

STANDARDS COMMITTEE

AGENDA

Meeting to be held in City Hall (Mayor's Parlour 1) on Tuesday 12th September 2023 at 3.00pm

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1.	Apologies for Absence.	-
2.	Declarations of Interest (if any).	-
3.	Progress Report on Complaints	1
	Report of the Assistant Director of Law and Governance (copy herewith).	
4.	Review of Members' Code of Conduct	2
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5.	Appointment of Independent Person(s)	30
	Report of the Assistant Director of Law and Governance (copy herewith).	

E. WAUGH,
Assistant Director of Law and Governance.
City Hall,
SUNDERLAND.

4th September, 2023.

Item 3

REPORT TO STANDARDS COMMITTEE

12 SEPTEMBER 2023

PROGRESS REPORT ON COMPLAINTS

REPORT OF THE ASSISTANT DIRECTOR OF LAW AND GOVERNANCE

- 1 The purpose of this report is to provide members with information regarding the number of complaints received between April 2021 and end March 2023.
- 2 Twenty-eight complaints were received during this period, of which five separate complaints were in respect of the same alleged incident involving a member of Hetton Town Council and three separate complaints related to the same alleged incident involving a Sunderland City Councillor. One complaint received during the period was about two councillors and another complaint was about three councillors. Nine complaints related to Hetton Town Councillors and the remainder to Sunderland City Councillors. Twenty of the twenty-eight complainants were councillors or individuals who are known to be engaged in the political field, for example, the complainant has stood as an election candidate.
3. Two complaints were resolved by agreement, two were withdrawn and two referred for investigation. The investigation into one of those matters is ongoing and the other is almost concluded. No further action was taken in respect of the remainder of the complaints. In most cases, this was because the complaint did not meet the threshold to proceed to investigation. There was also a small number where the alleged conduct clearly did not take place in the member's capacity as a councillor. In addition, during this period, a complaint that had been received prior to April 2021 and had been referred for investigation was concluded, with a finding being made of a breach of the Code of Conduct, which was reported to Council.
4. While the subject matter of the complaints was varied, eight of the complaints related to posts on social media.
5. **Recommendation**

Members are requested to note this report.

Item 4

**REPORT TO STANDARDS COMMITTEE
2023**

12th SEPTEMBER

REVIEW OF MEMBERS' CODE OF CONDUCT

REPORT OF THE ASSISTANT DIRECTOR OF LAW AND GOVERNANCE

1. Introduction

- 1.1 The purpose of this report is to invite the Committee to review the current Code of Conduct and consider whether it wishes to propose any amendments. Any amendments will be referred to Council for approval.
- 1.2 The Arrangements for Dealing with Complaints will be brought to a future meeting of the Committee for review.

2. Background

- 2.1 The Code was last updated in 2020, in order to incorporate a reference to adopting the International Holocaust Remembrance Alliance working definition of anti-semitism. Since then, the LGA has published a suggested Model Code which members may wish to consider.
- 2.2 It is for the Council to determine its own Code of Conduct. There is no obligation to adopt the LGA Model Code, although the Council may do so if it wishes. Alternatively, the Council may adopt the LGA Model Code with "local" modifications, or it may simply consider the terms of the Model Code and make such changes as it considers appropriate to its existing Code. The Council may also determine that no amendments to the Council's Code should be made at this time.
- 2.3 The Council's existing Code of Conduct is attached at Appendix 1 to this report and the LGA Model Code is shown at Appendix 2. Suggested amendments to the Council's Code for the Committee's consideration are shown as tracked changes at Appendix 3, should the Committee decide that its preferred approach is to amend the existing Code.

3. LGA Model Code of Conduct

- 3.1 The style of the LGA Model Code is somewhat different to the Council's Code of Conduct. The Council's Code is expressed in the second person, including requirements that "You must..." "You must not..." etc. Any guidance on the application and interpretation of those provisions is provided in supplementary documents such as e-mails or briefing notes, generally sent by the Monitoring Officer, which do not form part of the Code of Conduct.
- 3.2 The LGA Model Code is expressed in a mixture of first person obligations in bold type as "**I will...**" "**I do not...**" etc. which are supplemented by guidance on the application and interpretation of the

obligations, which is expressed in the second person and built into the Code itself. On this basis, any updates or amendments to the associated guidance would also need to be approved by Council, as they would amount to an amendment to the Code itself.

