

Name of meeting: Council
Date: 26 April 2017
Title of report: Review of the Standards Regime/ Members Code of Conduct

Purpose of report

1.1 To make recommendations to Council regarding changes to the Members Code of Conduct, Standards regime and the process for monitoring and taking decisions on allegations of misconduct by Councillors, as well as the role of the Standards committee, the process for considering dispensations as well as other related matters.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Key Decision – No Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Director</u> & name Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance? Is it also signed off by the Assistant Director (Legal Governance and Monitoring)?	Debbie Hogg – N/A Julie Muscroft – 13 March 2017
Cabinet member portfolio	Graham Turner

Electoral wards affected: All
Ward councillors consulted: All
Public or private: Public

1. Summary

1.1 Kirklees has reviewed the operation of its local Code of Conduct and its Standards process. It was introduced in 2012 and was reviewed a year into its operation in 2013 (see Background papers at paragraph 9). This review has considered the options for changes to the Members Code of Conduct, Standards regime and the process for monitoring and taking decisions on allegations of misconduct by Councillors as well as the role of the Standards committee, the process for considering dispensations and other related matters.

1.2 The proposals have been considered by Standards Committee on (17 Jan 2017) and by Corporate Governance and Audit Committee on (27 January 2017). It was agreed that changes are required so that we have the most appropriate practice in place that means complaints can be dealt with in a quick, fair, transparent and efficient manner. The reports referred to which were considered at those committees and are attached as Appendices to this report as well as the decisions taken by those committees.

1.3 During the review the following aspects of the Standards process have been considered:

- Code of Conduct (including declarations of interest)
- Process for handling complaints about members/ The outcome of those complaints in serious circumstances
- Role of the IP and Standards Committee
- Decision Making in the Standards Process
- Training requirements for members (as appropriate so that they are aware of the process and any changes)

1.4 This report sets out the **recommendations** considered by the Corporate, Governance and Audit Committee and the Standards Committee in relation to amending the Standards process in relation to the above items.

1.5 Members of Council are asked to consider the report having regard to the comments from Standards Committee and Corporate, Governance and Audit and **approve the recommendations** having regard to the comments from Standards Committee and additional recommendations from Corporate, Governance and Audit Committee.

1.6 Members of Council are asked to **delegate authority to the Monitoring Officer** to implement the changes required.

2. Information required to take a decision

2.1 The report to Standards Committee (17 Jan 2017) attached to this report should be considered and sets out the background and reasons in relation to the Standards Review

2.2 It was felt it was an appropriate time to review the Code and the Standards process generally alongside the review of the Member /Officer protocol/ introduction of new behaviours for employees and members in 2015. The Monitoring Officer first presented this review to the Chief Executives meeting with Leading Members in February 2015 and has since presented updates at the same meeting in January 2016, May 2016 and December 2016. During this period she has also consulted with Group Business Managers, Independent Persons, Overview and Scrutiny Committee, the Members Commission and informally with Standards Committee (before the formal meeting in January this year).

2.3 A detailed Standards Questionnaire was sent to relevant Directors, Independent Persons, Group Leaders, Deputy Leaders, Group Business Managers (GBMs), Members

Commission, members of the Standards committee, Overview and Scrutiny committee and Corporate Governance and Audit Committee. A small number of responses were initially received but more detailed feedback was obtained from the Group Business Managers in August 2016.

- 2.4 A shorter online survey was circulated to all members to obtain their views and a copy of the results and their response is attached with the report to Standards Committee.
- 2.5 During the interim period the Councillor Complaints section of the website has been updated to incorporate a table providing customers with alternative avenues for resolution of their complaint prior to contacting the Monitoring Officer.
- 2.6 The purpose of the changes to the Standards regime in the Localism Act 2011 is to ensure Councils can deal with complaints simply, more efficiently and without malicious or petty complaints taking up time and resources of a number of officers and councillors.
- 2.7 If the recommendations are agreed there is likely to be a small increase in costs as the remuneration of the Independent Person (s) will need to increase due to the change of role and additional responsibility. The current Independent Persons were re-appointed to the role for a short period until the outcome of the review of the standards process was known. They receive a small allowance of £50 per annum for their time. It is proposed that if agreed the MO be delegated with authority, in consultation with Group Business Managers to make appropriate arrangements to review the role of the Independent Person (including remuneration), take appropriate steps to advertise the revised role and make appointments subject to final approval by Council.
- 2.8 The different option for each recommendation is set out in the appendix to the Standards Committee report attached and was considered by both the Standards Committee and CGA Committee. **Members approval is sought for the final recommendations** taking into account the comments of both, which are set out at section 6 below.
- 2.9 It is proposed (subject to the appointment of Independent Persons) that a revised Code and Standards process will begin in the Municipal year i.e. post Annual General Meeting in May 2017 or as soon as possible thereafter. The revisions will be included / referred to in the report which goes to Annual Council about amendment to the constitution.
 - 2.9.1 The benefits of a revised Code of Conduct and changes to the process will mean there is clearer direction about what amounts to bad behaviour which can be sanctioned. Overall the process will be quicker, clearer, more efficient and fair. It is expected that there will be greater clarity about what complaints should process through the Standards process as well as a formal route to ensure that issues of a trivial or minor nature are removed. This will free up more officer and councillor time.

3. Implications for the Council

- 3.1 The Council is required to have a suitable Code of Conduct / standard process in place. It is important that whatever is in place is taken seriously by the Council and any decisions are properly implemented otherwise there will be a lack of confidence by complainants / the public as well as Members.

Early Intervention and Prevention (EIP)

N/A

Economic Resilience (ER)

N/A

Reducing demand of services

Although not directly linked to reducing the demand for frontline council services the amended process may lead to a reduction in the number of matters considered as complaints, either formally or informally and should therefore reduce time spent on these matters.

Improving Outcomes for Children

N/A

4. Consultees and their opinions

- 4.1 The views of Standards Committee on the current arrangements were sought on 17 January 2017 as referred to above.
- 4.2 The views of Corporate, Governance and Audit Committee on the current arrangements were sought on 27 January 2017 as referred to above.
- 4.3 The relevant reports and decisions are included in the appendices to this report

5. Next steps

- 5.1 If the recommendations are approved the following changes are required:-
 - i. Updating the Members Code of Conduct and the Constitution
 - ii. Update the Standards Complaints process and forms
 - iii. Review and amend the role of the Independent Person and undertake any relevant Human Resource procedures
 - iv. Develop and provide appropriate training
 - v. Update the website
 - vi. Update and amend the Terms of Reference for the Standards Committee

6. Officer recommendations and reasons

6.1. It is recommended that Council **approve the following recommendations** for the reasons set out in the attached reports to Standards Committee and Corporate Governance and Audit Committee. That:

6.1.1 Kirklees Code of Conduct is amended so that it is more directional about what would be poor behaviour (makes reference to the Principles of Public life but also makes specific examples of poor behaviour)

6.1.2 Code of Conduct is amended to include a lack of response to a complaint subject to relevant extenuating circumstances, as an example of poor behaviour.

6.1.3 Members are to sign the revised Code of Conduct when newly elected or re-elected from implementation of the new Code

6.1.4 Section 5.1 of the Code of Conduct is amended to simplify the definition of interests which are not disclosable interests (Other Interests) as described in the reports to Standards Committee and Corporate Governance and Audit Committee.

- 6.1.5 The Council continues the current practice to verbally declare DPI's and Other interests
- 6.1.6 The process of deciding whether a complaint merits consideration through the standards process is clarified to reflect that the Monitoring Officer and (one) of the Independent Persons will make that decision.
- 6.1.7 If a complaint proceeds, the process of making decisions on standards matters at the first stage of the process is amended to refer to the decision maker being the Monitoring Officer with the Chair of Standards and one of the Independent Persons following consultation with the Group Business Managers
- 6.1.8 Linked to recommendation 6.1.6, the standards process be amended to include a clearer process for early dismissal of complaints that are minor or political tit-for-tat
- 6.1.9 The terms of reference for the Standards Committee be amended to reflect the additional areas referred to in the Standards report and comments from Standards and Corporate, Governance and Audit committees
- 6.1.10 The process relating to the granting of dispensations be amended so that there is provision for the Monitoring Officer to consult with the GBM's prior to budget council and during the summer regarding dispensations
- 6.1.11 All of the sanctions attached at Appendix 8 of the Standards Report, attached at Appendix 1, be adopted
- 6.1.12 Cases referred to the police (for example where there has been a breach of pecuniary interest obligations) but where the criminal investigation ceases should automatically go through the standards process.
- 6.1.13 The standards process continue without a right of appeal
- 6.1.14 Members be required to attend appropriate training (workshop or online) following this review on the new code and standards process
- 6.1.15 The standards process be amended to include express provision for the expectations of behaviour of the public to be considered when a decision is made in relation to a complaint
- 6.1.16 In the event that the proposals above are agreed which change the role of the Independent Person(s) that the role and remuneration of the Independent Person(s) be reviewed to reflect that change and in consultation with Group Business Managers the Monitoring Officer be delegated with authority to make those changes, to advertise the roles and bring the Independent Persons appointment back to the Council for approval.
- 6.1.17 It be noted that the position of Group Business Manager and the Chair of Standards cannot be held by the same Councillor
- 6.1.18 Authority is delegated to Monitoring Officer to implement the changes required above (including but not limited to) make the appropriate changes to the Constitution as well as on-line information.

7. Cabinet portfolio holder's recommendations

N/A

8. Contact officer

Julie Muscroft – Assistant Director – Legal, Governance and Monitoring

9. Background Papers and History of Decisions

Previous reports -Localism Act 2011 – The Amended Standards Regime – 31 Jan 2012

Localism Act 2011 – The Amended Standards Regime – 3 February 2012

New Standards Regime – 25 Jun 2012

New Standards Regime – 4 Jul 2012

New Standards Regime – 24 Oct 2012

Review for the New arrangements for Member Conduct – 18 Jul 2013

Review of Complaints – 18 Jul 2013

Review of New Arrangements for Member Conduct – 27 Sep 13

Review of New Arrangements for Member Conduct – 23 Oct 13

10. Assistant Director responsible

Julie Muscroft – Legal, Governance and Monitoring

11. Appendices

Appendix 1 - Review of the Standards Regime/ Members Code of Conduct
Standards Committee – 17 Jan 2017

Appendix 2 - Review of the Standards Regime/ Members Code of Conduct
Corporate, Governance and Audit Committee – 27 Jan 2017

Appendix 3 – Decisions of Standards Committee – 17 Jan 2017 and Corporate,
Governance and Audit – 27 Jan 2017



Name of meeting: Standards Committee

Date: 17 January 2017

Title of report: Review of the Standards Regime/ Members Code of Conduct

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name	
Is it signed off by the Director of Resources?	N/A
Is it signed off by the Assistant Director – Legal, Governance & Monitoring	Julie Muscroft
Cabinet member portfolio	Resources - Graham Turner

Electoral [wards](#) affected: All
 Ward councillors consulted: All

Public or private: Public

1. Purpose of report

- 1.1 To review the operation of the Standards process since its introduction in 2012.
- 1.2 To consider options for changes to the Members Code of Conduct and Standards regime and for monitoring and making decisions on allegations of misconduct by Members.
- 1.3 To make recommendations to Standards Committee, Corporate Governance & Audit and Council in relation to those options.

