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Friday 14 September 2012

To: Chairman – Councillor Mick Martin
Vice-Chairman – Councillor Alison Elcox
Members of the Civic Affairs Committee – Councillors Simon Edwards,
Sebastian Kindersley, Douglas de Lacey, Janet Lockwood, Ray Manning,
Raymond Matthews, Tony Orgee, Jim Stewart, Edd Stonham, Robert Turner and
Bunty Waters

Quorum: 4

Dear Councillor

You are invited to attend the next meeting of **CIVIC AFFAIRS COMMITTEE**, which will be held in **SWANSLEY ROOM, GROUND FLOOR** at South Cambridgeshire Hall on **MONDAY, 24 SEPTEMBER 2012 at 10.30 a.m.**

Members are respectfully reminded that when substituting on committees, subcommittees, and outside or joint bodies, Democratic Services must be advised of the substitution *in advance of* the meeting. It is not possible to accept a substitute once the meeting has started. Council Standing Order 4.3 refers.

Yours faithfully
JEAN HUNTER
Chief Executive

The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you.

AGENDA		PAGES
1. Apologies for Absence To receive apologies for absence from committee members.		
2. Declarations of Interest		
DECISION ITEMS		
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6. Code of Conduct Training for Councillors and Committee Members 107 - 108

The Committee is asked to endorse the proposed approach to training set out in the Training Discussion Paper this autumn or agree an alternative approach.

INFORMATION ITEMS

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9. Record of Dispensations Granted by the Monitoring Officer 115 - 122

Two dispensations have been granted by the monitoring officer which are attached to this agenda.

10. Dates of Future Meetings

Please bring your diaries.

OUR VISION

South Cambridgeshire will continue to be the best place to live and work in the country. Our district will demonstrate impressive and sustainable economic growth. Our residents will have a superb quality of life in an exceptionally beautiful, rural and green environment. The Council will be recognised as consistently innovative and a high performer with a track record of delivering value for money by focussing on the priorities, needs and aspirations of our residents, parishes and businesses.

OUR VALUES

We will demonstrate our corporate values in all our actions. These are:

- Trust
- Mutual respect
- A commitment to improving services
- Customer service

GUIDANCE NOTES FOR VISITORS TO SOUTH CAMBRIDGESHIRE HALL

While the District Council endeavours to ensure that visitors come to no harm when visiting South Cambridgeshire Hall, those visitors also have a responsibility to make sure that they do not risk their own or others' safety.

Security

Members of the public attending meetings in non-public areas of the Council offices must report to Reception, sign in, and at all times wear the Visitor badges issued. Before leaving the building, such visitors must sign out and return their Visitor badges to Reception.

Emergency and Evacuation

In the event of a fire, a continuous alarm will sound. Evacuate the building using the nearest escape route; from the Council Chamber or Mezzanine viewing gallery this would be via the staircase just outside the door. Go to the assembly point at the far side of the staff car park.

- **Do not** use the lifts to exit the building. If you are unable to negotiate stairs by yourself, the emergency staircase landings are provided with fire refuge areas, which afford protection for a minimum of 1.5 hours. Press the alarm button and wait for assistance from the Council fire wardens or the fire brigade.
- **Do not** re-enter the building until the officer in charge or the fire brigade confirms that it is safe to do so.

First Aid

If someone feels unwell or needs first aid, please alert a member of staff.

Access for People with Disabilities

The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you. All meeting rooms are accessible to wheelchair users. There are disabled toilet facilities on each floor of the building. Infra-red hearing assistance systems are available in the Council Chamber and viewing gallery. To use these, you must sit in sight of the infra-red transmitter and wear a 'neck loop', which can be used with a hearing aid switched to the 'T' position. If your hearing aid does not have the 'T' position facility then earphones are also available and can be used independently. You can obtain both neck loops and earphones from Reception.

Toilets

Public toilets are available on each floor of the building next to the lifts.

Recording of Business and Use of Mobile Phones

The Council is committed to openness and transparency. The Council and all its committees, sub-committees or any other sub-group of the Council or the Executive have the ability to formally suspend Standing Order 21.4 (prohibition of recording of business) upon request to enable the recording of business, including any audio / visual or photographic recording in any format.

Use of social media during meetings is permitted to bring Council issues to a wider audience. To minimise disturbance to others attending the meeting, all attendees and visitors are asked to make sure that their phones and other mobile devices are set on silent / vibrate mode during meetings.

Banners, Placards and similar items

No member of the public shall be allowed to bring into or display at any Council meeting any banner, placard, poster or other similar item. The Chairman may require any such item to be removed.

Disturbance by Public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

Smoking

Since 1 July 2008, the Council has operated a Smoke Free Policy. Visitors are not allowed to smoke at any time within the Council offices, or in the car park or other grounds forming part of those offices.

Food and Drink

Vending machines and a water dispenser are available on the ground floor near the lifts at the front of the building. Visitors are not allowed to bring food or drink into the meeting room.

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee24th September 2012**AUTHOR/S:** Monitoring Officer

UPDATE ON COMPLAINTS/CONFIDENTIALITY REQUIREMENTS**Purpose**

1. To update members on complaints cases which were not completed before the 30th June 2012 when the former standards regime became defunct and have been dealt with under transition arrangements set out in the Localism Act 2011 and complaints that have been made since 1st July 2012. Members are also asked to set new procedures concerning the confidentiality requirements of the complaints process.

2. **RECOMMENDATIONS:**

That the Civic Affairs Committee:

- a) **Note the progress of outstanding complaints.**
- b) **Resolve that all ongoing cases be subject to a requirement of confidentiality by all participants in the process until such time as the case is concluded**
- c) **Resolve that where a conclusion has been reached that the code of conduct has not been breached that the identity of the councillor remains confidential**
- d) **Resolve that where a conclusion has been reached that the code of conduct has been breached but that no hearing is necessary due to summary resolution that the investigation report will be published when the case is reported back to the committee**
- e) **Resolve that where a conclusion has been reached that the code of conduct has been breached and that summary resolution is not appropriate/ possible that the investigation report will remain confidential until such time as the hearing into the complaint takes place, at which stage it will be published**

Reasons for Recommendations

3. To enable information regarding complaints to be treated as confidential until such time as they are concluded so that information is not released which may be prejudicial to the conduct of the complaints process and to protect the identity of councillors who have not breached the Code of Conduct.

Background

4. Under the transition provisions of the Localism Act 2011 cases which were not completed by the 30th June 2012 were to be dealt with as if they had been made under whatever new processes council set up, once those processes were in place. On 26th July the Council adopted a new code of conduct complaints procedure which states:

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

The Monitoring Officer will review the Investigating Officer's report and if satisfied that it is sufficient, the Monitoring Officer will send a copy of the Investigating Officer's final report to the Complainant, the Councillor and the Clerk (if appropriate) and notify them that no further action is required. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider their report."

The outcome of such investigations will be reported to the next ordinary meeting of the Civic Affairs Committee and the relevant parish council (if appropriate) for information.

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing by the Civic Affairs Committee or, after consulting the Independent Person, seek Summary Resolution (see 8 below).

Summary Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Chairman of the Civic Affairs Committee, the Independent Person and with the Complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such a resolution may include the Councillor accepting that their conduct was unacceptable/inappropriate and offering an apology, and/or other alternative action by the Council or the relevant parish council (if appropriate).

If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Civic Affairs Committee and the relevant parish council (if appropriate) for information, but will take no further action.

