

## STANDARDS COMMITTEE

### AGENDA

**Meeting to be held in the Civic Centre (Committee Room No. 5) on Wednesday, 15<sup>th</sup> June, 2016 at 11.45 a.m. or at the conclusion of the Training Session if later.**

#### Part 1

ITEM	PAGE
1. <b>Apologies for Absence.</b>	-
2. <b>Minutes of the Meeting of the Committee held on 31<sup>st</sup> July, 2015, Part 1.</b>	1
(Copy herewith).	
3. <b>Declarations of Interest (if any).</b>	-
4. <b>Committee on Standards in Public Life: “Ethical Standards for Providers of Public Services – Guidance”</b>	5
Report of the Head of Law and Governance (copy herewith).	
5. <b>Review of Procedure for Dealing with Complaints</b>	32
Report of the Head of Law and Governance (copy herewith).	

**Local Government (Access to Information) (Variation Order)  
2006**

The report contained in Part II of the Agenda is not for publication as the Sub-Committee is considered likely to exclude the public during consideration thereof as it contains information relating to individuals and information which is likely to reveal the identity of individuals (Paragraphs 1 and 2 of the Local Government Act 1972, Schedule 12A, Part 1).

**Part II**

6. **Minutes of the Meeting of the Committee held on  
31<sup>st</sup> July, 2015, Part 11.** 81

(Copy herewith).

E. WAUGH,  
Head of Law and Governance.  
Civic Centre,  
SUNDERLAND.

7<sup>th</sup> June, 2016.

**At a meeting of the STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on FRIDAY 31<sup>ST</sup> JULY, 2015 at 10.30 am.**

**Present:-**

Councillor H. Trueman in the Chair

Councillors Forbes, McKnight, Marshall, Price, Scanlan and A. Wilson together  
Councillor Heron (Hetton Town Council) and Mrs S. Joseph (Independent Person).

**Part I**

**Apologies for Absence**

Apologies for absence were submitted to the meeting on behalf of Councillor Mordey and Councillor Hepple (Hetton Town Council).

**Minutes of the Meeting of the Committee held on 7<sup>th</sup> October, 2014 Part I**

The minutes of the last meeting of the Committee held on 7<sup>th</sup> October, 2014 Part I (copy circulated), was submitted.

1. RESOLVED that the minutes be confirmed and signed as a correct record.

**Declarations of Interest**

Item 5 – Update on Complaints

Councillor McKnight made an open declaration in respect of paragraph 2.4, (Complaint 4/14) as she believed she was to act as a witness in respect of this particular case. Councillor McKnight left the Committee Room and took no part in the consideration of the matter.

**Complaint Reference 03/14**

The Head of Law and Governance and Director of Finance submitted a joint report (copy circulated) which provided an update to the Standards Committee in respect of a complaint regarding former Councillor Padgett which had been previously considered by the Committee on October 7<sup>th</sup> 2014.

(For copy report – see original minutes).

The Head of Law and Governance, Ms Elaine Waugh presented the report advising that Mr Padgett (who had resigned as a member of the Council since the last

meeting) had agreed to repay the full amount of £9,816.32 to the Council in respect of the overpayment of travel and subsistence expenses for the relevant three financial years as identified in the review undertaken by the Council's Internal Audit Service. As was the case with any significant debt, payment terms had been agreed to the satisfaction of the Director of Finance and these terms would be kept under review.

Given that Mr Padgett was no longer a member of the Council, it was proposed that no further action would be taken by the Council in respect of the matter, subject to the repayment in full by Mr Padgett of the £9,816.32.

Ms Waugh also referred to the request made by members, for further information regarding the procedures and safeguards operated by the Council which sought to prevent the potential overpayment of expenses to members. She advised that the following arrangements had been put in place:

- a) At each financial year end, Payroll would refer any claims over 100% of the average claims to Internal Audit for review.
- b) On an on-going basis:
  - (i) Payroll staff would refer claims back to Members where it was considered that insufficient information had been provided, or where there appeared to be anomalies in the information provided.
  - (ii) Members' claims would be reviewed by a senior officer within Law and Governance Services, who would track the overall level of claim and raise any issues or queries.
- c) On a quarterly basis, the level of claim per Member would be reported to the Director of Finance and Head of Law and Governance.

The Committee was reminded that it remained the responsibility of each individual Member to ensure that the claims they submitted were restricted to what they were entitled to receive under the Members' Allowances Scheme

The Chairman asked if officer claims were subject to similar arrangements. Ms Waugh advised that such claims were required to be scrutinised and counter signed by the officer's line manager prior to submission to payroll. With regard to a further enquiry from the Chairman, Ms Waugh advised that the while the figure that would trigger the referral of claims to Internal Audit appeared high (100% of the average claims), the actual figure of average claims was low. The figure of 100% had been deemed appropriate by the Director of Finance.

In response to an enquiry from Councillor Forbes, Ms Waugh advised that she would check the position in respect of Members attending meetings of wholly owned Council companies as it was possible that different companies could have different expenses schemes. Members would not be entitled to claim for the same expenses from both the Council and the Company concerned.

There being no further questions or comments, it was:-

2. RESOLVED that the report be received and noted.

### **Progress Report on Complaints**

The Head of Law and Governance submitted a report (copy circulated) to inform Members of complaints that had been assessed or concluded since the last meeting of the Committee.

(For copy report – see original minutes).

Councillor Forbes referred to paragraph 2.1 (complaint 3/11) and asked for clarification as to the type of newsletter in which the statements complained of were made. Ms Waugh replied that she understood that it had been a newsletter produced by a political party. Councillor Forbes stated that if that was the case then it would be difficult for anyone to accept that the member concerned had not acted in his capacity as a Councillor. Ms Waugh advised that it was a complex area however it was possible for members to engage in political activity whilst not necessarily doing so in their capacity as a Councillor.

Councillor Forbes referred to paragraph 2.4 (complaint 4/14) regarding an allegation from a former officer of the Council that a member had criticised her inappropriately in front of colleagues.

At this juncture Councillor McKnight declared an interest as she believed she was to be called as a witness in the case. Councillor McKnight left the Committee Room and took no part in any consideration of the matter.

Councillor Forbes stated that clarification was required in respect of what constituted inappropriate criticism as without this Members may become reluctant to speak out for fear of sanction from the Standards Committee.

Ms Waugh replied that what was deemed inappropriate would depend on the facts pertaining to each individual case. There was nothing inappropriate however about Members challenging or disagreeing with officers. What was important was the manner in which this was done. Comment or criticism should always be offered in a courteous and professional manner.

Councillor Price concurred with Councillor Forbes and stated that Members needed to feel comfortable that they had the freedom to act as a critical friend without fear of sanction.

Consideration having been given to the remainder of the report, it was:-

3. RESOLVED that the report be received and noted.

Councillor McKnight was readmitted to the meeting.

## **Training for Committee Members**

The Head of Law and Governance submitted a report (copy circulated) which requested Members to consider whether further training on the Code of Conduct and the ethical standards regime under the Localism Act 2011 would be of benefit and if so, the areas that it should cover.

(For copy report – see original minutes)

Consideration having been given to the matter it was:-

4. RESOLVED that arrangements be made to provide a training session for members of the Standards Committee on the procedures followed as part of investigations carried out under the ethical standards regime together with the powers available to the Committee in respect of matters referred to it.

## **Local Government (Access to Information) (Variation Order) 2006**

At the instance of the Chairman it was: -

5. RESOLVED that in accordance with the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during consideration of the remaining business as it contains information relating to individuals and information which is likely to reveal the identity of individuals (Local Government Act 1972, Schedule 12A, Part 1, Paragraphs 1 and 2).

(Signed) H. TRUEMAN,  
Chairman.

### **Note:-**

The above minutes comprise only those relating to items during which the meeting was open to members of the public.

Additional minutes in respect of further items are included in Part II.

