

# Standards Committee

Wednesday 21 January 2015

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A special meeting of the Standards Committee will be held in the Town Hall, Royal Leamington Spa on Wednesday 21 January 2015, at **7.00pm.**

## Membership:

Warwick District Councillors	Councillor Brookes Councillor Mrs Bunker Councillor Ms Dean Councillor Ms De-Lara-Bond Councillor Mrs Higgins Councillor Mrs Knight Councillor Mrs Mellor Councillor Pratt (Chairman) Councillor Mrs Syson Councillor Williams (Vice-Chairman)
Parish and Town Council Representatives	Councillor Cooke Councillor Mrs Gordon Councillor Owen Councillor Smart

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

## Emergency Procedure

At the commencement of the meeting, the emergency procedure for the Town Hall will be announced.

## Agenda

### 1. **Substitutes**

To receive the name of any Councillor, Parish Representative or Independent Representative who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor, Parish Representative or Independent Representative 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 entered on the form to be circulated with the attendance sheet and declared 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 consider the minutes of the meetings held on 9 September 2014.  
**(Item 3/Page 1)**

## 4. **Review of Councillor Code of Conduct & Associated Arrangements**

To consider a report from the Code of Conduct Working Party & Deputy Monitoring Officer  
**(Item 4/Page 1)**

## 5. **Revised Member/Officer Protocol**

To consider a report from Finance  
**(Item 5/Page 1)**

## 6. **Local Plan Submission Draft – Dispensations**

To consider a report from the Deputy Chief Executive & Monitoring Officer  
**(Item 6/Page 1)**

## 7. **Log of Complaints about Councillors**

To consider a report from the Deputy Monitoring Officer  
**(Item 7/Page 1)**

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**THE AGENDA IS AVAILABLE IN LARGE PRINT ON REQUEST, PRIOR TO THE MEETING.**

# STANDARDS COMMITTEE

Minutes of the meeting held on Tuesday 9 September 2014 at the Town Hall, Royal Leamington Spa at 6.00 pm.

**Present:** Councillor Pratt (Chairman); Councillors Mrs Bunker, Ms Dean, Ms De-Lara-Bond, Mrs Higgins, Mrs Knight, Mrs Syson and Williams.

Parish and Town Council representatives: Councillors Cooke, Owen and Smart.

**Also Present:**

Independent Persons: Mr R Meacham and Mr R Tomkinson.

Officers: Mr R Barr (Audit & Risk Manager) and Mr G Leach (Democratic Services Manager & Deputy Monitoring Officer).

Apologies for absence were received from Councillors Brookes and Mrs Mellor and from Parish and Town Representative Councillor Mrs Gordon.

**6. Substitutes**

There were no substitutes.

**7. Declarations of Interest**

There were no declarations of interest.

**8. Minutes**

The minutes of the meetings of the Standards Committee on 2 April, 22 April and 21 July 2014 were taken as read and signed by the Chairman as a correct record.

**9. Minutes**

The minutes of the Hearing Panels on 28 April 2014 (starting at 4.00pm and 6.00pm) were taken as read and subject to a correction (to replace the name of Councillor Coles with Councillor Mrs Mobbs on page 6 paragraph 6) were signed by the Chairman as a correct record.

**10. Review of Councillor Code of Conduct & Associated Documents**

The Committee considered a report from the Code of Conduct Working Party and Democratic Services Manager & Deputy Monitoring Officer that brought forward the proposed revised arrangements for handling complaints about Councillors' Conduct, along with its associated documents.

The Constitution Working Party had considered the current arrangements and feedback received on these and brought forward revised proposals based on them to enable formal consultation to be undertaken.

The revised documents were not radically different but incorporated a number of matters, previously undertaken, but not formally written down.

## **STANDARDS COMMITTEE MINUTES (Continued)**

In addition, the process had been reduced in both size and length and now written in the third person.

Previously members of the Standards Committee had expressed their frustration with the "lack of teeth" of the current Standards Regime. This was also expressed in some of the feedback from the first set of consultation. From this, the Working Party drafted a set of views they thought would be supported by the Committee and Council for submission to the Secretary of State of the Department of Communities and Local Government.

In response to a question regarding the potential for appeals to a Hearing Panel decision, the Democratic Services Manager & Deputy Monitoring Officer responded explaining that it would be difficult to determine who should/or could consider any such appeal. As an example he sighted Planning Applications being determined by the Council then going to the Planning Inspectorate for independence, this level of independence for Code of Conduct complaints (the Standards Board) had been removed by the Government.

The Democratic Services Manager & Deputy Monitoring Officer also confirmed that a sanction of suspension was not currently lawful but the representation in paragraph 8.4 of the report was simply a representation to the Secretary of State to say this should be reintroduced for limited circumstances. This had been the view of the Working Party and the Chairman explained that members of the Committee could not moan that it had no teeth to take action then argue to retain the current level of sanctions available.

### **Resolved that**

- (1) the documents appended to the report were approved for consultation subject to:
  - (i) minor amendments suggested by Mr Tomkinson being incorporated following discussion between the Chairman and the Democratic Services Manager & Deputy Monitoring Officer;
  - (ii) the continuation of the requirement to register gifts and hospitality (contrary to the suggestion from the Council's legal advisor);
  - (iii) the description of relevant person be amended within the revised Code of Conduct so that it is the same as that used within legislative requirements of Disclosable Pecuniary Interests; and
  - (iv) a complaint will not be allowed to progress to a Hearing Panel if a complainant is not willing to accept an appropriate resolution

## **STANDARDS COMMITTEE MINUTES (Continued)**

proposed by the Monitoring Officer if it has been accepted by the Councillor.

- (2) the documents be sent for consultation to:
  - (i) all Warwick District Councillors;
  - (ii) all Parish & Town Councillors within Warwick District; and
  - (iii) the Warwickshire Association of Local Councils.
- (3) the timetable for the introduction of the new Code of Conduct and associated arrangements, be noted.

### **Recommended** to Council that:

- (1) the Chairman writes to Secretary of State for the Department of Communities and Local Government outlining the main concerns and proposals set out below:
  - (i) it expresses concern that the lack of a sanction of suspension has removed the teeth of the standards regime when dealing with serious matters that are not within the Disclosable Pecuniary Interest regime;
  - (ii) express concern that the lack of sanctions, in the case of this Council has led to situations where Councillors have been found by their peers to have breached the Code of Conduct but have refused to accept the sanctions imposed by the Council which in our opinion has brought the whole standards regime into disrepute;
  - (iii) the current sanctions available such as a public notice, as recognised in the statement from DCLG on 9 July 2014 regarding public notices, are ineffective in providing a deterrent to Members for their bad behaviour;
  - (iv) the Council seeks guidance from DCLG on what it should do when under the current regime a Councillor refuses to apologise to a member of the public and officers for their actions when they have been found to be in breach of the Code;
  - (v) due to the concerns of Councils the sanction of suspension, for the most serious of cases, should be reintroduced for Local Government but only by resolution by Full Council on which at least

## **STANDARDS COMMITTEE MINUTES (Continued)**

half plus one member of the Council must vote for the suspension;

- (vi) explains why it does not feel it is acceptable for it to have to seek Political Party Intervention to put more serious sanctions on Councillors who have been found to breach the Code, i.e. suspension from the Political group and removal from committees;
- (vii) asks for clarification as to why it is acceptable for Parliament to have the opportunity to suspend members and not Local Government referencing the Patrick Mercer Case; and
- (viii) seeks a set Code of Conduct for all elected representatives of Parliament through to Parish Councils to enable clarity for all on what is expected in terms of the behaviour of all elected representatives.

- (2) The Chairman sends copies of the letter to:
  - (i) All Warwick District councillors;
  - (ii) All Parish & Town Councils in Warwick District;
  - (iii) The Warwickshire Association of Local Councils;
  - (iv) The two Members of Parliament for Warwick District;
  - (v) The Local Government Association;
  - (vi) The National Association of Local Councils; and
  - (vii) The Chair for the Committee for Standards in Public Life.

(At the conclusion of this item the Committee thanked the Democratic Services Manager & Deputy Monitoring Officer for his effort to bring these proposals forward. In return he thanked the Working Party for its support and effort.)

(Councillor Ms De-Lara-Bond, Councillor Mrs Knight, Independent Person Mr Tomkins and Audit & Risk Manager Mr Barr arrived during this item.)

### **11. Annual Governance Statement 2013/14**

The Committee considered a report from Finance that set out the Annual Governance Statement for 2013/14 describing the governance arrangements that were in place during the financial year. The Statement would be signed by the Chief Executive and the Leader of the Council following reviews by this Committee and the Finance & Audit Scrutiny Committee.

Regulation 4 of the Accounts and Audit (England) Regulations 2011 required that "...the body or committee must approve an annual

## **STANDARDS COMMITTEE MINUTES (Continued)**

governance statement, prepared in accordance with proper practices in relation to internal control”.

The CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom 2006 provided the “proper practices” referred to in Regulation 4.

The CIPFA Code of Practice required the Council to designate a committee to consider or approve the Annual Governance Statement. This Council designated the Standards Committee for this task.

In response to a question from the Committee the Democratic Services Manager and Deputy Monitoring Officer read out the comments the minutes of the Finance & Audit Scrutiny Committee regarding this item. He then read out paragraphs 3.5.2 and 3.5.2.1 of the report to the Finance & Audit Scrutiny Committee and to highlight the amendments that had occurred subsequent to that meeting.

The Committee were also informed that from next year the report would not be considered by this Committee and the responsibility would be passed solely to the Finance & Audit Scrutiny Committee.

It was also highlighted to the Committee that the final version of the Annual Governance Statement would be reported to Council on 24 September 2014. Therefore any concerns that the Executive should be made aware of would be seen by all members. In addition any Committee, if so minded, could make a direct recommendation to any other Committee or the Executive for them to consider and if necessary to act on.

**Resolved** that the Warwick District Council Annual Governance Statement for 2013/14, be approved.

### **12. Internal Audit Report 2013/14**

The Committee considered a report from Finance that presented Internal Audit’s annual report, forming part of the evidence for the Annual Governance Statement. The Public Sector Internal Audit Standards required a report that provided an opinion on the overall adequacy and effectiveness of the organisation’s control environment be presented to the committee designated to consider or approve the Annual Governance Statement.

To comply with the Public Sector Internal Audit Standards that provided the “proper practices” referred to in Regulation 4 of The Accounts and Audit (England) Regulations 2011 in respect of production of an annual governance statement the Standards state: *The chief audit executive must deliver an annual internal audit opinion and report that can be used by the organisation to inform its governance statement.*

**Resolved** that the Annual Report of Internal Audit be noted.



## **STANDARDS COMMITTEE MINUTES (Continued)**

### **13. Review of Effectiveness of Internal Audit**

The Committee considered a report from Finance that presented the findings from the review of the effectiveness of the Council's internal audit for the year ending 31 March 2014. The Accounts and Audit Regulations 2011 required such a review at least once a year and presentation of the results to the committee designated to consider or approve the Annual Governance Statement. Accordingly, this report was being presented to Standards Committee having been considered previously by the Finance and Audit Scrutiny Committee.

Regulation 6 of the Accounts and Audit (England) Regulations 2011 requires that:

- "A relevant body shall, at least once in each year, conduct a review of the effectiveness of its internal audit".
- "The findings of the review ....must be considered, as part of the consideration of the system of internal control...by the committee (designated to approve the Annual Governance Statement)".

As its terms of reference included issues of an audit nature, this Committee required reasonable opportunity to consider reports on the effectiveness of internal audit and to direct its views to the Committee designated under Regulation 6.

**Resolved** that the Review of the Effectiveness of Internal Audit be noted.

### **14. Log of Complaints about Councillors**


The Committee received the log of complaints about the Conduct of Councillors.

Two amendments were noted, firstly the date of the Hearing for Councillors Coles and Mrs Mobbs which should have been recorded as 28 April 2014 and secondly the complaint of 19 August 2014 about Rowington Parish Council was made by a Parish Councillor but in their capacity as a member of the public.

It was suggested that the Democratic Services Manager & Deputy Monitoring Officer investigated ways of illustrating complaints to show the active ones compared to long since closed cases which had previously been reported to the Committee.

**Resolved** that the report be noted.

(The meeting ended at 8.06 pm)

 <b>Standards Committee</b> <b>January 2015</b>		<b>Agenda Item No. 4</b>
<b>Title</b>	Code of Conduct and associated arrangements	
<b>For further information about this report please contact</b>	Graham Leach, Democratic Services Manager & Deputy Monitoring Officer 01926 456114 or <a href="mailto:graham.leach@warwickdc.gov.uk">graham.leach@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	None	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>		
<b>Background Papers</b>	Localism Act 2012, first and second Consultation Responses, Minutes and Agendas of the Standards Committee.	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality Impact Assessment Undertaken</b>	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service		
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)		
Consultation & Community Engagement		
All Warwick District Councillors, All Parish & Town Councils in Warwick District, Warwick District Independent Persons and WCC Legal Services have been consulted on the responses received have been considered by the Working Party.		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
The final recommendations will go to Council in February 2015 for adoption from 12 May 2015 and will also make recommendations to all Parish 7 Town Council's on this basis		

## 1. **Summary**

- 1.1 The report brings forward the final proposals from the Code of Conduct Working Party for revisions to the Code of Conduct and associated processes.

## 2. **Recommendation**

- 2.1 To recommend to Council that the revised Code of Conduct, Disclosable Pecuniary Interest Form and Gift and Hospitality Form, be adopted from 7 May 2015, as set out at Appendix A – Appendix 1 and Appendix B and Appendix D.
- 2.2 That the Standards Committee approve the revised procedures for handling complaints about the Conduct of Councillors;
- 2.3 To recommend to Council that the following responsibilities be amended within the remit of the committee

From

"ix. To Advise the Council about the effectiveness of its Constitution, governance arrangements and other matters relevant to assisting the authority with the Annual Governance Statement; including overseeing the Whistle blowing policy, Member/Officer Code of Conduct (when the matter relates to member conduct; the approval and monitoring of the Corporate Complaints Policy);"

To:

"ix To advise the Council on its Members Code of Conduct and Member/Officer Protocol"

- 2.4 To recommend to Council that the remit of the Finance & Audit Scrutiny Committee , under its responsibilities as the Council's Audit Committee, be made responsible for consideration of the Annual Governance Statement of this Council.
- 2.5 To recommend to Council that the Constitution be amended to include explicit reference that the Council is the Parent body of Committees and in very exceptional circumstances can determine matters normally determined by its Committees.
- 2.6 To recommend to Council the scheme of delegation be amended to read:  
"The Deputy Chief Executive (AJ) & Monitoring Officer, **in consultation with the Chairman of the Standards Committee**, shall have authority to appoint the membership of Standards Sub-Committees (Hearing Panels)."
- 2.7 That officers notify all Parish and Town Councils of this decision and provide template report and appendices for them to use.
- 2.8 To recommend to Council the continuation of a Joint Standards Committee with all Parish and Town Council's within the District and the process for appointing the Parish and Town Council representatives to the Committee, as outlined at Appendix E.
- 2.9 The Committee considers the advice and guidance from the Council's Solicitor on any proposal for an appeals process as set out at Appendix F to the report and determines if it would like an appeal stage to be introduced.