- 3.3 In respect of the “General Conduct” obligations in the LGA Model Code, the following observations are made:

3.3.1 **Respect**

3.3.1.1 Both the LGA Model Code and the Council’s Code include provisions regarding treating others with respect. Whereas the Council’s Code states that this includes Council officers and members, the LGA also expressly refers to members of the public, then goes on to refer to employees and representatives of partner organisations and those volunteering for the local authority. It is not entirely clear what group of people would fall within the category of “volunteering for the local authority” as opposed to volunteering more generally.

3.3.1.2 Members may wish to consider whether specifically identifying additional categories of persons to whom respect should be shown would add any value to the current provisions in the Council’s Code, or whether the current provisions are sufficient to convey the importance of treating all persons with respect.

3.3.2 **Bullying, harassment and discrimination**

3.3.2.1 The Council’s Code includes provision in respect of bullying. Harassment is not expressly referred to, nor is there express reference to equalities and non-discrimination.

3.3.2.2 Suggested amendments to cover these areas are shown as tracked changes at Appendix 3.

3.3.3 **Impartiality of officers of the Council**

3.3.3.1 The provisions in the Model Code and Council’s Code are in similar terms.

3.3.4 **Confidentiality and Access to Information**

3.3.4.1 While much of the suggested provision in the Model Code is in similar terms to the Council’s Code, the Model Code contains an additional requirement that where a member is proposing to disclose information of a confidential nature, as well as the disclosure being reasonable and in the public interest, made in good faith and in compliance with the reasonable requirements of the authority, the member should also have consulted the Monitoring Officer prior to its release.

3.3.4.2 It is recommended that members include this additional provision in the Council’s Code of Conduct. The provision does not require

the member concerned to accept the advice of the Monitoring Officer (although if they act contrary to that advice, it is to be expected that they would be more likely to be in breach of the Code) however including this provision may help serve as a reminder to members of the importance of using proper channels and appropriate procedures when they genuinely have concerns about matters which they believe should be disclosed. Consulting the Monitoring officer would provide an opportunity for the member to be briefed regarding whether there were other more appropriate methods of raising any concern they may have.

3.3.4.3 The Model Code also includes a provision that a member should not improperly use information they have gained as a result of their role as a councillor to advance themselves, other persons connected with them, or their business interests.

3.3.4.4 It is recommended that a similar provision be included in the Council's Code, in the interests of public confidence that members are acting to serve the wider public interest, rather than those of themselves or their associates. Appropriate amendments are suggested at Appendix 3.

3.3.5 Disrepute

3.3.5.1 The Model Code provision is that a member does not bring their role or local authority into disrepute, which arguably suggests that for a breach of this provision to be established, it is necessary to demonstrate that either the member's role or the Council was, in fact, brought into disrepute. The provision in the Council's Code is that a member should not conduct themselves in a manner which could "reasonably be regarded" as bringing the Council, or their office as member, into disrepute. It is suggested that the Council's version is to be preferred.

3.3.6 Use of Position

3.3.6.1 A similar provision is included in the Council's Code of Conduct, which it is suggested should be enhanced, as referred to in paragraphs 3.3.4.3 and 3.3.4.4 of this report.

3.3.7 Use of Local Authority Resources and Facilities

3.3.7.1 A similar provision is included in the Council's Code of Conduct.

3.3.8 Complying with the Code of Conduct

3.3.8.1 The Council's Code contains a similar provision to that at 8.3 of the LGA Model Code, which prohibits intimidation or attempted intimidation of a person who is involved with the administration of, or the investigation of, a complaint. There are however additional provisions in the Model Code to undertake

Code of Conduct training, co-operate with any Code of Conduct investigation or determination and to comply with any sanction imposed following a breach.

3.3.8.2 Members may wish to consider including provisions in the Code to require co-operation with investigations and sanctions imposed. It should be relatively clear when a member is failing to comply with an ongoing process or to comply with a sanction imposed.

