

DERBYSHIRE COUNTY COUNCIL

20th June 2012

Report of the Director of Legal Services

1. Purpose of the report

To consider new arrangements for maintaining high standards of conduct by Members.

2. Information and Analysis

The Localism Act 2011 has brought about national changes to the ethical standards regime. In summary, the Act:-

- Abolished Standards for England (formerly the Standards Board for England) on 31st March 2012.
- Withdraws the statutory requirement for local authorities to have a standards committee, with effect from 30th June 2012.
- Requires local authorities to promote and maintain high standards of conduct by elected and co-opted elected members, adopting a code of conduct and having in place arrangements to investigate alleged breaches of the code (from 30th June 2012).
- Abolishes the role of (voting) independent members (from amongst whom the chairmen of standards committees have been elected) and, from 30th June 2012, introduces the new (non-voting) role of independent person of whom there must be at least one.
- Creates new criminal offences for members failing to declare or register disclosable pecuniary interests.

Although the date by which the government is planning for new standards arrangements to be in place remains as 1st July 2012, at the time of writing this report the regulations which will largely underpin those arrangements have only been published in part and in draft form. The Commencement Order (the legal mechanism which would bring certain provisions of the Localism Act into force on 1st July) and the Disclosable Pecuniary Interest Regulations have been produced in draft form very recently and regulations relating to "other interests" are still awaited. The Association of Council Secretaries and Solicitors (ACSeS) is pressing for clarification of the position. In these circumstances, it is not yet possible for the Council to finalize all of its new standards arrangements. In particular, the adoption of a new Code of Conduct is not yet achievable. However, other steps, in particular the formation of a new Standards Committee, can be taken at this stage. The proposals set out in

detail below were considered by the current Standards Committee on 25th May 2012 and were commended to the Council.

2.1 Committee arrangements

The Localism Act removes the statutory requirement for local authorities to have a standards committee but to fulfil the requirements of the Act (promoting high standards of conduct and having in place arrangements to investigate and make decisions on allegations of breach of the code of conduct) most, if not all, authorities will retain a standards committee in one form or another.

The composition of standards committees will be governed by political balance unless a local authority votes otherwise with no member voting against. The present restriction on only one member of the executive being permitted to be on standards committees will cease to apply.

It is proposed that the Council should maintain a Standards Committee. The new Standards Committee will differ from the existing one because its membership will be confined to County Councillors. It is proposed that it should be comprised of those Members appointed by the Council on 18th April 2012, namely Councillors G.K. Hickton, Mrs. J.E. Patten, D. Wilson, P. Murray, Mrs. G. Birkin, Mrs. C.M. Cox, Mrs. S.L. Blank and R.W. Russell. Current independent members will cease to hold office on 30th June 2012 and independent persons will attend the meetings (see below).

Since the Standards Committee will be an ordinary committee of the Council, it is for the Council to appoint the Chairman and Vice Chairman of the Committee.

The terms of reference of the Standards Committee will remain largely unchanged. A suitably revised Article 9 of the Constitution is attached at Appendix 1 for approval. This reflects the changed membership of the Committee and the proposed new arrangements for dealing with complaints (removing reference to the review of assessment decisions, Standards for England and the Adjudication Panel). The current reference to considering applications by officers for exemption from political restriction has also been removed; the Local Government and Housing Act 1989, as amended by the Local Government and Public Involvement in Health Act 2007, made this a matter for the Standards Committee but the Localism Act now places this responsibility on the head of the paid service (i.e. the Chief Executive).

The Standards Committee will, if appropriate, appoint a Hearings Sub-Committee to consider complaints against Members (see arrangements for dealing with complaints at paragraph 2.3 below).

The establishment of a new Standards Committee is not dependent on further regulations.

2.2 The Code of Conduct

Under the Local Government Act 2000 local authorities were obliged to adopt a national model code. The Council's current Code is attached at Appendix 2.

The Localism Act repeals the Model Code. Councils will still be required to have a code of conduct though they will have a discretion as to what is in it provided it is consistent with the seven "Nolan" principles of standards in public life:

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

The Act provides that a local authority may revise its existing code of conduct or adopt a code to replace its existing code.

The Monitoring Officers from the various local authorities across Derbyshire (including Peak Park and the Fire authority) have worked together with a view to achieving, where possible, a common approach to standards matters across the county. So far as codes of conduct are concerned, it is understood that all of the authorities will be considering a code based on either a Local Government Association (LGA) template or the current national model.

