the complaints procedure. It may also be shared with the police in the prevention or detection of crime.

I confirm that the information given on this form is correct to the best of my knowledge.

Signature: _____ Date: _____

Please send this form together with any attachments by email to by e-mail to monitoringofficer@warwickdc.gov.uk

Alternatively you can post it to
Monitoring officer
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
Cv32 5HZ

HOW YOUR INFORMATION IS USED. Warwick District Council will use the information that you provide for the administration of its complaints system (including sharing information with the subject councillor and Independent Persons). We may also share your information with other parties to whom your comments relate. We do this in the exercise of our official duty.

Your personal data will be held in accordance with our Retention and Destruction Policy which is available on our website. To discuss your right to request access to, rectification, restriction, portability or erasure of your personal data, or to object to the way that we process your personal data, please visit or www.warwickdc.gov.uk/privacy You can contact our shared Data Protection Officer via email at dpo@warwickdc.gov.uk or by telephone on the mainline number 01926 456136

Document Control

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Warwick District Council
Arrangements for Dealing with Councillor Misconduct
Complaints Procedure

1. Background

- 1.1 The Localism Act 2011 requires local authorities, including each district, town and parish council to adopt a code of conduct to regulate the behaviour of its councillors. In this document the term "councillor" or "member" means any Councillor or co-opted member of and Warwick District Council (WDC).

In addition, district councils such as WDC must also have arrangements in place to investigate and settle allegations that a Councillor, or co-opted Councillor of a Committee or Sub-Committee of the authority (or of a Parish/Town Council within the authority's area), has broken the Council's Code of Councillors' Conduct. Warwick District Council (WDC) has adopted this Procedure for that purpose.

- 1.2 The Procedure sets out how to make such a complaint and how the Monitoring Officer will deal with complaints about the Conduct of Councillors.
- 1.3 The Council is required by law to appoint at least one Independent Person, whose views must be sought before it takes a decision whether or not to investigate a complaint, and whose views can be sought at any other stage of the complaints process, or by a Councillor or co-opted Member (or a Councillor or co-opted Member of a Parish/Town Council) against whom a complaint has been made.
- 1.4 An Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is then appointed by a positive vote from a majority of all the Councillors of the Council. The job description and a protocol for the role are available on both Councils websites.
- 1.5 Warwick District Council has appointed two Independent Persons each. When a formal complaint is received the Monitoring Officer will seek views from at least one Independent Person appointed by that Council.

2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct, which is available for inspection on the authority's website or as a hard copy on request from the Monitoring Officer.
- 2.2 Each Parish/Town Council is also required to adopt a Code of Conduct. Parish/Town Council's Code of Conduct can be requested from Parish/Town Council Clerk or may be available via the Parish/Town Council website.

3. Making a Complaint

- 3.1 A complaint regarding the conduct of a Councillor, should be made using the complaint form which is available on line. This can then be sent via email to the monitoringofficer@warwickdc.gov.uk or call 01926 456114. Alternatively write to:

Monitoring Officer
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5HZ

- 3.2 The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.
- 3.3. In the interests of fairness and natural justice, Councillors who are complained about have a right to know who has made the complaint and have a right to be provided with a copy (or by exception a summary) of the complaint. It is unlikely that the identity of the complainant or the details of a complaint will be withheld unless there is good reason to believe that if the complainants identity is disclosed:-
- 3.3.1 the complainant has reasonable grounds to believe they will be at risk of physical harm or;
- 3.3.2 the complainant is an officer working closely with the Councillor in question and they fear the employment consequences or,
- 3.3.3 it would create medical risks associated with a serious health condition.
- 3.4. Requests to keep the complainants name and address confidential will not automatically be granted. However, if the complainant has made such a request they will be contacted and advised of the decision,.
- 3.5. The Complaint Form should be completed and sent to the Monitoring Officer with any supporting evidence in writing. In completing the form, it should identify the particular provision(s) of the Code of Conduct that has allegedly been breached. The Monitoring Officer will acknowledge receipt of the complaint, within three working days and will keep the complainant informed of the progress of the complaint.
- 3.6 The Monitoring Officer normally expect, unless there are exceptional circumstances, a complaint to be made within 3 months of the potential breach of the Code of Conduct occurring. Where a complaint is received outside this time limit the Monitoring Officer will consult with the Independent Person(s) as to whether the complaint should progress.
- 3.7 It should be noted that if a complainant seeks to withdraw the complaint, or the Councillor ceases to be a Councillor, at any stage, the Monitoring Officer reserves the right to continue with the determination of a complaint if he considers that it is in the public interest to do so.

4. Stage 1: Initial Assessment of the Complaint

- 4.1. The Monitoring Officer will review the complaint and decide if it warrants a full investigation. This is done against a set of relevant questions and in consultation with the Independent Person (s).