**COMMITTEE ON STANDARDS IN PUBLIC LIFE: “ETHICAL STANDARDS FOR PROVIDERS OF PUBLIC SERVICES – GUIDANCE”**

**REPORT OF THE HEAD OF LAW AND GOVERNANCE**

1. The purpose of this report is to inform the Committee of a guidance document issued by the Committee on Standards in Public Life (CSPL) in December 2015. A copy of the document is appended to this report and it can also be accessed via the link below.  
[Online guidance on ethical standards for public service providers - Publications - GOV.UK.](#)
2. The CSPL is an advisory non-departmental public body which monitors and reports on issues relating to the standards of conduct of all public office holders. The guidance document follows a previous report which was issued by the CSPL in June 2014 and which considered how the Nolan Principles (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership) were being built into Public Service commissioning and contracting. The 2014 report can be found here: [Ethical standards for providers of public services reports - Publications - GOV.UK](#)
3. As members will be aware, many local authorities now deliver services through contracting out or the entering of partnership arrangements with other organisations which may be in the public, private or voluntary sector. Even in these circumstances, the authority remains responsible for compliance with its statutory duties and the exercise of the relevant functions.
4. The 2014 report reflected that high ethical standards are important for society as a whole, particularly where public money is being spent on public services or functions and for users of public services. It makes good business sense for a provider of a public service to adhere to ethical standards. Further, failures in service provision can have broader implications for the level of public trust and confidence in Government and its ability to deliver public services.
5. The more recent report issued by the CSPL emphasises the key messages from the 2014 report and provides practical guidance to providers of public services and commissioners, in respect of the application of ethical considerations. It reinforces that “accountability does not end and should not dissipate on the commissioning or contracting out of Public Services.” The report advises that it is incumbent on those bodies which commission and procure public services and those who are ultimately responsible and accountable for them, to obtain assurance that high ethical standards are being met.
6. The report of the CSPL has been shared with procurement and commissioning colleagues and the Commercial Team within Legal Services,

in order to reinforce that due regard should be paid to ethical standards considerations, as part of the commissioning / procurement process. The introduction of a specific Ethical Code of Practice within future commissioning / procurement / grant processes is being considered.

## **7. Recommendation**

Committee is recommended to note the report

### **Background Papers**

CSPL – Ethical Standards for Providers of Public Services (June 2014)

CSPL – Ethical Standards for Providers of Public Services – Guidance (December 2015)





Committee on  
Standards in  
Public Life

December 2015

# Ethical Standards for Providers of Public Services - guidance

# Contents

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# Foreword



In June 2014 CSPL published a report on Ethical Standards for Providers of Public Services.<sup>1</sup> The government has made clear that the Seven Principles of Public Life first set down by Lord Nolan - honesty, integrity, accountability, leadership, openness, selflessness and objectivity - should apply to all those delivering services to the public. The definition of each of these Principles is set out at the end of this document. Our report considered how these Principles were being built into the public service commissioning and contracting and drew on research conducted for the Committee by Ipsos MORI with commissioners of services, providers of those services and members of the public.

It was clear from our research that the public want all providers of public services to adhere to and operate by common ethical standards, regardless of whether those services are provided by the private, public or voluntary sectors. For the public “how” things are done is as important as “what” is done. The report made a number of recommendations to government to ensure that proportionate ethical standards are made explicit in commissioning, contracting and monitoring and that these standards apply to anyone delivering public services on

behalf of the taxpayer. It also recommended that providers ensure they have a high level ethical framework and ethical capability, encompassing principled leadership and governance, clear lines of accountability and encouraging a culture of dialogue, challenge and transparency. I was delighted by the positive response the report received from commissioners and providers including from the business community.

The purpose of this document is to emphasise the key messages from our report and build on its research and conclusions by providing short practical guidance to both providers of public services in building and embedding ethical standards in an organisation, and to commissioners in setting ethical expectations for the delivery of public services as well as ensuring those standards are met. The Committee recognises the efforts and investments which many providers have already made in enhancing awareness of, and adherence to high ethical standards. The Committee recognises the challenges faced by any organisation large or small in ensuring that all employees adhere to high ethical standards of behaviour. We know that standards failures represent a significant

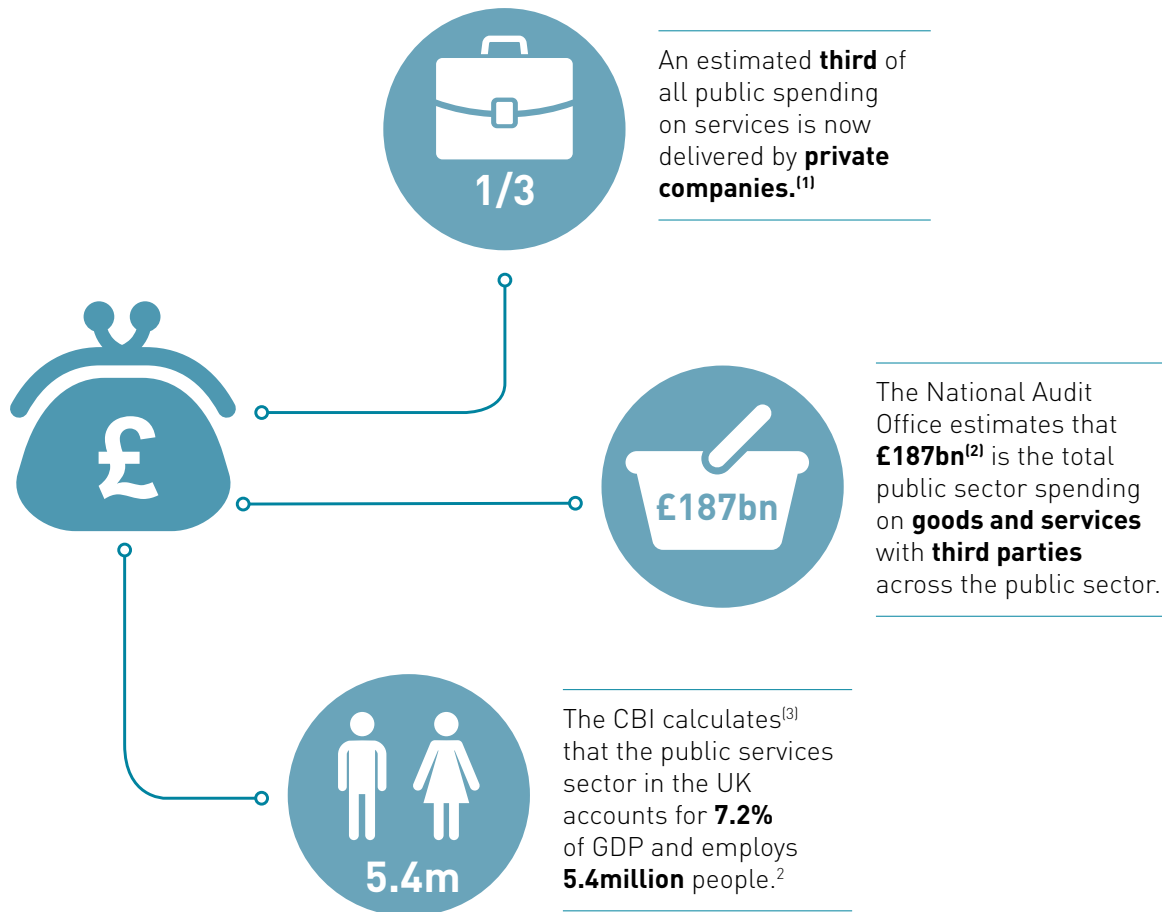
organisational risk which is why the Committee supports the development and use of appropriate systems and processes to encourage and reinforce ethical behaviour.

We have included some examples of mechanisms used by commissioners and providers to build high ethical standards but are always keen to learn more, so if you know what works please get in touch.

Ethics matter. This is increasingly recognised by the business community as a necessary part of winning trust and building confidence in the public service markets. Ethical standards should not be taken for granted. Commissioners and providers need to be explicit with each other and the public as to the standards expected in the services which are being delivered.

**Lord Bew, Chair of the Committee**  
December 2015

# Background to the report



It makes good business sense to heighten awareness of ethical standards and encourage their staff to adhere to them. Whilst this may involve a cost, organisations need to invest in this aspect of their business. Ethical failures by banks, the press, and most recently in parts of the car manufacturing industry, carry a heavy price. Ethical failures in the NHS, the police and in the public service market more generally have all demonstrated that the damage to reputation and trust, and the financial cost to the business or provider concerned, can be high. Ethical failure by a significant provider of public services can be a major risk to the Government, and can have broader implications for the level of public trust and confidence in the Government and its ability to deliver public services.

# About our report

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In our report, Ethical Standards for Providers of Public Services, we proposed a high level framework to support and embed high ethical standards in the provision of public services and to provide the necessary assurance to the public and the government that ethical standards are part of service delivery standards. This framework was based around principled leadership and governance including a code of conduct, a culture of dialogue and challenge, clarity of accountability and ethical capability and transparency.