3.3.8.3 While it is important that members attend relevant training on the Code of Conduct, a Code obligation to undertake training may raise issues in respect of what level of “failure to attend” amounts to a breach. For example, how many training opportunities would need to be missed before a potential breach arose? Nevertheless, despite any potential difficulties in identifying the circumstances that may amount to a breach, members may consider that these are not unsurmountable and that if an allegation was made, account would be taken of the surrounding circumstances. Suggested provision has been set out at Appendix 3, regarding which members views are sought.

3.4 Protecting your Reputation and the Reputation of the Council

In respect of the obligations in the Model Code regarding protecting the reputation of members and the Council, the following observations are made.

3.4.1 Registration and Disclosure of Interests

3.4.1.1 The provisions of the Model Code regarding registration and declaration of interests are set out in paragraph 9 and Appendix B of the Model Code and are arguably more complex than the provisions of the Council’s Code. The Council’s Code requires registration and declaration of Disclosable Pecuniary Interests (DPIs) and gifts and hospitality of a value of £50 and over. The Model Code also imposes requirements in respect of what are described as “Other Registrable Interests”, which are

- unpaid directorships,
- membership of, or the holding of a position of management or control in, a body to which the member is appointed or nominated by the Council
- any other body exercising functions of a public nature, or directed to charitable purposes, or a body, one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

3.4.1.2 The Model Code provides that such interests must be registered and where a matter at a meeting “directly relates” to the financial interest or wellbeing of one of a member’s Other Registrable Interests, it must be disclosed. If members of the public are allowed to speak on the matter, the member may do

likewise, however they must not otherwise take any part in the discussion or vote and must not remain in the room, unless they have a dispensation to do so.

- 3.4.1.3 There is also a further category of “Non-Registrable Interests” under which members are required to declare an interest if a matter at a meeting “directly relates” to their financial interest or well-being (and is not already a DPI) or a financial interest or well-being of a close associate. The member may speak if a member of the public is allowed to speak on the matter, but may not take part in any discussion or vote on the matter or remain in the room, unless granted a dispensation.
- 3.4.1.4 The Model Code then goes on to make further provision for the situation where a matter at a meeting “affects”, (as opposed to “directly relates to”) the member’s financial interest or well-being, the financial interest or wellbeing of a relative or close associate, or the financial interest or wellbeing of a body included in the “Other Registrable Interests” categories. A member must disclose the interest and apply a test set out at paragraph 9 of the Model Code, to determine whether they can remain in the meeting. This test requires the consideration of whether the interest affects the financial interest or well-being of the member to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and whether a reasonable member of the public, knowing all the facts, would believe that it would affect the member’s view of the wider public interest.
- 3.3.9.4 Whilst the Council’s current Code does not include provisions regarding “Other Registrable Interests” and “Non-Registrable Interests”, considerations regarding the appearance of bias are relevant when members are attending meetings and making decisions and this topic is included in training provided to members. As a result, for example, clear advice is given that members who are also members or directors / trustees etc. of organisations that are applying for funding from the Council, should declare the interest and leave the room. This is important because if a member took part in decisions in which they have a potential conflict of interest, arguably, they may expose themselves to an allegation that they had used their position improperly to gain an advantage or disadvantage, and/or that they were bringing their office or the Council into disrepute. In addition, certain decisions may be subject to challenge if the member concerned had taken part in their consideration.
- 3.3.9.5 The practice at the Council has been that in respect of all interests, whether DPIs or other interests, when considering whether to participate in a meeting considering a particular matter, members are advised to ask themselves whether a reasonable member of the public might think that their judgement could be affected. Would a fair minded and

informed observer, having considered the facts, conclude that a real possibility of bias exists?

- 3.3.9.6 This approach has worked well to date. Members identify areas where they may need to declare an interest and / or leave the room while a matter is being considered and if in doubt, they seek advice. There is no evidence to suggest that there are any issues or concerns with members participating in decision making on matters regarding which they have a conflict of interest. It is therefore suggested that paragraphs 13-18 of the Council's Code of Conduct as per the draft at Appendix 3 are sufficient. Nevertheless, the Committee may wish to consider whether it wishes to recommend a different approach to the registration and declaration of interests, in line with that suggested in the Model Code.

3.4.2 Gifts and hospitality

- 3.3.10.1 Similar provision is included in the Council's Code of Conduct.