2. Key points

2.1 Background Information

- 2.1.1 The Localism Act 2011 (“the Act”) made a number of fundamental changes to the system of regulation of Standards of Conduct for Elected and Co-opted Members of Councils. The old National approach to Standards was replaced with the requirement for each Local Authority to adopt a local Code of Conduct and to agree the arrangements by which complaints will be dealt with.
- 2.1.2 This Council considered the implications of the new legislation and the approach that it wished to take in a series of reports during early 2012. This included looking at the Code of Conduct for members as well as the process by which complaints could be made by members of the public and others relating to the conduct of Members. A list of reports considered are set out in paragraph 8 of this report.
- 2.1.3 As part of this look at the approach it wished to take the Council also considered the process of granting Dispensations to members to allow them to take part in discussions and /or voting in circumstances where they might otherwise be stopped from doing that. For example if you were a Director (paid or not) of an external body which had a contract with Kirklees. It should also be noted that under the Localism Act councils were no longer required to have a Standards Committee. Kirklees kept a Standards Committee in place but with significantly reduced powers – so effectively an overview Committee to review activity / agree new protocols and receive reports from Sub Committees reporting on any investigations undertaken.
- 2.1.4 The operation of the new scheme was reviewed in July 2013 by the Standards Committee. A number of issues were raised relating to the Code of Conduct, dispensations, training and the decision making process. It was also recommended that the Principles of Public life be updated in the Code of Conduct. At the Council meeting in October 2013 the decision was taken to update the Code of Conduct to reflect the new Principles of Public Life but no other amendments were made to the process.
- 2.1.4 By way of a brief reminder the Standards process works as follows: The full process is attached at Appendix 1.
- a) When a complaint arrives it is shared with the Councillor or Councillors who are the subject of the complaint (14 days to respond)
 - b) The response is shared with the complainant who is able to make further comments (14 days to respond)

- c) A brief report is prepared. This may involve speaking to relevant people and can include checking other documents and the actions can vary.
- d) A summary report is written and circulated to members of the Assessment Panel with relevant papers. From 2014 the Assessment Panel has met 6 weekly and consists of the Group Business Managers, the Monitoring Officer (as well as a member of legal staff usually) and one or more of the Independent Persons. It is not an investigation at this stage and neither the complainant nor complaint subject attend.
- e) At the Assessment Panel the Monitoring Officer seeks the views of the Independent Person and Group Business Managers in relation to the complaint and then decides what action (if any) is taken. The Monitoring Officer may only decide to conduct an investigation after consultation with the Independent Person (see below).

There are various actions/decisions which the Monitoring Officer might make including:

- No further action is required
 - An apology
 - It might involve training
 - It might involve a conciliation meeting
 - The decision might also contain some advice/recommendations for future reference
 - In addition, if the matter is more serious, they may decide a further investigation is necessary in which case the Monitoring Officer would commission someone to carry out that investigation (internally or a third party) and the results of that would be considered at a Sub-Committee of the Standards Committee. In turn the Sub Committee might report any decision to the Standards Committee
- f) The complainant, complaint subject, party leader and the Business Manager is informed of the decision

2.1.5 The current Code of Conduct is attached at Appendix 2 to this report. The current Declaration of interest form is attached at Appendix 3.

2.1.6 It is an appropriate time to review the Code and the Standards process generally alongside the review of the Member /Officer protocol/ introduction of new behaviours for employees and members in 2015. The Monitoring Officer first presented this review to the Chief Executives meeting with Leading Members in February 2015 and has since presented updates at the same meeting in January 2016, May 2016 and December 2016. During this period she has also consulted with Group Business Managers, Overview and Scrutiny Committee, the Members Commission and informally with Standards.

A detailed Standards Questionnaire was sent to relevant Directors, Independent Persons, Group Leaders, Deputy Leaders, Group Business Managers (GBMs), Members Commission, members of the Standards committee, Overview and Scrutiny committee and Corporate Governance and Audit Committee. A small number of responses were initially received but more detailed feedback was obtained from the Group Business Managers in August 2016.

A shorter online survey was circulated to all members to obtain their views and a copy of the results and their response is attached at Appendix 4.

During the interim period the Councillor Complaints section of the website has been updated to incorporate a table providing customers with alternative avenues for resolution of their complaint prior to contacting the Monitoring Officer.

The purpose of the changes to the Standards regime in the Localism Act was to ensure Councils could deal with complaints simply, more efficiently and without malicious or petty complaints taking up time and resources of a number of officers and councillors.

2.2 Number of Complaints Received

2.2.1 The table below sets out a summary of the number of complaints that have been received under the Standards process since the new process was adopted for information. It includes a brief note of the decision (if any) reached. It should be noted that some complaints include more than one member where the decision reached was different. In some case more than one action was recommended e.g. apology and training. For this reason the figures don't add up to 42 which is the number of complaints which were received in total.

Decision	Number	Parish/Town Council
No further action	12	2
Apologies	6	1
Training	9	
Mediation/conciliation	2	3
Other action	5	
Complaints withdrawn	3	
Investigations	0	

Levels of Complaints

Since the review began and was made public in February 2015 there has been a significant reduction in the number of complaints received by the Monitoring Officer. Between February 2016 and December 2016 there have been 2 complaints that have proceeded through the formal standards process. The Monitoring Officer has increasingly dealt with these potential complaints by way of informal resolution and diverted them to the most appropriate avenue for complaint/resolution. One explanation for the reduction is the adoption of the new Councillor Complaints table which helps individuals find the right avenue to address their concerns.

Of the 42 complaints received 4 were by existing Council members.

Of the 42 complaints received 5 were from Parish/Town Councils. Julie is the Monitoring Officer for Parish and Town Councillors but these Councils can and do adopt their own Codes of Conduct. There has been a slight raise in the number of complaints received from Parish and Town Councils.

2.2.2 In the Standards Information Table at Appendix 5, the first column sets out by comparison the number of complaints received by neighbouring authorities. York are also part of the West Yorkshire Lawyers Collaboration and they're figures are 11 for 2014/2015 and 9 for 2015/2016. You will note from this that by comparison to the other authorities we received more complaints by per head of the population than West Yorkshire and York Councils.

2.3 Some Observations About the Current Process

2.3.1 Since the current Monitoring Officer arrived at the Council in September 2013 there have been 27 cases. There have been 4 in 2013 (from Sept 2013, 17 during 2014, 3 during 2015 and 3 during 2016. Again this highlights the reducing complaints over the last three calendar years. The Monitoring Officer has conducted a number of discussions with Members, Officers and Independent Persons as set out at paragraph 2, over the three year period. We have also looked at the operation of the Code of Conduct and the Standards regime at other Councils and have discussed with some of them their views about how well the local regime works. The following paragraphs contain some observations as well as suggestions about the current process and how these might be changed moving forwards.

Standards Questionnaire and Members Survey

The Standards Questionnaire invited Members to provide their comments and views about some of the issues where there are a range of options. The responses received include the detailed discussion with Group Business Managers and they informed the drafting of the proposals and recommendations.

We have also considered and taken into account the responses received from the Members survey during August and September 2016.

Facts / Observations	Comments / proposals or options moving forwards
<p>Since the new Standards regime came into force there have been no complaints which have been taken beyond the first stage of the process so they have been considered by the Monitoring Officer with the Group Business Managers and the Independent Person and any action has been taken following that. This has either been in the form of no further action, an apology, conciliation or training, recommendations or advice provided</p>	<p>This is good as it means that issues have been of a trivial or minor nature. The fact that no further action has been taken in around a quarter of cases means that perhaps we should consider other steps before a case reaches a formal process. This is supported by the comments of some complainants about the length of the process undertaken and the fact that once a complaint form is completed by a complainant the complaint automatically moves forward and is considered by the Assessment Panel.</p> <p>There needs to be greater clarity about what should go through to a formal process. This is also supported in the comments from the members survey. There should be a way of referring some complaints to Group Business Managers or to Corporate Complaints to resolve or dismissing / resolving through some other means.</p>
<p>No formal or informal investigations have taken place. One matter has been passed to the Police to investigate. The prosecution was unsuccessful.</p>	<p>As above</p>
<p>Following the introduction of the new Standards process approximately half of the Members who held seats at the time took the opportunity of taking training on the new process. It appears from various comments made by Members either in responses to complaints or otherwise that a number still either believe that the old and National Code of Conduct is still in place or believe that the new Standards process is the same.</p>	<p>Following this review Members be required to attend appropriate training – whether attending a workshop session or online training.</p>
<p>Some members don't respond, or</p>	<p>Suggest that in future the lack of a</p>

<p>don't respond quickly.</p>	<p>response is specifically referred to in the Code. So it could be considered as part of the complaint and shouldn't lead to a delay or hold up in considering any matter. This should be subject any relevant extenuating circumstances.</p>
<p>In some cases Members won't take appropriate action as recommended as the process contains no specific sanctions other than training or apology it lacks any teeth and it does not appear to always be taken seriously. A number of observations have been made by members of the public about the lack of teeth and the fact that there is no sanction if a member fails to carry out the recommendation made by the Monitoring Officer as a result of the first stage in the process.</p>	<p>We cannot do anything about it's lack of teeth except ensure that whatever Standards process is adopted by the Council is fully signed up to by Members and taken seriously by Groups who encourage members to comply. The comments from the survey indicate members believe upholding standards is very important and members should abide by sanctions.</p>
<p>Recently comments have been received by Members relating to the lack of a right of appeal. This was an issue considered at the time when the new Standards process was being considered and options being looked at. It was decided that there should be no specific right of appeal within the Authority but that instead any issues from Members and/or members of the public should be dealt with through the Ombudsman. This is only in relation to the process and does not relate to the decision. There is no right to appeal in other WYLAW processes.</p>	<p>It seems generally no local codes have appeals. This would not support the process being dealt with quickly and more efficiently.</p>
<p>Issues have been raised around the extent to which private factors can be considered and/or revealed as a part of a response to a complaint.</p>	<p>This can be covered in any guidance.</p>
<p>Members of the public have also commented that the process of having to physically sign and return a complaint form is now out of date and that it should be sufficient to submit something by email only into</p>	<p>The Monitoring Officer Box should be reviewed and modernised with the ability file a complaint on line without the need to send a signed form.</p>

the Monitoring Officer box.	
There is a lack of clarity in the Monitoring Officer box about the process and any distinction between an informal complaint and a complaint which is to go through the Standards process.	As above.
There needs to be greater guidance on the website and/ or in the Code of conduct to members of the public about what will be considered or will be dealt with in some other way or dismissed.	Update guidance. The website has been amended to provide more information to members of the public so they can direct their complaint appropriately.
Need to keep under review trends and put steps in place to deal with issues which appear to be leading to complaints of a minor nature e.g. responding to email queries	Review regularly and make appropriate recommendations to GBMs.
Some complaints are politicised/ political or of a very trivial nature	Need to adopt a solution to short cut these / potentially deal with in a different way. Potentially early dismissal or through GBMs.
The reference to the 7 Principles of Public Life without more specific guidance leaves a lack of clarity sometimes about what's expected.	<p>We should have clearer direction about what amounts to bad behaviour which should be sanctioned. This was agreed by the majority of members who responded to both questionnaires. This approach is also supported by the Independent Person as it would help members of the public to focus directly on the conduct they believe breaches the code and reduces the potential for inappropriate interpretation of what the principles mean.</p> <p>Clear cross reference to new Member / Officer Protocol and behaviours.</p>

2.3.2 More recently the Monitoring Officer has been involving Group Business Managers more when considering complaints and attempting to informally resolve complaints. Generally this has been working well but still leaves the Monitoring Officer as the sole decision maker after assessing the complaint with the Group Business Managers in relation to an informal resolution. This is out of sync with what happens elsewhere.