### **3. Reasons for the Recommendation**

- 3.1 Following the Standards Committee in September a second consultation on the proposed arrangements was undertaken. Responses to this consultation were received from:  
Warwick District Councillors: Mrs Bromley, Dhillon, Mrs Falp, Mrs Gallagher and Illingworth.  
Parish & Town Councils & Councillors: Councillor Mrs Gordon, Norton Lindsey Parish Council, Budbrooke Parish Council, Kenilworth Town Council, Whitnash Town Council and Leek Wootton & Guys Cliffe Parish Council.
- 3.2 In addition to the above, the Working Party also considered the response from the Department of Communities and Local Government and the Standards in Public Life Committee following the letter from Council to them about the current Standards Regime. They considered the views on these letters expressed by Councillor Mrs Bromley, Councillor Boad, Councillor Gill and Councillor Coker. They also reconsidered the views of Mr Tomkinson (Independent Person) that he had submitted as part of the original consultation.
- 3.3 Following consideration of these responses minor amendments were made to the proposals to ensure they were more consistent and easier to understand. The Working Party also asked for the potential for an appeals process to be reconsidered and the proposal along with the advice from the Councils Solicitor is set out at Appendix F. This is now a matter for the Committee to determine if it wishes to proceed. A summary of the issues raised and responses to them are set out in the background of the report.
- 3.4 The recommended change to the remit of the Committee follows consideration of the Annual Governance Statement this year where the Committee agreed that in future the Annual Governance Statement should go to Finance and Audit Committee for approval. Officers considered the wider aspects referred to in the Committee's remit and the remainder of these aspects are the responsibility of either; Executive, Employment Committee, Finance & Audit Committee or Council. Therefore, the amended remit enables greater clarity on responsibility of function.
- 3.5 There was significant concern, from all sides of the chamber, when the Council considered the Code of Conduct case regarding Councillor Dhillon. It was agreed by all parties that for the sake of clarity the recognition of Council as the parent body of all Committees should be included in the Constitution.
- 3.6 The Working Party were keen for officers to provide a template report, recommendations and appendices for each Parish and Town Council to consider to enable them to have a fully informed debate and discussion on the proposals. This would also reduce the burden of work required by the Clerk to the Councils.
- 3.7 The Working Party were pleased with the work of the Standards Committee and its ability for inclusiveness by being a Joint Committee and therefore allowing Parish and Town Council representatives to have a vote on matters and if needed form part of a Hearing Panel. It was on this basis that they brought forward the proposals for a Joint Committee, set out at Appendix E.
- 3.8 It should, however, be noted that if all Parish & Town Councils do not agree to be a member of the Joint Committee by the end of September 2015 then the

District Council will proceed with co-opting representatives of the Parish & Town Councils to the Committee. This will remove their ability to vote on decisions of the Committee or sit as voting members of Hearing Panels. This is because to ensure the Committee can act in confidence of a joint Committee the District Council needs to be able to evidence the agreement to a joint Committee through minutes of the associated Councils. In addition, the aim of a joint Committee is to ensure all are represented fairly and if some Councils do not wish to join, the District Council, feels to ensure clarity, it should only proceed with co-option to the Committee.

#### **4. Policy Framework**

- 4.1 **Policy Framework** – This report does not impact on the Council’s Policy Framework but does seek to amend and update the Council’s Constitution. The Committee should be mindful that there is an ongoing review of the Council’s Constitution which has seen an updated Employee Code of Conduct, a revised Council Procedure Rules, revision to the remit and arrangements for Housing Appeal review Panels, updated Code of Procurement Practice and a revised Member officer protocol (which is included on the agenda for this meeting). Work has also started on a revision to the Officer Scheme of Delegation. Combined these will bring a more robust constitution for the Council starting in May 2015.
- 4.2 **Fit for the Future** – The revised process aims to put in place a robust Code of Conduct which provides a platform for openness and transparency for Members conduct. In addition to this the revised procedures seek to reduce the cost of administering this scheme while improving the process for all parties to make it clearer to understand.
- 4.3 **Impact Assessments** – There are no significant policy changes contained within this report with the possible exception of the introduction of an appeals process. If the appeals process is agreed to proceed, an Equality Impact Assessment will be undertaken and unless there are significant issues within this, approved by the Monitoring Officer in consultation with the Chairman of both the Standards Committee and the Council. If there are issues raised by the appeals process these will be reported direct to Council, when it considers the final proposal.

#### **5. Budgetary Framework**

- 5.1 The report does not impact on the budgetary framework for the Council and does not impact on the budgets for this service.

#### **6. Risks**

- 6.1 The main risks from the proposals are the potential for Parish and Town Councils to adopt their own Code of Conduct because this could cause confusion for Councillors of more than a single authority where they would be required to abide by different, and potentially conflicting, Codes of Conduct at the same time. This would also cause confusion for the wider community.

#### **7. Alternative Option(s) considered**

- 7.1 The Council is required to have a Code of Conduct, and robust arrangements for handling Complaints about the Conduct of Councillors, including a Committee for considering these. Therefore options are limited but members could decide

to defer a decision on this matter until after the election or to amend the proposals. Officers would not recommend either of these approaches because the purpose of the review was to ensure that robust arrangements were in place for the new Council and these proposals are built on the outcome of consultation and with support of the Council Solicitor and Monitoring Officer.

- 7.2 The Committee should be mindful that the Parish and Town Councils could adopt a different Code of Conduct, if they so wished, but even if they did this any complaints about the conduct of members would be considered in the process defined by this Council.

## **8. Background**

- 8.1 Following the end of Consultation the Working Party met on 21 November 2014. The meeting was attended by Councillors Cooke, Pratt and Wilkinson. Apologies for absence were received from Councillor Brookes, Mrs Falp and Syson.
- 8.2 The Working Party were generally disappointed with the level of response to these important documents and took this as either agreement to the proposals or general state of despair with the ability to enforce any serious sanctions.
- 8.2 The Working Party received a number of representations regarding the potential for an Appeal. While they were confident with their previous position, because they received a suggested procedure they asked for the Councils Solicitor to consider this. The proposed process and response from the Councils Solicitor is set out at appendix E to the report.
- 8.3 The working Party were asked if the Grievance procedure should be used by officers for Complaints about the conduct of Councillors, as technically they were employed by the Councillors. This has been checked and the grievance procedure can only be used in matters relating to officer line management.
- 8.4 It was suggested that the arrangements should be deferred to allow the new Council to consider this in May 2015. The Working Party felt it was best to provide the new Council with sound footings because there would be significant pressure on the new Council to look at other prominent projects early after the election. In addition to this, the new Council would need time to learn and understand their new roles. This could then delay the review further when Councillors have already expressed dissatisfaction at the current arrangements.
- 8.5 It was suggested that the Council should not have an Independent Person and that they should not be involved in decisions on Code of Conduct matters. The Working Party were mindful that it is a legal requirement to have an Independent Person and for them to be consulted at specific stages on complaints about Councillors.
- 8.6 The Working Party noted the request to have fixed membership Hearing Panels but remained content with the Monitoring Officer setting these because of the need to ensure each Panel is representative and neutral to the matter. That said, they did agree that these should be set in consultation with the Chairman of the Committee and should now be increased to five members (including at least one Parish/Town Council representative).
- 8.7 It was clear from the responses received that some Councillors did not know how to make a complaint about the conduct of an officer. Therefore, this will be

built into the training for any new Councillor. For the sake of clarity a complaint should be raised with the Head of Service, Deputy Chief Executive or Monitoring Officer.

- 8.8 The Working Party welcomed the fact that officers were to produce a new log of complaints that provides more detail about the complaint including the actions taken to try and resolve matters at an early stage.
- 8.9 The Working Party noted the concern of an individual regarding the potential for multiple complaints about an individual Councillor and how these should be handled. For example, if two complaints of different subject are made about a Councillor and these move to investigation should they be undertaken by the same investigator and should they be subject to a single investigation report or two separate reports. Alternatively, what should happen if multiple complaints are made about the same Councillor relating to the same matter. The Working Party were happy for the Monitoring Officer to use discretion on this taking into consideration public interest and natural justice. They also felt that the Monitoring Officer remained the best person to appoint an Investigator for a complaint because they would be able to determine their independence to each matter.
- 8.10 The Working Party were content overall that the emphasis was now on reducing cost within the process and felt it was not in the public interest to have Councillors considering cases to determine if they should proceed for investigation or then to a hearing as well as determining a hearing.
- 8.11 The Working Party were of the opinion that the consideration of complaints by the Monitoring Officer, in consultation with the Independent Person, provided a robust and appropriate consideration of a complaint to ensure that trivial complaints were not progressed through the system.
- 8.12 The Working Party were satisfied that natural justice is followed for the hearings process and that papers will always be considered if supplied when requested. If these are not supplied until the day of the hearing it will then be at the discretion of the panel as to if they are considered.
- 8.13 The Working Party recognised concerns regarding the requirement for Councillors to contribute to training costs and therefore decided an upper limit should be imposed on this of one months Members Allowances payment for District Councillors and a maximum of £100 for Parish and Town councillors.
- 8.14 The Working Party were reassured that to date the process for handling unreasonable or unreasonably persistent complaints had not been used. They also accepted that the Council needed to have this in place in case such a matter occurred.
- 8.15 The Working Party recognised the expectation of Councillors to be informed when there is a complaint about them. They also expected that Councillors would come and discuss the complaint informally with the Monitoring Officer without question. The Monitoring Officer will ensure that a copy of the complaint is disclosed to the Councillor once this meeting has been completed, so long as to do so may not impact on any potential investigation. However some information may be redacted to protect third party data, as set out within the data protection act.

- 8.16 The Working Party were assured that the arrangements for complaints handling is a matter for the Standards Committee, but that amendments to the code and its associated documents such as DPI form and Gifts is a matter for Council.
- 8.17 The Working Party is confident the work is robust and lawful and has been approved by WCC legal as advisors to this Council, therefore it did not need to be written, in the whole, by a Solicitor.



# Warwick District Council Code of Conduct

## Part A – General Obligations

As a member or co-opted member of Warwick District Council, I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

I recognise that this Code of Conduct will apply at all times when I am acting as a member of Warwick District Council and I recognise that failure to adhere to this Code could result in the issuing of sanctions against me.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this Authority:

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

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

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

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

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

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

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

As a Member of Warwick District Council, my conduct will in particular address the principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting the public interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the Authority or the good governance of the Authority in a proper manner.
- Recognising that all parties are equal and my position is one of privilege and not one that should be used to secure advantage or disadvantage for any party.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this Authority.
- Listening to and respecting the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective, making decisions on merit and providing reasons for the decisions taken.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this Authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account.
- Never disclosing information given to me in confidence by anyone, or information acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (1) I have the consent of a person authorised to give it;
  - (2) I am required by law to do so; and
  - (3) 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
  - (4) The disclosure is
    - (a) Reasonable and in the public interest; and
    - (b) Made in good faith and in compliance with the reasonable requirements of the authority.

- Behaving in accordance with all my legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures, including those on the use of the Council's resources (which shall never be for political purposes).
- Valuing and respecting my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect and acting in a polite and courteous manner, including the organisations and public I engage with and those I work alongside, both officers and fellow Members.
- Providing leadership through behaving in accordance with the principles of this Code when championing the interests of the community with other organisations as well as within this Council.
- Never intimidating or attempting to intimidate, or bully any person.
- Never doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- Accepting that the failure to co-operate in trying to resolve a complaint; the investigation of a complaint; the pre-hearing and hearing process will be a breach of this Code of Conduct.
- The failure to comply with a sanction imposed by the Council, Standards Committee or a Hearing Panel, within the required time period, will in itself be a failure to comply with this Code of Conduct.
- Recognising that by failing to adhere to the Code, I could bring my office or Council into disrepute.

## Part B – Disclosable Pecuniary Interests

### 1 Notification of disclosable pecuniary interests

This part explains the requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction but would also be seen as a breach of the Code of Conduct by the Council.

Within 28 days of becoming a Member or co-opted Member, or becoming aware of any changes to your interests, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

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

<b><i>Subject</i></b>	<b><i>Prescribed description</i></b>
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 Warwick District Council) made or provided within the 12 months before your declaration of interests (or amendment to your declaration) in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses . This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between you or your partner (or a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest) <b>and</b> the District Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

Land, which excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly with another) to occupy the land or to receive income	Any beneficial interest in land which is within the area of Warwick District Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Warwick District Council for a month or longer.
Corporate tenancies	Any tenancy where (to your knowledge)— (a) the landlord is Warwick District Council; and (b) the tenant is a body in which you or your partner has a beneficial interest.
Securities which 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 <sup>(1)</sup> and other securities of any description, other than money deposited with a building society	Any beneficial interest in securities of a body where— (a) that body (to your knowledge) has a place of business or land in the area of Warwick District Council; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- “the Act” means the Localism Act 2011;
- “director” includes a member of the committee of management of an industrial and provident society;
- “member” includes a co-opted member;

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(1) 2000 c. 8.

## **2 Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection, at Riverside House, Royal Leamington Spa and disclosable pecuniary interests will be published on the authority's website.

## **3 Sensitive interests**

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

## **4 Non participation in the case of disclosable pecuniary interest**

- (1) If you are present at a meeting of the Council, Executive, or any committee, sub-committee, joint committee or joint sub-committee, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, unless you have been granted a dispensation:
  - (a) You may not participate in any discussion of the matter at the meeting and must leave the room for the duration of this item
  - (b) You may not participate in any vote taken on the matter at the meeting.
  - (c) You must disclose the interest to the meeting.
  - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: Council Procedure rule 36 requires you to leave the room where the meeting is held while any discussion or voting takes place unless you have a dispensation

- (2) Where an Executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by them, the Executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **5 Dispensations**

The Council or the Standards Committee may grant you a dispensation, to consider specific matters for a time set at their discretion, but only in

limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. See Part C –7(2) for General Dispensations granted by Council.

## **6 Offences**

It is a criminal offence, under the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 to:

- (1) Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- (2) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- (3) Fail to notify the Monitoring Officer within 28 days, of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- (4) Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest without a dispensation
- (5) As an Executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- (6) Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting (unless you have dispensation).

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for up to 5 years.

In addition to the above, this Council would also recognise that the following would amount to a breach of the Code of Conduct:

- Failure to notify the Monitoring officer of any changes to disclosable pecuniary interest within 28 days
- Failure to disclose a disclosable pecuniary interest at a meeting
- Failure to leave the meeting room when an item relating to a disclosable pecuniary interest is discussed

## **Part C- Other interests**

### **1 Notification of other interests**

- (1) Subject to paragraph 4 below, (Sensitive interests), you must, within 28 days of;—
  - (a) this Code being adopted by the Council;
  - (b) your election or appointment to office; or
  - (c) any changes occurring to the declared interest;

notify the Monitoring Officer in writing of the details of your personal interests, falling within Paragraph 2(2) (A) below, for inclusion in the register of interests.