4. Nolan Principles

- 4.1 The "Seven Principles of Public Life" or "Nolan Principles" are not referred to by those titles in the legislation relating to the Code of Conduct. The Localism Act 2011 simply requires the Code to be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These are however the principles commonly referred to as the "Nolan Principles".
- 4.2 The preamble to the Council's Code states that the Code is intended to be consistent with Nolan's Seven Principles of Public Life and should be read in the light of them. Annex 1 of the Code sets out, for information, the more detailed description of the principles, as those descriptions were when the Code was originally adopted.
- 4.3 Since adoption of the Council's Code, the descriptions attached to the Seven Principles of Public Life have been amended and now read as set out in Appendix A of the LGA Model Code.
- 4.4 It would be possible to continue to use the original description of the principles, but if so, it would be preferable and more accurate not to refer to them as Nolan's Seven Principles of Public Life.
- 4.5 It is recommended that the Annex to the Council's Code is either amended to reflect the updated descriptions of the Principles or, if the Committee prefers the original descriptions of the Principles, that the Code is amended to remove the reference to Nolan's Seven Principles of Public Life. The Code would continue to recite that it is intended to be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. This would still be compliant with the legislation.

5. Recommendations

- 5.1 The Standards Committee is recommended to consider:
- 5.1.1 recommending Council to amend the Code of Conduct as shown in Appendix 3;
 - 5.1.2 whether to update the descriptions of the Seven Principles of Public Life as set out in the LGA Model Code or to retain the current descriptions and amend the Code accordingly;
 - 5.1.3 whether to propose changes to the Code to the provisions for registration and declaration of interests;
 - 5.1.4 any further amendments it wishes to propose to the Code of Conduct or;
 - 5.1.5 whether to take a different approach to amendment of the Council's Code to that proposed in the Report, such as to adopt the LGA Model Code in its entirety.

Background Papers

Sunderland City Council Code of Conduct
LGA Model Code of Conduct

Local Government Association
Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a 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 who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor:

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am 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:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public; local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

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 disclose 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.

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.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or 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.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
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 council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* '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 2: Other Registrable Interests

You must register as an Other Registerable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) 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

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

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

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

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

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

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

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

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

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

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

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

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

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

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

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

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

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Code of Conduct for Members

The Council of the City of Sunderland (“the Council”) has adopted the following Code which took effect from 1 July 2012 and which was most recently amended on 27 March 2013^[date] and which sets out the conduct that is expected of elected and co-opted Members of the Council when they are acting in that capacity.

This means the Code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected Councillor or co-opted Member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.

‘Co-opted Member’ means any person who is a Member of any Committee or Sub-Committee of the Council with a right to vote but is not one of its elected Members.

The Code is intended to be consistent with the Nolan’s Seven Principles of Public Life, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

In addition, the Council adopts the International Holocaust Remembrance Alliance (IHRA) Working Definition of Antisemitism (set out below¹) and associated examples, where relevant in the consideration and any investigation of an allegation of a breach of this Code. The associated examples can be found at <https://www.holocaustremembrance.com/working-definition-antisemitism>

General Conduct

1. You must treat others with respect, including Council officers and other elected Members.

~~1.2.~~ You should support equalities and not discriminate unlawfully against any person.

~~2.3.~~ You must not bully or harass any person (including specifically any Council employee). ~~and you must not intimidate or improperly influence or attempt to intimidate or improperly influence any person who is involved in any complaint about any alleged breach of this Code of Conduct.~~

¹ ***“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”***

- ~~3.4.~~ You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
- ~~4.5.~~ You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a Member of the Council, into disrepute.
- ~~5.6.~~ You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person any advantage or disadvantage. You should not improperly use knowledge gained solely as a result of your role as a councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.
- ~~6.7.~~ You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected Members or co-opted Members and which the Council has specifically declared should fall within the provisions of this Code of Conduct and which is listed in the annex to this Code.
- ~~7.8.~~ When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
- ~~8.9.~~ You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
- ~~9.10.~~ You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
- a) You have the consent of a person authorised to give it; or
 - b) You are required by law to do so; or
 - c) 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
 - d) The disclosure is reasonable, ~~and~~ in the public interest and made in good faith and you have consulted the Monitoring Officer prior to its release.
- ~~10.11.~~ Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an Overview and Scrutiny Committee of the Council, you must not take part in that scrutiny process except to the extent you may be invited by the Committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny'