The LGA template is attached at Appendix 3. This was issued on 10th April 2012. The LGA's covering e-mail commented that " ... *the template contains two parts of a principles based, outcomes focused code of conduct. Page 1 provides the principles and page 2 provides the outcomes the principles seek to achieve. Absent are the indicative behaviours that are required to produce the outcomes. However, many indicative behaviours are already incorporated in existing documentation for dealing with member-officer relations, use of council resources, information management, standing orders, etc*". However, the covering e-mail added, "*it may well be that some councillors and indeed monitoring officers would prefer the traditional Code of Conduct model with more precise do and don'ts...*"

It is considered that the LGA template has the potential for being developed into a new style of code which may suit the Council in the future. However, it represents a distinct change of approach at a time when a number of aspects of the overall change to a new standards regime have given rise to uncertainty.

The main advantages of the current Code are that it is familiar to Members and there is a bank of 'caselaw' and advice which is still available from Standards for England's archive materials. At its meeting on 25th May the Standards

Committee agreed that a new Code based on the current Model Code, amended to reflect the new regulations when they come into force, would be an appropriate way forward, at least in the shorter term. .

For the present, in the absence of the new regulations, the retention of the current Code (attached at Appendix 2) without adaptation at this stage, is considered to be necessary.

Early tasks for the new Standards Committee will be to consider the effect of regulations as they are published and to consider further the possibility of the Council adopting a new, lighter touch code of conduct along the lines of the LGA template. Arranging for training members will also be a priority once standards arrangements are fully in place.

If necessary, a special meeting of the Council may have to be convened to respond to the regulations but it is hoped that transitional legislative arrangements will avoid this need by allowing existing codes to continue pending the adoption by authorities of new codes.

2.3 Arrangements for dealing with complaints

The Act requires local authorities to adopt arrangements under which complaints of breach of a code of conduct must be investigated. Whilst the arrangements must, therefore, be quite detailed, authorities are now free to decide on their own procedures and no longer need to follow the prescriptive and lengthy statutory procedures of the old standards regime.

The Derbyshire Monitoring Officers Group has produced a standard procedure which is intended to be streamlined and transparent (see Appendix 4). In particular, it is proposed that:-

- (1) The Member who is the subject of the complaint has a right to be given a summary of the complaint by the Monitoring Officer.
- (2) The Monitoring Officer, in consultation with an Independent Person, will take the initial decision on whether the complaint requires investigation, (this will not be dealt with by an assessment sub committee as is required at present).
- (3) The Monitoring Officer can decide to try to resolve the matter without the need for investigation (e.g. by way of an apology).
- (4) If there is an investigation and the finding is that there has been no breach of the Code the Monitoring Officer has the discretion, in consultation with an independent person, to decide to take no action or refer to the Standards Committee for information.

- (5) Where there is an investigation and the finding is that there has been a breach of the Code the matter must be referred to the Standards Committee (or a Hearing Sub Committee) for a hearing.
- (6) There is no right of appeal against the decision of the Monitoring Officer, the Standards Committee or a Hearing Sub Committee. Decisions would be open to judicial review by the High Court if they were patently unreasonable, if there were procedural errors or if the Standards Committee sought to impose a sanction which it had no power to impose.
- (7) The Monitoring Officer will take a report to the Standards Committee every 6 months giving details of;
 - number of complaints received and brief details
 - How the complaints are progressing
 - What decisions have been made
 - What action has been taken

These proposed arrangements are not dependent on the publication of further statutory regulations.

2.4 Sanctions

The Localism Act does not give the Council or its proposed new Standards Committee any powers to impose on members sanctions such as suspension or requirements for training or an apology. So, where a failure to comply with the Code of Conduct is found, the range of actions which can be taken is limited. A range of permissible sanctions is included within the draft Procedure at Appendix 4 (paragraph 12).

2.5 Independent Persons

The Localism Act requires that the arrangements for investigating and deciding upon alleged breaches of a code of conduct must include provision for the appointment of at least one "independent person".

The Act gives discretion to appoint one or more independent persons but places restrictions on who they may be. They cannot be:-

1. A member, co-opted member or officer of the authority,
2. A relative, or close friend, of a person in category 1, or

3. Anyone who has been a member, co-opted member or officer of the authority at any time in the previous 5 years. The draft regulations provide for a relaxation of this rule (in relation to members and co-opted members) for the first round of appointments of independent persons, so allowing current Independent Members to apply for the role.

Independent persons must be appointed through a process of public advertisement, application and by a positive vote of a majority of all Members of the Council (not just those present and voting). The Council is invited to authorise the Chief Executive, the Director of Legal Services and the Director of Human Resources to shortlist and interview applicants and to recommend appointments (and appropriate remuneration) to the Council.