2.3.3 The Monitoring Officer has devised a table to assist members of the Public in resolving their complaint. The table sets out the different types of complaints and directs their complaint to the appropriate service or person and this seems to have assisted in reducing the number of complaints received.

2.4 What Happens Elsewhere

2.4.1 Decision Making

A short summary of what other West Yorkshire and York Councils do in so far as the Standards process is concerned is set out in Appendix 5. You will see that no other Council has a process which relies on the Monitoring Officer only making the decision. The decision at the first stage of the complaints process is either the Monitoring Officer in consultation with Standards Committee / Standards Committee Chair or the Monitoring Officer in consultation with the Independent Person or Persons and/ or Standards Chair.

Role of the Standards Committee

In the cases where the Standards Committee or Chair is involved the role of Standards Committee is one of promoting and maintain high standards of conduct by members of the Council, advising the Council on the adoption or revision of the Members Code of Conduct, considering and determining breaches of Code of Conduct which have been referred from the Monitoring Officer and recommending appropriate penalties, advising and training of Members relating to the Members' Code of Conduct.

Most of the other West Yorkshire Local Authorities have retained a Standards Committee. The role is smaller than it once was but still serves an important purpose. The role is one of promoting and maintaining high standards of conduct by members of the Council, advising the Council on the adoption or revision of the Members Code of Conduct, considering and determining breaches of Code of Conduct which have been referred from the Monitoring Officer and recommending appropriate penalties, advising and training of Members relating to the Members' Code of Conduct.

Members' views were sought on whether the Standards Committee should still exist. The Standards Committee is not required as part of the current legislation and at the moment is only in place to consider changes to protocol and/or the process generally. If any decision was made as a result of an investigation it would be done through the Sub-Committee process. Members were asked whether they would like this to be reviewed.

Early Dismissal /Referral of Complaints

2.4.2 There is a clearer process for early dismissal or referral elsewhere. Other Councils have a clearly defined process for filtering complaints that should require early dismissal such as political tit-for-tat. Kirklees

does not have anything in place to deal with these types of complaint and they follow the normal standards process taking up time. This will reduce the time in dealing with these types of complaints and allow for them to be resolved quickly.

Code of Conduct

- 2.4.3 The Code of Conduct in a number of places is more directional and rather than refer just to the Principles of Public life has clear directions about behaviours as well as repeat behaviour. They are generally shorter particularly the parts relating to 'Other Interests'. Please see Sheffield's general obligations in their Code of Conduct at Appendix 6 and York at Appendix 7.

The Standards Review

- 2.4.4 During the Standards review the following areas have been closely reviewed and considered and members' views have been sought in those areas. The feedback provided is below and has helped in forming the recommendations in this report. The result from the Members' online survey is attached at Appendix 4.

2.5 The Current Code of Conduct

The current Code of Conduct is attached at Appendix 2.

The current code refers to the 7 Principles of Public life but gives little guidance about what this means in practice and is sometimes as a result difficult to interpret when Standards complaints are received. [see comments in table above].

The section dealing with Interests which are not Disclosable Pecuniary Interest (Other Interest) is quite complicated compared to others. It could result in more declarations of other interest than others.

The Sheffield Council Code of Conduct at Appendix 6 is an example of how most councils locally have drafted their sections on 'Other interests'.

Members are also required to consider whether it is necessary to stand up at Council meetings and verbally declare interests if the DPI and Other interests are up to date and recorded in writing. Requiring verbal declarations can be time consuming and repetitive but does provide transparency and can be seen as good practice. There may also be an expectation for the interest to be declared. Members considered whether the process should be different for DPI's which are different to interests that are not DPI's, which are referred to as 'Other interests'.

Under the Localism Act it's not necessary to declare at each meeting unless its included as a requirement in the Code of Conduct. However, as a Council we should consider whether this is a practice Kirklees should adopt and whether it reflects good practice and transparency.

From considering protocols at other Councils most still require the member to verbally declare. Others simply are in accordance with minimum requirements of the legislation and require only that the interest is recorded in writing.

2.7 Granting of Dispensations

2.7.1 Dispensation applications are considered and dispensations granted by the Assistant Director – Legal, Governance and Monitoring alone.

2.7.2 To date 131 dispensations have been granted. These were largely related to being able to vote to set Council tax in the first year of operation. Since then we have taken a different approach to Council tax following CLG guidance.

There are a number of circumstances in which it is possible to grant a dispensation under the legislation as follows:

Section 33(2) Localism Act 2011 states

A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

- (a) considers that without the dispensation the number of persons 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,*
- (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 the 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 by [section 31\(4\)](#) 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.*

Some of these are fairly straight forwards. So for example where there are so many members who have an interest that it would not be possible to conduct the meeting/ it would skew voting. Others are less straight forwards and potentially could involve others in a decision for example paragraph (c) and (e)

Some Councils use Standards Committee to consider/ grant dispensations in those circumstances. This would however require more pre planning than exists at the moment and wouldn't mean that quick decisions could be taken.

Members' views were sought on whether any revisions were required to this process and whether some requests should be referred to Standards or some other process.

3. Implications for the Council

- 3.1 The Council is required to have a suitable Code of Conduct / standards process in place. It is important that whatever is in place is taken seriously by the Council and any decisions are properly implemented otherwise there will be a lack of confidence by complainants / the public.

4. Consultees and their opinions

- 4.1 Group Business managers who are in favour of a quicker process, removing some of the trivial/political/ "tit for tat" type complaints.
- 4.2 Independent Persons who would like a quicker process and would also like to remove some of the more trivial complaints.
- 4.3 Leading members and other officers (Chief Executive) who would like a quicker process / fewer complaints being considered and the decision not resting just with the Monitoring officer following consultation.
- 4.4 All members. The result of the online survey is attached at Appendix 4. The majority of members are supportive of change to the complaints process.

5. Next steps

- 5.1 This needs to be considered firstly by Standards Committee, then following that any proposals to change would need to be considered by Corporate Governance and Audit Committee who will be given the opportunity to comment / make proposals relating to the changes required to the Constitution before it is considered by Council.
- 5.2 If changes are recommended the Constitution will need updating.
- 5.3 Appropriate training may be required.
- 5.4 Appropriate website updates will be needed

6. Options, Officer Recommendations and Reasons

The options in relation to each recommendation are attached at Appendix 9.

The Standards Committee are asked to consider the recommendations in relation to each of the issues set out below and recommend the adoption of the recommendations and / or make any comments or suggestions about them in order for them to be considered firstly by the Corporate Governance and Audit Committee and afterwards by Council (who will make the final decision).

6.1. Code of Conduct - Behaviour

Recommendations
<ol style="list-style-type: none"> 1. Revise Kirklees Code so it is more directional about what would be poor behaviour (makes reference to the Principles of Public life but also makes specific examples of poor behaviour 2. Amend code to include a lack of response, subject to relevant extenuating circumstances 3. Members are to sign the Code of Conduct <p>No. 2 is to address complaints where members don't respond, so it can be considered as part of the complaint – this would be subject to any relevant extenuating circumstances</p>
Reasons
<p>The feedback in this regard has been finely balanced and 10 Members (of the 17 who responded) to the more general online survey did not prefer a more specific and directional code of conduct that would include more specific examples of poor behaviour. However, taking into account the response overall from Members, the Independent Person including Leading Members meant that overall there was more support for the simple and clear Code with examples of poor behaviour.</p>

The Codes of Conduct of Sheffield and York Council are attached at Appendix 6 and 7 in particular the general obligations section.

6.2 Code of Conduct – Interests

As stated previously, Kirklees' Code of Conduct, Section 5, deals with Interests which are not Disclosable Pecuniary Interests (DPI) and section 5.1 is quite complicated compared to others.

The majority of Members would like this section to be short and to the point but also felt the exceptions set out at Section 5.4 should remain as these were helpful.

Recommendations
<ol style="list-style-type: none"> 4. Amend section 5.1 of the Code of Conduct to simplify the definition of Other interests – Please note section 5.4 of the current code will also be added
Reasons
<p>This simplifies the 'Other Interest' drafting and assists members in understanding whether they need to declare an interest or not</p>

6.3 Declaring Interests' at Meetings

Members are also required to consider whether it is necessary to stand up at Council meetings and verbally declare interests if the DPI and Other interests form is up to date and recorded in writing. Requiring verbal declarations can be time consuming and repetitive but does provide transparency and can be seen as good practice. This is the position in our current code. It is also necessary to consider whether the process should be different for DPI's which are different to interests that are not DPI's, which are referred to as 'Other interests'. Verbal declaration is required in the current code.

Members considered the approach to declaring interests at meetings and most believed that both DPI's and Other interests should be verbally declared. Most senior members requested that 'Other Interests' should remain recorded in writing on the Declaration of Interests form.

Recommendations
5. Continue current practice to verbally declare DPI's and Other interests
Reasons
This is good practice and shows openness and transparency and is supported by members.

6.4 A Revised Standards Complaints Process:

Complaints Process

Both prior to and during the review a number of members were concerned about the length of the complaint process, as well as the fact that once a complaint form has been submitted it automatically moves forward and is considered by the Assessment Panel. This was concerning to members especially when there were complaints that were perceived to be of little merit, extremely minor in nature or as a result of political tit-for-tat.

Recommendations
6. Amend the process so the Monitoring Officer and one other, or more can make a decision about whether the complaint should proceed.
Reasons
This would ensure there was greater clarity about which types of complaints could proceed through the process. One of the purposes of the new Code is to have a quicker way for dealing with trivial complaints and this would avoid delay and is supported by members. Groups have agreed to take appropriate action to change poor behaviour of a member of a group if necessary.

Decision making

The current position is for the Monitoring Officer (MO) to make the decision upon what action to take when assessing a complaint and to consult the Group Business Managers (GBM) and the Independent Person (IP) when doing so. Experience of operating the current system suggests the MO's combined roles of liaising with potential complainants, consulting subject

members and reporting back to complainants and making assessment decisions can conflict. There is benefit in expanding the decision gathering the information upon which the assessment is to be based.