means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

12. You should undertake Code of Conduct training provided by the Council wherever reasonably possible and if you are unable to attend scheduled formal training sessions, should make reasonable efforts to attend any follow-up sessions or individual briefing sessions offered to you. You must comply and engage and co-operate with any Code of Conduct investigation and/or determination, including compliance with any sanction imposed on you following a finding that you have breached the Code of Conduct. You must not intimidate or improperly influence or attempt to intimidate or improperly influence any person who is involved in any complaint about any alleged breach of this Code of Conduct.

Registration of Interests

13. Subject to paragraph [14.2](#), you must register in the Council's Register of Members' Interests information about your personal interests. In this Code of Conduct 'your personal interests' means:

(a) any 'Disclosable Pecuniary Interest' (as defined by regulations made from time to time by the Secretary of State) which you know about and which is held by

(1) you, or

(2) your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners.

(b) —any person or organisation from whom you have received an offer of a gift or hospitality with an estimated value of £50 or more (whether or not you accept the offer) which is attributable to your position as an elected or co-opted Member of the Council. In addition to recording the identity of the person or organisation who made the offer, you should record the nature of the gift or hospitality.

(Note: Paragraph [13.4](#) (b) relates only to your interests and not those of your spouse or civil partner)

(c) You must register information about your personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a Member of the Council; and
- any change taking place in your personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this Code. A list of Disclosable Pecuniary Interests as currently defined by regulations is set out in Annex 2)

14. Where you think that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

Declaration of Interests

15. When you attend a meeting of the Council or Cabinet, or one of their Committees or Sub-Committees, and you are, or ought reasonably to be, aware that any of your Disclosable Pecuniary Interests are relevant to an item of business which is being considered, then unless the interest is one which has been noted under paragraph 14, you must disclose to that meeting the existence and nature of that interest at the start of that item of business, or when the interest becomes apparent, if later.

16. When you attend a meeting of the Council or Cabinet, or one of their Committees or Sub-Committees, and you are aware that you have a Disclosable Pecuniary Interest in any matter to be considered, or being considered at that meeting, you may not (unless you have a relevant dispensation granted under section 33 of the Localism Act 2011):

- a) participate (or further participate) in any discussion of the matter at the meeting; or
- b) participate in any vote (or further vote) taken on the matter at the meeting.

17. If a function of the Council can be discharged by you as a Member acting alone and you are aware you have a Disclosable Pecuniary Interest in any matter to be dealt with by you in the course of

discharging that function, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

(Note: Failure, without reasonable excuse, to comply with paragraph 164 or 175 is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this Code)

18. You must comply with any standing order adopted by the Council which requires Members to leave the room during any meeting at which a matter in which they have a Disclosable Pecuniary Interest is being discussed.

Item 5

REPORT TO STANDARDS COMMITTEE

12th SEPTEMBER 2023

APPOINTMENT OF INDEPENDENT PERSON(S)