Referral for Hearing

If the Monitoring Officer considers that Summary Resolution is not appropriate, or the Councillor does not comply with any suggested resolution, then the Monitoring Officer will refer the Investigating Officer's report to the Civic Affairs Committee for a hearing to decide whether or not the Councillor has failed to comply with the respective Code of Conduct and, if so, whether to take any action in respect of the Councillor.

Confidentiality of investigation reports and complaints

5. On 10th December 2008 the Council's Standards Committee resolved that cases in which no breach of the Code of Conduct has been found or no further action is to be taken should be anonymised for the purposes of reporting back to the Committee and that only in cases where a breach has been found should the relevant member be identified to the Committee and the general public. The Civic Affairs Committee is asked to reconsider this issue as a new committee which needs to set its own procedures. The Monitoring Officer advises the following resolutions:
 - i) in the absence of a specific statutory requirement under the new processes that the Committee resolves that all ongoing complaints be subject to a requirement of confidentiality by all participants in the process until such time

as the case is concluded and reported back to the Committee. A breach of this requirement may be a separate breach of the Code of Conduct.

- ii) where a conclusion has been reached that the code of conduct has not been breached that the identity of the councillor remains confidential as there is no reason for making their identity public in these circumstances. Any investigation report will be published as a confidential item on the agenda and only an anonymised case summary put on the public agenda.
- iii) where a conclusion has been reached that the code of conduct has been breached but that no hearing is necessary due to summary resolution that the investigation report and any action taken will be published when the case is reported back to the committee for information. It is considered to be in the public interest that the details of a complaint where it has been found that a councillor has breached the code of conduct are published and follows the Council's previous actions in regard to this issue.
- iv) where a conclusion has been reached that the code of conduct has been breached and where summary resolution is not appropriate/possible that the investigation report will remain confidential until such time as the hearing into the complaint takes place, at which stage it will be published. This is to avoid "trial by media" in advance of a case being heard so that panel members are not prejudiced by anything that is published in the press.

6. Cases outstanding at 30th June 2012

(a) CORCOM 4929

This complaint was made by a district councillor about comments made by another district councillor regarding employees and was referred by the Standards Committee's Assessment Panel for investigation. The case was investigated by an external investigator who concluded that the councillor had not breached the code of conduct as:

- (i) on balance, the councillor did not fail to treat others with respect. Whilst his comments were ill advised, they were not directed at any identifiable individuals and, given the high degree of protection to be afforded to political comments under Article 10 of the European Convention on Human Rights, the conduct was not a failure to treat others with respect;
- (ii) on balance, neither did the councillor bring his office and the Council into disrepute.

The investigation report is attached as Appendix 1 to this report. Under the new arrangements no further action needs to be taken.

(b) CORCOM 4934

This complaint was made by a district councillor about a comment made by another district councillor before a meeting of the Planning Enforcement Sub-Committee and was referred by the Standards Committee's Assessment Panel for investigation. The case was referred to an external investigator who concluded that the councillor had breached three sections of the code of conduct - clauses 3(1), 3(2)(a) and 5 – respect, equalities and disrepute.

The investigation report is attached as Appendix 2 to this report. Following the complaint the councillor concerned resigned from the Planning Committee and the Planning Enforcement Sub-Committee (as was) and agreed to attend equalities training. The Monitoring Officer, the Independent Person and the Chairman of the Civic Affairs Committee considered this to be a satisfactory summary resolution of the complaint although the complainant felt the matter should be referred for a hearing.

(c) **CORCOM 35/36/38/39**

This complaint was made by a parish councillor and four members of the public in relation to the behaviour of a parish councillor chairman and was referred by the Standards Committee Assessment Panel for investigation. The case was referred to an internal investigator who concluded that there had been no breach of the code of conduct. The investigation report is attached as Appendix 3 to this report. Under the new arrangements no further action needs to be taken.

(d) **CORCOM 221**

This complaint was made by a member of public (a former parish councillor) about a district councillor. The complainant alleges a number of breaches of the code of conduct. The complaint has been sent to the councillor for their response and will then be assessed by the Monitoring Officer and Independent Person.

(e) **CORCOM 45 & 46**

This complaint was made by two members of the public about a district councillor/parish councillor regarding the councillor's participation in meetings at both parish and district level, related to their planning application. The complainant alleges a number of breaches of the code of conduct. The complaint has been sent to the councillor for their response and will then be assessed by the Monitoring Officer and Independent Person.

7. **New complaints since 1st July 2012**

CORCOM 194

This complaint was made by was made by a member of the public about two district councillors on the council's planning committee in relation to the 4th July 2012 planning committee meeting. The complainant alleges a number of breaches of the code of conduct. The complaint has been sent to the councillors for their responses and will then be assessed by the Monitoring Officer and Independent Person.

BACKGROUND PAPERS: Localism Act 2011
SCDC Code of Conduct Complaints procedures

Contact Officer: Fiona McMillan
Monitoring Officer/Legal & Democratic Services Manager
Telephone: (01954) 713027

By virtue of paragraph(s) 7c of Part 1 of Schedule 12A
of the Local Government Act 1972.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee24th September 2012**AUTHOR/S:** Monitoring Officer

REVISED HEARING PROCEDURE/SANCTIONS**Purpose**

1. To adopt a new hearing procedure following the implementation of the requirements of the Localism Act 2011, including outlining a list of potential sanctions that could be applied when the code of conduct has been breached, both to be added as appendices to the Council's Code of Conduct Complaints Procedure. To appoint a Hearings Sub-Committee and substitutes to hear complaints cases.

2. **RECOMMENDATIONS:**

That the Civic Affairs Committee:

- a) **Adopt a revised Hearings Procedure with any amendments it wished to make; and**
- b) **Adopt the list of potential sanctions available to the Committee as part of the complaints procedure.**
- c) **Appoint five members of the Committee as a sub-committee from which three members would be asked to sit as a Hearings Panel on each occasion, with the rest of the Committee appointed as substitute members of the sub-committee.**

Reasons for Recommendations

3. To enable the Committee to adopt a "lighter touch" approach to hearings compared to the procedure used by the Standards Committee under the former complaints process and to agree on possible sanctions to be used where necessary.

Background

4. The current hearings procedure is contained in the Constitution and is attached to this report as Appendix 3. This procedure needs to be amended to reflect the new processes adopted by the Council on 26th July following the provisions of the Localism Act 2011.

New hearings procedure

5. The procedure has been re-written to reflect the new provisions and with the aim of streamlining and simplifying the process whilst still retaining a workable and logical order of procedure. The revised procedure is attached as Appendix 1 and refers to a Hearings Panel. The Committee needs to appoint five members to a Hearings Sub-Committee, from which a panel of three members would be drawn on any occasion, with all members of the committee appointed as substitute members of the sub-committee to be called on to sit on a panel if necessary.

Sanctions

6. Under section 28(11) of the 2011 Act, if a relevant authority finds that a member or co-opted member has failed to comply with the code of conduct, the authority may have regard to the failure in deciding whether to take any action and if so what action to take.
7. However, since the Act is silent on the nature and scope of any action which authorities might lawfully take in these circumstances, the Association of Council Secretaries and Solicitors (ACSeS) obtained counsel's opinion on what sanctions were available under the new arrangements and this advice is reflected in the list of available attached as Appendix 2.
8. Once agreed both the hearings procedure and the list of sanctions will form Appendices 1 & 2 to the Council's Code of Conduct Complaints procedure.