The Localism Act 2011 created the role of the Independent Person (IP). The authority must seek the views of the IP and take them into account before making a decision on an allegation it has decided to investigate. Since 2012 there have been no complaints that have reached a stage where there has been a need for a formal investigation.

The authority may consult the IP in relation to an allegation received regarding a person's behaviour. Currently, it is a matter for the Monitoring Officer to decide whether the IP is consulted in relation to allegations received. Even if consulted they are not part of the decision making and it is only their views which need to be sought and taken account of.

It is common to involve the Chair of Standards or IP in the complaints process, although this doesn't happen in Kirklees

The majority of members did not believe the MO should be the sole decision maker. Most of members wanted another individual involved in the decision making at the Information Resolution stage of the complaints process.

Recommendations

7. Amend the process so the decision maker is the MO with the Chair of Standards, they would still consult with the GBM at assessment panel if a complaint proceeded
8. Amend the process to include a clearer process for early dismissal of complaints that are minor or political tit-for-tat

Reasons

This means that the decision is not solely the responsibility of the MO and allows others to contribute to the decision making process, making it fairer. This would bring Kirklees in line with its West Yorkshire counterparts.

Standards Committee

The majority of members who responded believed the role of the Committee should be reviewed and should still exist.

Recommendations

9. Only slight amendments to the role to include the following:-
 - To receive 6 monthly reports regarding member behaviour and complaints received
 - To meet annually for a review meeting
 - Highlight training needs

Reasons

It was clear from the feedback received from members that they supported the role of the Standards Committee and felt it still served a very important purpose. However, they felt it required a larger role than it had and the recommendation here would increase the role of the Standards Committee in the Standards process

6.5 Dispensations

Members' views were sought on whether any revisions are required to this process. So whether to refer some requests to Standards or some other process.

Members were initially divided on whether the Standards Chair or standards committee should be involved in the granting of dispensations. After further discussion the GBM's felt it was appropriate for dispensations to be brought to the GBM group twice a year rather than Standards.

Recommendations
10. Amend the process so that there is provision for the MO to consult with the GBM's prior to budget council and during the summer
Reasons
This allows more flexibility for the process of dealing with dispensations. This could also encourage members to complete requests earlier and be dealt with more quickly

6.6 Sanctions

The Localism Act 2011 has made no provision for sanctions against members who are found to have breached the Codes of Conduct of their authorities. Under the new provisions there are no powers to disqualify or suspend a councillor for breach of an authority's code and it has been criticised for having a lack of teeth. Authorities are able to censure members, to publicise breaches of their codes of conduct, to report to their councils and to recommend that members are removed from positions on committees and outside bodies. Some authorities have decided to include provision in their arrangements for training to be offered to members who have breached their codes of conduct and other sanctions which are included in the Sanction Table attached. Members were asked what sanctions should be available at the Informal Resolution stage.

Most members requested the following sanctions attached at Appendix 8. should be available.

Recommendations
11. Adopt all of the sanctions attached at Appendix 8.
Reasons
Kirklees would have clear sanctions that could help improve the conduct of members. This would require the support of the groups to promote compliance with the sanctions and enforce them. The member survey results indicates the sanctions would receive support from groups

6.7 Additional Recommendations

12. It is recommended that any matters which are referred to the police but where the criminal investigation ceases should automatically go through the standards process.

This would enable any complaints which do not meet the criminal standard of proof to be addressed by the Council as there could still be a breach of the Code of Conduct

13. It is recommended that the current process continues and there continues to be no right of appeal, other than a recommendation that the Councillor can go to the Ombudsman if they are unhappy.

There is no right of appeal under the standards process within the authority at the moment. There is no right of appeal in any other West Yorkshire Local Authority

14. Members be required to attend appropriate training (Workshop or online) following this review on the new code and standards process

7. Cabinet portfolio holder recommendation

n/a

8. Contact officer and relevant papers

Julie Muscroft

Previous reports -Localism Act 2011 – The Amended Standards Regime – 31 Jan 2012

Localism Act 2011 – The Amended Standards Regime – 3 February 2012

New Standards Regime – 25 Jun 2012

New Standards Regime – 4 Jul 2012

New Standards Regime – 24 Oct 2012

Review for the New arrangements for Member Conduct – 18 Jul 2013

Review of Complaints – 18 Jul 2013

Review of New Arrangements for Member Conduct – 27 Sep 13

Review of New Arrangements for Member Conduct – 23 Oct 13

9. Assistant director responsible

Julie Muscroft – Assistant Director - Legal Governance and Monitoring

10. Appendices

1. Standards process
2. Kirklees' Member Code of Conduct
3. Declaration of Interests form
4. Members Survey results
5. Standards Information Table
6. Sheffield Member Code of Conduct
7. York Member Code of Conduct
8. Sanctions
9. Options Available

STANDARDS PROCESS – BRIEF DESCRIPTION

The Assessment Panel considers the complaint and written response. It is not an investigation at this stage and therefore you are not required to attend. The Panel is made up of the Independent person and the Group Business Managers who I consult in coming to a decision. The process is briefly described below. It was adopted by the Council pursuant to the Localism Act 2011 and replaced the previous Standards regime. A link is also attached:

<http://www.kirklees.gov.uk/you-kmc/contact/councillorComplaints.aspx>

Under the new standards arrangements the process is briefly as follows:

1. When a complaint arrives it is shared with the Councillor or Councillors who are the subject of the complaint and they are given usually 14 days to respond to the complaint made.
2. When the response is received that is shared with the complainant who is able to make further comments within 14 days.
3. Once that has happened a brief report is prepared. Sometimes this involves speaking to relevant people who may have been involved. It may involve looking at other emails and checking other documents. The action (if any) may vary.
4. Once that has happened a summary report is written and the summary report is circulated to members of the Assessment Panel with relevant background papers (e.g the complaint and response/emails). Usually this is done when there are two or three complaints rather than considering any one complaint at a time. The Assessment Panel meets and consists of the Business Managers of each group, myself as Monitoring Officer (as well as a member of my staff usually) and one or more of the Independent Persons. At the Assessment Panel I seek the views of the Independent Person as well as the Business Managers in relation to the complaint/as well as any background papers. The Monitoring Officer takes into the account the views of those people, but ultimately the decision in relation to what action (if any) is taken is the decision of the Monitoring Officer.

There are various actions/decisions which the Monitoring Officer might make including:

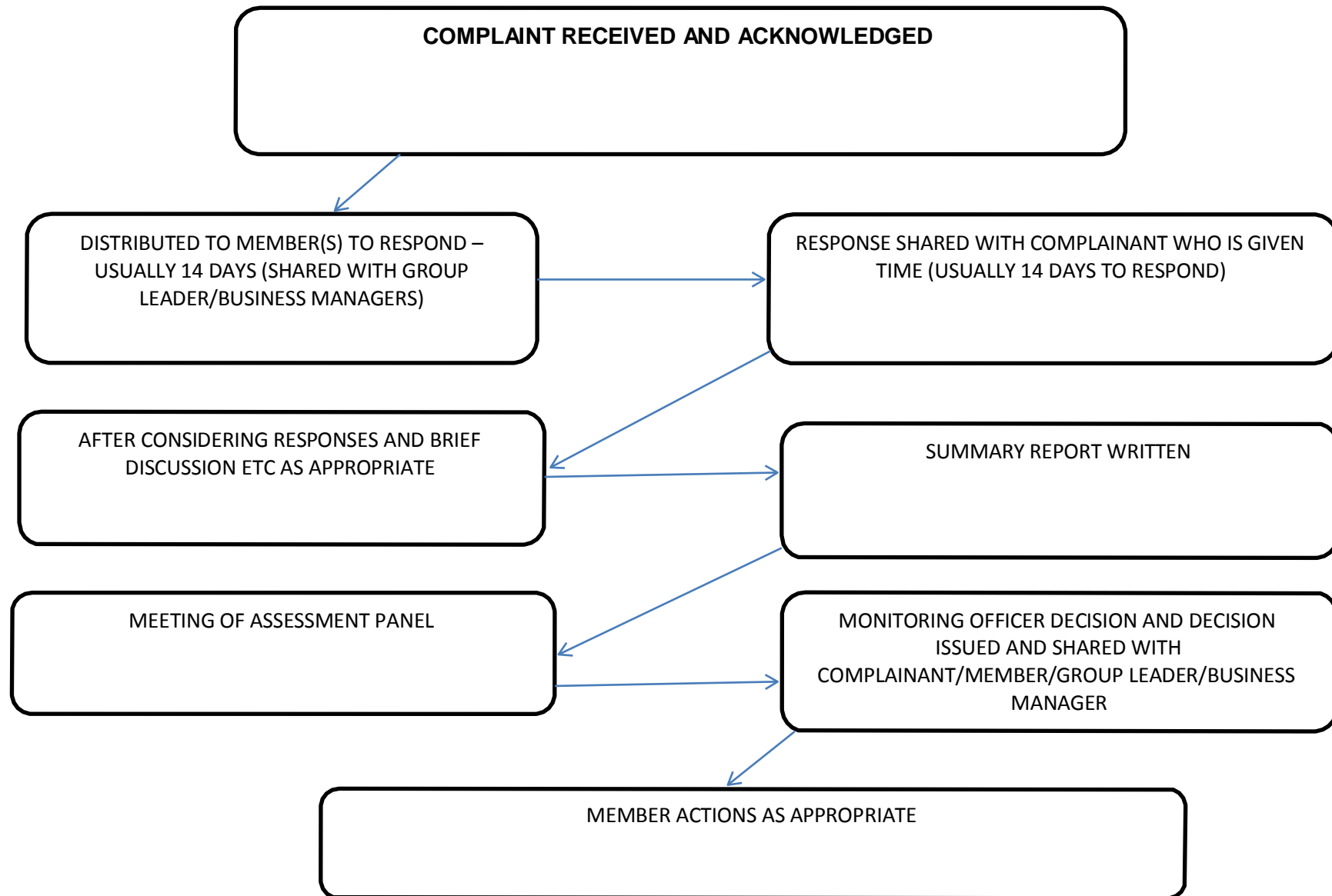
- No further action is required
- An apology
- It might involve training
- It might involve a conciliation meeting
- The decision might also contain some advice for future reference
- In addition, if the matter is more serious, I might decide that we need to have a further investigation in which case I would commission someone to carry out that investigation (internally or a third party) and the results of that would be considered at a Sub-

Committee of the Standards Committee. In turn the Sub-Committee might report any decision to the Standards Committee

5. As mentioned in paragraph 4 the Sub Committee may consider any investigations and make appropriate recommendations.
6. I will inform you, your party leader and the Business Manager of any decision as well as the Complainant.

If you have got any questions or queries about the process please ring myself or one of my Deputy Monitoring Officers (Margaret Miller or Samantha Lawton).