- 4.2 Where they require additional information in order to come to a decision, they may seek such information.
- 4.3 In the case of a complaint by an employee of the Council about a Councillor of the Council they work for, the Monitoring Officer will normally, before taking any further steps, expect there to have been a meeting between the Chief Executive, the Councillor and their Group Leader to discuss the complaint to try and resolve it informally. In the case of the Parish or Town Council the meeting could be between the relevant parties along with the Clerk to the Council and the Mayor/Chairman.
- 4.4 In the case of a complaint by a Councillor about a fellow Councillor of that same Council the Monitoring Officer will, before taking any further steps, expect there to have been a meeting between the Councillors and, if appropriate/applicable, their relevant Group Leader(s) to discuss the complaint to try and resolve it informally.
- 4.5 If in the cases, explained at 4.3 and 4.4, a meeting has not taken place the Monitoring Officer will expect an explanation as to why this has not occurred. If a meeting has taken place, it will not exclude the Monitoring Officer also trying this approach as a local resolution before considering a complaint.
- 4.6 Where a complaint relates to a Parish/Town Councillor, The Monitoring Officer will also inform the Parish/Town Council Clerk of the complaint. If requested, the Parish/Town Council will provide any relevant documents or information to the Monitoring Officer to assist them with the initial assessment. The Monitoring Officer may also seek to involve officers of the Parish/Town Council in a process of local resolution before deciding whether the complaint merits full investigation.
- 4.7 The Monitoring Officer will inform the Councillor, and for a District Council their Group Leader, of the substance of the complaint, unless they think it is not appropriate to do so, for example if by doing so any investigation would be affected, or there might be a risk that evidence could be destroyed.
- 4.8 Where the Monitoring Officer informs the Councillor of the substance of the complaint they will also:
- 4.8.1. Tell the Councillor the paragraphs of the Code of Conduct that may have been breached
 - 4.8.2 Provide an opportunity for the Councillor to comment on the complaint.
- 4.9 The Monitoring Officer will always seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, mediation between the parties through one of the Independent Persons, or any other remedial action that is considered appropriate.
- 4.10 Where the Councillor concerned, or the Council, makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 4.11. In deciding whether the complaint merits full investigation the Monitoring Officer will apply criteria, which are designed to promote confidence that complaints will be taken seriously and dealt with properly. They also reflect the fact that any decision to investigate a complaint will cost public money and both officer and Councillor time. The criteria are designed to balance the need to promote confidence in local governance with the need to ensure that public resources are applied appropriately. The criteria are as follows:-
- 4.11.1 Public interest – The Monitoring Officer must be satisfied that an investigation would be in the public interest, taking into account the time and cost involved. If the Monitoring Officer is not satisfied, they will decide not to investigate:
 - 4.11.2 Sufficient information – The complainant must specifically identify the part(s) of the Code which they feels have not been complied with, clearly explain why this is the case and provide sufficient information to warrant an investigation. If not the Monitoring Officer will take no further action unless additional information is provided by the complainant.
 - 4.11.3 Previous action – If there has already been an investigation or some other action under the Code of Conduct or by another regulatory body in relation to the complaint, the Monitoring Officer will not normally decide to investigate, although they may do so in certain circumstances (for example, if a criminal charge was dropped).
 - 4.11.4 Repeated complaints –If the complaint is the same or substantially the same as one previously dealt with, the Monitoring Officer will normally decide not to investigate.
 - 4.11.5 Timing – If there is a significant delay between the incident complained of and the submission of the complaint, the matter will not normally be investigated.
 - 4.11.6 Trivial matters – If the Monitoring Officer takes the view that the matter is not sufficiently serious to warrant further action, no further action will be taken, unless there are compelling reasons to do so.
 - 4.11.7 Ulterior motive - If it appears to the Monitoring Officer that the complaint is motivated by malice or retaliation, no further action will be taken unless it involves a serious allegation.
 - 4.11.8 Special circumstances – There may be circumstances where the Monitoring Officer takes the view that an investigation should occur even though the application of these criteria would suggest otherwise. For example, if a very serious allegation was made after a long delay, it may be appropriate to investigate notwithstanding the delay.
- These criteria are for general guidance and will be applied in the light of particular circumstances of each case.
- 4.11.9 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or agreeing to other remedial action suggested by the authority. Where the Councillor or the authority makes a reasonable offer of local resolution, but the complainant is willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 4.11.10 If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to refer the matter to Police and other regulatory agencies.
- 4.11.11 Once the initial assessment is complete, the Monitoring Officer will write to the relevant parties to inform them of their decision and give reasons for it.

5. Actions Available to the Monitoring Officer after Stage1

- 5.1. The complaint could be rejected with reasons as outlined above in paragraph 4.11 and its sub-sections.
- 5.2 The complaint could be judged to have merit. Once this decision has been made there are three further options available to the Monitoring Officer.
 - 5.2.1 If there appears to be criminal misconduct, the Monitoring Officer will refer the case to the Police.
 - 5.5.2 The Monitoring Officer can attempt to resolve the complaint informally by getting the Councillor to acknowledge that their conduct was unacceptable and apologise, or engage in other remedial actions on behalf of the authority. Where the Councillor concerned, or the Council, makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
 - 5.2.3 The Monitoring Officer can appoint an Investigating Officer to fully investigate the complaint.