BACKGROUND PAPERS: Localism Act 2011
SCDC Code of Conduct Complaints procedures

Contact Officer: Fiona McMillan
Monitoring Officer/Legal & Democratic Services Manager
Telephone: (01954) 713027

General points:

- The Monitoring Officer will refer a complaint to a panel of the Civic Affairs Committee for a hearing where an investigation report has found that a councillor has breached the code of conduct and where informal resolution of the complaint has not been possible or is not appropriate. The purpose of a hearing will be to determine if the panel agrees with the findings of the investigation report that a councillor has breached the code of conduct and if so, what action should now be taken.
- The hearings will, where possible, be held within 3 months of the issue of an investigation report which the investigator has found that a councillor has breached the code of conduct
- The hearing will be before a Panel of 3 members drawn from the Civic Affairs Committee. One of the members present will be elected Chairman.
- The Independent Person [IP] appointed under section 28 of the Localism Act 2011 will also be present to sit alongside the panel. His/her views will be requested and taken into account by the Panel, but by law he/she cannot vote.
- The Monitoring Officer or Deputy Monitoring Officer will be present as advisor to the Panel.
- The investigating officer will attend to present his/her investigation report and may invite the complainant to appear as a witness or call other witnesses.
- The councillor will be invited to attend and may present their own case or they may be represented.
- The councillor may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least 10 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted. The cost of any attendance/representation must be borne by the party concerned.
- All written evidence must be provided to the Monitoring Officer at least 5 working days before the hearing so it can be circulated to the Panel, the IP, the Investigating Officer, the councillor and the complainant.
- Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.
- The Monitoring Officer can speak at any time to advise the Panel on technical matters or ask questions of any party.

Procedure

Formalities

1. The Chairman of the Panel will introduce the members of the Panel, the Independent Person, officers, the councillor, the investigating officer and the complainant if present.
2. The Chairman will explain the reason for the meeting and outline the procedure to be followed. The Chairman may choose to vary this procedure in any particular instance where s/he is of the opinion that such a variation is necessary in the interests of fairness.
3. The Chairman will also explain that the hearing will normally be held in public unless the Panel exercises its discretion to exclude the public from all or part of the hearing in accordance with the Local Government Act 1972.
4. The Chairman will then confirm that all those involved understand the procedure to be followed and ask if there are any preliminary procedural issues which anyone wishes to raise before the Hearing begins.
5. If any procedural issues are raised, the Panel will hear representations on them before determining them.
6. If the Councillor is not present at the start of the hearing, the Panel will consider any reasons given by them for his/her nonattendance. If the Panel is satisfied that there is good reason for their non-attendance, it may adjourn to another date, or proceed if it has been requested to do so by the Councillor.
7. If the Panel is not satisfied that there is good reason for the Councillor's non-attendance, or if the Councillor failed to give any reason for his/her non-attendance, the Panel can decide:
 - whether to consider the matter and make a determination in the absence of the Councillor, or
 - to adjourn the Hearing to another date.

The Hearing

8. The Investigator will be invited to summarise his/her report and findings and make any representations about the written pre-hearing submission of the Councillor. The Investigator can call any witnesses, including the complainant.
9. The Panel will identify the areas of disagreement between the Investigator and the Councillor on the Investigation report's facts or conclusions.
10. The Councillor will then be invited to make representations in support of the fact(s) concerned and whether the evidence gives rise to a breach or breaches of the Code of Conduct.
11. The Panel and/or the Independent Person has the discretion to question any of the parties at any point, as it sees fit.
12. The councillor and the investigator/complainant will be given the opportunity to make closing statements if they wish to do so.
12. The Panel and the Independent Person will retire to consider what it has heard in private accompanied only by its clerk and legal advisor, who advise them when required.
13. The Chairman will then announce to all present at the Hearing the Panel's decision as to whether or not the Councillor has failed to comply with the Code of Conduct, whilst setting out the facts upon which the conclusions have been reached.
14. If the Panel decides that the Councillor has not failed to follow the Code of Conduct, the Committee will then consider whether it should make any recommendations to the Council.

Sanctions

15. If the Panel decides that the Councillor has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the Investigator, the Monitoring Officer, and the Councillor as to:
 - a. whether or not the Panel should impose a sanction and/or recommend to Council that a sanction be imposed; and

- b. what form of sanction(s) is/are appropriate.
 - c. any mitigation the Councillor wishes the Sub Committee to take into account
16. The Panel and the Independent Person will retire to consider these representations in private accompanied only by its clerk [and legal advisor if required] and decided whether or not to impose/recommend the imposition of a sanction on the Councillor and, if so, what type of sanction(s).
17. The Panel will also consider whether or not it should make any recommendations with a view to promoting high standards of conduct among members of the relevant authority.

Issue of decision

18. The Panel will announce its decision in public at the conclusion of the hearing and will issue a full written decision including reasons within 10 working days of the hearing.
19. A written report of the hearing and decision, with reasons, will be prepared, usually within 10 working days. A copy will be sent to all those present at the hearing and to the Clerk of the parish council if the complaint was about a parish councillor. The written report will be available for public inspection.

Decisions open to the Panel:

These are:

- 1. That the councillor did not fail to comply with the Code of Conduct;
- 2. That the councillor did fail to comply with the Code of Conduct, and that
 - I. No action need be taken; or
 - II. One or more of the sanctions set out in the appendix should be applied:

The Panel may also make any recommendations it considers appropriate to the Council or Parish Council regarding procedural amendments or other matters that might assist members generally to follow the Code of Conduct and with the aim of promoting high standards within the authority.

Sanctions available to the Civic Affairs Committee

Appendix 2

The Council has delegated to the Civic Affairs Committee powers to take action to promote and maintain high standards of conduct.

The Committee may, when it has found that a councillor [*or Parish Councillor*] has breached the Code of Conduct:

- a. Censure or reprimand the member
- b. Publish its findings in respect of the member's conduct
- c. Report its findings to Council [*or to the Parish Council*] for information
- d. Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council
- e. Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities
- f. Recommend to Council that the member be replaced as Leader of the Council
- g. Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the member
- h. Remove [*or recommend to the Parish Council that the member be removed*] from all outside appointments to which he/she has been appointed or nominated by the authority [*or by the Parish Council*]
- i. Withdraw [*or recommend to the Parish Council that it withdraws*] facilities provided to the member by the Council, such as a computer, website and/or email and Internet access
- j. Exclude [*or recommend that the Parish Council exclude*] the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

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S Standards Committee – Procedure for Local Standards Hearings

1. Interpretation

- (a) 'Subject Member' is to be taken to refer to the elected or co-opted member of the authority or to the parish councillor who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Subject Member's representative.
- (b) 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer, or his or her nominated representative).¹
- (c) 'The Matter' is the subject matter of the Investigating Officer's report.
- (d) 'The Standards Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.
- (e) 'The Democratic Services Officer' means an officer of the authority responsible for supporting the Standards Committee's discharge of its functions and recording the decisions of the Standards Committee.
- (f) 'Legal Advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority².
- (g) 'The Chairman' refers to the person presiding at the hearing.

2. Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he is of the opinion that such a variation is necessary in the interests of fairness.

3. Representation

The Subject Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person. Note that the cost of such representation must be met by the member, unless the Standards Committee has expressly agreed to meet all or any part of that cost³.