- (2) You must, within 28 days of becoming aware of any new personal interest, notify the Monitoring Officer of the details of that new personal interest.

## **2 Disclosure of interests**

- (1) Where you have a personal interest in any business of the District Council, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of the Council, Executive, any committees or sub-committees or joint committees or sub-committees at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2)
  - (A) You have a personal interest in any business of the District Council where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a *relevant person* to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision;
  - (B) In sub-paragraph (2) (A), a *relevant person* is yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners)
  - (C) You have a personal interest in any business of the District Council which relates to any disclosable pecuniary interest you are required to register
- (3) Where you have a personal interest in any business of the District Council which relates to or is likely to affect a relevant person, you need to disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (4) Where you have a personal interest in any business of the District Council regarding gifts and hospitality, you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (5) Where you have a personal interest but, by virtue of Paragraph 4, Sensitive interests, information relating to it is not registered in your Authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Where you have a personal interest in any business of the District Council and you have made an Executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.



### **3 Register of other interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection at Riverside House. Members can ask for their other interests not to be published on the District Council's website.

Where a disclosable pecuniary interest is notified to the Monitoring Officer it need not be separately notified or separately registered as a personal interest.

### **4 Sensitive interests**

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

### **5 Non participation in case of prejudicial interests**

- (1) Where you have a personal interest in any business of the District Council that interest will also be a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard that interest as so significant that it is likely to prejudice your judgement of the public interest **and** that business —
  - (a) affects your financial position or the financial position of a relevant person; or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or a relevant person.
- (2) Subject to sub-paragraph (3) and 7 (dispensations) , where you have a prejudicial interest in any business of the District Council—
  - (a) You may not participate in any discussion of the matter at the meeting;
  - (b) You may not participate in any vote taken on the matter at the meeting;
  - (c) If the interest is not registered, you must disclose the interest to the meeting; and
  - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: Council Procedure Rule 37 requires you to leave the room where the meeting is held while any discussion or voting takes place unless you have a dispensation.

- (3) Where you have a prejudicial interest in any business of the District Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- (4) Where, as a member of the Executive, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **6 Interests arising in relation to overview and scrutiny committees**

In any business before an overview and scrutiny committee of the District Council (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the Executive or another of the District Council's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

In this situation you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

## **7 Dispensations**

- (1) The Standards Committee may grant you a dispensation, to participate in full or in part where you have a prejudicial interest. A member must apply for dispensation, in writing to the Monitoring Officer, outlining their personal and prejudicial interest and the reasons why they feel dispensation should be granted.

These will only be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a prejudicial interest.

### **General Dispensations**

- (2) The Council has granted the following dispensation to all members and co-opted members of the Council in respect of both disclosable pecuniary interests and prejudicial interests

Provided you disclose the interest at the meeting you may attend a meeting and vote on a matter where you have a prejudicial or disclosable pecuniary interest that relates to the functions of the District Council in respect of—

- (i) housing, where you or your partner are a tenant of the District Council provided that those functions do not relate particularly to your or your partner's tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you or your partner are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you or your partner are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

## **8 Gifts & Hospitality**

Within 28 days of receipt you must inform the Monitoring Officer of any gift or hospitality received equal to or greater than a value of £25.

This notification will include the details of what was received, what was done with the gift and the date it was received.

**Warwick District Council**  
**Complaint report and investigation approach**

<b>Complaint Number:</b>	
<b>Investigating Officer and Contact Details:</b>	
<b>Complainant Contact Details:</b>	
<b>Start Date:</b>	
<b>Completion Date:</b>	
<b>Hours taken to complete the Investigation:</b>	

**Complaint**

Define the complaint wording which, when it is a complex case, should be agreed with the complainant.

**How was the complainant affected?**

This should be taken from the complainant, either copied from the complaint form or asked for in first correspondence.

**Proposed areas of the Code of Conduct broken**

This should outline the specific areas of the Code of Conduct that

- (a) The complainant feels are relevant;
- (b) The Monitoring Officer considered are relevant; and
- (c) The Investigating Officer considered are relevant.

**Investigation**

The intention will be that any investigation should be concluded within 40 working days of appointment of the Investigating Officer.

The Investigating Officer will meet with the complainant to understand the nature of the complaint so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer will normally write to the Councillor against whom the complaint is 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 they need to see and who they need to interview. The Investigating Officer should meet with the Councillor at least once.

In exceptional cases, where it is appropriate to keep the complainant's identity confidential or where the disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can redact appropriate information from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.

The investigation should be undertaken with an open mind and every possibility should be given for the complainant to put their case across.

The investigating officer will seek and consider all relevant information and contact all relevant witnesses. This should be through a face to face meeting or, if the individual prefers, by telephone conversation.

Where it is felt appropriate the investigation can be done via written correspondence.

Notes should be kept of any meetings by the Investigating Officer but these are not required to be formal witness statements and submitted to the Monitoring officer at the conclusion of the investigation.

### **Conclusion**

This should detail the conclusions to the investigation which should be referred back to paragraphs within the investigation section and state which parts of the Code of Conduct have been breached or not.

## **Procedure for Hearings**

This guidance is designed to help those who are involved in the determination of complaints that a Councillor may have breached the Code of Conduct.

Any reference in this guidance to a standards committee includes a reference to sub-committees established to consider a Monitoring Officer's investigation report and to consider determination hearings. Any reference to the "subject member" is a reference to the Councillor who is the subject of the complaint that the Code of Conduct may have been breached.

The main purpose of the hearing is to decide whether a member has breached the Code of Conduct and, if so, to decide if any sanctions should be applied and what form the sanction(s) should take.

### **Timing of the standards committee hearing**

Normally a hearing should take place within three months of the date on which the Investigating Officer's report was completed but no earlier than 14 days after the Councillor has been sent a copy of the Investigating Officer's report.

The presumption will be that the hearing should take place in public.

### **Scheduling a hearing**

Except in the most complicated cases, a hearing should be completed in one sitting or in consecutive sittings of no more than one working day in total.

When scheduling hearings, consideration will be given to the fact that late night and very lengthy hearings are not ideal for effective decision-making.

Equally, having long gaps between sittings can lead to important matters being forgotten.

### **The pre-hearing process**

The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.

The pre-hearing process will normally be carried out through an informal meeting between the Standards Committee Chairman, the Monitoring Officer, the legal officer for the Council, the Investigating Officer and the Councillor (and or their representative) that the complaint is about.

### **Key points for the pre-hearing process**

The officer providing administrative support to the hearing will arrange a mutually convenient date.

If any party declines to be part of this process or is obstructive to it, it will be reported in the Monitoring Officer's report to the Hearing Panel.

Once a date is set for the pre-hearing the officer providing administrative support to the hearing should write to all the relevant parties confirming the time, date and venue and the purpose of the pre-hearing.

The purpose will be to:

- set a date for the hearing;
- confirm the main facts of the case that are agreed;
- confirm the main facts which are not agreed;
- confirm whether the subject member will attend the hearing and/or will be represented at the hearing ;
- confirm those witnesses, if any, who will be asked to give oral evidence, subject to the power of the Standards Committee to make a ruling on this at the hearing;
- confirm any additional written evidence/submissions to be presented and the timescale for their production;
- confirm the arrangements for handling any confidential or exempt information if relevant, and
- confirm the proposed procedure for the hearing.

(NB The subject member may be represented by another person of their choosing whether that person is legally qualified or not. Where the representative is not legally qualified there may be restrictions on the release of confidential or exempt information.)

The purpose of the pre-hearing is to focus the relevant parties' attention on isolating all relevant disputes of facts between them. Attention to the factual issues will save valuable time later on in the determination process. It is for this reason the subject member makes clear what findings of fact in the report s/he disagrees with and why.

Any witnesses to be invited to attend the hearing will be invited by either the party who wishes them to attend i.e. the Councillor the complaint is against, the Investigating Officer or the Hearing Panel itself.

## **The hearing**

The hearing is not a Court and strict rules of procedure and evidence, do not apply. The hearing will be conducted more along the lines of an inquiry.

The hearing will generally proceed by way of representations on behalf of the, Monitoring Officer and the subject member based on the Investigating Officers report and any written evidence which has been submitted.

The hearing will only hear oral evidence from witnesses of fact where key factual matters are in dispute. Normally, the hearing will allow for up to two character witnesses to give oral evidence.

Evidence will not be given under oath, but the deliberate telling of untrue statements is not acceptable.

The Panel has power to govern its own procedure and may limit the number of witnesses to be called to that specified at the pre-hearing meeting.

Any statement, comment or question must be addressed through the Chair of the Panel. There will be no direct cross-examination by any person of any other person.

The Chair will exercise the right to intervene and interrupt any person if that person is providing evidence that is not relevant to the proceedings, or to the Code of Conduct.

If any person behaves in an unruly, abusive or disruptive manner, the Chair will exercise their right to adjourn the hearing in order to have that person removed from the room.

The order in which evidence is to be given to the Panel is as follows:-

- The Monitoring Officer will present their report to the meeting;
- The Investigating Officer will present their report and may comment on any representations which have been made;
- The Panel and the subject Member may ask questions of the Investigating Officer through the Chair;
- The Investigating Officer can then present any witnesses (which the subject Member and the Panel will have the opportunity to ask questions of through the Chair);
- The subject Member will then be allowed to make their representations to the Panel (the Panel and Investigating Officer will then be provided the opportunity to ask questions of them);
- The subject Member will then be allowed to present witnesses to the Panel (which the Panel and Investigating Officer will be permitted to question through the Chair);
- The Independent Person will then provide their view of the case;
- The Panel will then adjourn (with its Legal Advisor and Clerk to the Panel) and will determine the facts of the case and if there has been a breach of the Code of Conduct;
- The Panel will return and announce its findings and whether there has, been a breach of the Code of Conduct. If there is no breach the meeting closes, if there has been a breach it progresses as follows;
- The Investigating Officer will be asked to make representations on appropriate sanctions;
- The subject Member will be able to make representations regarding sanction and present any character witnesses;
- The Independent Person will make representations on their view of possible sanctions;
- The Panel will then adjourn (with its Legal Advisor and Clerk to the Panel) to determine what sanctions (if any) are appropriate;
- The Panel will return and announce the sanctions (if any) they consider appropriate .

The Panel will have read all the papers in advance of the hearing. All parties are asked to keep to relevant points and avoid unduly lengthy or repetitive statements when making their representations or presenting their evidence to the Panel.



Any person may withdraw any of their representations at this hearing.

The Panel members, may ask questions at any time in the procedure in order to clarify any matter.

The purpose of the Legal Advisor is to advise on law and interpretation and not to make any recommendation as to the determination to be given.

The determination will be formally written and sent by post to all the parties at the hearing, and any other relevant person..

### **Considering the sanction**

When deciding on sanction(s), the Hearing Panel should ensure that it is reasonable and proportionate to the subject member's behaviour. Before deciding what sanction to issue, the Hearing Panel will consider the following questions, along with any other relevant circumstances:

- What was the subject member's intention?
- Did the subject member know that they were failing to follow the Code of Conduct?
- Did the subject member get advice from officers before the incident? Was that advice acted on or ignored in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- What was the result of failing to follow the Code of Conduct?
- What are the potential results of the failure to follow the Code of Conduct?
- How serious was the incident?
- Does the subject member accept they were at fault?
- Did the subject member apologise to the relevant people?
- Has the subject member previously been warned or reprimanded for similar misconduct?
- Has the subject member failed to follow the Code of Conduct before?
- Is the subject member likely to do the same thing again?
- How will the sanction be carried out? For example, who will provide the training or mediation?
- Are there any resource or funding implications? For example, if a subject member has repeatedly or blatantly misused the Authority's information technology resources, the standards committee may consider withdrawing those resources from the subject member
- If a sanction is to be applied what time limit should be placed upon the Councillor to carry out the required sanction.

### **Examples, but not an exhaustive list, of mitigating factors are:**

- 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.
- A member's previous record of good service.
- Substantiated evidence that the member's actions have been affected by ill-health.

- Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.
- Compliance with the Code since the events giving rise to the determination.
- Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

**Examples, but again not an exhaustive list, of aggravating factors are:**

- Dishonesty.
- Continuing to deny the facts despite clear contrary evidence.
- Seeking unfairly to blame other people.
- Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.
- Intimidation of the complainant or witnesses.

In deciding what action to take, the Panel should bear in mind the aim of upholding and improving the standard of conduct expected of members of the various bodies to which the Codes of Conduct apply, as part of the process of fostering public confidence in local democracy.

Thus, the action taken by the Panel should be designed both to discourage or prevent the particular subject Member from any future non-compliance and also to discourage similar action by others.

Panels should take account of the actual consequences which have followed as a result of the member's actions while at the same time bearing in mind what the possible consequences may have been even if they did not come about.

## **Policy for Handling 'unreasonable complainant behaviour' and 'unreasonably persistent complainants' in respect of Complaints about Councillors.**

Generally, dealing with a complaint is a straightforward process, but in a minority of cases people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for authorities. These actions can occur either while their complaint is being investigated, or once an authority has concluded the complaint investigation.

We use the terms 'unreasonable complainant behaviour' and 'unreasonably persistent complainants'.

For us, unreasonable complainant behaviour and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their, or other people's, complaints.

### **Actions and behaviours of unreasonable and unreasonably persistent complainants**

These are some of the actions and behaviours of unreasonable and unreasonably persistent complainants which authorities often find problematic. It is by no means an exhaustive list and local factors will vary, but they are examples that the Council consider relevant:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a Councillor/the authority's independent auditor/local police/solicitors/the Ombudsman.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by, for example, excessive telephoning or sending emails to numerous Council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.

- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.
- Complaints that are instituted, without sufficient grounds, which intend to cause annoyance or embarrassment
- Complaints that are not serious or sensible in content, attitude or behaviour, and unworthy of serious sensible treatment.
- Complaint that has been previously considered and responded to through its complaints process and found not to be justified, unless sufficient new evidence can be provided.
- Combinations of some or all of these.

### **Who decides?**

If a complaint is considered by the Monitoring Officer to be either unreasonable complainant behaviour and/or unreasonably persistent, they will consult with the Independent Person on what action should be taken.

### **How is a decision taken?**

The Monitoring Officer will consider the aspects of the complaints in relation to the Policy. If it is considered there are aspects which fall within this Policy, they will consider what action should be taken.

If it is considered there are no aspects that fall within this policy no action will be taken and the complaints will progress through the normal channels.