6. Stage 2: Full Investigation

- 6.1 If the Monitoring Officer decides that a complaint merits a full investigation, they will appoint a suitably qualified Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator.
- 6.2 Prior to appointing an Investigating Officer, the Monitoring Officer will require any such person to be able to demonstrate that they have the requisite skills, knowledge and experience to undertake the investigation to the required standards. In the case of a firm providing investigative services, the firm will be required to give assurance that the Investigating Officer will receive adequate levels and frequency of supervision.
- 6.3 Once instructed the Investigating Officer will be required to devise a suitable and robust investigation plan and a timetable for the investigation process. The investigation plan and timetable must be shared with and approved by the Monitoring Officer. The timetable will be shared with the complainant and the Councillor, save for exceptional circumstances. The Investigating Officer will advise the Monitoring Officer, the complainant and the Councillor if there are any changes to the timetable and the reasons for any delay.
- 6.4 The Investigating Officer will normally meet or speak to the complainant to understand the nature of the complaint and so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and whom the Investigating Officer needs to interview. If the Investigating Officer either cannot arrange to meet with the complainant or considers it is not necessary to meet with them, they will seek agreement to this from the Monitoring Officer.

- 6.5 The Investigating Officer will write to the Councillors against who complaint was made and provide them with a copy of the complaint and ask the Councillor to provide their explanation of events, and to identify what documents he needs to see and whom he needs to interview. In exceptional cases, where it is appropriate to keep the complainants identity confidential or disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can delete the complainants name and address from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.
- 6.6 At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the Councillor concerned, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration.
- 6.7 Having received and taken account of any comments which they may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer. This will include supporting evidence taking into account such matters as its degree of relevance and its sensitivity, and advise the Monitoring Officer accordingly
- 6.8 The Monitoring Officer will review the Investigating Officer's report after consulting with the Independent Person.
- 6.9 If the Monitoring Officer is not satisfied with the investigation, they may ask the Investigating Officer to reconsider their report. The Investigating Officer will review the report and feedback from the Monitoring Officer prior to sending the final revised report for approval.

7. Actions Available to the Monitoring Officer after Stage 2

- 7.1. When the Monitoring Officer is satisfied with the Investigating Officer's report, they will write to the complainant and to the Councillor concerned notifying them of their decision. They will also write to the Parish/Town Council Clerk, (where the complaint relates to a Parish/Town Councillor), and in the case of a District Councillor their Group Leader with a copy of the decision.
- 7.2 If the Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, they will inform the relevant parties that no further action is required, and give both a copy of the Investigating Officer's final report.
- 7.3 If the Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct, they will then either refer the matter for hearing before a panel of Councillors drawn from the Audit and Standards Committee or, after consulting an Independent Person, seek local resolution and inform relevant parties accordingly.
- 7.4 Local Resolution
 - 7.4.1 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with an Independent Person and with the complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Standards Committee [and the Parish/Town Council] for information, but will take no further action.

Where the Councillor concerned, or the Council, makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

7.5. Hearing

7.5.1 If the Monitoring Officer considers that local resolution is not appropriate, or the Councillor concerned is not prepared to undertake any proposed remedial action then the Monitoring Officer will refer the matter for hearing, the procedure for which is accessible on the Council's website. Under these procedures the Panel will conduct a hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

8. What action can the Panel take where a Councillor has failed to Comply with the Code of Conduct?

The sanctions that can be applied when a councillor has breached their code of conduct are limited by law.

- 8.1 The Council has delegated to the Panel such powers as are permitted by law to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct. Accordingly, the Panel may:
- 8.1.1 Censure or reprimand the Councillor;
 - 8.1.2 Publish its findings in respect of the Councillor's conduct;
 - 8.1.3 Report its findings to the Council [or to the Parish/Town Council] for information;
 - 8.1.4 Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to the Council or to Committees) that they be removed from any or all Committees or Sub-Committees working parties of the Council (See 8.2 below);
 - 8.1.5 Recommend to the Leader of the Council that the Councillor be removed from The Cabinet, or removed from particular Portfolio responsibilities(See 8.2 below);
 - 8.1.6 Recommend to Council that the Councillor be replaced as the Leader(See 8.2 below);
 - 8.1.7 Instruct the Monitoring Officer to [or recommend that the Parish/Town Council] arrange training for the Councillor;
 - 8.1.8 Recommend to Council or the Council Leader [or recommend to the Parish/Town Council] that the Councillor be removed from all outside appointments to which they have been appointed or nominated by the authority [or by the Parish/Town Council];
 - 8.1.9 Withdraw [or recommend to the Parish/Town Council that it withdraws] facilities provided to the Councillor by the Council, such as a computer, website and/or email and internet access; or
 - 8.1.10 Exclude [or recommend that the Parish/Town Council exclude] the Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.
- 8.2 The Panel, or the Council, has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances.