The role of independent persons is not yet entirely clear and will need to develop in practice. Unlike Independent Members of the current Standards Committee, the new independent persons will not be able to vote or chair the Standards Committee.

The proposed arrangements for dealing with complaints (see paragraph 2.3 above, and Appendix 4) provide for the role of independent persons. Their involvement, by definition, represents an important element of independence in the new standards regime and, with this in mind, it is proposed that three independent persons should be appointed. This will suitably strengthen the part which they play in the process. In addition, the procedure drafted by the Derbyshire Monitoring Officers has been strengthened by requiring the views expressed by independent persons at the decision making stage of hearings to be recorded in writing.

Recruitment of independent persons has been delayed pending clarification of the rules on current Independent Members' eligibility for the role but it is considered that the process should now be commenced in anticipation that any uncertainty will have been resolved by the time that appointments are recommended to the Council.

3. Legal and Human Rights Considerations

As set out in the report.

4. Financial Considerations

It will be necessary to determine the appropriate remuneration for independent persons.

5. Other Considerations

In preparing this report the relevance of the following factors have also been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

6. Background Papers

File held by the Director of Legal Services.

7. Officer Recommendations

It is recommended that the Council:

- (i) with effect from 1st July 2012, establishes a new Standards Committee, as described in the report, and appoints the Committee's Chairman and Vice Chairman.
- (ii) approves the terms of reference of the Committee, amending the Council's Constitution accordingly, as set out at Appendix 1.
- (iii) adopts the Code of Conduct at Appendix 2.
- (iv) adopts the Procedure for Considering Complaints that Members Have Breached the Code of Conduct, at Appendix 4.
- (v) authorises the Chief Executive, the Director of Legal Services and the Director of Human Resources to commence the process of recruitment of three independent persons for appointment by the Council.

APPENDIX 1

Article 9 – The Standards Committee

9.1 Standards Committee

The Council meeting will establish a Standards Committee.

9.2 Composition

The Standards Committee will be comprised of at least two Councillors.

9.3 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;
- (b) assisting Councillors and co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors, co-opted members, and church and parent governor representatives, on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- (g) taking any action required on the receipt, assessment and handling of any complaint against a member;
- (h) taking any action for the investigation and determination of any complaint against a member;
- (i) dealing with any reports on any matter from the Monitoring Officer;

9.4 Additional Roles of Standards Committees

The Committee will be responsible for:

- (a) the overview of the Confidential Reporting Code;
- (b) the overview of complaints handling and Local Government Ombudsman investigations; and
- (c) oversight of the Constitution.

DERBYSHIRE COUNTY COUNCIL

CODE OF CONDUCT FOR MEMBERS

This Code is a guide for elected members of Derbyshire County Council, and all co-opted members of Committees who have voting rights to those bodies. It was adopted by the County Council from 1 July 2007. The Code is the model recommended by the Standards Board for England.

The Code represents the standard against which the conduct of members will be judged, both by the public and by fellow Councillors. Any breach of the Code may result in a complaint to the Standards Board for England.

Councillors hold office by virtue of the law, and must at all times act within the law. You should make sure that you are familiar with the rules of personal conduct which the law and standing orders require and the guidance contained in this Code.

It is your responsibility to make sure that what you do complies with these requirements and this guidance. You should review your personal circumstances with this in mind particularly when your circumstances change. You should not at any time advocate or encourage anything to the contrary.

If in doubt seek advice from the Monitoring Officer or from your own legal adviser. In the end, however, the decision and responsibility are yours.

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CODE OF CONDUCT

THE GENERAL PRINCIPLES OF CONDUCT

1. **Selflessness**
Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. **Honesty and Integrity**
Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity**
Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. **Accountability**
Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5. **Openness**
Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.
6. **Personal Judgement**
Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for Others**
Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's statutory officers, and its other employees.
8. **Duty to Uphold the Law**
Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

9. **Stewardship**

Members should do whatever they are able to do to ensure that their Authorities use their resources prudently, and in accordance with the law.

10. **Leadership**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

THE DERBYSHIRE COUNTY COUNCIL CODE OF CONDUCT

(Adopted from 1 July 2007)

Part 1

General provisions

Introduction and interpretation

1. —(1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code—

"meeting" means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

- (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. —(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3. —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006)

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Interests

Personal interests

8. —(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) 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;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) 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;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a

person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. —(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority 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.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that

business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "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.

Prejudicial interest generally

10. —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where 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.

(2) 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 described in paragraph 8;

(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 paragraph 8; or

(c) relates to the functions of your authority in respect of—

(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.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12. —(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not exercise executive functions in relation to that business; and

(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a

meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

Registration of members' interests

13. —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by or applied to your authority; or

(b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14. —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (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.