APPENDIX 1



Code of Conduct for Members

1 Application

1.1 This Code applies to you as a member of Kirklees Council (“the authority”) and it is your personal responsibility to comply with the requirements of this Code. This Code applies to you whenever you act in the capacity of an elected or co-opted member of the authority, including –

- 1.1.1 at meetings of the authority
- 1.1.2 when acting as a representative of the authority
- 1.1.3 in taking any decision as a Cabinet member or a Ward Councillor
- 1.1.4 in discharging your functions as a Ward Councillor
- 1.1.5 at briefing meetings with officers and
- 1.1.6 at site visits
- 1.1.7 when corresponding with the authority other than in a private capacity

1.2 Where you act as a representative of your authority on another local authority, you must, when acting for that other authority, comply with that other authority’s code of conduct.

1.3 Where you act as a representative of your authority on a body which is not another local authority you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

2 Interpretation

For the purposes of this Code –

2.1 “member of the authority” includes:

- 2.1.1 elected members; and
- 2.1.2 co-opted members who are entitled to vote on any questions which fall to be determined by the committees, sub-committees, joint committee, joint subcommittees or area committees upon which they sit.

2.2 “meeting” means any meeting of:

- 2.2.1 the authority;
- 2.2.2 the executive of the authority; or
- 2.2.3 any of the authority’s or its executive’s committees, sub-committees, joint committees, joint sub-committees or area committees.

2.3 “body” means any body of which you are a member or in a position of general control or management and –

- 2.3.1 to which you are appointed or nominated by your authority; or
- 2.3.2 which is a body –

- (a) exercising functions of a public nature; or
- (b) directed to charitable purposes; or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

2.4 “relevant person” for the purposes of paragraph 5 of this Code means any person or body with whom you have a family, social or business relationship.

3 General Principles

Your conduct as a member should be consistent with the following principles –

3.1 Preamble

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, Non-Departmental Public Bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

3.2 Selflessness

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

3.3 Integrity

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

3.4 Objectivity

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

3.5 Accountability

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

3.6 Openness

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

3.7 Honesty

Holders of public office should be truthful.

3.8 Leadership

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

4 Disclosable Pecuniary Interests

4.1 Disclosable Pecuniary Interests (“DPIs”) are those interests defined as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (“the 2012 Regulations”) or in any subsequent regulations which amend, vary or revoke the 2012 Regulations. For the purposes of illustration only, a summary of the 2012 Regulations is set out in the Schedule to this Code of Conduct.

4.2 You must, within 28 days of:

- 4.2.1 adoption of this Code of Conduct by the authority; or
- 4.2.2 taking office as a member or co-opted member of the authority notify the authority’s Monitoring Officer of any DPI, 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.

4.3 When you are present at a meeting of the authority and you have a DPI in any matter to be considered or being considered at the meeting, and where the matter does not relate to ‘sensitive information’ as defined below, you must disclose the existence and nature of the interest to the meeting.

4.4 Following any disclosure of a DPI not on the authority’s register or the subject of pending notification, you must notify the authority’s Monitoring Officer of that interest within 28 days beginning with the date of disclosure.

4.5 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 DPI and must withdraw from the meeting while the matter is under consideration.

4.6 You must within 28 days of becoming aware of any new DPI or the need to change or update a current DPI registration, notify the authority’s Monitoring Officer of those new or revised register entries.

5 Interests which are not Disclosable Pecuniary Interests

5.1 You also have an interest in any business of your authority where a decision in relation to that business

- 5.1.1 relates to or is likely to affect any body of which you are a member or in a position of general control or management; or
- 5.1.2 which might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

5.2 Subject to paragraph 5.5, where you have an interest as defined in paragraph 5.1 in any business of your authority which is not a DPI and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and

nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

5.3 You do not have an interest for the purposes of paragraph 5.1 unless the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

5.4 You do not have an interest for the purposes of paragraph 5.1 if the interest relates to the functions of the authority in respect of –

5.4.1 housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

5.4.2 school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

5.4.3 statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

5.4.4 an allowance, payment or indemnity given to members;

5.4.5 any ceremonial honour given to members; and

5.4.6 setting council tax or a precept under the Local Government Finance Act 1992.

5.5 Subject to paragraph 5.6 below, where your interest is one -

5.5.1 which relates to the determining of any approval, consent, licence, permission or registration in relation to you or a relevant person; or

5.5.2 affects your financial position or the financial position of a relevant person you must also withdraw from the meeting while the matter is under consideration.

5.6 Paragraph 5.2 and 5.5 only applies where you are aware or ought reasonably to be aware of the existence of the interest.

5.7 Where you have an interest which is not a DPI but, by virtue of paragraph 6, information relating to the interest is sensitive information you must indicate to the meeting that you have an interest, but need not to disclose the sensitive information to the meeting.

5.8 Where you have an interest which is not a DPI in any business of your authority and you are –

5.8.1 a member of a body making an executive decision;

5.8.2 an individual member making an executive decision: or

5.8.3 a member consulted by an officer making an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest.

5.9 For the purposes of paragraph 5.8, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

6 Sensitive information

6.1 Where you consider that the information relating to any of your interests is sensitive information, and your authority’s monitoring officer agrees, you need not include that information when registering that interest under paragraph 4.

6.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 6.1 is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

6.3 In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person connected with you may be subjected to violence or intimidation.

7 Gifts and Hospitality

7.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted from or has been offered to you by any person or body other than the authority.

7.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.

7.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

SCHEDULE

Regulation 1(2)

Disclosable Pecuniary Interests

Disclosable Pecuniary Interests are the interests specified in the second column of the following table and for the purposes of that table the following definitions apply:

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) (Disclosure of pecuniary interests upon taking office) or section 31(7) (Interests not entered on the authority's register and not subject to a pending notification), as the case may be, of the Act;

"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners;

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

Table

Regulation 2

<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	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act 1992(1).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (along or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either – i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



NOTIFICATION OF (1) DISCLOSABLE PECUNIARY INTERESTS AND (2) OTHER PERSONAL INTERESTS WHICH ARE NOT DISCLOSABLE PECUNIARY INTERESTS BY ELECTED AND CO-OPTED MEMBERS

I, -----[Name]

Being an elected member of Kirklees Council do hereby give notice that I have set below in Part I of the form my disclosable pecuniary interests for the purposes of the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and in Part II of this form, my other personal interests which are not disclosable pecuniary interests.

Within 28 days of election to office, an elected member must register his/her disclosable pecuniary interests in a public register by providing written notification to the Kirklees Council's Monitoring Officer.

I understand that this notification will be placed upon a public register and published on the Kirklees Council website.

Signed-----Dated-----20[]

PLEASE COMPLETE THE FORMS IN PART I AND PART II BELOW FOR BOTH YOURSELF AND YOUR SPOUSE OR CIVIL PARTNER OR ANY PERSON WITH WHOM YOU ARE LIVING AS HUSBAND AND WIFE OR ANY PERSON WITH WHOM YOU ARE LIVING AS IF YOU WERE CIVIL PARTNERS.

Please use additional sheets if necessary. Any additional sheets should be marked with the number of the question to which they apply. If you have no interests relevant to a particular section please write "None" in that section. Attached to this form is an extract from the Explanatory Notes to the Localism Act 2011 dealing with the offences which may be committed in relation to disclosable pecuniary interests.

PART I – DISCLOSABLE PECUNIARY INTERESTS

Disclosable Pecuniary Interests	Disclosable Pecuniary Interests
<p>1. Employment, office, trade, profession or vocation</p> <p><i>Please give details of any employment, office, trade, profession or vocation carried on by you for profit or gain. In particular you should give a brief description of the activity and the name and address of any employer, partnership or other organisation from which you receive payments.</i></p>	
<p>2. Sponsorship</p> <p><i>Please give details of any payment or provision of any other financial benefit (other than from Kirklees Council) which has been made or provided within the last 12 months in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union or political party.</i></p>	

<p>3. Contracts</p> <p><i>Please give details of any contract which is made between you (or a body in which have a beneficial interest) and Kirklees Council -</i></p> <p><i>(a) under which goods or services are to be provided or works are to be executed; and</i></p> <p><i>(b) which has not been fully discharged</i></p> <p><i>[A body in which you have a beneficial interest means a firm in which you are a partner or a body corporate of which you are a director, or in the securities of which you have a beneficial interest]</i></p>	
<p>4. Land</p> <p><i>Please give details of any beneficial interest you have in land which is within the area of Kirklees Council. For these purposes the definition of land excludes an easement, servitude, interest or right in or over land which does not carry with it a right (alone or jointly with another) to occupy the land or to receive income. In particular you should provide details of any land which you own, lease, receive rent from or for which you are the mortgagee together with sufficient information to identify the location of such land.</i></p>	

<p>5. Licences</p> <p><i>Please provide details of any licence (alone or jointly with others) to occupy land in the area of Kirklees Council for a month or longer.</i></p>	
<p>6. Corporate Tenancies</p> <p><i>Please provide details of any tenancy where (to your knowledge)-</i></p> <p style="padding-left: 40px;"><i>(a) the landlord is Kirklees Council;</i> <i>and</i> <i>(b) the tenant is a body in which you have a beneficial interest</i></p> <p><i>[A body in which you or such a person has a beneficial interest means a firm in which you are a partner or a body corporate of which you are a director, or in the securities of which you have a beneficial interest]</i></p>	

<p>7. Securities</p> <p><i>Please provide details of any beneficial interest in securities of a body where-</i></p> <p><i>(a) that body (to your knowledge) has a place of business or land in the area of Kirklees Council; and</i></p> <p><i>(b) either-</i></p> <ul style="list-style-type: none"> <i>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</i> <i>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</i> <p><i>[For these purposes "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.]</i></p>	

PART II – PERSONAL INTERESTS

Please list any personal interests which are NOT disclosable pecuniary interests and briefly describe your involvement. Personal interests may be interests for which you receive no remuneration or have no beneficial interest but which may still be seen as prejudicing your decision making.

The interests you list are a matter for your discretion but you should have regard to paragraph 5.1 – 5.9 of the Code of Conduct relating to interests which are not disclosable pecuniary interests and also your duty to act in accordance with the Seven Principles of Public Life which are contained in the Council's Code of Conduct for Members, namely:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The following is a list of the type of personal interests you should consider including in this form but please note this is not a comprehensive list and is given only by way of example. Please ask the Monitoring Officer or her deputies if you require guidance.

(a) Membership of Trade Union

Note – if you are paid by a trade union, this is a disclosable pecuniary interest and should be disclosed in Part I of this form. Part II is for the disclosure of membership of a Trade Union only

(b) External bodies to which you are appointed or nominated by the Council but for which you receive no remuneration

(any organisation of which you are a member or in a position of general control or management and to which you are appointed or nominated by Kirklees Council as its representative but it is not a disclosable pecuniary interest. Note that being nominated as a director is a disclosable pecuniary interest

(c) Interests in charities, societies and other bodies

(any position of general control or management in any public authority or body exercising functions of a public nature; company, industrial and provident society, charity or body directed to charitable purposes; bodies whose principal purposes include the influence of public policy including professional association) but it is not a disclosable pecuniary interest

(d) Membership of a local organisation

(any local organisations of which you are a member, e.g., friends of "x")

(e) Involvement in any organisation for which you do not receive remuneration but the organisation may receive funding or support from the Council

(f) Receipt of benefits like for example, Council Tax Single Person's Allowance



Note- You are also reminded that if you have received gifts and hospitality with a value in excess of £25 you must notify the Monitoring Officer in writing within 28 days of receipt.