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## The CBI:

**“200 000 charities and companies of all sizes help government provide the public services that we depend on all over the country. This can generate innovation, investment and efficiency, but also requires standards of conduct that are appropriate for organisations funded by and working for taxpayers.”**

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For the full report: [www.gov.uk/government/publications/ethical-standards-for-providers-of-public-services](http://www.gov.uk/government/publications/ethical-standards-for-providers-of-public-services)

High ethical standards are important for society as a whole. They are particularly important where public money is being spent on public services or public functions as commissioning and procurement decisions can have a major impact on the user's daily lives and their quality of life. When a provider fails to deliver to the standards expected, and particularly where the user may have no other choice, it may have profound consequences for the individual user and damage public trust more generally.

High ethical standards are important for society as a whole. They are particularly important where public money is being spent on public services or public functions. Commissioning and procurement decisions can have a major impact on the users daily lives and their quality of life. When a provider fails to deliver to the standards expected, particularly where the user may have no other choice, it may have profound consequences for the individual user and damage public trust more generally.

## Public Accounts Committee:

**“Contractors have not shown an appropriate duty of care in the use of public funds. Too often the ethical standards of contractors have been found wanting. It seems that some suppliers have lost sight of the fact that they are delivering public services, and that brings with it an expectation to do so in accordance with public service standards. The legitimate pursuit of profit does not justify the illegitimate failure to conduct business in an ethical manner.”<sup>3</sup>**

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**Mark Galloway, Executive Vice President, Skanska UK:**

**“It has to be recognised that our approach to ethics and embedding ethical behaviours in our business is a journey. We are not the finished article, so we always have more to do.**

**The benefits, however, are significant. It helps us to attract employees who want to work for an ethically driven business, build long and lasting relationships with our supply chain partners and, ultimately, to win work. Being a leader in ethics makes good business sense.**

**It is by putting the right framework in place, setting the highest standards and encouraging our employees to become role models for ethics that we can establish a best in class ethical culture.”**

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It is therefore incumbent on those bodies commissioning and procuring public services, and those who are ultimately responsible and accountable for those services, to obtain assurance that high ethical standards are being met. Accountability does not end and should not dissipate on the commissioning or contracting out of public services.

Whilst many of the requirements for high standards require action at an organisational level, high standards also require individuals to take personal responsibility - by observing high standards themselves, by demonstrating high standards to others through their own behaviour and by challenging inadequate standards when they see them.

In an earlier report, Standards Matter, (14<sup>th</sup> Report January 2013 Cm 8519), the Committee stated that high standards of behaviour need to be seen as a matter of personal responsibility, embedded in organisational processes and actively and consistently demonstrated, especially by those in leadership positions. One of that report’s conclusions was that permanent secretaries and chief executives of all organisations delivering public services should take personal responsibility for ethical standards in their organisations and certify in their annual report or equivalent document that they have satisfied themselves about the adequacy of their organisation’s arrangements for safeguarding high standards.

The need for leaders and managers within an organisation to model high ethical standards and to take personal responsibility for their behaviour means that high ethical standards may take time to become established within an organisation. Ethical standards cannot be “fixed” onto an organisation overnight and then forgotten. It takes time for an ethical culture to become the norm and requires regular communications to staff to reaffirm ethical practice and behaviours.

### **Key conclusions from the report**

The research conducted for the Ethical Standards for Providers of Public Services report found that:

- the public want the same ethical standards upheld by any organisation providing public services regardless of sector and supported by a code of conduct
- public and stakeholder views of what should constitute ethical standards are broadly in line with the Seven Principles of Public Life
- “how” the service is delivered is as important to the public as “what” is delivered
- the public felt good outcomes and quality of user/provider interaction - particularly from front line staff behaving with integrity and objectivity - were crucial to ethical service delivery

## Quotes from the public

“If it’s taxpayers’ money, the principles are the guidance and all providers should follow them.”

“(They should have) end users’ best interests in mind”

- commissioners expect providers to conform to ethical standards but rarely explicitly articulate ethical standards to providers explicitly;
- commissioners want guidance on how to embed ethical standards in the commissioning and procurement process.

It was also evident from the research that currently there are no consistent structures or arrangements within the commissioning process to promote actively the right ethical culture and behaviours in providers of public services.

The report therefore recommended that ethical standards need to be proportionately addressed within existing commissioning, contractual and monitoring arrangements, as part of the process for securing the regularity and propriety of public services.

## Quotes from Commissioners and Providers

“It is up to commissioners to be clear about what they want and expect from suppliers, otherwise the contract is won on price”

“As things stand now, contractors see that they are not being watched and become complacent.”

There has been much debate about increasing transparency in public service contracts. Whilst we agree that one route to improving public service standards is through greater transparency and, particularly in the case of larger service providers, the application of the Freedom of Information Act, transparency of itself is not sufficient. Transparency needs to be underpinned by a culture of high ethical standards in public service contracts.

# Follow on work

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Following our report we undertook further work, including workshops and discussions with commissioners and providers, to review how they are adapting their procedures and practices to ensure the highest possible ethical standards are adopted and adhered to by staff in their organisations delivering public services.

In addition, we have also identified more extensive examples of good practice in a range of commissioners and providers which might be applied more widely. These organisations recognise the challenge of encouraging their employees to behave with high ethical standards at all times and have adopted a variety of systems and processes to support their employees. And they recognise that an

ethical culture is not achieved by a one-off effort, but through the continuing attention to the importance of ethical behaviour.

This guidance document is intended to provide practical guidance and examples to commissioners and providers in setting and embedding those standards of conduct and agreeing the ethical expectations for the delivery public services. Any ethical framework should be risk-based, flexible and proportionate. How it is implemented in practice will depend on the nature of the public service being provided, the model of delivery and the kind of provider.

The National Audit Office has recommended that government should get *“written representation from contractors on the integrity of the services they supply, covering the control environment for maintaining ethical behaviour and public service standards. Such statements, while not necessarily carrying additional legal implications, would have symbolic and reputational importance, and give Parliament clear accountability.”*<sup>4</sup>



**Ruby McGregor Smith**  
**Chair of the Public Services**  
**Network CBI:**

“Every organisation has a process around governance, around the controls it exhibits and around its behaviours. It can be done, it just needs to be done and clearly laid out in contracts we are asked to sign, so that everyone does it.”<sup>5</sup>”

**Melanie Maxwell Scott**  
**Business Services Association:**

“High ethical standards can and should be achieved by any public service provider. The sector they come from is not material as long as expectations are made clear and there exists a culture which supports good behaviour and promotes prompt action whenever people fall short.

Procurement and contract-management processes are vital to aligning the values of the public sector client with any supplier. If a contract is poorly written, the wrong type of behaviour can occur or even be encouraged. If the contract is poorly managed, sub-standard performance can go unnoticed. That is in no-one’s best interests, least of all the service user.”<sup>6</sup>”

# Suggested Measures

Set out below are examples of measures which could be expected of, implemented and embedded by providers of public services and monitored and evaluated by commissioners to provide assurance of ethical standards - how does the organisation do its

business and how do individuals within it carry out their roles?

It is not intended as a burdensome checklist to be ticked and regarded as complete; rather it should

be used to encourage not only commissioners to be explicit about their expectations on ethical standards, but also providers to reflect on their capacity and capability to meet those standards.