(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 who lives with you may be subjected to violence or intimidation.

Template Code of Conduct

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

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

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

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

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

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

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

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

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

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents -the whole community and in a special way my constituents, including those who did not vote for me -and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

DERBYSHIRE COUNTY COUNCIL

**PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS
HAVE BREACHED THE CODE OF CONDUCT**

1. The Monitoring Officer acknowledges receipt of the complaint within 5 working days of receipt.
2. The Monitoring Officer informs the subject member of
 - (a) the complaint, giving a summary of it and the name of the complainant
 - (b) his right to consult one of the Independent Persons appointed by the Council, through the Monitoring Officer.
3. The Monitoring Officer, in consultation with an Independent Person (other than one consulted by the subject member under paragraph 2 (b)), decides, within 20 working days of receipt of the complaint, that;
 - (a) The complaint does not come within the remit of the Code of Conduct.
 - (b) The complaint is not sufficiently serious to warrant an investigation
 - (c) That it is not in the public interest to investigate the complaint.
 - (d) He should seek to resolve the complaint without the need for an investigation (e.g. by way of an apology or training by the subject member).
 - (e) The complaint should not be investigated because it is vexatious, malicious or obsessive.
 - (f) The complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident.
 - (g) The complaint should not be investigated because there is a clear ulterior/political motive for it or it is just a tit for tat complaint
 - (h) An investigation should take place

4. Before coming to his decision under paragraph 3 the Monitoring Officer may request further information and/or clarification from the complainant and/or the subject member and the time period shall be extended accordingly.
5. If the Monitoring Officer decides that the complaint should be investigated, or his attempts to resolve the complaint without an investigation do not succeed, then he will carry out an investigation or appoint an investigator to carry out an investigation on his behalf.
6. The investigator appointed under paragraph 5 by the Monitoring Officer may be;
 - (a) A senior officer of the Council
 - (b) A senior officer of another council
 - (c) An external investigator with relevant experience.
7. A report into an investigation shall include the investigator's findings on whether the Code has been breached.
8. Before finalising his report the investigator shall send a copy of it to both the complainant and the subject member and give them at least 5 working days to comment on it.
9. If the investigator's final report finds there has not been a breach of the Code the Monitoring Officer can, in consultation with an Independent Person, decide to;
 - (a) Take no action
 - (b) Refer the report to the Standards Committee for information.
10. If the investigator's report finds there has been a breach of the Code then the Monitoring Officer must refer the matter to the Standards Committee

11. When the matter has been referred to the Standards Committee by the Monitoring Officer, the Standards Committee (or a Hearing Sub Committee if this is considered by the Committee to be appropriate) will:
 - (a) Allow the investigator to present his report and call witnesses, including the complainant
 - (b) Allow the subject member to make representations and call witnesses
 - (c) Decide if the subject member has breached the Code of Conduct
 - (d) Decide what sanction should be imposed if it is decided that the Code has been breached.
12. The sanctions the Standards Committee or Hearing Sub Committee can impose if a breach of the Code is found are;
 - (a) Censuring the member
 - (b) Reporting its findings to the Council for information;
 - (c) Recommending to the member's Group Leader (or in the case of ungrouped members, recommending to the Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - (d) Recommending to Council that the member be replaced as Executive Leader of the Authority;
 - (e) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular portfolio responsibilities;
 - (f) Recommending that the Monitoring Officer arrange training for the member;
 - (g) Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority
13. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Standards Committee or Hearing Sub Committee will consult and take into account the views of the Independent

Persons who attend such hearings and the Independent Persons' views will be recorded in writing.

14. Following any final decision by the Monitoring Officer or the Standards Committee or Hearing Sub Committee, at whatever stage, the Monitoring Officer shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.
15. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be put on the Council's website in a prominent position.
16. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website, in a prominent position if the subject member wishes it to be.
17. Any decision of the Monitoring Officer or the Standards Committee or Hearing Sub Committee shall be final and binding.
18. The Monitoring Officer will every 6 months present a report to the Standards Committee setting out:
 - (a) The number of complaints received and brief details
 - (b) How they are progressing
 - (c) What decisions have been made
 - (d) What action has, where appropriate, been taken
19. The Monitoring Officer has delegated power, in consultation with an Independent Person and the Chairman of the Standards Committee, to approve a departure from these arrangements when he considers it is expedient to do so to secure the effective and fair consideration of any matter.

20. In all cases where the Monitoring Officer is unable to perform his role his deputy will do so.