4. Pre-Hearing Procedure

Upon:

- (i) Receipt of the final report of the Investigating Officer including a finding that the Subject Member failed to comply with the Code of Conduct for members; or
- (ii) A decision by the Standards Committee that the matter should be considered at a formal hearing of Standards Committee

1 This definition has been amended to make it clear that, when the Monitoring Officer arranges for someone else to undertake the investigation, the definition of the 'Investigating Officer' no longer includes the Monitoring Officer.

2 In practice the Monitoring Officer is responsible for reporting the matter to the Standards Committee. It is therefore convenient for the Monitoring Officer to conduct the pre-hearing process. Where the Monitoring Officer is not legally qualified, he will need to ensure that a suitably qualified person is available to provide legal advice to the Standards Committee. It is obviously preferable that any such separate legal advisor be present throughout the hearing, in order to be able to provide such advice against an understanding of the context in which the advice is given.

3 Regulations under Section 101 of the Local Government Act 2000 grant authorities a discretion to provide an indemnity or to provide insurance to Subject Members to meet the costs which they may incur in "Part 3 proceedings" (investigations, hearings or other proceedings under Part III of the 2000 Act), any such indemnity or insurance is required to be subject to a requirement to repay any sums received in the event that the member is found to have failed to comply with the Code of Conduct.

the Monitoring Officer shall:

- (a) arrange a date for the Standards Committee's hearing;
- (b) send a copy of the report to the Subject Member and advise him of the date, time and place for the hearing;
- (c) send a copy of the report to the Complainant and propose a date, time and place for the hearing;
- (d) notify the Parish Council of the matter and of the date, time and place of the hearing (where the allegation relates to the conduct of a member of a Parish Council in his capacity as such);
- (e) request the Subject Member to complete and return the model Pre-Hearing Forms A, B, D and E (attached), as recommended by Standards for England within 14 days of receipt;
- (f) in the light of any Pre-Hearing Forms returned by the Subject Member, determine whether the Standards Committee will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;
- (g) prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and highlighting the issues which the Standards Committee will need to address; and
- (h) arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent to:
 - (i) all members of the Standards Committee who will conduct the hearing;
 - (ii) the Subject Member;
 - (iii) the Complainant; and
 - (iv) the Investigating Officer.

5. Legal Advice

The Hearings Panel may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Hearings Panel should be shared with the member and the Investigating Officer if they are present⁴.

6. Setting the Scene

At the start of the hearing, the Chairman shall introduce each of the members of the Hearings Panel, the member (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Hearings Panel will follow in the conduct of the hearing.

7. Preliminary Procedural Issues

The Hearings Panel shall then deal with the following preliminary procedural matters in the following order:

(a) *Disclosures of Interest*

The Chairman shall ask members of the Hearings Panel to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

⁴ In the interests of openness, the Standards Committee may prefer to receive any such advice in the main hearing room in the presence of the Investigating Officer and the member. Where this is not practicable, the legal advisor should repeat in the presence of the Investigating Officer and the member the advice which he has tendered.

(b) **Quorum**

The Chairman shall confirm that the Hearings Panel is quorate⁵.

(c) **Hearing Procedure**

The Chairman shall confirm that all present know the procedure which the Hearings Panel will follow in determining the matter.

(d) **Proceeding in the absence of the member**

If the Subject Member is not present at the start of the hearing:

- (i) The Chairman shall ask the Monitoring Officer whether the Subject Member has indicated his intention not to attend the hearing;
- (ii) The Hearings Panel shall then consider any reasons which the Subject Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
- (iii) If the Hearings Panel is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) If the Hearings Panel is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Hearings Panel shall decide whether to consider the matter and make a determination in the absence of the Subject Member or to adjourn the hearing to another date.

(e) **Exclusion of Press and Public**

The Hearings Panel may exclude the press and public from its consideration of this matter where it appears likely that confidential or exempt information will be disclosed in the course of this consideration.

The Chairman shall ask the Subject Member, the Investigating Officer and the legal advisor to the Hearings Panel whether they wish to ask the Hearings Panel to exclude the press or public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Hearings Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Hearings Panel does not resolve to exclude press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

5 A meeting of the Standards Committee is not quorate unless at least three members of the Standards Committee are present for the duration of the meeting. The three members must include at least one Independent member and independent members must constitute at least 25% of the members. The chair of the meeting of the Standards Committee must always be an independent member. An executive member who is not the elected mayor or leader may be a member of the meeting but there can be no more than one.

If the Standards Committee is responsible for Parish Council matters, it must include at least one Parish Council representative amongst its members. However it is only a requirement that the parish representative is actually present when the Standards Committee is dealing with a parish matter. Parish Sub-Committees, convened to deal with a parish matter, must have a parish representative of the Sub-Committee, but there is not a requirement for him actually to attend the meeting for it to be quorate. [The Standards Committee (England) Regulations 2008 (SI 2008/1085)]

8. A failure to comply with the Code of Conduct⁶?

The Hearings Panel will then address the issue of whether the Subject Member failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report⁷.

(a) The Chairman shall ask the Subject Member to confirm that he maintains the position as set out in the pre-hearing summary.

(b) The Pre-Hearing Process Summary

The Chairman will ask the Monitoring Officer or the Democratic Services Officer⁸ to present his report, highlighting any points of difference in respect of which the Subject Member has stated that he disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Subject Member to confirm that this is an accurate summary of the issues and ask the Subject Member to identify any additional points upon which he disagrees with any finding of fact in the Investigating Officer's report.

(i) If the Subject Member admits that he failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Hearings Panel may then make a determination that the Subject Member has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken (Paragraph 8);

(ii) If the Subject Member identifies additional points of difference, the Chairman shall ask the Subject Member to explain why he did not identify these points as part of the pre-hearing process. He shall then ask the Investigating Officer (if present) whether he is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Hearings

6 The model procedure recommended by Standards for England suggests that the Standards Committee should first determine findings of fact and then determine whether there has been a failure to comply with the Code of Conduct. These two are so closely connected that the Standards Committee may find that it can conveniently determine the two together without any loss of fairness.

7 Note that the Standards Committee's consideration is limited to a possible failure to comply with the Code of Conduct in the terms set out in the Investigating Officer's report. It is possible that, in the course of their consideration, the Standards Committee apprehend that the member may have failed to comply with the Code of Conduct in some other manner (for example that the member's alleged failure to treat a person with respect appears also, or in the alternative, to be conduct likely to bring the member's office or authority into disrepute). Note that such a possible additional or alternative failure will not be within the remit of the Standards Committee as, at that stage, the member will not have had notice of the Standards Committee's consideration of the possible additional or alternative failure and that it would therefore be unfair to proceed to consider that second matter at the hearing into the first alleged failure. Where the Standards Committee do apprehend a possible additional or alternative failure, a failure by a different member, or a failure in respect of the Code of Conduct of another authority, they should refer the second matter to the Assessment Panel of the Standards Committee with a view to a separate allegation being investigated.

8 As set out above, unless conflicted out, it is likely that the Monitoring Officer will:

- (i) Take on the conduct of the pre-hearing process;
- (ii) Present an introductory report to the Standards Committee at the commencement of the hearing setting out the outcomes of the pre-hearing process;
- (iii) Will (if legally qualified) act as the legal advisor to the Standards Committee; and
- (iv) Will distribute and publish any required notices of the Standards Committee's determination.

However, there may be reasons in particular cases for the Monitoring Officer to arrange for any or all of these functions to be carried out on his behalf.