LOCALISM ACT 2011 - OFFENCES

[Extract from the Explanatory Notes to the Localism Act 2011]

Section 34 [of the Localism Act 2011] makes it a criminal offence if a member or co-opted member fails, without reasonable excuse, to comply with requirements under section 30 or 31 to register or declare disclosable pecuniary interests, or take part in council business at meetings or when acting alone when prevented from doing so. It

empowers the magistrates` court, upon conviction, to impose a fine of up to level 5 (currently £5,000), and an order disqualifying the person from being a member of a relevant authority for up to five years. It extends the time for bringing a prosecution for the offence by allowing a prosecution to be brought within 12 months of the prosecuting authorities having the evidence to warrant prosecution, but any prosecution must be brought within 3 years of the commission of the offence and only by or on behalf of the Director of Public Prosecutions.

Question 5 Responses:

- 3: Being rude and disrespectful in meetings
- 7: As Councillors the people expect us to conduct ourselves with courtesy to every one and not bring the council into disrepute
- 12: It needs more clarity and more defined definitions.

Question 7 responses

- 4: Depends on whether there was fault or it was a malicious complaint
- 9: This totally depends on the nature of the complaint and circumstances. Obviously only minor complaints will be informally resolved. Sanctions must be fitting, proportionate and reasonable. The fact that members are subject to a lot of unfounded complaints, especially right now when we are cutting services must be taken into account as well as any other circumstances. Councillors are often targeted by people with opposing political views. Managing public expectations is increasingly difficult. Any policy must take into account that the public can also complain by using their feet on polling day. Given the Council has reduced resources there is a danger that more resources will be taken up investigating and Councillors will waste more time in engaging in defensive practices ie recording every single conversation to cover our backs or recording every incident that a member of public is annoyed with our responses. By the very nature of our positions and our work all councillors get complaints and given the current financial environment I feel the number of complaints will increase. For example, recently I had a complaint that I didn't reply to an email within a week, when I had already given the resident an answer to their query previously. This was dealt with by my constituency officers. I've had a complaint that one of my campaign volunteers was racist when in fact the complainant was aggressive and racist. Luckily the volunteer recorded the incident and the complainant was a UKIP supporter. This was dealt with by the Police. I believe with rising islamophobia, Muslim councillors are particularly vulnerable. I also believe anyone like myself who has a history of working with the public is also particularly vulnerable due to actions taken in past roles, for example an unfounded complaint was made after my colleague and I knocked on the door of a resident who I in a previous role had reported as a sex offender. Due to the ethical code of practice I am assigned to with a professional body, I could not disclose my previous dealings with the person in question (of course if I recognise someone's name on the electoral register I avoid dealing with them in my role as a councillor), therefore could not defend myself, luckily the complaint was so ridiculous it was dismissed instantly. I have evicted people from hostels, reported many people to social services or the Police. I feel I was always protected in my previous roles through managerial and supervision procedures and recording processes. We don't have the same protective factors as Councillors and nor should we, however, the complaints procedures need to take this into account and support mechanisms should be in place for Councillors when an allegation is made against them. Some Councillors are members of professional bodies and have to abide by their code of ethics which are often much more stringent than the Councillors Code of Conduct and the consequences of a

wrongful allegation can have a huge detrimental effect on that person's career and reputation, which needs to be taken into account in the handling of complaints.

Question 9 Responses

2: It should not only be focussed on behaviour of Councillors. It's not unheard of for residents to deliberately push a situation through harassment, verbal abuse, social media bullying of a Councillor and to turn to the complaints procedure as a further way of attacking a Councillor. It should be made clear to residents that this is not the purpose of the complaints process and such reasons for its use will mean that the complaint will be immediately dismissed. Not clogging up the system and taking up everyone's time with such complaints means that legitimate complaints can have the necessary time dedicated to them.

3: Publicise the findings of standards investigations in local newspapers and online

4: Suspend Councillors who repeatedly show contempt for the office by refusing to pay their Council Tax. This would mean a change in procedure as it stands currently but would at least re-assure the public that we are attempting to get rid of the bad apples. Also be very careful not to assume that a complaint is justified. Just because a resident does not like a decision or action taken by a Councillor this does not mean that the Councillor behaved incorrectly. There should be sanctions both ways. If a malicious complaint is made and clearly proved the member of the public should be charged £50 per hour for officer and Councillor time in looking into the matter.

5: Groups and Group Leaders must agree to apply sanctions to their own members when a decision is made

7: No

8: I have insufficient experience to comment

9: We are not Council employees. It's contradictory on the one hand for the Council to say you do not have the same pension rights as Council employees or access to EAP and then to subject Councillors to Council led complaints procedures. Councillors should be given a choice as to whether they want their business manager to deal with the complaint or the Council. The choice element is to protect councillors who may not have a good relationship with their business manager and to ensure fairness and to protect officers time and resources in instances where the business manager can deal with the complaint more efficiently.

10: I object to the fact that when a complaint is not upheld, the Monitoring officer can still propose actions, this gives the false impression that the Councillor is in some way at fault and can be used against them in their locality. If a complaint is not upheld & the Councillor found innocent the Monitoring officer should just say this and that should be the end of the matter. I have personally had my reputation sullied by a complaint being rejected

as no fault yet the Monitoring officer was still suggesting I meet with the individuals and explain my actions, and worded the notice in a very poor way which could be read to insinuate fault. The complainant has been using this notice to point out that I am being required to meet with them (although I have declined to do this) and is suggesting that this is because I was in the wrong, when I was not and the notice said so. Short rejection notices would resolve this issue. It should be down to ward Councillors to decide how they react to an unsubstantiated complaint and whether they wish to reach out to the complainant. In my experience, this is rarely beneficial as the complainant is unhappy that their complaint was not upheld.

11: Clarity of process.

12: Deal with genuine complaints, not spurious and malicious complaints.

14: Spell outcomes out very clearly and in plain English

16: I don't feel that I know enough about the detailed mechanics of the procedure to answer fully on this - resolution of complaints "informally" seems to suggest effectively a process of mediation between the councillor and complainant. In my view the first step in any complaints process should be to convene a meeting between the complainant and the councillor. If that does not address the issue then a more formal process to evaluate the merits of the complaint should be applied and then if there is found to be a breach following what would effectively be a quasi judicial process at that point effective sanctions should bite

Question 10 Responses:

2: A front door policy whereby if it can be determined that a complaint is clearly without foundation, it is dismissed by the Monitoring Officer before the Councillor is forced to submit a written response and the complaint is taken through to GBM's and independent person.

3: No

4: Take a pragmatic view. If there is clearly a personal or political angle this should be fairly obvious straight away. Give those looking into this some "teeth" or more importantly ensure the right people look at the complaint

6: Many complaints will be of a spurious political nature for anonymous points scoring so we must be very aware of this as you work with and escalate complaints.

7: No

9: Unless the nature of the complaint is very serious for example, if the complaint is relating to serious fraud, embezzlement, bribery or related to safeguarding vulnerable groups, the Councillor should have the option to refer the complaint to their relevant

business managers and in circumstances where they feel an impartial view is needed they should have the option to have the complaint dealt with by the Council.

10: Yes, there should be a filtering process so that if a complaint is clearly not valid it can be rejected without going through the entire process. I had a spurious complaint against me hanging over me for nearly 3 months because of the process even though it was clear from the outset that it would be dismissed.

11: 1. agreeing standard timescales for the process 2. within standards policy definitions of types of complaints based on Nolan principles eg not disclosing a pecuniary interest / remarks made which have upset a resident. Some complaints are clearly more significant than others. 3. clarity of definition may enable a more clearly defined process within agreed timescales

14: Whatever you do this can be drawn out by people deliberately wasting time

16: I would be happy to have a discussion about this process in a meeting

Question 14 Responses

2: Councillors have a very difficult job. We are front facing and often blamed for things that are out of our control or which we simply 'have to do' because it's our role. Residents often have no idea of the scale and pressures of our role. When a complaint is received, the first thing that should happen is that the Monitoring Officer should speak (ideally face to face) with the complainant to explain any related points from the Councillors / KMC side and to determine if there is actually a valid complaint to process. This could also be used as an opportunity to build bridges and avoid an ongoing issues, as much as is possible, between Councillor and resident following the complaint. The system is totally one sided at the beginning and I cannot be the only Cllr who has felt completely let down by the council during a complaints process. I am sure I am easily identifiable by what I've written but just in case there is any doubt, Cllr Lisa Holmes

3: Sorry it takes up so much Council time

4: The Chief Exec needs powers to remove corrupt Councillors from making decisions. Just because the public elect someone on day X, should something transpire on day X+1 currently that Councillor is guaranteed to remain in office for 3 years 364 days. This is not acceptable. Serious breaches of the rules, where a member is de-selected or suspended (or in the case of an independent would be de-selected or suspended from either the main or opposition party) members should not be allowed to sit and should receive no allowance. Following investigation should this be found to be upheld, these members should be forced to resign and be barred from any future public office. The exact offences could be defined but would include being summonsed on more than one occasion whilst in office for non payment of Council Tax, any criminal offence (found guilty of).

11: not all complaints are of equal significance - currently they seem to be follow the same process. throughout the process there should be transparency and a requirement for substantiated evidence

12: I am in full support of standards but I find it very vexing when standards spill over into my personal life. I have a separate life from that of a Councillor.

14: What we say and do has to be transparent We put ourselves up for election and so we put ourselves in the firing line for complaints

This short survey will feed into a wider review of Standards. All answers are anonymous.

Q1 Should members of the public be able to complain about Councillors?

16 Yes
1 No

Q2 Are you aware that members of the public use the Standards Complaint Process to complain about Members?

17 Yes
0 No

Q3 How important do you think it is for members to uphold standards?

15 Very Important
2 Important
0 Neutral
0 Not Important
0 Not at all Important

Q4 The Members Code of Conduct currently refers only to the 7 principles of Public Life (Nolan Principles). Should it also contain specific examples of poor behaviour?

7 Yes
10 No

Q5 If yes what examples do you think should be given?

3

(see attached form)

Q6 What sanctions should be available when a complaint is informally resolved?

11 Explanation by member
10 Apology by member
10 Training or mentoring
11 Mediation/ conciliation
8 Issuing guidance
7 Amending policy/ protocols (if necessary)
8 Ask GBM's to address issue with member or party
8 Member voluntarily giving up position on a particular body
8 Any other action capable of resolving complaint
4 Other

Q7 Any other suggestions for sanctions?