### **What decisions can be taken**

The following decisions can be taken:

- Refuse to investigate the complaint;
- Refuse to investigate the complaint until the complainant provides further information;
- Explain that the process has to be followed and nominate a single point of contact within the Council for the complainant;
- How long any restrictions should apply to the complainant;
- To accept the complaint;
- To refer the complainant to the Citizen's Advice Bureau for assistance in formulating their complaint;
- To refuse to respond to further questions on a complaint already considered and refer the complainant to the LGO;
- How restrictions can be lifted, when they will be reviewed and by whom.

### **Who is informed?**

Any decision to take action under the policy will be communicated in writing to the complainant.

In addition to the complainant, the Chief Executive, relevant officers and Councillors, will be informed of the decision.

Only these people (detailed above), representatives on behalf of the complainants (once written consent is received) and the LGO will be entitled to receive the detailed information.

**How can a decision be appealed ?**

As the Monitoring Officer has taken the decision, if the complainant is unhappy with the decision they would need to submit their complaint along with their objection to the decision of the Monitoring Officer to the LGO.

**Record**

A record of all the decisions taken under this policy will be retained and reported annually to the Council's Standards Committee. This will be a summarised report which does not name individuals.

The details and reasoning behind any sanctions will be retained for five years after any sanctions have been lifted.

## **Protocol between Warwick District Council Monitoring Officer and Warwickshire Police**

**Purpose** – to agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from speaking and voting where a Member has a disclosable pecuniary interest and has not first sought a dispensation

- 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) If the Police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint (each Authority will be responsible for providing up to date contact details of their appointed Monitoring Officer from time to time).
- 3) Warwickshire 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. 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. In the event of a complaint being received directly by the Police rather than through the Monitoring Officer, the Police will conduct an initial assessment of the complaint but may approach the Monitoring Officers for background information on the complaint.
- 4) If the Police decide not to prosecute in the public interest they will, where ever possible, pass the relevant evidence to the Monitoring Officer so that the question of whether a Code of Conduct breach is to be pursued can be considered. To facilitate this, the Warwick District Council Monitoring Officer and the Police will enter into a data sharing agreement. In the event that the District Council 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  
Council)  
Date:

Warwickshire Police Chief Constable  
  
Date:



# Complaint Form

This form should be used to make a formal complaint regarding the conduct of a Warwick District Councillor, or Parish/Town Councillor whose authority is within Warwick District.

## Your details

Please provide your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not be released without prior discussion and approval by you. If you have a serious concern about your name and a summary, or details of your complaint, being released you must complete the relevant section of this form.

The Monitoring Officer will tell the following people that a complaint has been made together with the complainant's name and a summary of the complaint:

- the Councillor(s) who the complaint is about
- one of the Independent Persons for the Council
- the Parish or Town Clerk (if applicable)

When the complaint relates to a Warwick District Councillor the Monitoring Officer will notify the relevant Political Group Leader so they are aware of the matter.

The Monitoring Officer will provide them with your name and a summary of the complaint. The Monitoring Officer will give them full details of your complaint where necessary or appropriate to be able to deal with it. Your name will normally be in the public domain if the matter progresses to a public hearing. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete the relevant section of this form.

Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted member of an authority
- ☐ Council officer or authority employee

### **Making your complaint**

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

Title	First name	Last name	Council or authority name

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

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when they decide whether to take any action on your complaint. For example:

- § You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- § You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general time frame.
- § You should confirm whether there are any witnesses and provide their names and, if possible, contact details.
- § You should provide relevant background information.
- § If more than one month has elapsed since the incident or latest incident occurred please explain why the complaint has not been made earlier.

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



## Confidentiality request by complainant

***Only complete this next section if you are requesting that your identity is kept confidential***

In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

- You will be at risk of physical harm if their identity is disclosed;
- You are an officer who works closely with the Councillor concerned and will suffer a disadvantage to your employment or may lose your job if your identity is disclosed (officers should consult the Council's whistle-blowing procedure); or
- You suffer from a serious health condition leading to medical risks associated with your identity being disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer, in consultation with the Independent Person advising Warwick District Council, will consider the request alongside the substance of the complaint. The Monitoring Officer will then tell the complainant of the decision.

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

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

---

**Signed****Date****Additional Help**

Complaints must be submitted in writing. This includes fax and electronic submissions.

If you need any support in completing this form, please contact the Council's Monitoring Officer as soon as possible.

In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

**What Happens now?**

On receipt of your complaint the Monitoring Officer will acknowledge receipt and confirm their understanding of your complaint with you. They will also provide you with an overview of the process for considering complaints about Councillors.

They will then discuss the matter with one of the Independent Persons for the Council. The aim of this discussion is to look at the complaint objectively and to try and find an early resolution in the process. The Monitoring Officer will inform you of the outcome of this discussion and the next steps they intend to take on this matter.

**Where to send your complaint**

Your completed complaint form together with any additional information, should be sent to:

**The Monitoring Officer, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa CV32 5HZ**



## **Arrangements for dealing with complaints against Councillors**

Mission Statement: "To promote and maintain high standards of conduct and governance within the Council and the Parish and Town Councils within the District."

Adopted by Warwick District Council on ??

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## **1 Context**

These arrangements are required under the Localism Act 2011. They set out how a complaint about an elected or co-opted member of either Warwick District Council or of a Parish/Town Council within this District will be considered and determined.

Under the Localism Act, Warwick District Council has appointed two Independent Persons. The Independent Persons, having no other direct link with the Councils within the District, are appointed to provide a clear impartial view of any matter being considered. The view of one of these Independent Persons will be sought by the District Council before any decision is taken at each stage of the process. The other of the two Independent Persons will be available for consultation by the Councillor(s) about whom a complaint has been made.

The responsibility for determination of complaints is a matter for Full Council. They have delegated the responsibility to the Monitoring Officer and Standards Committee. Normally, a complaint will be resolved by the Monitoring Officer or a Hearing Panel of the Standards Committee. This does not exclude the possibility, in exceptional circumstances, for either the Standards Committee or the Council to determine a case.

## **2 The Code of Conduct**

The Council has adopted a Code of Conduct for Councillors, which is attached as Appendix One to these arrangements. The Code of Conduct is displayed on the Council's website and can be seen on request at Riverside House.

Each Parish/Town Council in the District is also required to adopt a Code of Conduct and they have been recommended to adopt the Code of Conduct used by Warwick District Council. These should be displayed on the Parish/Town Council's website but a copy can also be requested from the relevant Parish/Town Clerk.

Councillors of the authorities are bound by the Code of Conduct for that Council and must abide by its requirements, even if they have not specifically signed up to it.

## **3 Making a complaint**

A complaint may be made by completing the complaint form, which is available as Appendix 2 to this procedure, as a download from Warwick District Council's website or on request from Warwick District Council's Monitoring Officer.

The form can be sent either;

By email to: [monitoringofficer@warwickdc.gov.uk](mailto:monitoringofficer@warwickdc.gov.uk); or

By post to: The Monitoring Officer, WDC, Riverside House, Royal Leamington Spa CV32 5HZ

The Monitoring Officer is a senior officer of Warwick District Council who has the statutory responsibility for maintaining the register of Councillors' interests and who is responsible for administering the system in respect of complaints of Councillor misconduct.

The complainant should provide their name and a contact address or email address, so that the receipt of the complaint can be acknowledged and the complainant informed of its progress.

In the interests of fairness and natural justice, this Council believes Councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. A complainant's address and contact details will not be released without prior discussion with, and approval by the complainant. If the complainant has serious concerns about the release of their name and a summary, or details of the complaint, to other people they must complete the relevant section of the complaint form.

The Monitoring Officer is unlikely to withhold identity or the details of a complaint unless the complainant provides good reason to indicate that:

- they will be at risk of physical harm or intimidation if their identity is disclosed;
- they are an officer who works closely with the Councillor concerned and they will suffer a disadvantage to their employment or may lose their job if their identity is disclosed (officers should consult the Council's whistle-blowing procedure); or
- they suffer from a serious health condition leading to medical risks associated with their identity being disclosed.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer, in consultation with the Independent Person advising Warwick District Council, will consider the request alongside the substance of the complaint. The Monitoring Officer will then tell the complainant of the decision.

If the request for confidentiality is not to be granted the complainant will be allowed the option of withdrawing their complaint. It is important to understand that in certain exceptional circumstances where the matter complained about is very serious, the Monitoring Officer can proceed with an investigation or other action and disclose the complainant's name even if they have expressly asked us not to.

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it, and will keep all parties informed of the progress of the complaint.

The Monitoring Officer will inform the following people that a complaint has been made together with the complainant's name and a summary of the complaint:

- the Councillor(s) who the complaint is about; and
- the Parish or Town Clerk (if applicable)

When the complaint relates to a Warwick District Councillor the Monitoring Officer will also notify the relevant Political Group Leader so they are aware of the matter.

Warwick District Council would normally expect, unless there are exceptional circumstances, a complaint to be made within 3 months of the potential failure of the Code of Conduct occurring. Where a complaint is received outside this time limit the Monitoring Officer will consult with both the Chairman of the Standards Committee and one of the Independent Persons as to whether the complaint should progress.

It should also be noted that if a complainant seeks to withdraw the complaint at any stage, Warwick District Council reserves the right to continue with the determination of a complaint if the Monitoring Officer considers that it is in the public interest to do so.

#### **4 Procedure once a complaint has been made**

There are three different types of complaint:

- (a) from a Member of the public, or an elected member of another authority about a Councillor;
- (b) from an employee of the Council about a Councillor; and
- (c) from a Councillor about a fellow Councillor of the same authority.

In the case of a complaint by an employee about a Councillor, the Monitoring Officer will, 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 a complaint by a Councillor about a fellow Councillor the Monitoring Officer will, before taking any further steps, expect there to have been a meeting between the two Councillors and their relevant Group Leader(s) to discuss the complaint to try and resolve it informally.

If in these two cases 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.

After any such meetings the Monitoring Officer will review every complaint received and, in consultation with one of the Independent Persons, will consider the following options:

- No further action where complaints fall outside the Code or do not justify investigation and there is no informal resolution;
- The complaint resolved by informal action is acceptable to both the complainant and the Councillor;
- Any allegations of criminal matters are referred to the Police;
- The complaint is referred for investigation if the criteria listed below are met.

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.



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.

A complaint will only be referred for investigation if the following criteria are met;

- it is serious enough, if proven, to justify the costs of an investigation; **or**
- it is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it; **and in either of these cases**
- the conduct complained of occurred within 3 months of the date the complaint was received, unless there are exceptional circumstances.

The Monitoring Officer will not normally refer a complaint for investigation where it falls within one or more of the following categories

- it is believed it to be malicious, relatively minor, or “tit-for-tat”;
- it is the same as, or is substantially similar to, a complaint that has already been the subject of an investigation or inquiry and there is nothing further to be gained by any investigation;
- it concerns acts carried out in the Councillor’s private life, when they are not carrying out the work of their Council or have not misused their position as a Councillor;
- it appears that the complaint is really about dissatisfaction with a Council decision; or
- there is not enough information available to justify a decision to refer the matter for investigation.

This decision will normally be taken within 14 days of receipt of the complaint. When the Monitoring Officer has taken a decision, they will inform the complainant of this and the reasons for that decision.

Where the Monitoring Officer requires additional information in order to come to a decision, they may request information from the complainant, Councillor(s) against whom the complaint is directed, or inspect publicly available information.

If the complaint identifies criminal conduct or breach of other regulation(s) by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. Where a breach may relate to the work of a Councillor when acting at more than one authority, the Monitoring Officer would liaise with appropriate officers at the relevant authorities.

## **5 The conduct of the investigation**

If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer.

The Investigating Officer will be another senior officer of Warwick District Council, an officer of another authority or an external investigator. The Investigating Officer will meet with the complainant to understand the nature of the complaint so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer will normally write to the Councillor against whom the complaint is 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 they need to see and who they need to interview.

In exceptional cases, where it is appropriate to keep the complainant's identity confidential or where the disclosure of details of the complaint to the Councillor might prejudice the investigation, the Monitoring Officer can redact appropriate information from the papers given to the Councillor, or delay notifying the Councillor until the investigation has progressed sufficiently.

The intention will be that any investigation should be concluded within 40 working days of appointment of the Investigating Officer.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that report, in confidence, to the complainant, the Councillor concerned, and the Monitoring Officer. This is to check factual accuracies and all parties will be given no more than two weeks to respond.

The final report will then be passed to the Monitoring Officer for consideration.

The procedure for undertaking investigations of misconduct complaints is attached as Appendix Two to these arrangements.

## **6 What happens at the conclusion of the investigation?**

Within 10 working days of receiving the final report the Monitoring Officer, after consultation with the Independent Person advising Warwick District Council, will determine what happens next, given that there are two possibilities:

- 6(a) the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct.

If the Monitoring Officer is satisfied, after consultation with the Independent Person, that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant and to the Councillor concerned and explain that no further action is required.

If the Monitoring Officer, after consultation with the Independent Person, is not satisfied that the investigation has been conducted properly, he will ask the Investigating Officer to reconsider their report.

- 6(b) The Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct.

The Monitoring Officer will review the Investigating Officer's report, in consultation with the Independent Person, and will then either seek local resolution or pass it to a Hearing Panel for determination.

If the Monitoring Officer, after consultation with the Independent Person, is not satisfied that the investigation has been conducted properly, he will ask the Investigating Officer to reconsider their report.

#### 6.1 Local Resolution

In such a case, the Monitoring Officer, following consultation with the Independent Person, will contact the complainant with a proposed 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 by the Council, and will be required to be completed within a set time period.

If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Parish/Town Council for information, but will take no further action.

If a complainant is not agreeable to the proposed local resolution, but the Councillor is willing to accept this, the complaint will not be allowed to progress to a Hearing Panel.

If the Councillor refuses to comply with the suggested resolution the Monitoring Officer will refer the matter for a hearing by the Hearing Panel.

The Monitoring Officer's report to the Hearing Panel will include the details of the attempted local resolution and why this was not successful.

#### 6.2 Hearing Panel

The Hearing Panel is a Sub-Committee of Warwick District Council's Standards Committee.

A Hearing Panel will be arranged when the Monitoring Officer, after consultation with one of the Independent Person, considers that:

- local resolution is not appropriate, or
- the Councillor concerned is not prepared to undertake any proposed remedial action.

The Panel will comprise of 5 members of the Standards Committee. It will consist of Councillors drawn from at least 2 different political parties. For complaints against District Councillors there will be at least one Parish/Town Councillor on the Panel and for complaints against Town/Parish Councillors there will be at least one District Councillor on the Panel. Subject to those requirements, The Hearing Panel is appointed by the Monitoring Officer in Consultation with the Chairman of the Standards Committee.

Warwick District Council has agreed a procedure for local hearings, which is attached as Appendix 3 to these arrangements.

The Monitoring Officer will conduct a Pre-hearing, requiring the Councillor to give their response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Chairman, or Vice Chairman, of the Standards Committee will attend, as normally they will be the Chairman of the Hearing Panel. This is to issue directions as to the manner in which the Hearing Panel meeting will be conducted.

Following the Pre Hearing, all parties relevant to the complaint will be written to and informed of the outcome of that meeting and the process for the Hearing. This will also be set out within the agenda to the Hearing.