9 Appeals

- 9.1 There is no right of appeal against a decision of the Monitoring Officer, the Audit and Standards Committee or Hearing Panel.
- 9.2 Although, the complainant or the subject of the complaint may refer the Monitoring Officer's decision to the Local Government and Social Care Ombudsman if there is seen to be some fault in the way that they have considered the complaint and there is sufficient injustice to warrant their involvement.

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Warwick District Council

Procedures for Hearing Complaints against Councillors

Legal Status and Scope of these Procedures

1. Section 28 of the Localism Act 2011 requires Warwick District Council (WDC) to have arrangements in place to determine allegations of misconduct by a Member or co-opted member of WDC or of a Parish or Town Council within the area of either District.
2. WDC have adopted a separate Complaints Procedure for that purpose, and these Hearing Procedures apply where a hearing becomes necessary under Section 7.5 of the Complaints Procedure. If any discrepancy arises between the Complaints Procedure and these Hearing Procedures, these Procedures take precedence.

Definitions and General Principles

3. The following terms are defined for the purposes of this document:-
4. "Authority" or "The Council" means WDC or a Town/Parish Council within the districts of Warwick, whichever is the council whose code of conduct is alleged to have been breached by the Member.
5. "Code of Conduct" means the code of conduct applicable to the Authority at the material time in relation to allegation.
6. "Eligible Member" means a member or co-opted member of the Audit and Standards Committee who has completed a code of conduct training session provided or facilitated by the Monitoring Officer within the previous 12 months of being selected as a member of the Panel and who has attended a briefing on the Hearing Procedures prior to attending the relevant hearing.
7. "Member" means the member or co-opted member who is the subject of the allegation being considered by the Panel, and the term also includes the member's nominated representative.
8. "Monitoring Officer" means the person appointed by WDC under section 5 of the Local Government and Housing Act 1989, and includes any person designated by him to perform any functions under these procedures.
9. "Independent Person" means a person appointed by WDC under section 28 of the Localism Act 2011 and who will be invited to attend the Hearing to provide advice to the Panel.
10. "Investigating Officer" means the person commissioned by the Monitoring Officer to investigate the allegation, and the term includes the Investigating Officer's nominated representative.

11. "Panel" refers to a panel of three Eligible Members established as a sub-committee of the Audit and Standards Committee of WDC to hear and determine the allegation, the composition of which will be determined by the Monitoring Officer, in consultation with an Independent Person.
12. "Legal advisor" means the officer responsible for providing legal advice to the Panel. This may be the Monitoring Officer, another legally qualified officer of SDC or WDC or someone appointed for this purpose from outside the District Council.
13. If a member or prospective member of a Panel has any conflict of interest in relation to a complaint, they must have no involvement or no further involvement in dealing with the complaint. Any conflicts identified during the course of a matter will be managed appropriately by the Monitoring Officer.
14. The Hearing should normally take place within three months of the date when the Monitoring Officer has approved the investigation report of the Investigating Officer.
15. The investigation report and relevant documentary evidence will remain exempt from publication unless and until it has been decided to the contrary by the Monitoring Officer or, where the Member disputes the decision of the Monitoring Officer, by the Panel.
16. The Monitoring Officer shall act as legal advisor to the Panel, administer the pre-hearing process, determine whether a pre-hearing meeting of the Panel is necessary and fix the date of the Hearing.
17. The pre-hearing process will usually be conducted in writing. However, in certain circumstances a pre-hearing meeting of the Panel may be necessary e.g. to decide whether to limit the number of witnesses giving evidence on behalf of the Member, whether to release documents into the public domain (where disputed), or whether to hold any part of the hearing in private.

The Pre-Hearing

Step One

18. The Monitoring Officer will provide the Member with copies of the investigation report and these Procedures and will ask the Member to confirm in writing, usually within 14 days, whether they:-
 - disagree with any of the findings of fact in the Investigating Officers report, including the reasons for any disagreements
 - want to be represented at the hearing by a solicitor, barrister or any other person, noting that the Panel will normally give permission for Members to be represented by people who are not lawyers, but are likely to refuse permission if the representative is directly involved in the matter being determined
 - want to give evidence at the Hearing, either verbally or in writing
 - want to call relevant witnesses to give evidence at the Hearing
 - want any part of the Hearing to be held in private

- want any part of the Investigating Officer's report or relevant documentary evidence to be withheld from the public.

Step Two

19. On receipt of the Member's response the Monitoring Officer will send a copy of the Member's Responses at step one to the Investigating Officer and invite the Investigating Officer to confirm in writing, usually within 14 days, whether they want:-
- to be represented at the Hearing
 - to call relevant witnesses to give evidence at the Hearing
 - any part of the Hearing to be held in private
 - any part of the Investigating Officer's report or relevant documentary evidence to be withheld from the public.