2

(see attached form)

- Q8 If a member has been found in breach of standards, how important is it to abide by agreed sanctions?
- | | |
|----|----------------------|
| 14 | Very Important |
| 2 | Important |
| 1 | Neutral |
| 0 | Not Important |
| 0 | Not at all Important |
- Q9 Do you have any suggestions for how we could make the current standards complaints process more effective?
- 12
(see attached form)
- Q10 Do you have any suggestions on how we can shorten decision making in relation to complaints about councillors?
- 10
(see attached form)
- Q11 Should members have to verbally declare Disclosable Pecuniary Interests (DPI's) at meetings?
- | | |
|----|-----|
| 12 | Yes |
| 5 | No |
- Q12 Should members have to verbally declare interests that are not DPI's, also known as 'Other Interests' at meetings?
- | | |
|---|-----|
| 9 | Yes |
| 8 | No |
- Q13 Would you prefer a more detailed explanation or a short and concise explanation of 'Other interests' in the Member's Code of Conduct?
- | | |
|----|-------------------------------|
| 3 | Detailed explanation |
| 13 | Short and concise explanation |
- Q14 Please highlight anything else you deem important in relation to standards?
- 6
(see attached form)

Standards Information Table

	Bradford	Calderdale	Leeds	Wakefield	Sheffield
Standards Complaints Received	(Held by Calendar years)				
2014/21015	2014 – 10	6	11	4	-
2015/2016	2015 – 19	9	4	1	-
	2016 - 15				
(Figures correct as of Nov 16)					
Code of Conduct	Yes (Nov 15) Refers to principles and has a little more detail Has no general obligations		Yes (2013) Only refers to Nolan principles Not detailed or directional enough	Yes More directional Has extra detail	Yes (revised 2013) <i>Good example – more directional</i>
Has Complaints Procedure for MO complaints	Yes		Yes	Yes	Yes
Complaints					
Assessment by MO	Initial assm and decision by MO		Initial assm and decision by MO		Initial assm and decision by MO

	as to whether valid complaint		as to whether valid complaint (can consult IP)		as to whether valid complaint (consult with IP)
Informal Assessment	Valid Complaint referred to GBM & Member for consideration		Valid Complaint referred to GBM & Member for consideration		Valid complaint informs GBM, and Ch of St/ctee
Decision With	By MO in consult with Chair of St/Cttee – has GBM addressed concerns		By MO in consult with Chair of St/Cttee – has GBM addressed concerns		By MO in consult with IP and Ch of St/Cttee
Investigation to who	St/Ctee		St/Ctee		IO writes report
Process	MO writes report		MO writes report		No right of appeal at any stage
Appeals	No right of appeal at any stage		No right of appeal at any stage		No right of appeal at any stage
Interests					
Any reference	Yes	Yes	No	Yes	Yes
Process (Declare or not)	Matter for Cllr -For them to decide whether to stay/leave	Same as Bradford but also lists when they have an interest but can participate	-	Same as Bradford	Simpler but more detailed than WYLAW - states must verbally declare
If so – how?			-		

- MEMBERS' CODE OF CONDUCT

Introduction

This Code applies to members of this authority when you act in your role as a Member and it is your responsibility to comply with the provisions of this Code. Members include all Elected Members and co-opted members.

The Code sets out the standards which are required of all members of the authority in carrying out their duties, and in their relationships with the Council and its officers.

Members are a representative of this authority and the public will view you as such, therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code is based upon the following principles of public life which each member should comply with:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

• I- Constitution
Part 5- Members' Code of Conduct (Revised June 2013)

Leadership

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

This Code does not cover matters under the Localism Act 2011 where criminal sanctions will apply.

1. General Obligations

1.1 When acting in your role as a member of the authority you:

- (a) Must treat others with respect.
 - (b) Must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of members.
 - (c) Must not bully or intimidate any person
 - (d) 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 legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) The disclosure is-
 - (A) reasonable and in the public interest;
 - (B) made in good faith and in compliance with the reasonable requirements of the authority; and
 - (C) you have consulted the Monitoring Officer prior to its release.
 - (e) Must not prevent another person from gaining access to information to which that person is entitled by law.
 - (f) Must not conduct yourself in a manner which would reasonably be regarded as bringing your authority into disrepute.
-

- Constitution

Part 5- Members' Code of Conduct (Revised June 2013)

- (g) Must not use your position to improperly confer or secure an advantage or disadvantage to yourself or any other person.
- (h) Must be clear when communicating with the media or speaking in public that you do not give the impression you are acting in an official capacity when you are acting in a personal capacity.
- (i) Must comply with the Protocol for Member/Officer Relations and respect the impartiality and integrity of the authority's statutory officers and its other employees.

1.2 When using or authorising the use by others of the resources of the authority you:-

- (a) Must act in accordance with the authority's reasonable requirements including the requirements of the authority's ICT policy and the policies listed at appendix A, copies of which have been provided to you and which you are deemed to have read;
- (b) Must make sure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) Must have regard to any applicable Code of Publicity and take into account the guidance issued to Members on the use of social media.

2. Interests

2.1. *Disc/osable Pecuniary Interests (DPI)*

You must-

- (a) comply with the statutory requirements to register, disclose and withdraw (to include leaving the room) from participating in respect of any matter in which you have a DPI.
- (b) ensure that your register of interests is kept up to date at least annually.
- (c) make a verbal declaration of the existence and nature of any DPI at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

- Constitution

Part 5- Members' Code of Conduct (Revised June 2013)

2.2 *Other Interests*

2.2.1 In addition to the requirements relating to DPis, if you attend a meeting at which any item of business is to be considered and you are aware that you have a personal interest in the matter which does not amount to a DPI you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

2.2.2 You have a personal interest where-

- (a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing (including interests in land and easements over land) of you or a member of your family or a person or an organisation with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
- (b) it relates to or is likely to affect any of the interests that are defined as DPis but are in respect of a member of your family (other than a partner) or a person with whom you have a close association.

("Meeting" means any meeting organised by or on behalf of the authority, including-

- any meeting of the Council, or a Committee or Sub-Committee of Council;
- any meeting of the Cabinet and any Committee of the Cabinet;
- in taking a decision as a Ward Councillor or as a Member of the Cabinet.)

(Note: A request for a dispensation to participate in the business of the authority where a Member has a Disclosable Pecuniary Interest must be submitted in writing to the Monitoring Officer in accordance with the guidance issued to Members on Declarations of Interests.)

2.3. *Gifts and Hospitality*

2.3.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority.

- Constitution

Part 5- Members' Code of Conduct (Revised June 2013)

- 2.3.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 2.3.3 This duty to notify the Monitoring Officer does not apply where the gift is accepted on behalf of the Council and does not apply to the role of Lord Mayor.

3. Bias

- 3.1. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you are not prohibited from participating in a decision in your political role as member. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- 3.2. When making a decision, you must consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

4. Equalities

- 4.1 Members must ensure that they adhere to all related legal requirements, such as the Race Relations Act, Sex Discrimination Act, Disability Discrimination Act and the Human Rights Act.
- 4.2 Members must promote equality and inclusion by providing an environment free from harassment, discrimination, and victimisation and bullying and by treating people with respect, regardless of their age, disability, gender, race, religion/ belief, sexual orientation or marriage/ civil partnership status.
- 4.3 Members must act in accordance with the Council's Equality Policy and Single Equality Scheme and the Council's Harassment, Discrimination, Victimisation and Bullying Policy.
- 4.4 Members must have regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 to:
- Eliminate discrimination, harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations.

1 - Constitution
Part 5- Members' Code of Conduct (Revised June 2013)

APPENDIX A

LIST OF POLICIES

- 1. Electronic Communications Policy
- 2. Members' ICT Usage Policy

Part 5 Codes and Protocols**PART SA- MEMBERS' CODE OF CONDUCT (VERSION 4)****Part 1: General Provisions****Introduction**

1. (1) This Code sets out the standards of behaviour required of you whenever you are acting as a Councillor of the City of York Council. This Code also applies to any person appointed as a co-opted member of the City Council or any of its Committees when acting as such.
- (2) The Code has been adopted by the City Council and is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Definitions

2. (1) In this Code:

You are acting as a Councillor or acting as a co-opted Member only when conducting the business of the Council or acting, claiming to act or giving the impression that you are acting as a representative of the Council.
- (2) A "co-opted member", is a person who is not an elected member of the authority but who -
 - (a) is a member of any committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and is entitled to vote at any meeting of that committee or sub-committee
- (3) "meeting" means a meeting of the Council or of any committee, sub-committee, joint committee or joint sub-committee of the authority or of the Cabinet or any committee of the Cabinet.
- (4) A "sensitive interest" is one where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees.

Members' Code of Conduct

General Duties as to Conduct

3. (1) You must treat others with respect.
- (2) You must not do anything which may cause the Council to breach any equality enactment.
- (3) You must not bully or intimidate any person, or attempt to bully or intimidate them.
- (4) You must not do anything which compromises the impartiality of anyone who works for or on behalf of the Authority, or do anything that is likely to compromise their impartiality.
- (5) You must not disclose information which is confidential, unless:
 - (a) You have the permission of a person authorised to give it; or
 - (b) You are required by law to disclose the information; or
 - (c) You disclose it to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - (d) The disclosure is reasonable; and is in the public interest; and is made in good faith.
- (6) You must not prevent another person gaining access to information which that person is entitled by law.
- (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute.
- (8) You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.
- (9) When you use or authorise the use by others of the resources of the Council you must:
 - (a) abide by the Council's reasonable requirements; and
 - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- (10) You must have regard to relevant advice given by the Council's Chief Financial Officer or Monitoring Officer when making decisions and must give reasons for those decisions, in accordance with any requirements imposed by statute or the Council.

Part 2: Interests

Disclosable Pecuniary Interests

Registration of disclosable pecuniary interests

4. (1) Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'. These will be included in the register of interests which is published on the Council's website

Definition of disclosable pecuniary interests

- (2) A 'disclosable pecuniary interest' is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interest is of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

Non participation at meetings in case of disc/osable pecuniary interest

- (3) If you are present at a meeting and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,
- (a) You may not participate in any discussion of the matter at the meeting.
 - (b) You may not participate in any vote taken on the matter at the meeting.
 - (c) If the interest is not registered, you must disclose the interest to the meeting.
 - (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place.

Non participation in individual executive decision making in case of disclosable pecuniary interest

- (4) Where a Cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Cabinet member must notify the Monitoring

Members' Code of Conduct

Officer of the interest and must not take any steps or further steps in the matter.

Notification of Interests

5. (1) In addition to the disclosable pecuniary interests you must, notify the Monitoring Officer of any interests you have of a kind described in the second schedule. You must make that notification within 28 days of this Code coming into effect or of you becoming a Member or co-opted Member if that is later.
- (2) You must notify the Monitoring Officer of any changes to these interests or of any new interests within 28 days of becoming aware of them.