<p><b>Evidence of leadership commitment to ethical standards</b> - What is the tone from the top and how is this lived out throughout the organisation? What are the values and behaviours this organisation is encouraging and discouraging?</p>	<p>Public statements and day-to-day behaviour that demonstrate visible commitment to ethical standards and taking responsibility – being publicly accountable – for ethical standards.</p> <p>In a small organisation this could be as simple as telling all staff about the ethical expectations of those in the organisation delivering public services.</p>
<p><b>Evidence of board and individual responsibility for ethical standards</b> - how are employees and (if applicable) board members held to account collectively and individually for ethical issues?</p>	<p>Board level oversight of ethical matters and board level responsibility for or championing of ethical compliance.</p> <p>Ethics committees can be used as a mechanism to improve and scrutinise ethical decision making but they should be integrated to the governance arrangements and not a “bolt-on”.</p> <p>Annual attestations - individual annual sign off of compliance with the company’s Code of Conduct and compliance regulations or policies.</p> <p>Employees are aware of the code of conduct and the consequences of failing to adhere to the Code.</p>

<p><b>Evidence of internal control and accountability measures</b> - what is the internal control environment for maintaining ethical behaviour and standards in the organisation?</p>	<p>A suitable code of conduct - typically a series of Do's and Don'ts, publically available and adherence to the code monitored.</p> <p>Identification of key indicators or measures of an ethical culture within the organisation and periodic reviews of their effectiveness.</p> <p>Existence of and adherence to whistleblowing policy or speak up mechanisms, gifts and hospitality registers, anti-bribery and corruption, declarations of interests requirements, procedures for dealing with conflicts of interest, which are regularly reviewed.</p> <p>Ethical risks captured and controlled in the risk management process and evidence they have been identified, assessed and where required mitigated.</p> <p>Transparency and reporting arrangements which encourages "intelligent accountability" putting out good quality information in intelligible and adaptable formats creating a genuine dialogue with stakeholders.</p>
<p><b>Evidence of establishing an ethical awareness and capability in recruitment, induction, progression, training and professional development</b> - how is ethical awareness embedded in the organisation?</p>	<p>Recruitment procedures that take account of values and ethics alongside other skills.</p> <p>Induction processes that give new starters an understanding of the ethical expectations of them, the Codes of Conduct and ethical framework operating in the organisation.</p> <p>Training and guidance on ethical standards generally through ethical and values based training online and face to face.</p> <p>Self-assessment often web based tools.</p> <p>Employees encouraged to demonstrate achievement of e.g. ethical component of commercial capability requirements such as Chartered Institute of Purchasing and Supply's ethical procurement and supply e-learning module.<sup>7</sup></p>

<p><b>Evidence of appraisal, promotion and reward procedures that take account of values and ethical behaviour</b> - how does the organisation encourage (or not) its intended values and behaviours?</p>	<p>Codes of conduct linked to performance incentives.</p> <p>Assessing staff on behaviour based criteria the “how” as well “what” they have achieved. Assessing behaviours against core values - e.g. do they role model behaviours consistently, do they coach and encourage others to achieve similar high standards, for leaders do they develop a working culture which emphasises integrity and ethics? do they champion the company values?</p> <p>Including questions on ethical matters in employees surveys.</p>
<p><b>Evidence of commissioner-provider and user-provider dialogue</b> - what is the success or failure for this contract including the supply chain and what are the essential behaviours to deliver success? how does the organisation learn from criticism and compliments?</p>	<p>Use of staff feedback surveys and self-assessment.</p> <p>Responding to and acting on feedback.</p> <p>Robust complaints system and evidence of good complaints handling; the effective use of complaints data to evaluate how well standards are being achieved and to help deliver service improvements.</p> <p>Setting out clear expectations and standards throughout the supply chain, monitoring compliance with them and clear explanation provided as to the consequences of failing to meet the standards expected.</p>

# Practical examples and case studies

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We set out below some further practical examples and case studies of measures or ethical frameworks some organisations have put in place in an attempt to build awareness of and adherence to high ethical standards. These examples were shared with us by the relevant organisations, are illustrative and correct at the time of publication of our reports. We expect that as experience of these arrangements grows they will be further developed.

## Case study - Mitie example of tone from the top

As part of their wider ethical business framework Mitie launched a [new] Code of Conduct in 2014. The Code was designed to help employees understand the core values and responsible behaviours enabling them to “do the right thing”. In addition to setting our core company policies and procedures, the Code aims to bring to life through scenarios some of the ethical dilemmas faced by those working in Mitie and to provide a set of guiding principles to follow.

The Code, core values and responsible behaviour have been visibly championed by the Chief Executive and the Group Finance Director. The Code’s importance was reinforced through a series of initiatives such as:

- The launch of the Code at an Executive Board workshop
- Risk management leadership workshops
- Monthly roadshows across the business attended by the CEO and CFO
- the promotion of the confidential Speak Up service

- The use of all staff emails from the CEO emphasising the importance of core values and responsible behaviours and what it means for the company
- Open lines of communication between CEO and employees such as twitter

### **The NCVO and Good Governance Code for the voluntary and community sector**

This code sets out the principles and practices that should be adopted in those sectors for good governance. It can be applied in a flexible way depending on the type and size of the organisation. It covers behavioural governance including the effective board behaving with integrity and being open and accountable. It recognises the applicability of the seven principles of public life to the sector as recognised good practice and complementary to those principles.

[www.governancecode.org](http://www.governancecode.org)

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## Case study – Skanska’s ethical business practices

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Skanska, one of the UK’s leading contractors, is an inclusive and responsible business that is helping to build a better society. Known for major projects, such as the Gherkin and Crossrail, it is building, upgrading and maintaining the country’s infrastructure – delivering projects in healthcare, education, defence, transportation and municipal services. Drawing on its Scandinavian heritage, it is green, innovative and progressive. Bringing together people and technology, it is working to make construction a safer and more collaborative industry.

Ethics is a core value for Skanska, which is placed at the heart of its business. It has an aim to be recognised for its commitment to doing the right thing, everywhere that it works.

To make this a reality, it has a range of tools that help to bring ethics to life, demonstrating what it means for its employees.

### Ethics Roadmap

Launched as a global tool, the Ethics Roadmap is designed as a practical document that helps

Skanska’s national operations to develop an internal culture and behaviour in the market that is best in class.

### Ethics Scorecard

Used to monitor the progress of ethics in national Business Units and throughout Skanska. The Ethics Scorecard is published twice a year with the latest data and examples of best practice to share across the organisation.

### Ethics champions

Each global business unit has appointed a senior-level Ethics Champion responsible for driving ethical behaviour and implementation of the Ethics Roadmap. This includes development of an annual ethics plan, which sets out the actions which will be taken over the coming year to help build an ethical culture.

### Code of Conduct

Skanska’s Code of Conduct applies to all employees and the principles bind Skanska’s supply chain too. All employees participate in Code of Conduct training every two years, and new recruits within three months of joining. <http://www.skanska.co.uk/About-Skanska/Our-Code-of-Conduct/>

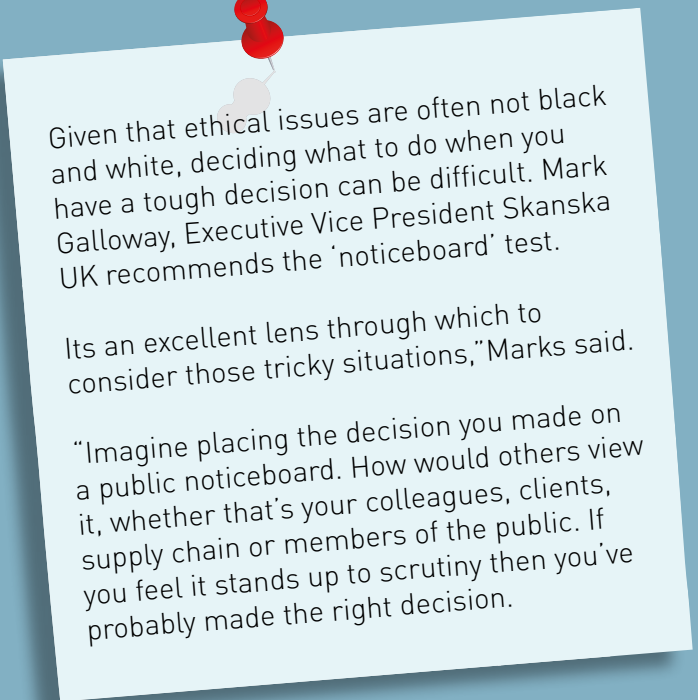
### Ethical dilemmas

at least four times a year, all employees take part in informal ethical debates. There are no right or wrong answers, the aim is to facilitate discussion

and encourage employees to feel comfortable discussing ethical dilemmas in business. The ‘notice-board test’ is often referenced – if your decision was posted on a public notice-board, would you stand by your actions?

### Annual employee survey

All employees are asked two ethics-related questions as part of the annual employee survey, so understanding and attitudes can be effectively monitored.



Given that ethical issues are often not black and white, deciding what to do when you have a tough decision can be difficult. Mark Galloway, Executive Vice President Skanska UK recommends the ‘noticeboard’ test.

Its an excellent lens through which to consider those tricky situations,”Marks said.

“Imagine placing the decision you made on a public noticeboard. How would others view it, whether that’s your colleagues, clients, supply chain or members of the public. If you feel it stands up to scrutiny then you’ve probably made the right decision.

### **Code of Conduct Hotline**

An independent Code of Conduct hotline has been set up, which enables employees to report concerns about ethical behaviour, anonymously if they wish.