Step Three

20. On receipt of the Investigating Officer's response the Monitoring Officer will decide whether any disagreements about findings of fact are significant, and if so whether or not to hear evidence about those disagreements during the Hearing or otherwise.
21. The Monitoring Officer will decide whether or not there are any parts of the Hearing that should be held in private and whether or not any parts of the Investigating Officer's report or relevant documentary evidence should be withheld from the public and they will advise the Member and the Investigating Officer accordingly. If either party objects, then the Monitoring Officer will convene a pre-hearing meeting of the Panel to determine the issue. The Monitoring Officer may also convene a pre-hearing meeting for any other reason in their absolute discretion.

Step Four (if appropriate)

22. Should a pre-hearing meeting be necessary the Monitoring Officer will confirm to the Member and the Investigating Officer the date for the pre-hearing meeting and the matters to be determined at the meeting. The Member and the Investigating Officer will have a right to attend the pre-hearing meeting.
23. The Panel will regulate its own procedures for the pre-hearing meeting but shall consider written or verbal representations from both parties. The pre-hearing meeting will be held in private where a matter for determination by the Panel is whether some or all of the Hearing is to be conducted in private or some or all relevant documentary evidence is to be exempted.

Step Five

24. The Monitoring Officer will provide the following information to the Member, the Investigating Officer and the Panel, where possible at least two weeks before the proposed date of the Hearing:-

The date, time and place for the Hearing

- The main facts of the case that are agreed
- The main facts that are not agreed
- The identity of witnesses who will give evidence
- Any directions given by the Panel at a pre-hearing meeting
- Any proposed amendments to the process for the Hearing as set out below.

The Hearing Process

Introduction

25. The Hearing should usually be heard in public to ensure transparency and fairness. There may be exceptions if information is confidential or exempt under Schedule 12A of the Local Government Act 1972.
26. The Panel will appoint one of its members to act as Chairman of the Panel.

Legal Advice

27. The Panel may take legal advice from its Legal Advisor at any time during the Hearing or while it is considering its decision. The substance of any legal advice given to the Panel should be shared with the Member and the Investigating Officer if they are present.

Preliminary Issues

28. After all the members of the Panel and everyone involved have been formally introduced, the Panel Chairman will explain the procedure for the hearing.
29. The Panel should resolve any issues or disagreements left outstanding from the pre-hearing, if applicable.

Findings of Fact

30. After dealing with any preliminary issues, the Panel should consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report. If there is no disagreement about the facts, the Panel should move on to consider whether there has been a breach of the code.
31. If there is a disagreement about the facts, the Investigating Officer, if present, should be invited to make representations to support the relevant findings of fact in their report. With the Panel's permission, the Investigating Officer may call any necessary supporting witnesses to give evidence. The Panel will give the

Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer.

32. The Member will have an opportunity to make representations to support their version of the facts and, with the Panel's permission, to call any necessary witnesses to give evidence.
33. At any time, the Panel may question any person involved or any witness, and may allow the Investigating Officer to challenge any evidence put forward by witnesses called by the Member.
34. If the Member disagrees with most of the facts, it may be necessary for the Investigating Officer to start by making representations on all the relevant facts, instead of discussing each fact individually.
35. If the Member disagrees with any finding of fact in the Investigator's Officer's report without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the Hearing. If the Investigating Officer is not present, the Panel will consider whether or not it would be in the public interest to continue in their absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Panel may then:-
 - (a) continue with the Hearing, relying on the information in the Investigating Officer's report;
 - (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - (c) postpone the Hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if they are not already.
36. The Panel will move to another room with the Independent Person to consider the representations and evidence in private. The Panel must seek and take into account the views of the Independent Person.
37. On its return, the Panel Chairman will announce the Panel's findings of fact.

Breach of Code?

38. The Panel will consider, based on its findings of fact, whether or not the Member has failed to follow the Code of Conduct.
39. The Member will be invited to give relevant reasons why the Panel should not decide that they have failed to follow the Code.
40. The Panel will then consider any verbal or written representations from the Investigating Officer.
41. The Panel may, at any time, question anyone involved on any point they raise in their representations.
42. The Member will be invited to make any relevant points in reply to the Investigating Officer.

43. The Panel will move to another room with the Independent Person to consider the representations. The Panel must seek and take into account the views of the Independent Person.
44. On return to the Hearing room, the Panel Chairman will announce the Panel's decision as to whether or not the Member has failed to follow the Code of Conduct.

Outcome-No Breach of Code

45. If the Panel decides that the Member has not failed to follow the Code of Conduct, the Panel will then consider whether it should make any recommendations to the Authority.

Outcome-Breach of Code

46. If the Panel decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigating Officer and the Member as to (a) whether or not sanctions should be applied; and (b) what form any sanction should take.
47. The Panel may question the Investigating Officer and the Member and take legal advice, to make sure it has the information it needs in order to make an informed decision.
48. The Panel will move to another room with the Independent Person to consider whether or not to impose a sanction and, if so, what the sanction should be. The Panel must seek and take into account the views of the Independent Person.
49. On return to the Hearing room, the Panel Chairman will announce the Panel's decision.