If the Councillor who the investigation is about does not engage in this process this will be considered as a breach of the Code of Conduct in itself, and reported directly to the Hearing Panel for them to determine and issue sanctions for.

The Monitoring Officer will present the Investigating Officer's report to the Hearing Panel which will conduct a hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, what action to take in respect of the Councillor.

(It should be noted that the Standards Committee and Hearing Panels operate under delegated authority from Full Council. Therefore, if it was minded to do so, either the Standards Committee or Full Council could undertake the Hearing into the Councillors behaviour. It is accepted that this would only occur in exceptional circumstances following discussion between the Monitoring Officer, Independent Person, Chairman of Standards Committee and, if the matter is to go to Council, the Chairman of the Council)

## **7 Action the Hearing Panel can take where a Councillor has failed to comply with the Code of Conduct**

There are no lawful powers to suspend or disqualify the Councillor or to withdraw a Councillor's basic or special responsibility allowances.

The Hearing Panel may issue or recommend any sanctions or combination of sanctions that are relevant and proportionate to the matter. These might include any or all of the sanctions listed below. The lists are not meant to be exhaustive.

Any sanctions must include a time period for compliance by the Councillor and stipulate what would occur if the Councillor fails to comply within that time period.

For Warwick District Councillors, the range of appropriate sanctions might include any or all of the following:

- 7.1 Recommend to Council a vote of formal censure from the Council to confirm that the actions of the Councillor were unacceptable;
- 7.2 A requirement for the Councillor to apologise to the complainant(s) either in writing or in person. The apology must include an explanation for their action. The wording must have been approved in writing by the Chairman of the Standards Committee;
- 7.3 A recommendation to the Councillor's Group Leader (or in the case of ungrouped members and Group Leaders, a recommendation directly to Warwick District Council or to Committees) that they be removed from any or all Committees or Sub-Committees of Warwick District Council;
- 7.4 A recommendation to the Leader of Warwick District Council that the Councillor be removed from the Executive, or removed from particular Portfolio responsibilities, or if it is the Leader of the Executive, make this recommendation to Warwick District Council;
- 7.5 Training for the Councillor, arranged by the Monitoring Officer for which the Councillor will be required to pay half the cost subject to a maximum of one month Member's Allowance payment;
- 7.6 A recommendation to the Monitoring Officer (in consultation with Group Leaders) that the Councillor be removed from all outside appointments and working parties to which they have been appointed/nominated by Warwick District Council;
- 7.7 The withdrawal of facilities provided to the Councillor by Warwick District Council, such as a computer, car parking pass, iPad and Warwick District Council email account access;
- 7.8 The exclusion of the Councillor from Warwick District Council's offices or other premises, with the exception of meeting rooms as necessary for attending Warwick District Council, and Committee and Sub-Committee meetings, of which they are a member; or
- 7.9 A requirement for the Councillor to apologise to Warwick District Council (or the relevant Executive, Committee or Sub-Committee), in a meeting of that body. The apology must include an explanation for their action. The wording must have been approved in writing by the Chairman of the Standards Committee.

### **Parish and Town Councils**

When the case relates to the conduct of a Parish/Town Councillor, the Hearing Panel will determine if a breach has occurred and recommend appropriate and proportionate sanctions for that Parish/Town Council to approve.

For Parish/Town Councillors the range of possible appropriate sanctions that could be recommended to the Parish/Town Council include:

- 7.10 A vote of formal censure from the Parish/Town Council to confirm that the actions of the Councillor were unacceptable;
- 7.11 A requirement for the Councillor to apologise to the complainant(s). The apology must include an explanation for their action. The wording must have been approved in writing by the Chairman of the Standards Committee;
- 7.12 A recommendation to the Councillor's Group Leader (or in the case of ungrouped members and Group Leaders, a recommendation directly to the Parish/Town Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- 7.13 Training for the Councillor, to be arranged by the Parish/Town Council and for which the Councillor should be required to pay half the cost subject to a maximum of £100;
- 7.14 A recommendation to the Council that the Councillor be removed from all outside appointments and working parties to which they have been appointed/nominated by the Parish/Town Council;
- 7.15 The withdrawal of facilities provided to the Councillor by the Parish/Town Council, such as a computer and email access;
- 7.16 The exclusion of the Councillor from the Parish/Town Council's offices or other premises, with the exception of meeting rooms as necessary for attending the Parish/Town Council, and Committee and Sub-Committee meetings, of which they are a member; or
- 7.17 A requirement for the Councillor to apologise to the Parish/Town Council (or the relevant Committee or Sub-Committee), in a meeting of that body. The apology must include an explanation for their action. The wording must have been approved in writing by Chairman of the Standards Committee.

## **8 What happens after the Hearing Panel**

As soon as reasonably practicable after the Hearing, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearing Panel, and send a copy to:

- the complainant;
- the Councillor the complaint was about;
- the Investigating Officer;
- any witnesses consulted as part of the investigation;
- if they have one, the Group Leader of the Councillor the complaint was about;
- the members of the Standards Committee;
- the Independent Persons;
- if appropriate, the relevant Parish/Town Council;
- the proper officer of any other authority the Councillor is a member of; and
- ensure that a copy is reported to Full Council.

The Monitoring Officer will make the decision notice available for public inspection and will report the minutes to the next convenient meeting of the Standards Committee and Warwick District Council.

Where a breach of the Code is found, a copy of the decision notice will be published; in a local newspaper; on Warwick District Council's website and such other publications the Panel considers are appropriate.

## **9 Appeals**

There is no right of appeal for either the complainant or for the Councillor against a decision of the Monitoring Officer or of the Hearing Panel.

If a complainant feels that Warwick District Council has failed to deal with their complaint properly, they may make a complaint to the Local Government Ombudsman.

## **10 The Independent Persons**

The Independent Persons are those who have applied for the post following advertisement of a vacancy and are then appointed by a positive vote from a majority of all the members of Warwick District Council.

They are invited to all meetings of the Standards Committee and expected to take part in the deliberations of the Committee but are not voting members of that Committee.

Before deciding on whether a complaint will be investigated, the Monitoring Officer will consult with one of the Independent Persons who will be involved at each subsequent stage of the proceedings.

If it is decided to appoint a Hearing Panel, the Independent Person will be invited to attend all its meetings. Their views will be sought and taken into consideration before the Hearing Panel takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. They do not, however, form part of the Panel, and will not be present when the Panel determines the case in private session and will not have a vote on the determination of the case

It should be noted that the other Independent Person may also attend a Hearing Panel to act in a supportive role for the Councillor who the complaint is about.

The following disqualifications prevent a person from being an Independent Person (either at the time of appointment or during their time in the role):

- (1) employment by, or Membership (including co-opted) of, Warwick District Council in the last five years or an independent member of Warwick District Council's Standards Committee within the last five years;
- (2) any bankrupt or person who has made a composition or arrangement with creditors which is extant;

- (3) 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;
- (4) a disqualification for being elected or being a member of an authority under the Representation of the People Act 1983 (corrupt electoral practices);
- (5) being an officer of another local authority;
- (6) is or has been within the past 5 years, a member, co-opted member or Officer of a Parish/Town Council within Warwick District Council's area; or
- (7) being a relative of a Member or Officer of Warwick District Council or Parish/Town Council within Warwick District

For this purpose, "relative" means –

Spouse or civil partner;

Living with the other person as husband and wife or as if they were civil partners;

Grandparent of the other person;

A lineal descendent of a grandparent of the other person;

A parent, sibling or child of a person within paragraphs (1) or (6);

A spouse or civil partner of a person within paragraphs (1) or (6); or

Living with a person within paragraphs (1) or (6) as husband and wife or as if they were civil partners.

## **11 Policy for Handling 'Unreasonable complainant behaviour' and 'Unreasonably persistent complainants'**

Generally, dealing with a complaint is a straightforward process but in a minority of cases people pursue their complaints in a way which can either impede the investigation or can have significant resource issues for authorities. These actions can occur either while the complaint is being investigated, or once an authority has concluded the complaint investigation.

For this reason the Council uses the terms 'unreasonable complainant behaviour' and 'unreasonably persistent complainants'. The definition for these is set out below:

"Unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their, or other people's, complaints."

The Council has an established practice on this and it is set out at Appendix 4 to this document.

## **12 Revision of these arrangements**

The Standards Committee may, by resolution, agree to amend these arrangements.



The Council has delegated to the Monitoring Officer, in consultation with the Chairman of the Standards Committee and/or the Independent Person (as appropriate) the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## Disclosable Pecuniary Interests Form

I,

a Member of Warwick District Council hereby register that I have the following disclosable pecuniary interests (*please state 'None' where appropriate*):

<b>Employment</b> - Employment, office, trade, profession or vocation, carried on for profit or gain by you or your partner
<b>Sponsorship</b> - Any payment or provision of any other financial benefit (other than from the Warwick District Council) made or provided within the 12 months before your declaration of interests or any amended declaration in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses . This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b> - Any contract which is made between you or your partner (or a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest) <b>and</b> the District Council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

<p><b>Land</b> - "Land, any beneficial interest in land which is within the area of Warwick District Council, this <u>excludes</u> an easement, servitude, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly with another) to occupy the land or to receive income</p>
<p><b>Licences</b> - Any licence (alone or jointly with others) for you or your partner to occupy land in the area of the Warwick District Council for a month or longer.</p>
<p><b>Corporate tenancies</b> - Any tenancy where (to your knowledge)—</p> <ul style="list-style-type: none"> <li>(a) the landlord is Warwick District Council; and</li> <li>(b) the tenant is a body in which you or your partner has a beneficial interest i.e. a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest.</li> </ul>
<p><b>Securities</b> - which 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</p> <p>Any beneficial interest in securities of a body held by you or your partner where—</p> <ul style="list-style-type: none"> <li>(a) that body (to your knowledge) has a place of business or land in the area of the Warwick District Council; and</li> <li>(b) either— <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(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 you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

### Other Interests Form

A matter being considered by the Warwick District Council where a decision in relation to that matter might reasonably be regarded as affecting you or a relevant person's well-being or financial position to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision;

(these are matters which are not already covered by the disclosures above)

I, Councillor..... agree/do not agree that Warwick District Council may publish my other interests form on the District Council's website.

**Signed:** .....

**Councillor**

**Date:** .....

**RECEIVED:**

**Signed:** .....

**Monitoring Officer of the District Council**

**Date:** .....

*NOTE: This notification must be given by the Member to the Monitoring Officer of Warwick District Council within 28 days of any changes.*

## Disclosable Pecuniary Interests Form –Advice Note

I,

a Member of Warwick District Council hereby register that I have the following disclosable pecuniary interests (*please state 'None' where appropriate*):

*General Note: You are required to declare both your own disclosable pecuniary interests and those of your partner of which you are aware. 'Your partner' means your spouse or civil partner or someone you are living with as if he/she is your husband or wife or civil partner.*

<p><b>Employment</b> - Employment, office, trade, profession or vocation, carried on for profit or gain by you or your partner</p>
<p><i>Notes</i>  <i>Profit or gain – money or some type of payment in kind</i>  <i>Profit or gain means unpaid employment or volunteer work need not be registered</i>  <i>Roles where all you receive is a reimbursement of expenses, does not amount to profit or gain</i></p>
<p><b>Sponsorship</b> - Any payment or provision of any other financial benefit (other than from the Warwick District Council) made or provided within the 12 months before your declaration of interests or any amended declaration in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses .</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>
<p><i>Notes</i>  <i>Only applies to</i></p> <ul style="list-style-type: none"> <li><i>the 12 months before you signed your declaration of interests or the 12 months preceding any update to your declaration and</i></li> <li><i>payments made by a person other than the District Council</i></li> <li><i>towards your election expenses or</i></li> <li><i>towards your expenses as a Member of the District Council</i></li> </ul> <p><i>If someone else is paying or contributing to your expenses as a District Councillor for example political party, trade union, Microsoft plc etc you need to include the information here.</i></p>

<p><b>Contracts</b> - Any contract which is made between you or your partner (or a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest)) <b>and</b> the District 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>
<p><i>You need to declare any current contracts with the District Council for goods works or services.</i></p> <p><i>This might be you or your partner as sole traders or a firm in you may be a partner or a company in which you are a director.</i></p> <p><i>"Director" includes a member of the committee of management of an industrial and provident society;</i></p> <p><i>For example quite a lot of 'voluntary organisations' have taken on company status to limit the potential liability of their members – you may be a director of such a company – the company may have a contract with the Council – you would need to declare this here.</i></p> <p><i>It could be you providing the goods works or services <b>OR</b> it could be the Council providing goods, works or services to your business. This is about commercial arrangements not provision to service users under the Council's statutory duties.</i></p>
<p><b>Land</b> - "Land, any beneficial interest in land which is within the area of Warwick District Council, this <u>excludes</u> an easement, servitude, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly with another) to occupy the land or to receive income</p>
<p><b>Notes</b></p> <p><i>This will include any land owned or leased in the administrative district of Warwick District Council.</i></p> <p><i>In broad terms a person has a beneficial interest in property or its income when they have the right to use that property and/or that income as they wishes. A beneficial interest is distinguished from the rights of someone like a trustee or official who has responsibility to perform and/or title to the assets, but does not share in the benefits.</i></p> <p><i>This does include your home, if you live within the District.</i></p>
<p><b>Licences</b> - Any licence (alone or jointly with others) for you or your partner to occupy land in the area of the Warwick District Council for a month or longer.</p>
<p><i>Restricted to property in the administrative area of Warwick District Council which you or your partner have a right to use for a month or longer.</i></p>

<p><b>Corporate tenancies</b> - Any tenancy where (to your knowledge)—</p> <p>(a) the landlord is Warwick District Council; and</p> <p>(b) the tenant is a body in which you or your partner has a beneficial interest i.e. a firm or body corporate in which you or your partner is a partner or a director, or in the securities of which you or your partner has a beneficial interest.</p>
<p><i>Only applies to property where the District Council is the landlord. Not limited to property in the area of Warwick District Council. So for example if the District Council owns a building in Dorset and you are a director of a company which is a tenant of that property – you’d need to declare it here.</i></p> <p><i>A corporate body has a separate identity – so for example company, industrial and provident society, incorporated charity, limited liability partnership.</i></p> <p><i>Securities apply the same meaning as below.</i></p>
<p><b>Securities</b> - which 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</p> <p>Any beneficial interest in securities of a body held by you or your partner where—</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the Warwick District 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 you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
<p><i>The business must have a physical presence in the area of Warwick District Council.</i></p> <p><i>Nominal value for shares means the value on the share certificate – not the stock market value on any particular day.</i></p> <p><i>You do not need to declare your building society mortgage.</i></p>

### Other Interests Form

<p>A matter being considered by the Warwick District Council where a decision in relation to that matter might reasonably be regarded as affecting you or a relevant person’s well-being or financial position to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision;</p> <p>(these are matters which are not already covered by the disclosures above)</p>
<p><i>A relevant person means yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners)</i></p>

I, Councillor..... agree/do not agree that Warwick District Council may publish my other interests form on the District Council’s website.