REPORT OF THE ASSISTANT DIRECTOR OF LAW AND GOVERNANCE

1. Background

- 1.1 In accordance with the Localism Act 2011, the Council is required to appoint at least one Independent Person (IP) to assist in carrying out its duties in respect of dealing with Code of Conduct complaints. The IP must be consulted before the Council takes a decision in respect of any allegation made against an elected member (including town councillors) which has been investigated. They may also be consulted about any other aspect of a councillor's alleged breach of the Council's Code of Conduct for Members and may be consulted by a councillor against whom any allegation has been made. In addition, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have made provision for IPs to be included in Panels which exercise certain advisory functions in connection with disciplinary and dismissal procedures involving the Chief Executive, Chief Finance Officer or Monitoring Officer.
- 1.2 The legislation does not prescribe the term of office for the IP, however, it requires the position to be advertised in such manner as the Council considers is likely to bring it to the attention of the public.
- 1.3 A report published in 2019 by the Committee on Standards in Public Life regarding Local Government Ethical Standards made a "Best Practice" recommendation that local authorities should have access to at least two IPs. When the legislation was first introduced, the Council did appoint two IPs, but in recent years has appointed only one. While the Council has not experienced any issues with any potential conflict of interest for any of its IPs over the years, it is proposed that members recommend Council to appoint two IPs on this occasion.
- 1.4 This Council currently has one IP, namely Dennis Hall, who will have served for six years by the time his current term of office expires at the end of September 2023. Mr Hall may be reappointed for a further term of office. Mr Hall is a retired local government officer who has previously held the role of Monitoring Officer and he has indicated that he would wish to be considered for reappointment to this role. Prior to their retirement, former Cllr Peter Gibson, who chaired the Standards Committee for a number of years, and former Cllr Peter Wood, a long serving member of the Committee, were consulted for their views regarding the role of IP. Both former councillors strongly supported the reappointment of Mr Hall, with his contribution to the Committee being described as "first class" "very helpful" and the comment being made that his work could not be praised too highly. As the Council's Monitoring Officer, I would confirm that officer colleagues and I have found Mr Hall's contribution to be extremely helpful and we value the many years of local government experience which he brings to the role. There is a relatively small pool of people capable and willing to undertake the role of IP and reappointment of Mr Hall,

together with appointment of a second IP, may bring the benefit of continuity and experience to the role, combined with the “fresh” additional perspective that a new appointee can bring.

- 1.5 The Council awards an annual allowance of £1,000 for the role of IP, plus reasonable travel and subsistence expenses and it is recommended that this should continue.

2. Recruitment Process

- 2.1 It is proposed that a similar process be undertaken to the recruitment process followed previously, namely that the Monitoring Officer finalises the role description and person specification and makes arrangements for the role to be advertised on the North East Jobs website. Drafts of the role description and person specification are appended to this report for the Committee’s information. The Monitoring Officer will convene a Panel of three members of the Committee, two majority and one opposition member, to undertake shortlisting and interviewing of applicants, with a view to recommending appointments to Council for approval. As the Panel will not be constituted as a formal sub-committee, shortlisting and / or interviews may be conducted via Teams, if Panel members prefer.
- 2.2 In respect of Mr Hall, given his previous experience in this role and the positive feedback on his contribution, the Committee may wish to consider agreeing that should Mr Hall formally confirm his wish to be considered for reappointment, he will only be requested to submit an up-to-date CV and will not be required to attend for interview.

3. Interim Arrangements

- 3.1 As the recruitment process will take some weeks, it is proposed that Council be recommended to extend the current term of office of Mr Hall until the conclusion of the recruitment and appointment process.

4. Recommendation

- 4.1 To recommend Council to:
 - 4.1.1 Approve the recruitment process for the role of Independent Person(s) as outlined in the report, including the proposed approach to the appointment of Mr Hall, should he formally confirm his wish to be considered for appointment for a further term of office;
 - 4.1.2 following the conclusion of the recruitment process, appoint up to two Independent Persons for terms of two years’ duration, which may be extended by the Council for two further two year terms (i.e. six years in total) and to award an annual allowance of £1,000 and reasonable travel and subsistence expenses in respect of the role;

4.1.3 extend the current term of office of Mr Hall until the conclusion of the recruitment process and appointment of Independent Person(s) for the new term(s) of office

4.1.4 authorise the Monitoring Officer to make all associated arrangements.

Background Papers

None

Role Description for Independent Person appointed by Sunderland City Council for Standards of Conduct Issues affecting City Council and Hetton Town Council Members

1. The City Council is to appoint one or more individuals to carry out the role of "Independent Person", which is a role created under Section 28(7) of the Localism Act 2011. The Council has a duty under that Act to promote and maintain high standards of conduct for its elected and co-opted members and to make arrangements for the consideration of complaints of breaches of its members' code of conduct.
2. The statutory role of the Independent Person arises where the Council has received an allegation that one of its members (or a member of Hetton Town Council) has breached the Council's Code of Conduct for Members (or the Town Council's code of conduct).