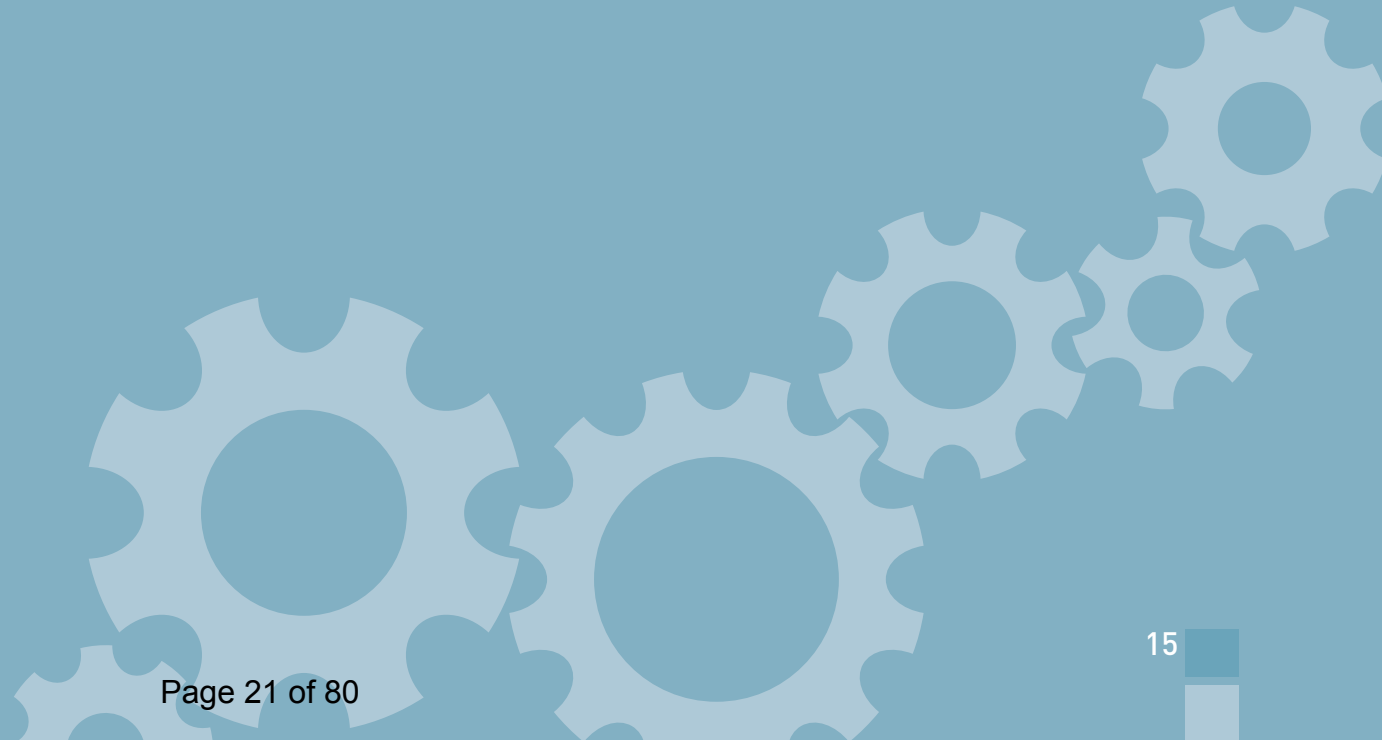
### **Governance**

Two groups have been created to govern ethics in Skanska's UK business. The Ethics Committee, which drives policy development and provides advice, and the Ethics Representatives, which helps to communicate ethics ideas and messages across the business.

### **Defra's Ethical Procurement Policy Statement**

This statement sets out that Defra's expectation that its suppliers will maintain high standards of integrity, professionalism and transparency and how working in partnership with suppliers it will address wider ethical issues outside the public procurement process. These issues include working conditions, employee health and training, discrimination and child labour.<sup>8</sup> The policy aims to achieve wider societal benefits

through ethical principles such as requiring "suppliers [to] have systems in place to ensure high standards of propriety which make sure public money is used for the purpose it is intended." Defra was able to point more easily than some Departments, to mechanisms which existed throughout the commissioning and procurement process including pre and post award stages.



## Case study – Embedding the College of Policing’s Code of Ethics

The College of Policing’s Code of Ethics is applicable to all members of the police force and places an additional responsibility on chief officers and leaders to promote and reinforce the Code amongst the wider police force. In its recent report on local police accountability - *Tone from the top - leadership, ethics and accountability in policing?*, the Police Superintendents Association of England and Wales, shared with the Committee evidence from the Thames Valley police force about their experience embedding the Code of Ethics. The research found that the most effective code was part of a broader programme of culture change and should be regularly reinforced and monitored.

Thames Valley Police Force research - Code of Ethics	
What works	What hurts
Value-based approach to ethics programmes	
Ethical culture, supported by ethical programme	Standalone ethical programme
Ethical discussion and rewarding ethical behaviour	Too much focus on punishing lack of compliance to the code Unquestioning obedience
Focus on colleagues or society	Focus on self-interest
More time for decision-making promotes ethical behaviour	Rushed decision-making encourages unethical behaviour
Challenging unethical practice	Ignoring unethical practice
Peer influence (positive)	Peer influence (negative)
Thoughtful implementation of goals and targets	Carelessly implemented goals and targets
Regularly reinforcing ethical behaviours Immersive ethical training	

More important for people to know that the organisation is fully committed to code, rather than knowing all the content of the Code of Ethics	
Moral reasoning by leaders	
Fairness and respect	



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## PwC ethical decision making

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**Tina Hallett**  
**PwC Partner, Government and**  
**Public Sector Leader:**

High ethical standards can and should be achieved by any public service provider. The sector they come from is not material as long as expectations are made clear and there exists a culture which supports good behaviour and promotes prompt action whenever people fall short.

PwC the professional services network reinforces the messages of induction by making it clear that ethics is integral to the operation of the firm. PwC has a dedicated Ethics and Business Conduct section on its website, which includes a code and a framework for ethical decision making, as well as a list of ethics questions to consider when making day-to-day decisions.<sup>10</sup> There is a clear narrative that ethical standards are integral and important, which in turn make the messages of induction that much more likely to be absorbed and taken seriously.

### Summary of ethics questions to consider

1. Is it against PwC or professional standards?
2. Does it feel right?
3. Is it legal?
4. Will it reflect negatively on you or PwC?
5. Who else could be affected by this (others in PwC, clients, you, etc.)?
6. Would you be embarrassed if others knew you took this course of action?
7. Is there an alternative action that does not pose an ethical conflict?
8. How would it look in the newspapers?
9. What would a reasonable person think?
10. Can you sleep at night?



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## Case study – Network Rail

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**‘Our reputation and future depends on us all behaving with integrity in everything we do’**

**Mark Carne, CEO**

On the 1st September 2014 Network Rail was reclassified as a public sector body. While passengers won't have noticed a difference to the running of the railway, the impact on some areas of our work has been more pronounced.

One consequence of our new status is that we are now subject to the principles of public life. These are an important reminder to everyone who works for or does business with Network Rail of the importance of acting with the highest possible levels of integrity. We welcome the scrutiny and accountability that comes with being part of the public sector, and strongly believe that an open, ethical and fair culture is fundamental to how we operate, every day.

But our work to drive the highest levels of business behaviour is not a knee jerk response to reclassification. We have had a Code of Business Ethics for a long time, and it is complemented by a busy business ethics programme. Our priority this year is delivering ethics training to all our staff – our training packages all have the principles of public life running through them. The Code is supported by a number of policies including anti bribery, gifts & hospitality, conflict of interests, social media and speak out (whistleblowing). We have also set up a register for gifts, hospitality and conflicts of interests called iEthics, and a confidential whistleblowing service, Speak Out.

We launched Speak Out in its current form in 2012 to help our employees and contractors report ethical misconduct. They can do so over the phone or through a secure website. Use of the service has increased steadily over its lifetime, and we have also seen a gradual decrease in the proportion of users who choose to report anonymously. We think this shows that people are beginning to feel more comfortable speaking out about suspected wrongdoing, which is an important indicator of our progress towards the culture we want across the company.

We still have work to do to change the culture of our organisation, but we think we are on the right path. Network Rail has a responsibility to the nation to run a safe, reliable railway, and ethical values like openness, integrity and accountability are at the core of our ability to do so.