**Signed:** .....  
**Councillor**

**Date:** .....

**RECEIVED:** **Signed:** .....  
**Monitoring Officer of the District Council**

**Date:** .....

*NOTE: This notification must be given by the Member to the Monitoring Officer of Warwick District Council within 28 days of any changes*



## **Notification by a Member of Warwick District Council of the Receipt of a Gift or Hospitality over the value of £25.00**

I,

a Member of Warwick District Council, give notice that I have received the following gift(s) / hospitality (*delete whichever does not apply*) over the value of £25.00:

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

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

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

Date:

Signed:

*NOTE: This notification must be given by the Member to the Monitoring Officer of Warwick District Council within 28 days of receiving any gift or hospitality over the value of £25.00*

## **Appendix E**

### **Proposals for a Joint Standards Committee & Arrangements for appointment to that Committee**

#### **Remit**

The responsibilities for the Committee will be as defined by Warwick District Council within its Constitution.

#### **Membership**

The Committee shall be no larger than 15 members comprising of:

- 11 Warwick District Councillors
- 2 Representatives of Parish Council's from within Warwick District
- 2 Representatives of Town Council's from within Warwick District

#### **Appointment of Membership**

All appointments will be made by Warwick District Council at a meeting of the Council, in line with its procedure rules.

Nominations for the appointments to the Parish & Town Council representative roles will be made as follows.

Nominations will be sought by the District Council for:

- A representative from the rural Parish Councils to the West of the District (as set within the Warwick Rural West Community Forum) with the addition of Burton Green Parish Council)
- A representative from the rural Parish Councils to the east of the District (as set out in the Warwick rural East Community Forum)
- Two representatives from the Four Town Council's within the District (with the provision that the two appointed shall not be from the same authority)

No representative of the Parish & Town Councils can also be a member of either Warwickshire County Council or Warwick District Council.

Any Council can propose a Councillor for any of the above positions.

At the close of nominations all Council's will be written to asking for their preferred and second choice candidate to represent their area. For example Leek Wootton & Guys Cliffe will be asked for their preferred candidate (from those nominated) for the rural West representative and Whitnash Town Council be asked for the same for their two preferred candidates for the Town Council representatives.

The votes received will be reported to Warwick District Council for them to determine who should be appointed.

### Appeals Process

Section 28 Localism Act 2011 simply requires that the Council should have in place arrangements for investigating and determining complaints against members under the adopted Code of Conduct. It is then for the Council to decide what those arrangements should be. There is no statutory requirement to have an appeal process. However there is nothing unlawful in including an appeal process within your arrangements if that is part of the arrangements agreed by the Council. Therefore there is nothing unlawful in the proposal for Appeals against the decisions of Hearing Panels set out below.

However the Council may wish to consider the costs and benefits of implementing an appeal system and whether there is any significant benefit to be gained. Considerations which the Council may wish to take into account are

- The arrangements for determining complaints against members already meet the requirements for a fair hearing without the addition of an appeal process
- The level of resources required to run an appeal system both in terms of officer and member time and actual expenditure in times of austerity
- The extended length of time a member might be subject to an ongoing process without a final resolution and the associated stress that can cause
- The limited nature of the sanctions which can be imposed whether being imposed by a Hearing Panel or Appeal Panel
- Most sanctions require the consent of either the member concerned or another person or body to actually implement so in a sense already are subject to review by another person or body as to whether or not they are in fact implemented
- The most common sanction which can be imposed directly by the Hearing Panel are requirements around publicity and to a certain extent that publicity will already have taken place by the time of any Appeal by the holding of a public hearing and the publication of the Hearing Panel decision
- Those making a determination on Appeal will be drawn from the same body of people (councillors) as those making the determination at the original hearing.
- Whether an Appeal system raises unrealistic expectations of what can be achieved.

Jane Pollard  
Governance Advisor  
Solicitor  
Law and Governance Division  
Resources Group  
Warwickshire County Council

### **"Appeal of a Hearing Panels Decision**

An appeal can only be made *against* the Decision of a Hearing Panel in the following circumstances

- By the Councillor the complaint was about (with written support from *their* Group Leader, or if they are not within a Group the Chairman of the Council);
- By the individual who made the complaint (with *the written* support of the Monitoring Officer)
- The application for appeal is made within 21 days of the original Hearing.

The Councillor *who is the subject of the* complaint will only be able to make an appeal if they have met with the reasonable requirements of the process. For example, *an appeal will not be permitted if the* Councillor (or their representative) agrees to submit information as part of the pre hearing process by a set date and *fails to do so without a reasonable explanation or if the* Councillor fails to cooperate with an investigating officer.

An appeal will be able to consider:

- The evidence submitted at the Hearing and the decision of the Hearing;
- New evidence which was not available at the Hearing (so long as this is presented in *good* time to enable all relevant parties to consider it)
- The sanctions imposed (which can be either increased or decreased no matter who submits the appeal)


An Appeal *Panel* will comprise of 5 Councillors (which must include at least a Parish or Town Council representative) who have not previously considered the matter.

A Pre Appeal Hearing will be held to determine the operation of the Appeal Hearing.

The Pre Appeal Hearing will be overseen by the Chairman or Vice-Chairman of the *Standards Committee* and will include the Monitoring Officer, the Investigating Officer, the Council's Solicitor the Councillor whom the complaint is about and/or their representative."

*An Appeal hearing will proceed normally by way of oral or written representations and written statements unless the Chairman or Vice-Chairman of the Standards Committee has given permission at the Pre Appeal Hearing for particular witnesses to give oral evidence.*

That Council procedure rule 10 be amended so a notice of motion from 10 Councillors is not required to amend the decision of a Hearing Panel.

 <b>Standards Committee</b> <b>21 January 2015</b>		<b>Agenda Item No. 5</b>
<b>Title</b>	Revised Member/Officer Protocol	
<b>For further information about this report please contact</b>	Richard Barr Tel: (01926) 456815 E Mail: richard.barr@warwickdc.gov.uk	
<b>Service Area</b>	Finance	
<b>Wards of the District directly affected</b>	Not applicable	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Not applicable	
<b>Background Papers</b>	Other local authorities' member/officer protocols	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	N/A: no direct service implications

Officer/Councillor Approval		
With regard to officer approval all reports <i><u>must</u></i> be approved by the report author's relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Chief Executive / CMT	17 Dec 2014	Chris Elliott / CMT
Section 151 Officer	17 Dec 2014	Mike Snow
Monitoring Officer	17 Dec 2014	Andrew Jones
Senior Management Team	17 Dec 2014	Senior Management Team
Finance	17 Dec 2014	As Section 151 Officer
Leader of the Council	12 Jan 2015	Councillor Mobbs
Portfolio Holder	12 Jan 2015	As Leader of the Council
Consultation and Community Engagement		
Consultation with members and officers listed above and trade unions.		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

## **1 SUMMARY**

- 1.1 The report provides a revised Member/Officer Protocol, the purpose of which is to guide Members and Officers in their relations with one another.
- 1.2 Although the Protocol is largely no more than a written statement of current practice and convention, intending to be neither prescriptive nor comprehensive, it seeks to promote greater clarity and certainty on some of the issues that most commonly arise.

## **2 RECOMMENDATION**

- 2.1 That Committee considers and approves the revised Member/Officer Protocol, set out as an appendix to this report.

## **3 REASON FOR THE RECOMMENDATIONS**

- 3.1 An up-to-date Member/Officer Protocol is required to support and guide relations between Members and Officers.
- 3.2 The Protocol will help to ensure that Members receive objective and impartial advice and that Officers are protected from any accusations of bias or undue influence from Members.

## **4 POLICY FRAMEWORK**

- 4.1 The Member/Officer Protocol is part of the suite of policies that help to ensure the Council is governed properly.

## **5 BUDGETARY FRAMEWORK**

- 5.1 Although there are no direct budgetary implications arising from this report, an effective relationship between Members and Officers helps to ensure that the Authority achieves its objectives economically, efficiently and effectively.

## **6 RISKS**

- 6.1 The Council's performance and reputation would suffer if relations between Members and Officers were deficient.

## **7 ALTERNATIVE OPTION(S) CONSIDERED**

- 7.1 This report is not concerned with recommending a particular option in preference to others so this section is not applicable.

## **8 BACKGROUND**

- 8.1 The previous Member/Officer Protocol had been in existence for a number of years and was due for an overhaul.
- 8.2 In reviewing the Protocol a number of other authorities' protocols were examined to determine best practice.

- 8.3 The revised Protocol seeks to reflect the principles underlying the respective Codes of Conduct that apply to members and officers. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 8.4 The Protocol therefore supplements and interprets, but does not override:
- statutory provisions, the code of conduct for members and other codes and guidance;
  - the other provisions of the council's own adopted constitution and especially the rules of procedure;
  - disciplinary codes that regulate the conduct of officers.
- 8.5 A relevant extract from the National Code of Local Government Conduct for members is reproduced below:
- 23. Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to councillors and the council, and to carry out the council's work under the direction and control of the council, their committees and sub-committees.*
- 24. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.*
- 8.6 In line with the National Code's reference to "mutual respect", it is important that any dealings between members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 8.7 Mutual respect and trust should be founded on The Ten General Principles of Public Life (developed from the Nolan Principles). The principles, which apply equally to Members and Officers, are:
- Selflessness
  - Honesty and Integrity
  - Objectivity
  - Accountability
  - Openness
  - Personal Judgment
  - Respect for Others
  - Duty to Uphold the Law
  - Stewardship
  - Leadership
- 8.8 The revised Protocol attempts to build on these required standards of conduct and achieve the objective of mutual respect between Members and Officers.

## PROTOCOL ON MEMBER/OFFICER RELATIONS

### 1 INTRODUCTION

- 1.1 The purpose of this Protocol is to guide the Council's Members and Officers in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is intended, however, that the approach that it adopts to these issues will serve as a guide to dealing with other, related, issues.
- 1.3 This Protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 Following the Protocol will help to ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.5 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Constitution and other relevant guidance that may be issued from time to time.
- 1.6 This Protocol seeks to reflect the principles underlying the respective Codes of Conduct that apply to members and officers. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.7 The Protocol therefore supplements and interprets, but does not supplant:
  - ✓ statutory provisions, the Code of Conduct for Members and other codes and guidance;
  - ✓ the other provisions of the Council's own adopted constitution and especially the rules of procedure;
  - ✓ disciplinary codes that regulate the conduct of Officers.
- 1.8 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:
  23. *Both councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to councillors and the council, and to carry out the council's work under the direction and control of the council, their committees and sub-committees.*
  24. *Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.*



- 1.9 In line with the National Code's reference to "mutual respect", it is important that any dealings between members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.10 Mutual respect and trust should be founded on The Ten General Principles of Public Life (developed from the Nolan Principles). The principles, applying equally to Members and Officers, are:
- Selflessness
  - Honesty and Integrity
  - Objectivity
  - Accountability
  - Openness
  - Personal Judgment
  - Respect for Others
  - Duty to Uphold the Law
  - Stewardship
  - Leadership

### **3 THE ROLE OF MEMBERS**

- 3.1 Members are elected democratically. It is their policies, ideas and decisions that people vote for. Members agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability and Members are the channel for the voices of the people in their wards.
- 3.2 The Council meets as a body when all its Members are summoned to attend a Council meeting. This meeting has ultimate authority over the affairs of the Council, subject only to the law. The Council can delegate authority to the Executive, committees and sub-committees of Members (and co-opted members in some circumstances) and to Officers. When Members meet as the Executive, a committee or sub-committee they can take decisions and act on behalf of the Council, within that body's terms of reference and delegated powers, again subject only to the law.
- 3.3 Members will also be involved in a variety of less formal meetings, correspondence and discussions with other Members, Officers and people outside the Council, to help the Council develop policies and deliver services.
- 3.4 As a Member attending a meeting of Council, the Executive, or of a committee or sub-committee, or in less formal settings, Members will have a variety of roles:
- The policy making role – deciding the broad direction of Council policy
  - The executive role – deciding how those policies are to be delivered in practice
  - The scrutiny role – holding Executive and Officers to account for their decisions and actions
  - The ward member role – representing the interests of individual residents or residents' groups within their ward, in the overall public interest.

- 3.5 Members will be involved in individual staffing matters only if they are a member of a committee or panel set up for that purpose. This may include being part of an appeals process or in the case of the Chief Executive and other senior officers in the appointment process.
- 3.6 In other circumstances, however, Members must not become embroiled in the management of the Council (such as officer-related disciplinary, capability or grievance processes). They must not engage in activities that might undermine the management line of command or adherence to Council HR procedures, or try to influence the recruitment process.

#### **4 THE ROLE OF OFFICERS**

- 4.1 Officers can also have a variety of roles.
- They are responsible for the operational management of the Council. They advise Members to help them to take decisions in the Executive, committee, sub-committee and Council.
- Some Officers have personal statutory powers and duties, for example, the Officers designated as Head of Paid Service (Chief Executive), Chief Finance Officer (Head of Finance and the Monitoring Officer (Head of Members' Services and Monitoring Officer.
- The Council has given delegated powers to the Chief Executive, Deputy Chief Executives and other Officers so that they can act and take decisions on behalf of the Council in many areas, provided that they follow the rules of delegation and that Members have access to their decisions.
- The Council is a large organisation, and Officers have a role to play within the organisation itself.
- 4.2 Officers' roles have two dimensions. Some Officers have professional skills relevant to a particular organisational task. Others have managerial responsibility primarily. Many Officers have elements of both in their job.
- 4.3 Officers should expect to have the opportunity to give 'honest advice' and to have their professional integrity respected (e.g. not to be required to make recommendations they cannot support professionally) and the chance to explain what may appear to be a shortcoming in performance.
- 4.4 In addition Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of Officers to manage the implementation of policy, in agreement with Members.
- 4.5 Officers serve the Council through its committees and other Council bodies. They work to the instructions of their Head of Service or the Chief Executive - not individual Members of the Council, whatever office the Member might hold.

- 4.6 Officers should:
- a. Pursue every known lawful policy of the Council
  - b. Implement the decisions of Council, the Executive, committees and sub-committees
  - c. Inform Members through their head of service of any decision that they cannot fully implement and the reasons for this
  - d. Be helpful and respectful to Members
  - e. Behave in a professional manner
  - f. Serve all members, not just those of the administration group(s)
  - g. Maintain confidentiality
  - h. Deal with Member enquiries efficiently
  - i. Strive continually to comply with the Council's performance management and scrutiny processes
  - j. Support Members in their role as ward Councillors
- 4.7 Officers must not raise directly with Members, either acting independently or on behalf of others, any personal matter to do with their jobs, or relating to any potential appointment within the Authority. Formal procedures have been agreed with the trade unions for dealing with such issues.