Panel is not satisfied with the Subject Member's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Subject Member to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Subject Member did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and / or any additional witnesses to attend the hearing.

(c) ***Presenting the Investigating Officer's report***

- (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his report, having particular regard to any points of difference identified by the Subject Member and why he concluded, on the basis of his findings of fact, that the Subject Member had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
- (ii) If the Investigating Officer is not present, the Hearings Panel shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Hearings Panel shall determine on the advice of the Monitoring Officer which witnesses, of any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and / or the evidence of each witness, the Chairman shall ask the Subject Member if there are any matters upon which the Hearings Panel should seek the advice of the Investigating Officer or the witness.

(d) ***The Subject Member's response***

- (i) The Chairman shall then invite the Subject Member to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
- (ii) No cross-examination shall be permitted but, at the conclusion of the Subject Member's evidence and / or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Hearings Panel should seek the advice of the Subject Member or the witness.

(e) ***Witnesses***

- (i) The Hearings Panel shall be entitled to refuse to hear evidence from the Investigating Officer, the Subject Member or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the Code of Conduct.
- (ii) Any member of the Hearings Panel may address questions to the Investigating Officer, to the Subject Member or to any witness.

(f) ***Additional Evidence***

At the conclusion of the evidence, the Chairman shall check with the members of the Hearings Panel that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

If the Hearings Panel at any state prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Hearings Panel may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Hearings Panel.

(g) ***Determination as to whether there was a failure to comply with the Code of Conduct***

- (i) At the conclusion of the Subject Member's response, the Chairman shall ensure that each member of the Hearings Panel is satisfied that he has sufficient information to enable him to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigating Officer's report.
- (ii) Unless the determination merely confirms the Subject Member's admission of a failure to comply with the Code of Conduct (as set out in Paragraph 6(a)(i) above), the Hearings Panel shall then retire to another room to consider in private whether the Subject Member did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
- (iii) The Standards Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
- (iv) The Hearings Panel's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Subject Member or a witness, or to seek the legal advice from or on behalf of the Monitoring Officer. If it requires any further information, it may adjourn and instruct an officer or request the Subject Member to produce such further evidence to the Hearings Panel.
- (v) At the conclusion of the Hearings Panel's consideration, the Standards Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Subject Members.
- (vi) The Hearings Panel shall then return to the main hearing room and the Chairman will state the Standards Committee's principal findings of fact and their determination as to whether the Subject Member failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

9. If the Subject Member has not failed to follow the Code of Conduct

If the Hearings Panel determines that the Subject Member has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) If the Hearings Panel apprehends, from the evidence which they have received during the hearing, that the Subject Member has failed to comply with the Code of Conduct (other than the matter which the Hearings Panel has just determined), the Chairman shall outline the Hearings Panel's concerns and state that the Hearings Panel has referred this additional or alternative failure to the Assessment Panel of the Standards Committee with a view to a further allegation being investigated.
- (b) The Chairman should then set out any recommendations which the Hearings Panel is minded to make to the authority with a view to promoting high standards of conduct among Subject Members and seek the views of the Subject Member, the Investigating Officer and the legal advisor before the Hearings Panel finalises any such recommendations.

- (c) Finally, the Chairman should ask the Subject Member whether he wishes the authority not to publish a statement of its findings in a local newspaper.
- 10. Action consequent upon a failure to comply with the Code of Conduct**
- (a) The Chairman shall ask the Investigating Officer (if present, or otherwise the legal advisor) whether, in his opinion, the Subject Member's failure to comply with the Code of Conduct is such that the Hearings Panel should impose a sanction and, if so, what would be the appropriate sanction⁹.
- (b) The Chairman will then ask the Subject Member to respond to the Investigating Officer's advice.
- (c) The Chairman will then ensure that each member of the Hearings Panel is satisfied that he has sufficient information to enable him to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.
- (d) Any member of the Hearings Panel may address questions to the Investigating Officer or to the Subject Member as necessary to enable him to take such an informed decision.
- (e) The Chairman should then set out any recommendations which the Hearings Panel is minded to make to the authority with a view to promoting high standards of conduct

-
- 9 The sanctions which are available to the Standards Committee under The Standards Committee (England) Regulations 2008 (SI 2008/1085) are any of the following:
- (i) Censure of that member;
 - (ii) Restriction for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions–
 - (aa) are reasonable and proportionate to the nature of the breach; and
 - (bb) do not unduly restrict the member's ability to perform the functions of a member;
 - (iii) Partial suspension of that member for a period not exceeding six months;
 - (iv) Suspension of that member for a period not exceeding six months;
 - (v) that the member submits a written apology in a form specified by the Standards Committee;
 - (vi) that the member undertakes such training as specified by the Standards Committee;
 - (vii) that the member participate in such conciliation as specified by the Standards Committee;
 - (viii) Partial suspension of that member for a period not exceeding six months or until such time as he submits a written apology in a form specified by the Standards Committee
 - (ix) Partial suspension of that member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the Standards Committee may specify;
 - (x) Suspension of that member for a period not exceeding six months or until such time as he submits a written apology in a form specified by the Standards Committee;
 - (xi) Suspension of that member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the Standards Committee may specify.

Any sanction imposed shall commence immediately unless the Standards Committee direct (for any sanction other than censure) that it shall commence on any date specified by the Standards Committee within six months of the date of the hearing.

A literal interpretation of these powers to aggregate sanctions would indicate that the Standards Committee could impose a combination of suspension and partial suspension, conditional and unconditional, adding up in any one case to some 12 months suspension in total. However, it was clearly not the intention of the legislature to enable the total combination of sanctions to extend beyond a single period of six months, and any sanctions which apply over a longer period might prove vulnerable on appeal.

among Subject Members and seek the views of the Subject Member, the Investigating Officer and the legal advisor;

- (f) The Hearings Panel shall then retire to another room to consider in private whether to impose a sanction, what sanction to impose (where a sanction is to be imposed), and when that sanction should take effect, and any recommendations which the Hearings Panel will make to the authority.
- (g) At the completion of their consideration, the Hearings Panel shall return to the main hearing room and the Chairman shall state the Hearings Panel's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Hearings Panel will make to the authority.

11. Reference to the Ethical Standards Officer

If, at any time before the Hearings Panel has determined upon any appropriate sanction, the Hearings Panel considers that the nature of the failure to comply with the Code of Conduct for Members is such that the appropriate sanction would exceed the powers of the Hearings Panel the Hearings Panel may instruct the Monitoring Officer to request the Ethical Standards Officer to assume responsibility for the conduct of the matter, and may adjourn the hearing until the Monitoring Officer advises the Hearings Panel of the Ethical Standards Officer's response to such a request.

12. The close of the hearing

- (a) The Hearings Panel will announce its decision on the day of the hearing and provide the Democratic Services Officer with a short written statement of their decision, which the Democratic Services Officer will deliver to the Subject Member as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Democratic Services Officer will agree a formal written notice of the Hearings Panel's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 20 of the Standards Committee (England) Regulations 2008.

13. Appeals

The Subject Member may appeal against the decision of the Hearings Panel by writing to the Principal Judge of the First-tier Tribunal (Local Government Standards in England), ensuring that his letter sets out the grounds for such an appeal, including a statement as to whether or not he consents to the appeal being heard by way of written representations, and is received by the Principal Judge within 21 days of the date of the written notice of decision under Paragraph 9(c).