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## Case study – Dudley Metropolitan Borough Council “Supplier Code of Practice”

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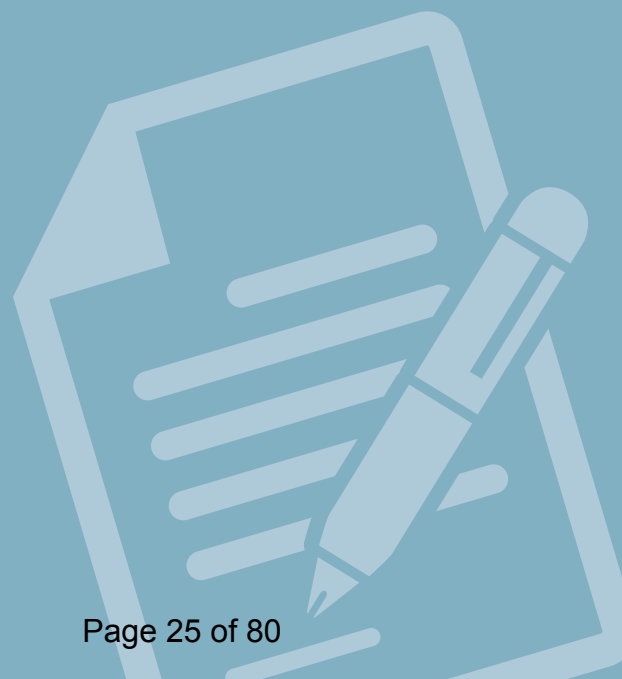
“Supplier Code of Practice” sets out the values, principles and standards Dudley Council expects of itself and its suppliers. It covers the Seven Principles of Public Life and their application to employees and suppliers, and specific expectations in relation to bribery and corruption, gifts and hospitality, conflicts of interest, fraud, deception and dishonesty, false claims, unfair trading and competition and environmental issues. It also provides details of how to raise any concerns that the code is not being complied with.

<http://www.dudley.gov.uk/business/do-business-with-the-council/tenders-and-contracts/trade-with-dudley/>

### Councillor Pete Lowe:

“As Leader of Dudley Metropolitan Borough Council I want everyone to help us work in partnership to deliver high quality services which recognise our commitment to the highest standards of ethics and conduct. Our Council Plan reflects on this by including a key message of everyone articulating and living up to a set of values and behaviours that support good governance.

The public expect the highest standards of ethics from all suppliers of public services and our message to staff and suppliers is clearly articulated in our “Supplier Code of Practice”. We will be asking major suppliers to confirm that they adhere to the Code in all their dealings with the Council and residents of Dudley. We have a Code of Conduct for employees and councillors which also set out our requirement for them to demonstrate the highest standards of conduct”



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## Case study – Sodexo Public Sector Pledge

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In the UK and Ireland, Sodexo employs around 34,000 people across 1,850 locations in the corporate, healthcare, education, leisure, justice and defence sectors. Sodexo delivers a range of services, from catering and hospitality, cleaning, reception to asset management, security, laboratory and grounds maintenance services.

As a company with half its business in the public sector, in 2015 Sodexo published its Public Sector Pledge. The aim of the Pledge is to be an 'ethical manifesto' identifying key public service areas and initiatives which Sodexo will publicly measure and report on annually. Areas covered by the Pledge include client satisfaction reviews, outcome based contracts, business integrity codes and adoption of the living wage.

### The pledge focuses on three key themes:

1. Fully committed to consistent delivery of our promises, your outcomes, and your value for money;
2. Transparent and truly ethical in how we deliver in our use of public money, and in our conduct;
3. Enhancing quality of life and social justice in our communities through a genuine social conscience.

Through this pledge Sodexo states it hopes to achieve better public services, end stereotypes, to grow and succeed as a business and to do the right thing.

In June 2015, Sodexo joined the Living Wage Foundation's Recognised Service Provider scheme, committing to implement the UK and London Living Wage for all employees working in its head offices in London, Glasgow, Stevenage, Leeds, Salford and Swindon. The commitment also means that Sodexo will, wherever permitted, submit a Living Wage alternative in all its bids and will promote the adoption of the living wage to its clients.

Sodexo intends to publish the progress it has made with each of the commitments within the Pledge around the middle of 2016.

<http://uk.sodexo.com/uk/en/corporate-responsibility/responsible-employer/public-service-pledge.aspx>

**Merlin Standard** is designed to recognise and promote sustainable excellence within supply chains. Its aim is to encourage excellent supply chain management and to ensure fair treatments of partners and subcontractors by the Prime Contractor. The principles on which it is built include Conduct and elements of the assessment of the organisation validated by supply chain partners includes such criteria as "culture in which communication is open, honest and without unreasonable constraint", "procurement processes are fair and transparent", it "actively seeks users feedback...to inform and improve practices."

[www.merlinstandard.co.uk](http://www.merlinstandard.co.uk)



# About the Committee on Standards in Public Life

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1. The Committee on Standards in Public Life is an advisory Non-Departmental Public Body (NDPB) sponsored by the Cabinet Office. The Chair and members are appointed by the Prime Minister. The Committee was established in October 1994, by the then Prime Minister, with the following terms of reference:

*“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.”*

2. The remit of the Committee excludes investigation of individual allegations of misconduct.
3. On 12 November 1997 the terms of reference were extended by the then Prime Minister:

*“To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements.”*

4. A triennial review of the Committee was carried out in 2012, the report of which was published by the Government in February 2013. As a result, on 5 February 2013, the terms of reference of the Committee were clarified in two respects: ‘... in future the Committee should not inquire into matters relating to the devolved legislatures and governments except with the agreement of those bodies’ and ‘...the Committee’s remit to examine “standards of conduct of all holders of public office” [encompasses] all those involved in the delivery of public services, not solely those appointed or elected to public office.’

## Membership of the Committee

The Lord Bew (Chair)  
The Lord Alderdice  
The Rt Hon Dame Margaret Beckett DBE MP

Sheila Drew Smith OBE  
Patricia Moberly  
Richard Thomas CBE  
Dame Angela Watkinson DBE MP  
Monisha Shah

## The Committee’s previous reports

5. The Committee has previously published the following reports.
  - Tone from the Top - leadership, ethics and accountability in policing, June 2015
  - Ethical standards for providers of public services, June 2014
  - Strengthening Transparency Around Lobbying, November 2013
  - Standards Matter: A review of best practice in promoting good behaviour in public life (Fourteenth Report), Cm 8519, January 2013

- Political party finance: Ending the big donor culture (Thirteenth Report), Cm 8208, November 2011
  - MPs' expenses and allowances: Supporting Parliament, safeguarding the taxpayer (Twelfth Report), Cm 7724, November 2009
  - Review of the Electoral Commission (Eleventh Report), Cm 7006, January 2007
  - Getting the balance right: Implementing standards of conduct in public life (Tenth Report), Cm 6407, January 2005
  - Defining the boundaries within the Executive: Ministers, special advisers and the permanent civil service (Ninth Report), Cm 5775, April 2003
  - Standards of conduct in the House of Commons (Eighth Report), Cm 5663, November 2002
  - Standards of conduct in the House of Lords (Seventh Report), Cm 4903, November 2000
  - Reinforcing standards: Review of the First Report of the Committee on Standards in Public Life (Sixth Report), Cm 4557, January 2000
  - The funding of political parties in the United Kingdom (Fifth Report), Cm 4057, October 1998)
  - Review of standards of conduct in executive NDPBs, NHS trusts and local public spending bodies (Fourth Report), November 1997
  - Local government in England, Scotland and Wales (Third Report), Cm 3702, July 1997
  - Local public spending bodies (Second Report), Cm 3207, June 1996
  - Members of Parliament, ministers, civil servants and quangos (First Report), Cm 2850, May 1995
6. The Committee is a standing Committee. It can not only conduct inquiries into areas of concern about standards in public life, but can also revisit those areas and monitor whether and how well its recommendations have been put into effect.

# Seven principles of public life

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The Seven Principles of Public Life<sup>11</sup> apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The Principles also have application to all those in other sectors delivering public services.

## Selflessness

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

## Integrity

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

## Objectivity

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

## Accountability

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

## Openness

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

## Honesty

Holders of public office should be truthful.