## **5 OFFICER SUPPORT TO MEMBERS AND PARTY GROUPS**

- 5.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 5.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body.
- 5.3 Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 5.4 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is in control of the Council, such support is available to all party groups.
- 5.5 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- a. Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
  - b. party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on

behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

- c. similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 5.6 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting that includes persons who are not Members of the Council. Such persons are not bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and, for this and other reasons, Officers may not attend and/or give advice to such meetings.
  - 5.7 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
  - 5.8 Whilst any Member may ask a relevant senior manager for written factual information about a service, such requests must be reasonable. Requests will be met subject to any overriding legal considerations or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response, they should raise the matter in the first place with the relevant head of service and, if still dissatisfied, should raise the matter with the Chief Executive who will discuss the issue with the relevant group leader(s).
  - 5.9 Officers should ensure that any information supplied does not contain any personal information (within the meaning of the Data Protection Act 1998) relating to individual employees such as salary, grade, Trade Union affiliation etc.
  - 5.10 Requests for personal information about specific employees or where the group of employees is so small that individual employees personal details are likely to be revealed should only be considered where a Member has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such request must be properly justified.
  - 5.11 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and to familiarise themselves with their obligations under the Act accordingly. Officers or Members who require advice or assistance in relation to their duties under the Data Protection Act 1998 should take advice from the Monitoring Officer or the Council's legal service as appropriate.

- 5.12 In relation to budget proposals:
- a. the Administration shall be entitled to confidential information/discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier; and
  - b. the opposition groups shall also be entitled to confidential information/discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.
- 5.13 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any member has to seek advice "in confidence" from Officers.
- 5.14 In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Members. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, Officers should advise the Members of the Authority that this is so. It would, however, be for the Officer to decide how and when to do so. This is without prejudice to issues of legality and financial administration which are covered by specific duties placed on the Chief Financial Officer and Monitoring Officer.
- 5.15 Members should consider, when attending a meeting, whether or not minutes should be taken and/or an officer should be present. It is a matter for Members' judgement whether this is necessary, but factors such as whether any commitment is likely to be given on behalf of the Council and/or whether any complex financial, legal or procurement issues may be discussed will be relevant in deciding that. In such situations, Members are generally recommended to have an officer present and to ensure that contemporaneous minutes are taken and, where appropriate, shared with the other parties present to ensure that an accurate record is maintained. It will, however, be a case of judgement on each and every occasion as to how and when this principle is applied.
- 5.16 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 5.17 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).
- 5.18 It is clearly important that there should be a close working relationship between Members serving on committees (including the Executive) and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to

bring into question the Officer's ability to deal impartially with other Members and other party groups.

## **6 OFFICER SUPPORT TO MEMBERS ON EXECUTIVE AND ON SCRUTINY COMMITTEES**

- 6.1 Officer support to Members serving on the Executive and on Scrutiny Committees should adhere to certain principles and standards regardless of which body the Member is serving on. In both cases Officers are expected:
- a. to maintain political impartiality at all times when commenting on the Council's policies and actions;
  - b. to be prepared to explain and justify advice given to Members and to justify decisions they themselves have taken under the Scheme of Delegation;
  - c. to ensure that an Officer of sufficient seniority appears before the relevant meeting in the light of the topics under discussion;
  - d. to provide information in a comprehensive and timely fashion;
  - e. to respond to questions from Members in an open, constructive and helpful manner;
  - f. not to mislead or be economical with the truth.
- 6.2 There are some aspects of Officer support, however, that are more relevant to either the Executive or Scrutiny Committees. Taking each in turn:

### **Executive**

- 6.3 It is clearly important that there should be a close working relationship between Members serving on the Executive and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.
- 6.4 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 6.5 Members serving on the Executive have wide ranging leadership roles. They will:
- a. lead the preparation of the Council's policies and budget;

- b. take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
  - c. be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 6.6 Where functions that are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through the Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 6.7 Under Executive Arrangements, individual Members of the Executive are allowed to formally take decisions. Members serving on the Executive must satisfy themselves that they are clear what exactly they can and cannot do.
- 6.8 The Council has mechanisms and protocols that ensure that (as with the Council and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about the extent of legal authority.
- 6.9 Members also need to comply with the Code of Financial Practice and Code of Procurement Practice when they are directly involved in procurement exercises, particularly in discussions with potential and/or actual tenderers.
- 6.10 Decisions taking by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Financial Officer as appropriate) that will arise from their decisions. To ensure effective leadership for the Council and the community it serves, there are arrangements to ensure co-ordination of and sharing responsibility for Executive decisions including those made by individuals.
- 6.11 Officers will continue to work for and serve the Local Authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of Officers. Officers must ensure that, at all times, their political neutrality is not compromised.
- 6.12 In organising support for the Executive, there is potential for tension between Officers and Members of the Executive with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions, whether real or perceived.

## Scrutiny Committees

- 6.13 Scrutiny Committees are an important element of the Council's arrangements. It is not, however, a Scrutiny Committee's role to act as a Disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff and the Monitoring Officer's and the Standards Committee as regards the conduct of Members. This means:
- a. A Scrutiny Committee's questioning should not be directed to the conduct of individuals, not in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but with the implication of allocating criticism or blame;
  - b. in these circumstances, it is for the Chief Executive to institute a formal enquiry, and a Scrutiny Committee may ask (but not require) him to do so.
- 6.14 Scrutiny Committees should not act as a "court of appeal" against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) as other procedures exist for this. These are internal, e.g. the Corporate Complaints Procedure, and external/statutory, e.g. Local Government Ombudsman or appeal to the Courts. That said, Scrutiny Committees may:
- a. investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;
  - b. comment on the merits of a particular policy affecting individuals.
- 6.15 It would be unfair to invite someone to appear at a Scrutiny Committee without telling them in general terms what they will be asked and without giving them adequate time to prepare. Scrutiny Committees ought to provide written questions, or at least "indicative topics", beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.
- 6.16 The way in which Scrutiny Committee Members probe Officers should be influenced by the level of seniority of the Officers present – accordingly when calling Officers to give evidence, Members should consider the level of the Officer they wish to have before them in the light of the line of questioning they wish to follow.
- 6.17 Officers may be asked to give a professional opinion, including presenting alternative options. Officers may not confine themselves solely to justifying either the position of or the advice that they gave to the Executive although, in giving options, it is to be expected that they will explain the rationale for the advice they gave.
- 6.18 It is appropriate for Members of Scrutiny Committees to ask Officers to explain and justify advice given to Members, whether on the Executive or



otherwise, prior to decisions being taken, and to justify decisions that Officers have taken under delegated powers.

## **7 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

- 7.1 Support services (e.g. stationery, typing, printing, photocopying) to Members must only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **8 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 8.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service or another senior Officer of the Division concerned.

- 8.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.

- 8.3 The law concerning access to information is complex, with the following pieces of legislation applying:

- The Access to Information provisions of the Local Government Act 1972
- The Data Protection Act 1998
- The Local Government Act 2000
- The Freedom of Information Act 2000

The Freedom of Information Act has probably the greatest impact, potentially providing Members with a single route through which to obtain information in support of their work, whatever their role within the Authority.

- 8.4 Any Council information provided to a Member is deemed to be information provided in confidence; it is subject to the protections afforded by the Data Protection Act 1998 and must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.
- 8.5 Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the Data Protection Act 1998 may result in prosecution of the Authority and/or any individual Officer or Member by the Information Commissioner and the imposition of significant monetary penalties.
- 8.6 Any Member request for personal information or personal data about an individual employee (rather than a general group of employees as a whole) should only be supplied where there is a demonstrable need for that Member

to have the information at that level of detail in order to carry out their duties as a Member of the Council. Any such requests should be referred to and considered by the Head of HR who may, if necessary, refer the request to the Monitoring Officer.

- 8.7 In cases where such information is to be released, the Head of HR will specifically remind the Member that the information is confidential, subject to the protection of the Data Protection Act 1998 and confirm the necessary measures for handling that data in order to keep it confidential and ensure that it is not further disclosed to any other person or body either within or external to the Council.

## **9 CORRESPONDENCE AND ADVICE**

- 9.1 Members seeking advice from officers shall be entitled to assume that such advice is given under "Chatham House rules" in terms of disclosure to other Members, unless otherwise agreed with the officer(s) concerned.
- 9.2 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. In other words, a system of "silent copies" should not be employed.
- 9.3 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of an Executive Member or the Leader of the Council or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters that, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.
- 9.4 Officers responding to members' queries should do so in a timely manner, and in accordance with the agreed standards for replying to letters and emails from Members; namely:
- a. Members will receive an acknowledgement within two working days of the date of the enquiry, to include the name and contact details of the officer dealing with the enquiry (subject to leave, etc);
  - b. a response will be given as soon as possible but not later than 10 working days of the date of the enquiry. If it is not possible to give a detailed response within 10 working days, the councillor should be informed within that period of the date by which they can expect to receive the information requested and be given a reason for the delay
- 9.5 Democratic Services provides an alternative route whereby Members may make enquiries or request information from officers within the Authority. Any Member may pass an enquiry to Democratic Services who will then refer it to the appropriate officer and follow it up as necessary. Members can expect to be updated as to progress by the officer responsible for replying to the request.

## **10 PUBLICITY AND PRESS RELEASES**

- 10.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have used publicity to keep increasingly the public informed and to encourage public participation. Every council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective, publicity aimed to improve public awareness of a council's activities is, in the words of the Government, to be welcomed.
- 10.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity that provides guidance on the subject and that should be complied with.
- 10.3 Particular care should be paid to any publicity used by the Council around the time of an election. Advice will be given on this by the Monitoring Officer.

## **11 ALLEGATIONS OF MEMBER OR OFFICER MISCONDUCT**

- 11.1 In a situation where a Member identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, they should draw the issue to the attention of the Chief Executive who, following consultation with the Council's Monitoring Officer, will ensure an appropriate investigation.
- 11.2 In respect of an Officer who believes a Member has breached the Members' Code of Conduct, they should:
- a. not offer any opinion or judgement upon that conduct to the Member;
  - b. they must advise the Monitoring Officer immediately of the circumstances, facts, their belief and the rationale behind it, including supplying all and any documentation; and
  - c. they should not comment further on the issue to any other Officer or Member without the prior consent of the Monitoring Officer.

These provisions are to protect both the Member and Officer, avoid Officers from becoming unduly involved in allegations of Member misconduct at an inappropriate level and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency, is not compromised in any way.

- 11.3 Any complaints made regarding the alleged conduct of Councillors will be dealt with in accordance with the Local Standards Framework of Standards for England.
- 11.4 The Monitoring Officer will investigate allegations of fraud or criminal misconduct against Members. They may investigate other allegations of misconduct against Councillors, but only if:


- a. the matter affects the business of the Council or its reputation; and
  - b. it is proper for the Monitoring Officer to investigate.
- 11.5 Some issues are matters of party discipline. Even if the allegations were proved, there may be no action or sanction that the Council can apply. Normally such matters must be investigated by the party itself. The Monitoring Officer will refer the matter to the group leader.
- 11.6 The Monitoring Officer:
  - a. will investigate any matters which are properly raised with them;
  - b. will always inform the Councillor who is the subject of the allegations - unless this would prejudice the investigation;
  - c. has no obligation to report the findings to the Councillor making the allegation but is responsible for satisfying the Councillor that appropriate action has been taken; and
  - d. has a duty to take whatever action they think fit as a result of the investigation, in accordance with their statutory duties.
- 11.7 Investigations will be subject to supervision by and report to the Standards Committee of the Council or any equivalent body.
- 11.8 Where the allegation is within the terms of reference of the Council's auditors, the police, the matter will be referred to them.

## **12 CONCLUSION**

- 12.1 Straightforward respect and consideration between Members and Officers provide the greatest safeguard of the integrity of the Council.

## **13 APPROVAL / DISTRIBUTION / CLARIFICATION**

- 13.1 This version was approved by the Council as part of the Constitution in (*to be completed*).
  - 13.2 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.
  - 13.3 Questions of interpretation of this Protocol will be determined by the Chief Executive in consultation with the Monitoring Officer.
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 <b>Standards Committee - 21<sup>st</sup> January 2015</b>		<b>Agenda Item No. 6</b>
<b>Title</b>	Local Plan Submission Draft – Dispensations	
<b>For further information about this report please contact</b>	Andrew Jones <a href="mailto:Andrew.jones@warwickdc.gov.uk">Andrew.jones@warwickdc.gov.uk</a> (01926) 456830	
<b>Wards of the District directly affected</b>	Leamington Crown; Lapworth; Leamington Milverton; Whitnash; Kenilworth Park Hill	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Not applicable.	
<b>Background Papers</b>	Localism Act 2011	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	Not required

Officer/Councillor Approval	Date	Name
Chief Executive	6 <sup>th</sup> January 2015	Chris Elliott
CMT	6 <sup>th</sup> January 2015	Chris Elliott, Bill Hunt, Author
Section 151 Officer	6 <sup>th</sup> January 2015	Mike Snow
Monitoring Officer	6 <sup>th</sup> January 2015	Author
Legal Services	10 <sup>th</sup> April 2014	Ian Marriott
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

## 1. **SUMMARY**

- 1.1 This report asks Standards Committee to agree dispensations to Councillors Boad, Caborn, Gifford, Kirton and Shilton in respect of the matter to be considered on the Council agenda of 28<sup>th</sup> January 2015 entitled Local Plan Submission Draft.

## 2. **RECOMMENDATION**

- 2.1 That Standards Committee grants dispensations to Councillors Boad (Leamington Crown) Caborn (Lapworth), Gifford (Leamington Milverton), Kirton (Whitnash) and Shilton (Kenilworth Park Hill) from the restrictions in section 31(4) Localism Act 2011 thereby allowing them to speak and vote on the matter on the Council agenda of 28<sup>th</sup> January 2015 entitled Local Plan Submission Draft and that Standards Committee makes this decision on the grounds that:

- Granting the dispensation is in the interests of persons living in the authority's area; and
- It is otherwise appropriate to grant a dispensation.

## 3. **REASONS FOR THE RECOMMENDATION**

- 3.1 The Council agenda of 28<sup>th</sup> January 2015 includes an item entitled Local Plan Submission Draft. Consideration of this report will lead to perhaps the most important decision that Warwick District Council will make in a long time. It is essential that all members of the Council have the opportunity to express a view and vote on the Local Plan as not having that opportunity would be denying their constituents a voice and would also be inappropriate given the magnitude of the subject matter.
- 3.2 With the introduction of the Localism Act 2011, Councillors are required to declare any Disclosable Pecuniary Interests (DPI). To not do so is a criminal offence and would also be in breach of Warwick District Council's Code of Conduct for Councillors. With regard to the purpose of this report the relevant DPI is:

- An interest of yourself or your partner within the following description(s) –

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.

