

## CODES AND PROTOCOLS

### COUNCILLOR CODE OF CONDUCT

You are a Councillor or co-opted member of Rushcliffe Borough Council and as such are 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.

Accordingly, when acting in your capacity as a Councillor or co-opted member:

- (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate
- (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties
- (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit

- (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office
- (e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions
- (f) you must declare any private interests, both pecuniary and non-pecuniary, including your membership of any trade union, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below
- (g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
- (h) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and by example, by respecting others and not bullying, intimidating or harassing and person, or behaving in an improper or offensive manner (including the use of offensive language or making improper personal remarks to or about individuals), by respecting the confidentiality of information you receive, and by not conducting yourself in a manner which is likely to bring the authority into disrepute.

Harassment can occur through verbal or written comments (including ones made online). The following list provides some examples but it is, by no means, exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes (such as ones of a racial, sexual or sectarian nature);
- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome emails, messages or notes; circulating or displaying explicit or inappropriate images.

Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. Again, it is the impact of any behaviour rather than the intent which is the key.

Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and, again, can occur through all means of communication. Bullying tends to be a pattern of behaviour or can be a one off serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
  - Intimidatory behaviour including verbal abuse or the making of threats;
  - Making someone's working life difficult;
  - Disparaging, ridiculing or mocking comments and remarks;
  - Physical violence; and
  - Deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate.
- (i) you must have regard to any relevant advice provided to you by the Council's Monitoring Officer, Section 151 Officer and Chief Executive where they are acting pursuant to his or her statutory duties
- (j) you must comply with any standards investigation including informal assessment by the Monitoring Officer in accordance with these arrangements
- (k) you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (i) you have the consent of a person authorised to give it
  - (ii) you are required by law to do so
  - (iii) 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
  - (iv) the disclosure is:
    1. reasonable, in the public interest and
    2. made in good faith and in compliance with the reasonable requirements of the Council.
- (l) You must promote equality by not discriminating against any person, and by treating people with respect, regardless of their race, age, religion or belief, gender (including gender identity), marital (or civil partnership) status, pregnancy or maternity, sexual orientation or disability
- (m) You must abide by such policies and protocols as are included within the Council's constitution where they are relevant to the work that you carry out as a Councillor or co-opted member
- (n) You must abide by pre-election rules during purdah periods

**Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a Councillor or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State (see attached schedule), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a Councillor or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the Council's register, then the Councillor must disclose the interest to the chair of any meeting of the Council at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by the Council.

If you are in any doubt regarding your obligations you should contact the Council's Monitoring Officer.

**FAILURE TO MAKE THESE DISCLOSURES IS A CRIMINAL OFFENCE**

<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a Councillor or co-opted member of an authority having an interest, and the nature of the interest being such that the Councillor or co-opted member, and the Authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the Councillor or co-opted member, or a person connected with the Councillor or co-opted member, being subject to violence or intimidation.

## SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses of the Councillor</p> <p>This includes any payment of financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or body in which the relevant person has a beneficial interest) and the relevant Authority –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant Authority
Licenses	Any license (alone or jointly with others) to occupy land in the area of the relevant Authority for a month or longer
Corporate tenancies	<p>Any tenancy where (to the Councillor's knowledge) –</p> <p>(a) the landlord is relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the relevant Authority; and</p> <p>(b) either:</p> <p style="padding-left: 20px;">(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 style="padding-left: 20px;">(ii) if the share capital of that body is of more than one class, the total nominal value of the</p>

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.

## **GUIDANCE FOR COUNCILLORS AND CO-OPTED MEMBERS IN RESPECT OF DECLARING INTERESTS**

**If business to be transacted or discussed at a meeting either relates to, or is likely to affect any of your interests, especially any of your Disclosable Pecuniary Interests, then you should declare an interest.**

**Remember that Disclosable Pecuniary Interests include your interests, and those of your spouse/civil partner OR anyone you live with as if they were you spouse/civil partner.**

**An interest is a Non-Pecuniary Interest when:**

- **The interest is not a pecuniary interest (as defined in the schedule above) but;**
- **The interest is so significant that a member of the general public, who knew about your interest would reasonably consider that your interest would materially affect your ability to act in the public interest in connection with the matter being discussed**

**For example, where a lifelong supporter of Nottinghamshire County Cricket Club, is on a committee discussing a matter that might affect the club, a member of the public might reasonably conclude that your ability to act impartially in this matter might be impaired.**