## 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.

## Committee on Standards in Public Life

GC05 1 Horse Guards Road, London, SW1A 2HQ  
<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

# References

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- <sup>1</sup> <https://www.gov.uk/government/publications/ethical-standards-for-providers-of-public-services>
- <sup>2</sup> [1] Julius, D., *Public Services Industry Review*, 2008, Retrieved 15 July 2013: <http://www.bis.gov.uk/files/file46965.pdf>. Note that this estimate includes services procured by government to support service delivery cited in Institute for Government 2012 Testing New Commissioning Models A guide to help policy makers learn about publically funded markets.
- [2] *The role of major contractors in the delivery of public services*. National Audit Office HC 810 Session 2013-14 12 November 2013.
- [3] CBI, *A Value Driven Public Services Sector* page 6 Oxford Economics analysis for CBI.
- <sup>3</sup> Committee of Public Accounts Transforming contract management Twenty-third report of Session 2014-15 HC 585 10 December 2014
- <sup>4</sup> National Audit Office Report, Cabinet Office, Transforming government's contract management, para 3.17. HC 269 Session 2013-14, 4 September 2014.
- <sup>5</sup> Oral evidence: Contract management within central Government Wednesday 10 September 2014 HC 586 p, 6.
- <sup>6</sup> CSPL Blog 26 March 2015 <https://cspl.blog.gov.uk/2015/03/26/commissioners-and-businesses-can-achieve-high-ethical-standards-by-working-together/>
- <sup>7</sup> <https://www.cips.org/en-GB/training-courses/Ethical-Procurement-and-Supply-/>
- <sup>8</sup> Ethical Procurement Policy Statement March 2011. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69421/ethical-procurement-policy-statement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69421/ethical-procurement-policy-statement.pdf)
- <sup>9</sup> <https://www.gov.uk/government/publications/tone-from-the-top-leadership-ethics-and-accountability-in-policing>
- <sup>10</sup> See <http://www.pwc.com/gx/en/ethics-business-conduct/code-of-conduct.jhtml>, and <http://www.pwc.com/gx/en/ethics-business-conduct/ethics-questions.jhtml>
- <sup>11</sup> The Seven Principles were established in the Committee's First Report in 1995; the accompanying descriptors were revised following a review in the Fourteenth Report, published in January 2013.





**REVIEW OF PROCEDURE FOR DEALING WITH COMPLAINTS****REPORT OF THE HEAD OF LAW AND GOVERNANCE**

1. The Council's arrangements for dealing with complaints under the Members' Code of Conduct were approved by Council at its meeting in June 2012 and the Standards Committee subsequently agreed a detailed procedure document in respect of the process, in February 2013. The Committee has delegated authority to review and amend the arrangements, although certain changes, for example, in delegated authority, will require Council approval.
2. Under the current procedures, the assessment of complaints is undertaken by the Head of Law and Governance as Monitoring Officer and is only referred to the Standards Committee in those cases where the Head of Law and Governance does not consider it appropriate for her to consider the matter. Reports are provided to the Committee on a regular basis to advise of the nature of complaints that have been received and how they have been dealt with.
3. Where a matter is referred for investigation and the Investigating Officer concludes that there has been a breach of the Code of Conduct, the Head of Law and Governance arranges for a hearing to be held before the full Standards Committee.
4. As the procedures have been operating for over three years, it is timely for them to be reviewed. It is proposed that the procedures be varied to provide for the assessment of complaints to be referred to an Assessment Sub-Committee of the Standards Committee, which will determine whether or not they should be investigated, rather than this function be undertaken by the Head of Law and Governance. This will provide for greater "ownership" of assessment decisions by elected Members, rather than have responsibility for such matters rest with a single officer. It is however recommended that the Head of Law and Governance retain a discretion to decline to refer certain matters to the Sub-Committee, for example, any matters where the Member concerned was not a Councillor at the time of the alleged conduct or where it is apparent that the conduct did not take place when the Member was acting in their official capacity or where the conduct alleged is of a trivial nature.
5. It is proposed that an Assessment Sub-Committee be comprised of three voting Members of the Standards Committee and that where the complaint involves a Member of Hetton Town Council, one of the co-opted Members appointed by that Council be invited to attend in an advisory capacity, provided they do not have a conflict of interest.
6. Likewise, it is proposed that there be scope to set up Hearing Sub-Committees comprised of three Members, to hear complaints, rather than have such matters dealt with by the full Committee, as is currently the case. A Sub-

Committee of three would be an appropriate size for ensuring the efficient conduct and management of the hearing.

7. Amendments to reflect these arrangements are shown as tracked changes on the copy of the procedure document which is shown in Appendix 1 to this report. If the Committee is minded to agree to the changes in delegated authority in respect of the Head of Law and Governance / Monitoring Officer, it will be necessary to recommend Council to approve this variation in the arrangements.
8. In addition, it is recommended that the opportunity is taken to update Article 9 of the Council's Constitution in order to reflect the role and remit of the Committee and, subject to the Committee agreeing the proposals set out in this report, its ability to establish assessment and hearing sub-committees. A draft of the updated Article 9 is shown in Appendix 2 to the report.

### **Recommendation**

The Committee is recommended to:

- (i) approve the amendments to the procedures for dealing with complaints referred to in this report, together with any other amendments agreed by the Committee, subject, in respect of the proposed changes to the delegated authority to the Head of Law and Governance to assess complaints, to such amendments being agreed by Council;
- (ii) authorise the Head of Law and Governance, in consultation with the Chairman of the Committee, to make such other minor or consequential amendments to the procedure document as are considered appropriate for consistency;
- (iii) recommend Council to agree the delegation of authority to the Standards Committee to assess complaints about Members, as set out in this report and to amend Article 9 of the Constitution to reflect the new arrangements, as set out in Appendix 2 to the report.

Background Papers

None

**Code of Conduct for Members**

**Arrangements for Dealing with Complaints**

## **PROCEDURES FOR DEALING WITH ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS**

### **ADVICE FOR COMPLAINANTS**

#### **1 Context**

- 1.1 These arrangements explain how you may make a complaint that an elected or co-opted member of Sunderland City Council (the Council) or Hetton Town Council (the Town Council) has failed to comply with the relevant authority's Code of Conduct (the Code). They also set out how the Council will deal with your complaint.
- 1.2 The Council is required to have such arrangements in place by section 28 of the Localism Act 2011. It is responsible for dealing with any complaint against a Town Councillor, as well as complaints about its own members.
- 1.3 As part of the arrangements, the Council must appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage in the process. The Independent Person's views may also be sought by the member or co-opted member against whom an allegation has been made.
- 1.4 The Council has appointed one Independent Person. Further information regarding this post is set out in paragraph 13.
- 1.5 In these arrangements, reference is made to the Monitoring Officer. The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.
- 1.6 References in these procedures to the Monitoring Officer include, where relevant, his/her Deputy or other officer authorised to act on his/her behalf.

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

- 2.1 The current Code of Conduct for members, which has been adopted by the Council, came into effect on 1<sup>st</sup> July 2012, was amended in March 2013 and is attached as Appendix One to these arrangements. It is also available for inspection on the Council's website and on request from the Council's Customer Services Centre.
- 2.2 Hetton Town Council is also required to adopt a Code of Conduct. If you wish to inspect that Council's Code, you should inspect any website operated by the Town Council or contact the clerk to the Town Council.

### **3 Making a complaint**

- 3.1 If you wish to make a complaint, please write or email to –  
The Monitoring Officer  
Law & Governance Services  
PO Box 100  
Civic Centre  
Sunderland  
SR2 7DN

Or –

City.Solicitor@sunderland.gov.uk

If a disability prevents you from making your complaint in writing, you may contact the Complaints and Feedback Team Manager on 0191-5611065 for assistance.

- 3.2 Complaints must specify details of the alleged breach of the Code and provide details of any evidence available to support the complaint. Complaints should be made in writing or by e-mail to the Monitoring Officer as soon as possible.
- 3.3 In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which is attached as Appendix Two and which can be downloaded from the Council's website. The form is also available from the Complaints and Feedback Team Manager.
- 3.4 You should set out exactly what the member you are complaining about said or did that caused you to complain. You should be as detailed as possible and substantiate your claim where you can. Although you are not required to prove your complaint at this stage of the process, you do have to demonstrate reasonable grounds for believing that the member complained about has breached the Code of Conduct.
- 3.5 Please provide us with your name and a contact address and/or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. You should note that the Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.
- 3.6 As a matter of fairness and natural justice, we believe that the member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold your identity if he/she is satisfied that you have reasonable grounds for believing that you or any witness relevant to the complaint may be at risk of physical harm if your identity is disclosed, or where there are medical risks (supported by medical evidence) associated with your identity being disclosed. The Monitoring Officer may also withhold details of your complaint from the member at

this initial stage, if he/she considers that to release details may prejudice any subsequent investigation. Any such decision by the Monitoring Officer will only apply pending consideration of the matter by the Assessment Sub-Committee, as referred to below.