- 3.3 A consequence of declaring a DPI is that a Member present at a meeting which is discussing a matter which gives rise to the DPI shall:
- (a) not participate in any discussion of the matter at the meeting and must leave the room for the duration of this item.
  - (b) not participate in any vote taken on the matter at the meeting.
  - (c) disclose the interest to the meeting.
- 3.4 As any "office ... carried on for...gain" is a DPI, there is therefore an argument that being a County Councillor is "an office carried on for gain" because County Councillors receive an allowance and, since they are collectively the embodiment of the County Council, they therefore have a stake whenever the interests of the County Council are affected with the associated implications for attending meetings and voting.

- 3.5 An element of the Local Plan is the allocation of land off Europa Way for development which would then lead in all probability to a capital receipt for the landowner. The "Europa Way land" is held in multiple-ownership but one of the landowners is Warwickshire County Council (WCC). The financial interests of the County Council are certainly affected by any decision on allocation of the site at Europa Way in the Local Plan and thus County Councillors who are also District Councillors are at risk of being caught up in the DPI provisions.
- 3.6 Within the Council's Constitution the Standards Committee is responsible for considering and determining requests for dispensation from requirements relating to the Code of Conduct for Councillors (which includes the matter of DPI). Dispensations can be granted (in certain circumstances) allowing a Councillor to speak and vote where they have a DPI. The application must be made in writing to the Chief Executive. In relation to the Local Plan requests for a dispensation have been received by Councillors Boad, Caborn, Gifford, Kirton and Shilton. Their respective arguments are consistent and can be paraphrased as failure to allow them to neither speak or vote is clearly not satisfactory as their constituents will in effect have lost their voice on the most important issue to be considered by Warwick District Council in many years. So for that reason and given the magnitude of what the Council needs to consider it is wholly appropriate that all Councillors are afforded that opportunity.
- 3.7 Given the nature of the matter to be considered under the agenda item Local Plan Submission Draft, officers do consider it appropriate that all Councillors have the opportunity to speak and vote on the issues. Therefore it would be reasonable for the Council to grant dispensations for the following reasons:
- Granting the dispensation is in the interests of persons living in the authority's area; and
  - It is otherwise appropriate to grant a dispensation.
- 3.8 In reaching this conclusion, it is considered by officers that the DPI requirements that flow from receipt of an allowance could not conceivably affect any decision on Europa Way and the existence of which could not possibly operate on the minds of the affected Councillors. Nor would a reasonable member of the public, who focused conscientiously on the proposition that a Councillor might be swayed by the existence of their allowance, think it at all likely that this would happen.
- 3.9 By virtue of section 33(4) of the 2012 Act, the affected Councillors can vote on their own dispensation but they may think it wise to refrain.
- 3.10 The Councillors affected will also have a declarable personal interest under the non-statutory part of Warwick District Council's Code of Conduct because the County Council is a body of which they are members and its financial position is likely to be affected. The question, therefore, is whether this interest amounts to a prejudicial interest. If it does, no dispensation will help them and they are disqualified. The test is whether:
- ... the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.*
- 3.11 This is a test which looks at all the circumstances, including non-financial considerations. It is officers' view, that the councillors concerned would be entitled to reach the conclusion that the mere facts that they are county councillors, and that

the County Council is affected by the allocation of Europa Way, do not give rise to a prejudicial interest. The position may be different if one of them has had some particular involvement in relation to the future of the Europa Way site as part of their duties at the County Council or if there are some other additional facts pointing towards a prejudicial interest or some form of bias. Officers will need to give advice by this on a case by case basis.

4. **POLICY FRAMEWORK**

- 4.1 The Code of Conduct for Councillors forms part of the Constitution of Warwick District Council which allows for dispensations from the DPI provisions to be granted in appropriate circumstances.

5. **BUDGETARY FRAMEWORK**

- 5.1 There are no budgetary implications as a consequence of this report.

6. **RISKS**

- 6.1 There is a risk that in granting the dispensations, members of the public may be concerned by a perceived conflict of interest. However, for the reasons set out in this report and having taken legal advice, officers are of the view that any reasonable person would understand that the matter under consideration is much more significant than whether the County Council receives a capital receipt for land that it currently owns.

7. **ALTERNATIVE OPTION(S) CONSIDERED**

- 7.1 Standards Committee has the option not to grant the dispensations, however, it is considered by officers that this would be contrary to the democratic principle of allowing all residents of the District to have representation on the Council whilst a highly significant issue is being considered.



## Warwick District Council – Register of Complaints

Register of complaints made to the Monitoring Officer of Warwick District about Warwick District Councillors and Town/Parish Councillors of Town/Parish Council's within Warwick District

Once a complaint has been concluded the details of the complainant and Councillor will be listed. This list will be maintained in accordance with the complaints procedures adopted by this Council.

Ref	Date received	Complaint	Outcome & Date closed
1/2012  (Formerly LSF.19.2012)	6 January 2012	A complaint was received from Council Officer, Mrs A Wyatt, that Warwick District Councillor, Councillor Bertie MacKay, had made comments, which appear to have been bullying and showing lack of respect to an officer and compromised her impartiality as an officer of the Council.	The matter was investigated and Councillor MacKay has apologised to the complainant and the Council for his actions which had compromised the impartiality of Mrs Wyatt in her role as Benefits and Fraud Manager for the Council. The case was closed on 6 March 2013.  The cost of the investigation for this case was £5775.30
2/2012  (Formerly LSF.22.2012)	11 May 2012	A complaint was received from Mr Lewis, a member of the public, of Haseley Knob regarding the conduct of Warwick District Councillor, Mrs Gallagher in relationship to a certificate of lawfulness.	Following an investigation the complaint was withdrawn by the complainant, Mr Lewis of Haseley Knob. Because the complaint was withdrawn this means there was no complaint to consider and the case was closed on 29 June 2013.  The full cost of the case was approximately £10,000.00.

3/2012 (Formerly LSF.24.2012)	25 April 2012	A complaint from a Parish Council, was received regarding the conduct of a Rowington Parish Councillor, in relationship to communications with residents and conduct at meetings.	<p>Following an investigation Councillor Mrs Weir accepted the investigating Officers report and has apologised to the Parish Council for the comments made in a letter to local residents.</p> <p>The cost of the investigation was £3873.20</p>
4/2012	18 October 2012	A complaint was received from the Chief Executive of the District Council regarding a potential breach of the Council's ICT policy by a Warwick District Councillor.	Following an independent investigation of the complaint it was found that no breach of the code had occurred. The case was closed on 31 January 2013.
5/2012	8 October 2012	A complaint, from a member of the public, has been received regarding the conduct of two District Councillors at a Community Forum.	<p>The complaint into the conduct of the Councillor Mrs Bromley was considered at Hearing on 15 November 2013. It was found that a breach of the Code of Conduct had occurred and sanctions were issued. The full decision notice can be found <a href="#">Hearing Panel 15 November 2013</a></p> <p>Following consultation with the Independent Person the Deputy Chief Executive has determined that complaint about the other Councillor should close, because no breach of the Code of Conduct was found by the Investigating Officer.</p> <p>The final invoice for this investigation along with 5a/2012 £2246.18.</p>

			<p>This matter was also considered by the Standards Committee on 30 January 2014 because Councillor Mrs Bromley had failed to apologise in line with the original decision notice. Details of that meeting can be found at the link below:</p> <p><a href="#">Standards Committee 30 January 2014</a></p>
5a/2012	November 2012	<p>A complaint has been received from the Chief Executive of Warwick District Council about the Conduct of Warwick District Councillor regarding (a) the failure to acknowledged receipt and understanding of the new code of conduct and (b) failure to adhere to the Member officer protocol and therefore breaching the new code of conduct.</p>	<p>The complaint into the conduct of the Councillor Mrs Bromley was considered at Hearing on 15 November 2013. It was found that a breach of the Code of Conduct had occurred and sanctions were issued. The full decision notice can be found</p> <p><a href="#">Hearing Panel 15 November 2013</a></p> <p>The final cost of this investigation along with was 5/2012 £2246.18.</p> <p>This matter was also considered by the Standards Committee on 30 January 2014 because Councillor Mrs Bromley had failed to apologise in line with the original decision notice. Details of that meeting can be found at the link below:</p> <p><a href="#">Standards Committee 30 January 2014</a></p>

6/2012	24 October 2012 and 1 November 2012	Two complaints, from members of the public, have been received regarding the conduct of a Weston Under Wetherley Parish Councillor regarding their conduct in relationship to a matter considered by the Parish Council.	<p>The matter was closed on 16 January 2013 because at the time of the incident the Council had not adopted a Code of Conduct.</p> <p>The cost of this investigation was £533.60</p>
7/2013	25 January 2013	A complaint, from a member of the public, was received, regarding the conduct of Warwick District Councillor during a Planning Committee meeting.	<p>The matter was considered and closed by the Deputy Monitoring Officer on 20 February 2013 who found that no action should be taken.</p> <p>The complainant asked the Local Government Ombudsman to consider the complaint. The Local Government Ombudsman determined that the Councillor's actions have not caused significant injustice the Ombudsman has decided not to investigate.</p>
8/2013	8 March 2013, 13 March 2013 and 20 March 2013	Three complaints, from two members of the public and a parish council, have been received regarding the Conduct of a Warwick District Councillor at a Warwick District Council Planning Committee meeting.	<p>The matter was considered and closed by the Deputy Monitoring Officer on 23 May 2013 who found that no action should be taken.</p> <p>A complainant asked the Local Government Ombudsman to consider the complaint. The Local Government Ombudsman determined that the Ombudsman will not investigate this complaint about the Council's refusal to investigate a complaint about the actions of a councillor. I do not consider the injustice suffered by the complainant is sufficient to warrant the</p>

			public expense of an investigation by the Ombudsman.
9/2013	10, 11 and 12 March 2013	<p>Three Complaints, one from the Clerk of the Council, one from a Councillor and one from a member of the Public, have been considered regarding the conduct of Councillor Mrs Lesley Mobbs of Weston Under Wetherley Parish Council.</p> <p>Two complaints, one from the Clerk to the Council and one from a Councillor regarding the conduct of Councillor Coles.</p>	<p>The complaints and investigating officers report were considered at Hearing Panels on 28 April 2014</p> <p>The Panels found the Councillors to be in breach of the Code of Conduct for the Parish Council and copies of the full decisions can be found at the links below:</p> <p><a href="#">Councillor Coles decision</a></p> <p><a href="#">Councillor Mobbs decision</a>.</p> <p>The case was closed on 22 May 2014 following the decision of the Parish Council to adopt the recommendations of the Hearing Panel.</p>
10/2013	10 and 15 May 2013	Two complaints, from Councillors, have been made regarding the comments made by Councillor Taylor of Burton Green Parish Council.	Councillor Taylor has recognised the misjudgement in his views and has apologised in writing to the Councillors, the Clerk to the Council and apologised to the Council at their meeting in September 2013. Councillor Taylor also agreed to attend training on the Code of Conduct.
11/2013	12 July 2013	A complaint, from the Chief Executive, has been received regarding the views expressed "what have you got to be scared of Andrew" and "how much did they pay you" by Warwick District Councillor Bob Dhillon at a public meeting.	The Council considered the complaint and found Councillor Dhillon had breached the Code of Conduct in several ways.

			<p>The Council; censured Councillor Dhillon by Motion; have required him to apologise to Council on 26 September; and instructed that he should undertake further training and pay half the cost of this.</p> <p>In addition the Council endorsed its support and confidence in the integrity of the Monitoring Officer.</p> <p>The cost of the legal advice on this matter was £1,166.25.</p> <p>The case was closed on 23 October 2013.</p>
12/2013	9 August 2013	A complaint has been received, from the Chief Executive, that a Warwick District Councillor, Councillor Dhillon had claimed expenses, over a five year period, that he was not entitled to, totalling £249.07 and had received an expenses payment of £45.00 in error.	<p>Councillor Dhillon has repaid the money to the Council and following an explanation and apology from Councillor Dhillon the complaint was withdrawn.</p> <p>The case was closed on 21 October 2013</p>
13/2013	23 August 2013	A complaint was received from a member of the public regarding comments made by Councillors at Warwick District Council meeting.	<p>The three Councillors have written to the complainant about their actions recognising their behaviour was not appropriate.</p> <p>The case was closed on 10 December 2013.</p>
14/2013	12 August 2013	A complaint has been received from a Councillor about the conduct of Warwick District Councillor in relationship towards their actions towards a fellow Councillor.	The Deputy Monitoring Officer has closed this case, on 10 December 2013, because the complainant did not provide the detail of the complaint that he had requested.

15/2013	30 August 2013	A complaint has been received, from an officer, regarding allegations made by a Warwick District Councillor in a witness statement to a Code of Conduct complaint.	<p>The matter has been closed at the request of the complainant because they did not feel that the Councillor would recognise the impact of their comments even if a breach of the Code was found following an investigation.</p> <p>The case was closed on 10 December 2013</p>
16/2013	5 November 2013	A complaint has been received, from a Councillor, about the language used by a Whitnash Town Councillor in a series of emails.	The case was closed in April 2014. This followed requests for the Councillor to apologise which were not agreed to. However the individual ceased to be a Council in April 2014 and therefore no further action could be taken.
17/2014	5 February 2014	A complaint has been received, from a member of the public, about the conduct of four Bishop's Tachbrook Parish Councillors.	<p>It was determined by the Deputy Monitoring, following consultation with the Independent Person:</p> <ul style="list-style-type: none"> <li>• That in relation to one Councillor there was no breach of the Code of Conduct.</li> <li>• The complaint about Councillor Leeke he had failed to declare a personal interest at a meeting and he was reminded of his obligations to do this at future meetings;</li> <li>• The complaint about Councillor Mrs Gabbitas found she had failed to declare a Personal and Prejudicial interest, and leave the room, when the Council determined funding for the St Chads Centre of which she is a member of the Trust Board.</li> </ul> <p>Councillor Gabbitas was reminded of</p>

			<p>her obligations under the Code of Conduct and required to apologise to the Parish Council in writing;</p> <ul style="list-style-type: none"> <li>• The Complaint about Councillor Loveday and the need to declare an interest when determining matters regarding the St Chads centre was a finely balanced decision. On balance he needed to declare a personal and prejudicial interest and leave the room, but it was understood why he had taken the view of requiring a personal interest. Therefore Councillor Loveday was reminded of his obligations under the Code of Conduct.</li> </ul> <p>The case was closed on 30 April 2014.</p>
18/2014	March 2014	Three complaints have been received from a Councillor about the conduct of three of their fellow Whitnash Town Councillors	The Deputy Monitoring Officer has written to the Councillors involved advising them of future conduct and the Town Clerk relating to minor governance matters. The case has been closed.
19/2014	August 2014	A complaint has been received, from a member of the public into the conduct of a Rowington Parish Councillor regarding Planning Applications.	The Deputy Monitoring Officer, after consultation with the Independent Person, has determined that no further action should be taken.
20/2014	June 2014	A complaint has been received, from a member of the public, regarding the involvement of a member in St Mary's Lands Warwick.	The Deputy Monitoring Officer, after consultation with the Independent Person, has determined that no further action should be taken.

**24 October 2014**