Disclosure of Interests

6. (1) You have a personal interest in any business of your authority where it relates to or is likely to affect you, a body named in the second schedule or any person with whom you have a close association.
- (2) If you are present at a meeting and you have a personal interest in any matter to be considered or being considered at the meeting:
- (a) If the interest is not registered, you must disclose the interest to the meeting.
 - (b) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
- (3) If you have a personal interest and a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it would be likely to prejudice your judgement of the public interest then you have a prejudicial interest. This is subject to the exceptions set out in paragraph 6.4.
- (4) You do not have a prejudicial interest in any business of the authority where that business:
- (a) does not affect your financial position or the financial position of a person or body named in the second schedule;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in the second schedule; or
 - (c) relates to the functions of your authority in respect of;

Members' Code of Conduct

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

Sensitive Interests

7. (1) If you have a sensitive interest which is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.
- (2) If you are required to declare a sensitive interest at a meeting you need only declare the fact of the interest and not the details of the interest itself.

Compliance with Standing Orders

8. (1) Standing Orders may require you to leave the meeting room when you have a personal interest. You must comply with any such Standing Order.

Members' Code of Conduct

First Schedule - Interests which are Disclosable Pecuniary Interests

<i>Interest</i>	<i>Description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority-</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to your knowledge)•</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where-</p> <p>(a) that body (to your knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either-</p> <p>i. the total nominal value of the securities</p>

Members' Code of Conduct

exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"relevant period" means the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) of the Act;

"relevant person" means you or any your partner as defined in paragraph 4.2

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

Second Schedule - Other Interests

1. Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
2. Any body-
 - (a) exercising functions of a public nature;
 - (b) directed to charitable purposes; or
 - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
3. Any person from whom you have received the offer of a gift or hospitality with an estimated value of more than £50 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Council.

Sanctions

	Kirklees Council
Informal Resolution	
Explanation by Member	✓
Apology by Member	✓
Training or Mentoring	✓
Mediation/conciliation	✓
Issuing guidance	✓
Amending policy/protocols (if necessary)	✓
Ask Whips to address issue with Member or party	✓
Member voluntarily giving up position on a particular body	✓
Any other action capable of resolving complaint	✓
Standards Committee/Sub Committee*	
Formal Letter to Member from Chair of Standards Committee	✓
Formal report its findings to City Council or Parish Council	
Formal censure by motion of full Council	✓
Removal by the authority of the Member from a relevant Committee or sub-committee or outside appointments (subject to statutory and constitutional requirements)	✓
Recommend to Leader of Council Member be removed from Cabinet/removed from Portfolio responsibilities	✓

** or recommend removal to Parish Council	
Instruct Monitoring Officer to arrange training for Member	✓
Withdraw facilities provided e.g. computer, website and/or email and Internet access Must ensure Cllr not prevented from undertaking his representative duties	✓
General recommendations to authority including : - -Changes to internal procedures/practices -Training for Members in general -Briefing/Information note be issued	✓ ✓ ✓

*- All the informal resolution sanctions are available

All findings and decisions of Sub Committee and Assessment Panel will be available on Council website

Additional Information

All findings and decisions of Sub Committee will be available on Council website and copies supplied to Complainant, Chief Executive, Leaders of all the political groups and Group Whips

OPTIONS AVAILABLE

6.1 - Code of Conduct – Behaviour

1. Make no amendments to the current code
2. Amend code so that it is more directional and describes what could constitute poor behaviour

6.2 - Code of Conduct – Interests

1. Make no amendments to the current code
2. Amend code and simplify the section dealing with Other Interests
3. Amend code and simplify the section with alternative wording

6.3 - Declaring Interests' at Meetings

1. Make no amendments to the current code
2. Amend the code to match the legislation – this would mean no verbal declaration for any interest is required as long as the interest is recorded in writing
3. Amend code so that members declare DPI's but not Other interests as long as they are on the form

6.4 - A Revised Standards Complaints Process

Complaints process

1. Make no amendments to the current process
2. Amend the standards complaint process so it is more specific about what can be rejected early on

Decision making

1. Make no amendments to current position (MO is sole decision maker)
2. Amend so the decision maker is the MO and IP
3. Amend so the decision maker is the MO and Chair of Standards
4. Amend to a different combination

Standards Committee

1. Make no amendments to the current role
2. Abolish the standards committee
3. Amend the role of the standards committee

6.5 – Dispensations

1. Make no amendments to the current position (MO only)
2. Amend the process so the MO can consult the Chair of Standard
3. Amend the process so the MO consults with GBM's prior to budget at Assessment Panel

6.6 – Sanctions

1. Make no amendments
2. Adopt some of the sanctions
3. Adopt all of the sanctions

Name of meeting: Corporate, Governance & Audit Committee

Date: 27 January 2017

Title of report: Review of the Standards Regime/ Members Code of Conduct

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name	
Is it signed off by the Director of Resources?	N/A
Is it signed off by the Assistant Director – Legal, Governance & Monitoring	Julie Muscroft 19/1/17
Cabinet member portfolio	Resources - Graham Turner

Electoral [wards](#) affected: All

Ward councillors consulted: All

Public or private: Public

1. Purpose of report

- 1.1 To review the operation of the Standards process since its introduction in 2012.
- 1.2 To consider options for changes to the Members Code of Conduct and Standards regime and for monitoring and making decisions on allegations of misconduct by Members.
- 1.3 To make recommendations to Council in relation to those options.

2. Key points

- 2.1 Attached is a report which was considered by the Standards Committee on 17 January 2017. The committee discussed in detail the report and recommendations and a summary of the decision in relation to each recommendation is listed in the table below.

No	Recommendation	Decision
1.	Revise the Kirklees Member Code of Conduct so it is more directional about what would constitute poor behaviour (still to include Principles of Public Life)	Agreed
2.	Amend code to include the lack of response to a complaint, subject to relevant extenuating circumstances	Agreed
3.	Members are to sign the Code of Conduct Comments – there were different views about this and a detailed discussion. It was confirmed that any amended code would be applicable to members. Others thought it could be helpful to ask members to sign it following any training	Alternative Proposal -To sign a revised code following newly or re-elected members from 2018
4.	Amend section 5.1 of the Code of Conduct to simplify the definition of 'Other Interests'	Agreed
5.	Continue current practice to verbally declare DPI's and 'Other interests'	Agreed
6.	Amend the process so the Monitoring Officer and one other can make a decision about whether a complaint should proceed	Agreed
7.	Amend the process so the decision maker is the MO with the Chair of Standards (still in consultation with GBM's)	Alternative Proposal MO, IP and Chair of Standards as decision maker
8.	Amend the process to include a clearer process	Agreed

	for early dismissal of complaints that are minor or political tit-for-tat	
9.	Amend the Standards Committee terms of reference	Agreed -Two meetings per year to be added
10.	Amend the process so that there is provision for the MO to consult with GBM's prior to budget council and during the summer	Agreed
11.	Adopt all of the sanctions attached at Appendix 8	Agreed
12.	Cases referred to the police where a prosecution is not brought should be referred back to Standards	Agreed
13.	To continue without a right of Appeal	Agreed
14.	Members required to attend appropriate training following review of this code	Agreed

2.3 Following consideration of the report before Standards Committee the following comments were highlighted.

Additional Comments

- 2.4 It was recommended that during the Standards process it should be made clear to members of the public that the Council has expectations about the complainant's behaviour and that the conduct of the complainant will be considered and taken into account when a decision is made in relation to the complaint and about whether it should proceed. This would provide confidence to the Cllr who is the subject of the complaint that all the circumstances leading to the complaint would be considered, including any inappropriate or poor behaviour by the complainant and could affect the decision as to whether the complaint should proceed.
- 2.5 It was also highlighted that there is a potential conflict in the same Cllr holding the post of Group Business Manager and the Chair of Standards.
- 2.6 Should it be agreed in relation to recommendations 6 and 7 there will need to be a review of the role including the remuneration of the Independent Person.
- 2.7 Members of committee are asked to consider the report having regard to the comments from Standards Committee and make appropriate recommendations for Council's consideration.

3. Implications for the Council

- 3.1 The Council is required to have a suitable Code of Conduct / standard process in place. It is important that whatever is in place is taken seriously by the Council and any decisions are properly implemented otherwise there will be a lack of confidence by complainants / the public.

4. Consultees and their opinions

- 4.1 The views of Standards Committee on the current arrangements were sought on 17 January 2017 as referred to above.

5. Next steps

- 5.1 The recommendations to make the changes needs to be considered by Corporate Governance and Audit Committee who will be given the opportunity to comment / make proposals relating to the changes required to the Constitution before it is considered by Council.
- 5.2 If changes are recommended the Constitution will need updating.
- 5.3 Appropriate training may be required.
- 5.4 Appropriate website updates will be needed

6. Officer Recommendations

- 6.1 It is recommended that the Corporate Governance & Audit Committee:
- 6.2 Consider the 14 recommendations in the original report to the Standards Committee as well as the additional comments outlined in this report from Standards Committee and make comments and/or recommendations to Council about those Officer recommendations

7. Cabinet portfolio holder recommendation

n/a

8. Contact officer and Background papers

Julie Muscroft

Previous reports -Localism Act 2011 – The Amended Standards Regime – 31 Jan 2012

Localism Act 2011 – The Amended Standards Regime – 3 February 2012

New Standards Regime – 25 Jun 2012

New Standards Regime – 4 Jul 2012

New Standards Regime – 24 Oct 2012

Review for the new arrangements for Member Conduct – 18 Jul 2013

Review of Complaints – 18 Jul 2013

Review of New Arrangements for Member Conduct – 27 Sep 13

Review of New Arrangements for Member Conduct – 23 Oct 13

9. Assistant director responsible

Julie Muscroft – Assistant Director - Legal Governance and Monitoring

10. Appendices

1. Standards Review report dated 17 January 2017 with appendices

Appendix 3

Standards Committee –

17 January 2017

Decision:

- 1) That the report be received and noted.
- 2) That the recommendations of the Committee be incorporated within the report to be considered by Corporate Governance and Audit Committee to be held on 27 January 2017.

The recommendations are as below; (the proposals are listed at Pages 103 to 104 of this agenda)

Proposal 1 – Agreed

Proposal 2 – Agreed

Proposal 3 – New or re-elected Members to sign revised Code from 2018

Proposal 4 – Agreed

Proposal 5 – Agreed

Proposal 6 – Agreed

Proposal 7 – Decision makers to be Monitoring Officer, Independent Person, Chair of Standards Committee

Proposal 8 – Agreed

Proposal 9 – Two meetings per municipal year to be scheduled in Annual Calendar of Meetings

Proposal 10 - Agreed

Proposal 11 - Agreed

Proposal 12 - Agreed

Proposal 13 - Agreed

Proposal 14 - Agreed

Corporate Governance and Audit Committee –

27 January 2017 Decision:

That the report be noted and submitted to Council on 22 March 2017 with a recommendation that the proposals as set out in the considered report, as amended by the meeting of Standards Committee on 17 January 2017, be approved.