Available Sanctions

50. The following sanctions are available:-
 - Censure or reprimand the Member;
 - Publish its findings in respect of the Member's conduct;
 - Report its findings to the Authority for information;
 - Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to the Council or to Committees) that the Member be removed from any or all Committees or Sub-Committees of the Council;
 - Recommend to the Leader of the Council that the Member be removed from The Cabinet, or removed from particular Portfolio responsibilities;
 - Recommend to the Council that the Member be replaced as Leader;
 - Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the Member;

- Recommend to the Authority that the Member be removed from all outside appointments to which they been appointed or nominated by the Authority;
- Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the Member by the Authority, such as a computer, website and/or email and internet access; or
- Exclude *[or recommend that the Parish Council exclude]* the Member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.

51. The Panel has no power to suspend or disqualify the Member or to withdraw basic or special responsibility allowances. Sanctions (with the exception of censure) may start immediately or up to six months after the hearing, if the Panel wishes.

52. If the Panel decides to publish its findings, it may do so by placing its findings in one or more newspapers that are independent of the Authority concerned and circulating in the area of that Authority.

Authority Recommendations

53. After considering any verbal or written representations from the Investigating Officer and the Member, the Panel will consider whether or not it should make any recommendations to the Authority, with a view to promoting high standards of conduct among members.

Written Decision

54. The Panel will announce its decision on the day of the hearing and provide a short-written decision on that day. It will also issue a full written decision within 7 days of its conclusion.

Right of Appeal

55. There is no right of appeal against the Panel's decision, although there may be the right to complain to the Local Government & Social Care Ombudsman if there is evidence of maladministration.

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Warwick District Council

Independent Persons Role Description and Protocol

Role Description

1. Primary Function

- 1.1. To undertake the statutory role of Independent Person appointed under Section 28 (7) of the Localism Act 2011 and to help each Council to discharge their duty to promote and maintain high standards of conduct among District, Town and Parish Councillors and co-opted Members in the respective District.

2. Specific tasks

- 2.1. Advising the Monitoring Officer in connection with the assessment and post investigation stages of complaints against Councillors and co-opted Members of District, Parish and Town Councils.
- 2.2. Reading and digesting complaints and investigation reports into complaints against Councillors and co-opted Members of the District, Parish and Town Councils.
- 2.3. Providing views to the Monitoring Officer and the relevant Committee when requested in accordance with the Council's adopted Arrangements for dealing with Complaints of Councillor Misconduct.
- 2.4. If requested providing assurance to Councillors who are the subject of complaints that a fair and just procedure is being followed.
- 2.5. Assisting the District Council's and the Monitoring Officer in discharging their duty to promote and maintain high standards of conduct by its Councillors and the Councillors and co-opted Members of the District's Parish and Town Councils.
- 2.6. Acting as a member of an Independent Panel established to provide views to the Council in the event that an Investigation and Disciplinary Panel recommends the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

3. Qualifications

3.1 There are no specific qualifications for the role. However, under the Localism Act 2011 any of the following prevent a person from being an Independent Person either at the time of appointment or during their time in the role:

- (a) a person is not independent if the person is—
 - (i) a member, co-opted member or officer of the authority,
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority, or
 - (iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii);

- (b) a person may not be appointed under the provision required by subsection if at any time during the 5 years ending with the appointment the person was—
 - (i) a member, co-opted member or officer of the authority, or
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;

For the purposes of the above a person is a relative of another person if is—

- (a) the other person's spouse or civil partner,
- (b) living with the other person as husband and wife or as if they were civil partners,
- (c) a grandparent of the other person,
- (d) a lineal descendant of a grandparent of the other person,
- (e) a parent, sibling or child of a person within paragraph (a) or (b),
- (f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or
- (g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.

In addition, both Councils have adopted criteria as follows, which reflects the disqualifications for Councillors:

- (1) any bankrupt or person who has made a composition or arrangement with creditors which is extant;
- (2) having, within five years of the appointment, a conviction for an offence resulting in a sentence of imprisonment (whether or not suspended) for a period of not less than three months without the option of a fine;
- (3) a disqualification for being elected or being a member of an authority under the Representation of the People Act 1983 (corrupt electoral practices); or
- (4) being an officer of another local authority.

4. Required Attributes

- 4.1. Ability to reach a balanced and reasoned conclusion having considered complex material and applied an impartial and fair approach to all of the written and oral material provided.

- 4.2. Ability to demonstrate and promote a commitment to each Council's Equality and Diversity Policies.

- 4.3. Ability to attend daytime meetings, sometimes at short notice, at an agreed location with the Districts normally the Council's main offices.
- 4.4. Willingness to participate in training events to develop skills, knowledge and experience in the role.
- 4.5. Willingness to participate in networks developed for IPs operating outside the Council's area.
- 4.6. A wish to serve the public interest and the local community and to uphold local democracy.
- 4.7. An understanding and interest in ethical issues and dilemmas
- 4.8. Respect for others and high standards of personal honesty and integrity
- 4.9. An ability to take account of the views of others but able to reach their own conclusions on particular issues.