**Where you have a Disclosable Pecuniary interest in an item being discussed at a meeting, you should not take part in any discussion or vote relating to that item unless you have previously been granted dispensation to do so. You should leave the meeting room prior to the relevant item on the agenda being discussed and not return until requested by the Chair of the meeting.**

**Where you have a Non-Pecuniary Interest, you should declare your interest and explain your interest in enough detail for a member of the public to understand it. You may then participate and vote in the normal way.**

**Please remember to keep your register of interests up to date.**

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## **Councillor Complaints Procedure**

### **Arrangements for dealing with standards allegations under the Localism Act 2011**

#### **1 Introduction**

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Rushcliffe Borough Council, or of a parish council within the Borough, has failed to comply with the authority’s Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority or of a parish council within its area has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

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

#### **2 The Code of Conduct**

The Council has adopted a Code of Conduct for members, which is attached as Appendix 1 to these arrangements and available for inspection on the authority’s website or on request from the Head of Corporate Services.

Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.

#### **3 Making a complaint**

If you wish to make a complaint, please write or email to –

The Monitoring Officer  
Rushcliffe Borough Council Civic  
Centre  
Pavilion Road  
West Bridgford Nottingham  
NG2 5FE

Or email [monitoringofficer@rushcliffe.gov.uk](mailto:monitoringofficer@rushcliffe.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be found on the Borough Council's website, or obtained from the Monitoring Officer. If you decide not to use the complaint form, you must still provide the Monitoring Officer with all of the information requested within it, otherwise the Monitoring Officer will not be able to consider your complaint.

Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form together with the reason why you feel your identity should not be disclosed. However, only in exceptional cases will it be possible not to disclose your identity. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 10 working days of receiving it, and will keep you informed of the progress of your complaint. The Monitoring Officer will also normally inform the member who is subject of the complaint and invite their initial response at this stage. A copy of the complaint is normally sent to the member.

Parish Councils as employers should have processes in place to ensure the fair and proper treatment of staff. Complaints about the conduct of a Parish Councillor towards a clerk should be made by the chair or by the Parish Council as a whole, rather than the clerk in all but exceptional circumstances.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received against the initial tests as set out in the Public Interest Test. If the initial test is met and after consultation with the Independent Person (see paragraph 11 below), the Monitoring Officer will take a decision as to whether it merits formal investigation. The Monitoring Officer may form the view that the complaint is unlikely to reach a firm conclusion as there is no independent, corroborative evidence. This decision will normally be taken within 14 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his decision and the reasons for that decision.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. Where your complaint relates to a Parish Councillor, the Monitoring Officer will normally also inform the Parish Council or your complaint.

Wherever possible, the Monitoring Officer will seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation or if it should be reported to the Standards Committee.

If the Monitoring Officer is satisfied that the complaint will if proven constitute a breach of the code but that formal investigation is not in the public interest, s/he may decide against a formal investigation. The Monitoring Officer may report the complaint to the Standards committee for information. The subject member may be named if the Monitoring Office is satisfied that the complaint if proven would potentially be a breach of the code. Where the Monitoring Officer is satisfied that the complaint would not be proven, the Subject Member will not be identified by name.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

## **5 How is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview. The complaint may also be referred if the Monitoring Officer considers that s/he has a conflict of interest in dealing with the complaint.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents s/he needs to see and who s/he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

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

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

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

The Monitoring Officer will review the Investigating Officer's report and, if s/he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, and if appropriate to the Parish Council where the complaint relates to a Parish Councillor, notifying you that s/he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report. The Monitoring Officer will consult the Independent Person before making any decision following the investigation.

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

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel (a sub-committee of the Standards Committee) or, after consulting the Independent Person, seek local resolution.

### **7.1 Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing to formally determine whether a breach had in fact been committed. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee, and the Parish Council where applicable, for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer may either refer the matter for a local hearing or report the matter to the Standards Committee for information where it is considered that a local hearing is not in the Public Interest. This may include identification of the Subject member.

### **7.2 Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her 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, and the Chairman of the Hearings Panel may explain and give guidance as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report and may call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, concludes that the member did not fail to comply with the Code of

Conduct, it will dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Hearings Panel will then consider what action, if any, it should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

#### Referral to Standards Committee

In certain more serious or sensitive cases, the Monitoring officer may refer the case to the full Standards Committee rather than the Hearings Panel. The criteria for determining whether to refer the case to the full Committee are set out in Appendix 2 and such a decision shall be at the sole discretion of the Monitoring Officer based on those criteria.