FORM A
Member's response to the evidence set out in the Investigating Officer's report

Please enter the number of any paragraph where you disagree with the findings of fact in the Investigating Officer's report, and give your reasons and your suggested alternative.

Paragraph number from the Investigating Officer's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how that paragraph should read

Please attach separate sheets if necessary.

FORM B
Other evidence relevant to the allegation

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Paragraph number	Details of the evidence
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

FORM C

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that a member has failed to follow the Code of Conduct.

Representations to be taken into account if a member is found to have failed to follow the Code of Conduct

Please note that no such finding has been made yet.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether or not to order any censure, restriction of resources or allowances, suspension or partial suspension
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

FORM D

Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

<p>1</p>	<p>The proposed date for the Standards Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If 'No', please explain why.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Reason:</p>
<p>2</p>	<p>Are you going to present your own case?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
<p>3</p>	<p>If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes', please state the name of your representative.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Name:</p>
<p>4</p>	<p>Is your representative a practising solicitor or barrister?</p> <p>If 'Yes', please give his or her legal qualifications. Then go to question 6.</p> <p>If 'No', please go to question 5.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Qualifications:</p>
<p>5</p>	<p>Does your representative have any connection with the case?</p> <p>If 'Yes', please give details.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p>
<p>6</p>	<p>Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
<p>7</p>	<p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)?</p> <p>If 'Yes', please give details.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p>

Please attach separate sheets if necessary.

<p>8</p>	<p>Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)?</p> <p>If 'Yes', please give details.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p>
<p>9</p>	<p>Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Reasons:</p>
<p>10</p>	<p>Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p>

FORM E

Details of proposed witnesses to be called

Please tick the relevant boxes.

Name of witness or witnesses	1		
	2		
	3		
WITNESS 1			
a	Will the witness give evidence about the allegation?	YES <input type="checkbox"/>	Outline of evidence:
	If 'Yes', please provide an outline of the evidence the witness will give.	NO <input type="checkbox"/>	
b	Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct has not been followed?	YES <input type="checkbox"/>	Outline of evidence:
	If 'Yes', please provide an outline of the evidence the witness will give.	NO <input type="checkbox"/>	
WITNESS 2			
a	Will the witness give evidence about the allegation?	YES <input type="checkbox"/>	Outline of evidence:
	If 'Yes', please provide an outline of the evidence the witness will give.	NO <input type="checkbox"/>	
b	Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct has not been followed?	YES <input type="checkbox"/>	Outline of evidence:
	If 'Yes', please provide an outline of the evidence the witness will give.	NO <input type="checkbox"/>	

Please attach separate sheets if necessary.

WITNESS 3		
a	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>Outline of evidence:</p>
b	<p>Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p> <p>Outline of evidence:</p>

FORM F

Checklist for the pre-hearing process summary

After the Standards Committee has received responses from the member who the allegation has been made about and the Investigating Officer, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

- The name of the authority;
- The name of the member who the allegation has been made about;
- The name of the person who made the original allegation (unless there are good reasons to keep his or her identity confidential);
- Case reference number of the principal authority
- The name of the Standards Committee member who will chair the hearing;
- The name of the Monitoring Officer;
- The name of the Investigating Officer who investigated the matter;
- The name of the Democratic Services Officer or other administrative officer;
- The date the pre-hearing process summary was produced;
- The date, time and place of the hearing;
- A summary of the allegation;
- The relevant section or sections of the Code of Conduct;
- The findings of fact in the Investigating Officer's report that are agreed;
- The findings of fact in the Investigating Officer's report that are not agreed;
- Whether or not the member or the Investigating Officer will attend or be represented;
- The names of any witnesses who will be asked to give evidence; and
- An outline of the proposed procedure for the hearing.

Date

Case Reference SBE...

To the Panel members, Subject Member and all interested parties:

Pre-Hearing Process Summary

Date, Time and Place:

Subject Member:

Complainant:

Panel Members:

**Democratic Services
Officer:**

Panel's Legal Advisor:

Monitoring Officer:

Investigating Officer:

Allegation:

The Code of Conduct:

**Findings of Fact in the
Investigating Officer's
report that are *agreed*:**

**Findings of Fact in the
Investigating Officer's
report that are *not
agreed*:**

**Names of witnesses
who will be attending:**

Procedure:

Final Decision by the Standards Committee

Subject Member:

Complainant:

Case Reference:

Chairman of Standards Hearing Panel:

Standards Hearing Panel Members:

Monitoring Officer:

Investigating Officer:

Democratic Services Officer at the Hearing:

Date of Hearing:

Date of Report:

Summary of the allegation:

Relevant section(s) of the Code of Conduct:

Summary of the evidence considered and representations made:

Findings of fact, including the reasons for them:

Finding as to whether or not the member failed to follow the Code of Conduct, including the reasons for that finding:

Penalties applied, if any, including the reasons for any penalties:

Right to appeal:

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee

24 September 2012

AUTHOR/S: Monitoring Officer / Legal and Democratic Services Manager

GENERAL DISPENSATION**Purpose**

1. To ask the Civic Affairs Committee to grant a “general dispensation” to all councillors under s33 of the Localism Act 2011 in relation to specific decisions.

Recommendations

2. That the Committee resolves:
 - (a) to make a recommendation to Full Council that a decision to apply for and grant a general dispensation is ratified by Full Council as technically the Localism Act 2011 requires each member to make an individual application in writing for a dispensation and this resolution should satisfy these requirements.
 - (b) to grant dispensations to all members of South Cambridgeshire District Council from the requirements of Section 31(4) of the Localism Act 2011 on the basis that without the dispensation the number of person prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, such dispensation to take effect from 24th August 2012 for a period of four years. The dispensation to apply to the following decisions:
 - (i) Housing, where the Member is a tenant of the authority; provided that those functions do not relate particularly to that Member’s tenancy or lease
 - (ii) Any allowance, payment , pension or indemnity given to Members
 - (iii) Setting Council Tax or a precept under the Local Government Finance Act 1992

Reasons for Recommendations

3. To enable all members to continue to participate in matters where they had previously been given a general dispensation under the old Code of Conduct.

Background

4. The former Code of Conduct prescribed specified circumstances when a Member could exclude themselves from having to declare a prejudicial interest and leave the room when business arose in connection with that interest. For instance, one of these matters related to housing, where the Member was a tenant of the Authority provided the functions under discussion did not relate to the Member’s tenancy or lease.

5. As there are no similar exclusions in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, the Committee may consider it appropriate to grant a general dispensation to all Members of the Council in specified circumstances.
6. Under Chapter 7, Section 33(2) of the Localism Act, a relevant authority may “grant a dispensation..... if, after having had regard to all relevant circumstances, the authority –
 - (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - (c) considers that granting dispensation is in the interests of persons living in the Authority’s area;
 - (d) if it is an Authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each Member of the authority’s executive would be prohibited from participating in any particular business to be transacted by the authority’s executive, or;
 - (e) considers that it is otherwise appropriate to grant a dispensation.
7. A dispensation under this Section must specify the period for which it has effect, and the period specified may not exceed four years.

Background Papers: the following background papers were used in the preparation of this report:

Localism Act 2011

Contact Officer: Fiona McMillan – Legal and Democratic Services Manager & Monitoring Officer
Telephone: (01954) 713027

Civic Affairs Committee Training Discussion Paper24th September 2012

Part of the remit of the Civic Affairs Committee is to provide assistance to district and parish councillors by ensuring that all councillors have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code.