In those circumstances:

- (a) if the Council decides to investigate the allegation, the Council **must** consult the Independent Person, and take their views into account, before making a decision on that allegation; and
 - (b) the Council **may** seek the views of the Independent Person about any other aspect of the allegation, whether or not it decides to investigate; and
 - (c) the member of the Council (or Hetton Town Council) who is the subject of the allegation **may** also seek the views of the Independent Person at any time.
3. When a complaint has been investigated, the Independent Person will receive a copy of the investigation report from the Council and be asked for their view on it and any views they may have upon how the Council should determine the allegation. These views will then be taken into account in the final decision-making process. The final decision may be made by the Monitoring Officer where the investigation has concluded that there has been no breach of the Code, but otherwise is likely to be made by a committee or sub-committee of elected members after a hearing.
 4. The views of the Independent Person may be sought by the Council at other stages in the process, for instance by the Monitoring Officer to assist in deciding whether a complaint could be resolved informally.
 5. It is envisaged that the views of the Independent Person will usually be sought by the Council (through its Monitoring Officer) in writing, either by letter or e mail, and that the response of the Independent Person will usually be conveyed in the same way. On occasions however advice may be sought by telephone or at a meeting.
 6. Any Independent Person is likely to be expected to attend any hearing which is held by the Council to decide whether there has been a breach of the Code of Conduct. If it is decided at that hearing that there has been a breach, the Independent Person will be asked for his or her view as to what action, if any, should be taken as a result.

7. As part of the statutory role, the Independent Person will also be available for consultation by any Council (and Hetton Town Council) member who is the subject of an alleged breach of the Code of Conduct. Such consultation may be sought at any time during the process and may be carried out by telephone, written correspondence (e-mail or letter) or at a meeting (including at a final hearing).

(This advisory role to an individual Council member will only arise where the member is subject to an alleged breach of the relevant code of conduct. An Independent Person will not be expected – and should decline - to give advice to Council or Hetton Town Council members in any other circumstances. Where such advice is required, Council members will be expected to seek it from the Monitoring Officer, or some other appropriate Council officer).

8. The Independent Person may from time to time be asked for his or her views about other aspects of the Council's standards arrangements, for instance the suitability of the Council's Code of Conduct or the procedures which the Council adopts for the handling of any allegations of member misconduct. The Independent Person may be invited to attend committee meetings for this purpose.
9. In addition to undertaking functions in connection with the ethical standards regime, an Independent Person may be requested to participate in any Panel convened to deal with disciplinary or dismissal proceedings concerning the Head of Paid Service, Chief Financial Officer or Monitoring Officer.
10. An Independent Person will be encouraged to acquire some understanding of the work of the Council and how it operates. Support will be provided by the Council's Monitoring Officer, who will arrange any necessary training and the provision of such information which is considered necessary to enable the Independent Person to perform the role properly.

APPOINTMENT OF INDEPENDENT PERSON(S)
PERSON SPECIFICATION – SUNDERLAND CITY COUNCIL

ATTRIBUTES	ESSENTIAL	DESIRABLE
Knowledge	<ul style="list-style-type: none"> • Be prepared to undergo formal training in the role 	<ul style="list-style-type: none"> • Knowledge of the roles and responsibilities of councillors at principal council and parish council level • Understanding of the diverse functions of a principal council, contemporary issues and challenges facing local government • Awareness of the ethical standards regime
Experience and skills	<p>The post holder must</p> <ul style="list-style-type: none"> • Have personal integrity and act independently • Be fair and able to take an objective view of sometimes emotive issues • Have an ability to act impartially • Be able to exercise sound judgement • Have excellent inter-personal skills • Be able to express their ideas and point of view effectively, while being an excellent listener 	<ul style="list-style-type: none"> • Experience of acting as an Independent Person or independent co-opted member of a local authority standards committee
Character	<ul style="list-style-type: none"> • Be willing to adhere to the Council's Code of Conduct for Members • Discrete 	<ul style="list-style-type: none"> • Be committed to public services and the principles of accountability , probity and openness

<p>Circumstances</p>	<p>The post holder must not</p> <ul style="list-style-type: none"> • have been a Councillor, Co-opted Member or Employee of the Council (or Hetton Town Council) within the last 5 years <p>Note: “Co-opted Member” here does not include someone who has been an Independent Person in respect of the relevant Council’s standards committee</p> <ul style="list-style-type: none"> • be in a position of management, control or major decision-making within any voluntary or community organisation funded by the Council • be related to, or be a close friend of, a Member or co-opted Member or officer of the Council or Hetton Town Council 	
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