### **8 What actions can the Hearings Panel/the Standards Committee take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Standards Committee and the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Committee/Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council (or to the relevant Parish Council) for information;
- 8.3 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;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the member;
- 8.6 Recommend to full Council (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);
- 8.7 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; or
- 8.8 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.

There is no power to suspend or disqualify the member or to withdraw a member's basic or special responsibility allowance.

Where the recommended action in respect of Items 8.3, 8.7 or 8.8 above relates to a Group Leader the final decision shall be referred to full Council.

**9 What happens at the end of the hearing?**

At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Committee or Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Committee or Panel, and send a copy to you, to the member (and to the Parish Council where applicable), and make that decision notice available for public inspection on the Council's website.

**10 What is the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Standards Committee. The Council has decided that it will comprise at least three members of the Borough Council. The Panel will contain members from more than one political party depending on the political balance of the Council as a whole.

The Independent Person is invited to attend all meetings of the Standards Committee or Hearings Panel when a decision is being taken on whether the member's conduct constitutes a failure to comply with the Code of conduct or on any action to be taken following a finding of failure to comply with the Code of Conduct. His/her views will be sought and taken into consideration before any decision is taken on these matters.

The Standards Committee may also contain non-councillor or parish council members who may attend and participate in discussions at meetings of either the full Committee or the Hearings Panel, but they are not entitled to vote on any matter under discussion.

**11 Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council. There are a number of statutory restrictions on eligibility for this role to ensure that the post-holder has no close associations with the Council and is therefore truly independent. They are not a member of the Standards Committee but they must be consulted by the Monitoring Officer prior to any decisions or findings on alleged breaches of the Code and *may* be consulted at other stages of the complaints process.

The Independent Person may also be consulted by a member who is the subject of a complaint under this procedure. Any such consultation shall be arranged through the Monitoring Officer and the subject member will be advised by the Monitoring Officer as to the procedure for doing so at the relevant time.

**12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Standards Committee and any Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

### **13 Appeals**

**There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Standards Committee or Hearings Panel.**

**If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.**

**Appendix One                      Rushcliffe Borough Council's Code of Conduct**

**Appendix Two                      Criteria for referral of cases to the full Standards Committee**

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## Annex 1

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

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

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

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

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

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

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

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

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

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

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made where possible by the chair or by the parish council as a whole. In exceptional circumstances the Clerk of the Parish may make the complaint.



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**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made where possible by the chair or by the parish council as a whole. In exceptional circumstances the Clerk of the Parish may make the complaint.

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

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

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

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

## **What constitutes a complaint?**

### **Public Interest Test**

The initial tests:-

- a) Is the complaint against one or more named members of a relevant council?
- b) Was the named member in office at the time of the alleged conduct and was the Code Conduct in force at the time?
- c) If proven, would the complaint be a breach of the Code of Conduct under which the subject member was operating at the time of the alleged misconduct?

If the initial test is met, in order to be investigated a complaint must either:

- (a) demonstrate a continuing pattern of behaviour that is likely to bring the council into disrepute, and or significantly and unreasonably disrupting the business of the Council, and there is no appropriate alternative resolution other than by way of an investigation;
- (b) Or, the complaint must comply with all the following criteria:
- (c) Complaint raises matters which would be a breach of the code
- (d) Complaint is sufficiently serious and particularised to warrant investigation. For example the complaint should be:
  - Specific about the allegation ie what exactly the member said or did
  - The dates of the alleged incidents
  - Confirm and detail whether there are any witnesses to the allegation (provide their names and contact details)
  - Relevant background information
- (e) Complaint is not 'tit for tat'
- (f) Complaint appears not to be politically motivated
- (g) Received within three months of the alleged failure to comply with the code (unless there are exceptional circumstances for the delay and the delay does not mean that it would be difficult for a fair investigation to be carried out)
- (h) Is not a duplicate or substantially similar to a complaint that has already been investigated
- (i) Not an anonymous complaint (unless sufficient documentary evidence to show a significant breach of the code)
- (j) Subject member has not already apologised and/or admitted making an error If complaint reveals a criminal offence referred to the police and following investigation and conclusion of any proceedings or the police have confirmed that no proceedings will be issued