5. Desired Attributes

- 5.1. An ability to demonstrate an understanding of quasi-judicial proceedings and matters of sound ethical and governance practice.
- 5.2. Have experience with committee work.
- 5.3. Have questioning skills.
- 5.4. Be assertive.

6. Terms of Office

- 6.1. The Term of Office for Independent Persons is limited to four years, subject to any extension that may be agreed arising from the needs of the service, including the induction and training needs of newly appointed persons in the role.

Protocol

This Protocol sets out the relationships between the Independent Persons (IPs) and the various parts of the Council involved in the process of handling Code of Conduct complaints and the wider promotion of Standards. Its aim is to ensure that responsibility is clear at each stage of the process and to set out the expectations and rights of the IPs.

It is written with the following assumptions:

1. Each of the IPs has an equal right to give their views when requested by the Monitoring Officer (MO) or the relevant Committee, with respect to any particular complaint or hearing except where, for any reason, they are deemed by the MO to have a conflict of interest. In such a situation the IP will withdraw from involvement.
2. The MO is solely responsible for taking decisions on whether or not any further action should be taken with regard to a complaint or an investigation.
3. The MO will consult nominated IPs on allegations which appear to show a potential breach of the Code of Conduct before reaching a decision. The relevant details will be sent by email or by post. However, should an IP be unavailable or fail to respond to the MO within 15 working days of the date of the request the MO will be entitled to proceed once the views of one available IP have been given.
4. As required by the Localism Act 2011 the local arrangements permit the subject Councillor to have access to an IP. The Councils have enhanced this by also permitting the complainant to have rights to contact the nominated IP. Any such access is restricted to postal or email contact only and there is no right for the subject councillor or complainant to meet the IP. If the nominated IP is contacted a written record of the discussion will be kept and this will be forwarded to the MO.

Considering written allegations

1. On the receipt of a complaint the MO will nominate three IPs for the complaint. Two will be used to provide views on the complaint to the MO and if necessary, any hearing process. The other will be made available to provide clarification on procedure to either the complainant(s) or the Councillor(s) complained about.
2. The MO will seek the views of two IPs before reaching a decision at the end of Stage 1 and, as appropriate, Stage 2 of the Complaints Procedure.
3. When issuing the decision letter at the end of Stage 1 the MO will record which of the IPs they have consulted and that their views have been taken into account.
4. Where the views of the MO and the IP differ, the MO will record the reasons for the difference of opinion and explain them in writing to the relevant IP. The letter to the complainant and subject Councillor will make clear that it is the MO, and not the IP, who is the decision maker.
5. The IP advice will solely be around process and clarification of this. When the IPs views are sought, by the Complainant(s) or Councillor(s) complained about, they will not advise on the merits of either the complaint or the alleged conduct and they will refer them to the MO should any procedural queries be made. The IP will

always remind those they speak with that their role is a statutory one and that they are part of the overall process in order to ensure that it is fairly applied on both sides.

6. When an IP is approached by a subject Councillor for their views the IP will make clear that it is not their role to advise the subject councillor on either matters of procedure (which should be referred to the MO) or the likelihood of the Code of Conduct having been breached (which is a matter upon which the subject Councillor must seek their own advice). The IP should make a written record of any views which they give to a subject Councillor and forward them to the MO to be kept on file.
7. Save in exceptional circumstances, which will be agreed between the MO and the IPs, meetings between the subject Councillor and either or both of the IPs shall not take place.

Matters under Investigation

1. The MO may consult any of the IPs at any stage during the process including on matters which relate to the procedures for handling complaints.
2. When an investigation has been concluded and a final report submitted to the MO by the Investigating Officer its contents will be shared with two of the IPs and their views sought on the appropriate course of action for the MO to take. Where the view of the MO and either of the IPs differ, the MO will make a record of the reasons for the difference of opinion and notify them to the relevant IP. The letter to the subject Councillor and the complainant will make clear that the MO has taken the relevant decision but that the views of the IP has been taken into account.
3. Where the MO has referred a matter to Committee for hearing and determination the Committee will seek the views of two IPs before reaching its conclusions. The IPs will be invited to the Committee as observers and invited to give their views prior to determination. Should the IPs be unavailable to attend the Committee meeting their views will be requested in writing and made available to members of the Committee at the appropriate time. The Clerk to the Committee will record the IPs views in the committee minutes and where the Committee's decision does not reflect the IPs viewpoint the decision notice will make this clear and give reasons for not doing so. It will also make clear that it is the Committee and not the IP who is the decision maker.
4. The IPs should not make any comments to the media. Any requests made to an IP for comments from the media shall be referred in the first instance to the MO who may refer these to the Chairman of the Committee and/or the Council's media team as appropriate.
5. The IPs may be requested by the MO or Committee to assist in any training on code of conduct issues as appropriate.

Relationship with the Committee

1. Each of the IPs shall receive agendas and minutes of all meetings of the Audit and Standards Committee and shall be entitled to request items to be included on the agenda with the agreement of the Chairman. The IPs can attend meetings as

observers and, with the permission of the Chairman the IP may speak at the Committee meeting.