The district council and most parish councils have recently adopted new codes of conduct along with new procedures for administering a complaints system. Guidance has been issued via briefing notes, newsletters and individual advice. Given the potential for criminal sanctions if a councillor fails to declare a disclosable pecuniary interest in the correct way it is clear that this written guidance needs to be back-up by a training programme.

Training is important as a way to avoid complaints and to save the time and resources that need to be committed to investigations and hearings.

There are three areas of training the Committee needs to examine:

- 1) District Council Member Training
- 2) Parish Councillor training
- 3) Standards Committee Member Training

Training for District Councillors

It would be cost effective to offer training for district councillors in conjunction with members of Huntingdonshire District Council which has adopted exactly the same code of conduct as South Cambridgeshire and to share the costs of an external trainer.

Training for Parish Councillors

A number of years ago the Council's Legal Team ran workshop sessions in various locations across the district for parish councils in conjunction with CPALC which included a training session on the code of conduct in conjunction with a session on parish planning powers, how to deal with freedom of information act requests and parish council administrative issues. These were well attended and well received. It is proposed that we repeat these sessions for parish council chairmen and clerks this autumn and ensure they are well publicised in advance.

Training for Civic Affairs Committee on hearings

It would be cost effective to offer training for committee members on hearings procedures in conjunction with other councils across Cambridgeshire and to share the costs of an external trainer.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee

24 September 2012

AUTHOR/S: Monitoring Officer / Legal and Democratic Services Manager

REGISTRATION OF INTERESTS UPDATE**Purpose**

1. To update the Civic Affairs Committee on progress in the implementation of the provisions of the Localism Act 2011 in relation to registration of interests.

Background

2. Following the Localism Act 2011 being passed the Government issued regulations outlining new requirements in relation to registration of interests on the 8th June. On 29th June the Monitoring officer circulated a briefing note to all district councillors and parish councils (copied to district councillors), along with a newly drafted register of interests form, in relation to the new legal requirements to register interests which came into force on 1st July 2012. Councillors were asked to complete the forms and return signed original forms to the Monitoring Officer by 28th July with confirmation from the parish clerk that the registers will be published on the parish council's website (where such a website exists).
3. The lack of time allowed for this process meant that all councillors were faced with the difficult task of understanding the new requirements very quickly and lead to universal consternation about the new legal requirement for parish councillors to have their register of interests forms published on the internet, which has led to the resignation of at least one parish councillor.
4. Briefing sessions were held at the district council for its members and advice was given to many parish councillors about how to complete the form, including further written advice being issued on 13th July, 20th July and 26th July 2012.

Update

5. To date all district councillors bar one have completed their registration of interests form and the online registers updated accordingly.
6. There are 825 parish councillors within South Cambridgeshire and to date 423 forms have been returned to the Monitoring Officer, with 402 outstanding. Queries on the forms are still being followed up and incomplete or ambiguous forms returned to the councillor with requests to complete and return.
7. A table of parish councils with number of forms returned is attached as an Appendix to this report. Some parish councils are waiting for the next scheduled parish council meeting in September to complete the forms before returning.

Contact Officer: Fiona McMillan – Legal and Democratic Services Manager &
Monitoring Officer
Telephone: (01954) 713027

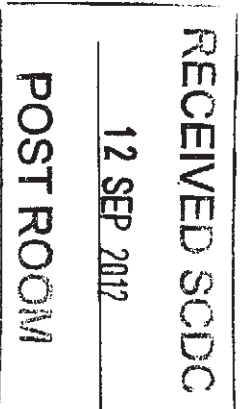
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Parish	No of Members	Forms Received
Great Abington	7	6
Little Abington	7	1
Arrington	7	0
<i>Babraham</i>	5	5
<i>Balsham</i>	9	9
Bar Hill	13	0
<i>Barrington</i>	9	9
<i>Barton</i>	9	8
Bassingbourn	15	1
Bourn	9	6
Caldecote	9	8
Cambourne	13	0
Carlton	7	6
Castle Camps	9	7
<i>Caxton</i>	7	7
Great & Little Chishill	7	6
Comberton	13	11
Coton	9	8
Cottenham	15	8
Croxton	5	3
Croydon	7	0
Dry Drayton	7	4
Duxford	11	10
Elsworth	9	0
Eltisley	7	6
<i>Great & Little Eversden</i>	10	10
<i>Fen Ditton</i>	9	9
Fen Drayton	9	0
Fowlmere	9	4
<i>Foxton</i>	9	9

Parish	No of Members	Forms Received
Fulbourn	15	0
Gamlingay	15	0
Girton	15	13
<i>Little Gransden</i>	5	5
Grantchester	9	0
Graveley	5	0
<i>Hardwick</i>	9	9
Harlton	5	0
Harston	11	2
Haslingfield	11	1
Hatley	5	0
Hauxton	7	2
<i>Heydon</i>	5	5
<i>Hildersham</i>	5	5
<i>Hinxton</i>	7	7
Histon & Impington	19	16
Horningsea	7	0
Horseheath	7	4
Ickleton	9	0
Kingston	5	0
Landbeach	9	6
Linton	15	14
Litlington	9	0
Longstanton	11	8
Longstowe	5	0
Madingley	5	0
Melbourn	15	8
Meldreth	9	0
Milton	15	13
Guilden Morden	9	8

Parish	No of Members	Forms received
Steeple Morden	9	1
Newton	5	4
Oakington & Westwick	9	6
Orchard Park	9	2
Orwell	9	0
Over	11	10
<i>Pampisford</i>	7	7
Papworth Everard	13	0
Rampton	7	6
Sawston	19	15
Great Shelford	15	10
Little Shelford	9	8
Shepreth	7	1
<i>Shudy Camps</i>	5	5
Stapleford	9	0
Stow-cum-Quy	7	0
<i>Swavesey</i>	11	11
Teversham	11	6
Thriplow	9	5
Toft	7	6
Waterbeach	15	1
West Wickham	7	0
West Wratting	7	0
<i>Weston Colville</i>	7	7
Whaddon	7	4
Whittlesford	11	8
Great Wilbraham	7	5
Little Wilbraham	7	0
Willingham	15	8
Wimpole	5	0

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Teversham Parish Council

1 Upper Heath Farm Cottages
Mill Road, Great Wilbraham
Cambridge
CB21 5JW

Tel: 07956099009 email tevershamparish@aol.com
www.teversham.info

10th September 2012

Monitoring Officer
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge

Dear Sir/Madam

New Code of Conduct

I write to confirm that at their meeting on 3rd September 2012, Teversham Parish Council

RESOLVED to:

- a) adopt the model code, excluding 4.4.4 (ii).
- b) write to the District Council, expressing concern that there is no provision for a Parish Council representative to consider any complaints about a Parish Council.
- c) Policy Review Committee to review Standing Orders and Complaints Procedure to accommodate new code (recommendations to be presented at the October 2012 meeting of the Parish Council).
- d) the Clerk should issue any dispensations and take advice from the Monitoring Officer where necessary.

As per point b) above, I therefore write to express Teversham Parish Council's concern that there is no provision for a Parish Council representative to consider any complaints about a Parish Councillor.

Yours faithfully



Mrs Kim Quiggin
Clerk
Teversham Parish Council

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South Cambridgeshire District Council Dispensation Request Form

Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying 'Dispensations Guidance'. If you need any help completing this form please contact the Monitoring Officer.