- 2 The IPs are not members of the Audit and Standards Committee and therefore are not part of the formal business of the meeting and cannot vote on any matters put to the meeting. They may be invited to observe confidential matters with the agreement of the Chairman.

Other Matters

1. An IP has the right to raise any concerns about Standards issues or implementation of the complaints process with the MO. They also have the right, subject to consent of the Chairman, to address a meeting of the Full Council about any concerns.
2. The Council, through the Audit and Standards Committee and MO, is responsible for ensuring that each Council meets its duty to promote and maintain high standards of conduct by Councillors. However, an IP has the right to be consulted on any proposed changes to the Code of Conduct or to the Councillor Complaints Procedure.
3. An IP has the right of access to any confidential information which they require to carry out their role effectively. The MO will agree with the IP how they can access such information and how it should be stored.
4. The MO will meet with the IPs to review relevant matters as necessary. Each of the IPs will be asked to declare their personal commitment to adhering to the code, complete the necessary declarations of interest under the code of Conduct for Councillors. On specific cases they will inform the MO any relevant interests in relation to particular matters and the MO will decide whether the interest conflicts the IP out of involvement with that particular matter.
5. The IP is considered to be an office holder and is therefore entitled to be covered by the Council's Indemnity Insurance provided they act reasonably and within the terms of this Protocol.
6. The IP will be paid an allowance to the value of a Co-optee in accordance with each Council's Allowances Scheme.

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Protocol between the Monitoring Officer of Warwick District Council and Warwickshire Police

Section 34 of the Localism Act 2011 (The Act) sets out summary offences relating to elected and co-opted Councillors who fail to disclose or register a Disclosable Pecuniary Interest (DPI), or where they participate in a meeting when they have a DPI in the absence of being granted a dispensation.

The DPI interests are detailed in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Prosecution of these offences is by the Police by virtue of section 34(5) of the Act.

The Monitoring Officer Warwick District Council (WDC) and Warwickshire Police have agreed this Protocol relating to reporting processes and information sharing for potential criminal offences arising under section 34 of the Act, as follows:-

- 1 In the event that the Monitoring Officer receives a complaint regarding a potential DPI offence they will make immediate contact with the Police through the nominated single point of contact who is the District Commander for South Warwickshire.
- 2 The Police will register the complaint and will advise the Monitoring Officer if they wish to be involved at this stage. This will normally follow an initial assessment of the complaint by the Monitoring Officer and them being satisfied that there is prima facie evidence that a criminal offence may have been committed.
- 3 In undertaking an initial assessment as to whether there is prima facie evidence of a criminal offence the Monitoring Officer may conduct an interview with the complainant but will not approach the Member who is the subject of the complaint until the Police have been advised of the matter and have indicated how they wish to proceed.
- 4 If the Police receive a complaint from a member of the public they will inform the Monitoring Officer of WDC as appropriate of the receipt of the complaint. The Police will conduct an initial assessment of the complaint but may approach the Monitoring Officer for background information on the complaint.
- 5 If the Police decide not to prosecute in the public interest they will, wherever possible, pass the relevant evidence to the relevant Monitoring Officer so that the question of whether a Code of Conduct breach is to be pursued can be considered. To facilitate this the Monitoring Officer and the Police will enter into a data sharing agreement.
- 6 In the event that WDC decides to pursue the matter further in terms of a Code of Conduct breach, they will inform the Police of their decision.

Monitoring Officer (Warwick District
Councils)
Date:

Warwickshire Police Chief Constable
Date:

Document Control

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Protocol for appointment of Parish & Town Council Representatives to the Audit & Standards Committees of Warwick District Council

Warwick District Council values the collaborative working with Parish and Town Councils and feel it is important that they have a voice when considering matters relating to the Code of Conduct for councillors and the associated processes.

To that end the Council seeks to co-opt two representatives from Parish/Town Councils to their respective Audit & Standards Committee. This document sets out the process for that appointment.

The appointment would be up to the next all out elections for the District Council and/or when the co-optee ceased to be a Councillor, decide to step down from the role on the Committee, or the District Council decides to remove them (for example in the instance where they have breached the Code of Conduct).

- 1 Following the all out elections of the District Council, or if a vacancy occurs to the role of co-opted member to the Audit & Standards Committee, the Monitoring Officer will write to all Parish & Town Councils in the District seeking nominations within a reasonable time period.
- 2 Those nominated will be asked to provide a brief, no more than two paragraphs, summary of why they should be appointed.
- 3 All Parish and Town Councils will then be provided the details of those nominated and provided an indicative vote, for up to the maximum number of vacancies on the Committee.
- 4 The outcome of the indicative vote from the Parish & Town Councils and nominations will be presented to the Audit & Standards Committee for them to determine who should be co-opted to the Committee.

NB: those Co-opted members of the Committee will automatically be nominated for the role subject to (a) them continuing to be a Councillor and (b) them wanting to continue within the role.

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