Your name	CLLR VAL BARRETT
Decision-making body in respect of which you require a dispensation	SCDC PLANNING COMMITTEE
Details of your membership of that body	I AM THE MEMBER FOR MELBOURN WARD AND WISH TO SPEAK AT THIS COMMITTEE MEETING. I AM A MEMBER OF THE COMMITTEE
The business for which you require a dispensation (refer to agenda item number if appropriate)	I WISH TO SPEAK ON THE FOLLOWING AGENDA ITEMS No5 – S/0571/12/FL No6 – S/0843/12/FL
Details of your interest in that business	<ul style="list-style-type: none"> I AM A MELBOURN PARISH COUNCILLOR
Date of meeting or time period (up to 4 years) for which dispensation is sought	1 ST AUG 2012
Dispensation requested to participate, or participate further, in any discussion of that business by that body	Yes/
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	/No

Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)

Signed: 

Dated: 27.07.2012


Please send your completed form to the Monitoring Officer, South Cambridgeshire District Council, South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA or by email to monitoring.officer@scambs.gov.uk. You will normally receive notification of the Monitoring Officer's decision within 5 working days of the decision.

South Cambridgeshire District Council Dispensation Request Form

Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying 'Dispensations Guidance'. If you need any help completing this form please contact the Monitoring Officer.

Your name	CLLR JOSE HALES
Decision-making body in respect of which you require a dispensation	SCDC PLANNING COMMITTEE
Details of your membership of that body	<p>I AM THE MEMBER FOR MELBOURN WARD AND WISH TO SPEAK AT THIS COMMITTEE MEETING.</p> <p>I AM NOT A MEMBER OF THE COMMITTEE</p>
The business for which you require a dispensation (refer to agenda item number if appropriate)	<p>I WISH TO SPEAK ON THE FOLLOWING AGENDA ITEMS</p> <p>No5 – S/0571/12/FL No6 – S/0843/12/FL</p>
Details of your interest in that business	<ul style="list-style-type: none"> • I AM A MELBOURN PARISH COUNCILLOR • I AM A MEMBER OF THE TRUST TASKED WITH RUNNING THE HUB
Date of meeting or time period (up to 4 years) for which dispensation is sought	1 ST AUG 2012
Dispensation requested to participate, or participate further, in any discussion of that business by that body	Yes/
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	/No

<p>Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)</p>	
--	--

Signed:  Dated: 27.07.2012

Please send your completed form to the Monitoring Officer, South Cambridgeshire District Council, South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA or by email to monitoring.officer@scambs.gov.uk . You will normally receive notification of the Monitoring Officer's decision within 5 working days of the decision.

South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA

t: 08450 450 500
f: 01954 713149
dx: DX 729500 Cambridge 15
minicom: 01480 376743
www.scambs.gov.uk



Monitoring Officer

Legal & Democratic Services

Contact: Fiona McMillan

Direct dial: 01954 713027

Email: fiona.mcmillan@scambs.gov.uk

Our ref:

Your ref:

Cllr Jose Hales
23 Elm Way
Melbourn
Royston
Herts
SG8 6UH

31st July 2012

Dear Cllr Hales,

Dispensation request - Section 33 Localism Act 2011

I have considered your request for a dispensation to take part in the discussion at Planning Committee on 1st August in relation to the application for Melbourn by Hundred Houses Society (S/0571/12/FL).

The application relates to an affordable housing development and village community hub in Melbourn. The application was considered at the July planning committee meeting and deferred until the August meeting to give you an opportunity to apply for a dispensation, as the standards regime was in a transition period. Although you are not a member of the Planning Committee you wish to address the committee as local member.

Your interest arises as you are a member of Melbourn Parish Council and the hub part of the application is closely linked to the parish council as the PC is a joint stakeholder. I understand you have also been closely involved in this project on behalf of the parish council. I do not consider it likely that you have "disclosable pecuniary interest" as such, as any financial interest is in relation to the parish council as a body and does not relate to you personally but under the newly-adopted Code of Conduct it would appear you have a non-pecuniary interest due to your close association with the parish council.

In line with SCDC procedures I have consulted the Independent Person, Kathy English, and the Chairman of the Civic Affairs Committee, Cllr Mick Martin and taken into account their views.

As part of the decision-making process I have taken into account:

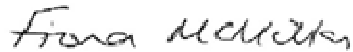
- (a) the nature of your interest
- (b) the need to maintain public confidence in the conduct of the Council's business

- (c) the possible outcome of the proposed vote
- (d) the need for efficient and effective conduct of the Council's business
- (e) any other relevant circumstances.

I have decided to grant you a dispensation **to participate in the discussion of the matter as local member**. This dispensation is granted for this committee meeting only on the grounds that the dispensation "is in the interests of persons living in the authority's area" as it gives you the opportunity to present the views of local people to the committee.

Please make the committee aware of this dispensation (and I have copied this letter to Gary Duthie, the lawyer advising the committee) before you start speaking.

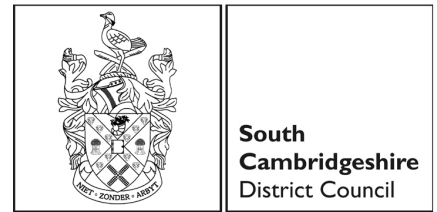
Yours sincerely



Fiona McMillan
Monitoring Officer

South Cambridgeshire Hall
Cambourne Business Park
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Cambridge
CB23 6EA

t: 08450 450 500
f: 01954 713149
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www.scambs.gov.uk



Monitoring Officer

Our ref:
Your ref:

Legal & Democratic Services
Contact: Fiona McMillan
Direct dial: 01954 713027
Email: fiona.mcmillan@scambs.gov.uk

Cllr Val Barrett
Kirkside
2 Station Road
Melbourn
Royston, Herts
SG8 6DX

31st July 2012

Dear Cllr Barrett,

Dispensation request - Section 33 Localism Act 2011

I have considered your request for a dispensation to take part in the discussion at Planning Committee on 1st August in relation to the application for Melbourn by Hundred Houses Society (S/0571/12/FL).

The application relates to an affordable housing development and village community hub in Melbourn. The application was considered at the July planning committee meeting and deferred until the August meeting to give you an opportunity to apply for a dispensation, as the standards regime was in a transition period.

Your interest arises as you are a member of Melbourn Parish Council and the hub part of the application is closely linked to the parish council as the PC is a joint stakeholder. I do not consider it likely that you have "disclosable pecuniary interest" as such, as any financial interest is in relation to the parish council as a body and does not relate to you personally but under the newly-adopted Code of Conduct it would appear you have a non-pecuniary interest due to your close association with the parish council.

In line with SCDC procedures I have consulted the Independent Person, Kathy English, and the Chairman of the Civic Affairs Committee, Cllr Mick Martin and taken into account their views.

As part of the decision-making process I have taken into account:

- (a) the nature of your interest
- (b) the need to maintain public confidence in the conduct of the Council's business
- (c) the possible outcome of the proposed vote

- (d) the need for efficient and effective conduct of the Council's business
- (e) any other relevant circumstances.

I have decided to grant you a dispensation **to participate in the discussion of the matter, but not vote**. This dispensation is granted for this committee meeting only on the grounds that the dispensation "is in the interests of persons living in the authority's area" as it gives you the opportunity to present the views of local people to the committee.

Please make the committee aware of this dispensation (and I have copied this letter to Gary Duthie, the lawyer advising the committee) before you start speaking.

Yours sincerely



Fiona McMillan
Monitoring Officer