- 3.7 If you wish to request that your name remains confidential and/or that details of your complaint are withheld from the member concerned, please indicate this in the space provided on the complaint form and give reasons.
- 3.8 Any request for confidentiality will be considered by the Monitoring Officer Standards Committee or Assessment Sub-Committee when assessing your complaint, to determine whether or not it should be referred for investigation.~~at the initial assessment stage when your complaint is received.~~  
~~(If the Monitoring Officer decides that the assessment of your complaint should be undertaken by the Standards Committee, the Committee will consider your request).~~
- 3.9 If the Monitoring Officer (or Standards Assessment Sub-Committee Committee, as appropriate) decides to refuse your request for confidentiality, he/she/you will be offered you the option to withdraw the complaint, rather than proceed with your identity being disclosed.
- 3.10 Where very serious allegations are made, the Monitoring Officer Assessment Sub-Committee may decide to investigate the complaint and if he/she/it considers it reasonably necessary, notify the member of your identity, despite your request for confidentiality.
- 3.11 In any event, even if the Monitoring Officer (or Standards Assessment Sub-Committee) decides to withhold your identity and/or details of your complaint from the member at this initial stage, if the matter is referred for investigation, at some point it is likely that it will be necessary to provide this information to the member concerned, to enable them to respond to the complaint and for the investigation to be completed. The Assessment Sub-Committee Monitoring Officer will determine whether and at what point the member will be advised of your complaint and your identity.

(These procedures will be adjusted as appropriate, in order to accommodate any decision on confidentiality or to withhold details of a complaint).

#### 4 Processing a Complaint

~~4.1 The Monitoring Officer will review your complaint and, after consultation with the Independent Person(s), take a decision as to whether it merits formal investigation.~~

- 4.21 The Monitoring Officer will notify the member concerned of your complaint and (subject to agreeing any request for confidentiality and/or withholding of details of the complaint) give him/her your name and will

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invite him/her to make any comments which they wish to be taken into account when making the decision as to whether to investigate the matter. The member will be requested to provide their comments within 10 working days of receipt of notification of the complaint. The Monitoring Officer has discretion to extend this period.

4.3<sup>2</sup> The Monitoring Officer will also provide the member with the contact details of the Independent Person(s). The member is entitled to consult the Independent Person(s) at any stage of the process.

4.3 The Monitoring Officer will review your complaint and, after consultation with the Independent Person(s), take a decision as to whether it should be referred to an Assessment Sub-Committee of the Standards Committee. The Monitoring Officer will have discretion to determine that no further action be taken in respect of a complaint and that it will not be referred to the Assessment Sub-Committee where:

4.3.1 the person who is the subject of the complaint was not a member of Sunderland City Council or Hetton Town Council at the time the alleged conduct occurred or

4.3.2 where the Monitoring Officer considers that it is clear that the member who is the subject of the complaint was not acting in their capacity as a councillor at the time the alleged conduct occurred or

4.3.3 where the conduct complained of is a continuation of a situation/set of circumstances relating to the same Council~~or~~, which the Monitoring Officer or Assessment Sub Committee has previously considered and has determined not to take any action on or

4.3.4 where the Monitoring Officer considers the conduct alleged to be of a trivial nature or

4.3.5 where there has been a long delay before the complaint was made or

4.3.6 where you and the subject member are prepared to resolve the matter.

This list is not intended to be exhaustive and the Monitoring Officer, in consultation with the Independent Person, may decide that a complaint does not merit ~~further consideration~~ referral to the Assessment Sub Committee for any other reason which appears to him/her to be relevant.

The Monitoring Officer will report to the Standards Committee on a regular basis to advise it of the number of complaints which have not been put before the Assessment Sub Committee and the reason why.

4.4 When deciding whether or not to investigate the complaint, consideration will be given as to whether or not the allegation, if proved, could amount to a breach of the Code of Conduct. If the conduct complained about does not amount to a breach of the Code, it will not be investigated.

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Regard will also be had to the Council's adopted assessment criteria (attached at Appendix Three) and any other relevant factors. You will be advised of the Monitoring Officer's ~~or Assessment Sub-Committee's~~ decision (as appropriate) and the reasons for that decision.

4.5 Where the Monitoring Officer or Assessment Sub-Committee requires additional information in order to come to a decision, he/she/it may come back to you for such information, and may also request further information from the member against whom your complaint is directed or from any other person or organisation.

4.6 Where your complaint relates to a Town Councillor, the Monitoring Officer may also inform the Clerk of the Town Council of your complaint and seek his/her views before a decision is made as to~~deciding~~ whether the complaint merits formal investigation.

~~4.7 In some cases, the Monitoring Officer may not consider it appropriate for him/her to make the decision on whether your complaint should be investigated. In such cases, he/she will refer the matter to the Standards Committee.~~

4.~~8~~7 You will not be able to address the Monitoring Officer or the Committee Assessment Sub-Committee and therefore it is important that you set out your complaint in writing clearly and provide at the outset all the information you wish the Monitoring Officer or Standards Committee Sub-Committee, as appropriate, to consider, including, where possible, any documents or other material that you wish to be taken into account.

## 5 Informal Resolution

5.1 In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Council. Where the member or the Council make a reasonable offer of local resolution, but you are not willing to accept that offer, the ~~Monitoring Officer~~Assessment Sub-Committee will take account of this in deciding whether the complaint merits formal investigation.

5.2 Even if a complaint is referred for investigation, the Monitoring Officer may seek an informal resolution at any point in the process.

5.3 If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer may report this to the Police or other regulatory agencies.

## 6 Review

6.1 If the Monitoring Officer or ~~Standards Committee~~Assessment Sub-Committee decides not to refer your complaint for investigation, you have no right to have this decision reviewed.

## 7 Reports on Complaints

7.1 The Monitoring Officer will submit reports to the Standards Committee on a regular basis, setting out on an anonymous basis, information regarding complaints received, ~~and whether or not they~~ which have not been referred ~~for investigation to the Assessment Sub-Committee~~. Where an investigation concludes that no breach has occurred and that is accepted by the Monitoring Officer, the Standards Committee will also be notified of that fact (see Procedure for Investigation of Complaints).

## 8 How is the investigation conducted?

8.1 The procedure for investigating a complaint is set out in Appendix Four.

~~8.2~~ 8.2 Where complaints are received from more than one complainant which ~~relate to the same or similar allegations, the Monitoring Officer has discretion~~ ~~relate to the same or similar allegations, the Monitoring Officer has discretion to~~ consolidate the complaints so that they are dealt with as part ~~part~~ of one investigation and if appropriate, are heard at one hearing.

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## 9 The Hearing

9.1 The procedure for hearings is set out in Appendix Five.

9.2 ~~Where, between being referred for investigation and the investigation concluding, (or if appropriate, a hearing being held) the member who is the subject of the complaint ceases to be a member, the Monitoring Officer may submit a report to the Standards Committee or Assessment Sub-Committee to seek approval to discontinue the investigation. The Committee or Sub-Committee may agree to this or may resolve that there is merit in the investigation continuing and if it considers it appropriate, following conclusion of the investigation, for a hearing to be held.~~

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## 10 What happens at the end of the hearing?

10.1 At the end of the hearing, the Chair will state the decision of the ~~Standards Committee~~ Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the ~~Committee~~ Sub-Committee resolves to take.

10.2 As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the ~~Committee~~ Sub-Committee, and send a copy to you, the member, the Independent Person(s) (and to the Town Council if appropriate). He/she will also make that decision notice available for public inspection and will publicise the decision in such further manner (if any) as the Sub-Committee may direct. However, where the Sub-Committee has

concluded that no breach has occurred, the notice shall not be published if the member so requests.

**11 What action can the Standards CommitteeHearing Sub-Committee take where a member has failed to comply with the Code of Conduct?**

11.1 The Council-Standards Committee has delegated to the Standards Hearing Sub-CommitteeCommittee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Standards CommitteeHearing Sub-Committee may –

- Issue a formal censure by the CommitteeSub-Committee;
- Recommend to full Council, or to Hetton Town Council the issue of a formal censure by the Council or Town Council;
- Refer its findings to full Council, or to Hetton Town Council, for information;
- Publish its findings by such means as the Committee-Sub-Committee thinks fit;
- Recommend to the Council, or to Hetton Town Council, that the member be removed from any or all Committees or Sub-Committees (subject to the approval of the member's Group if applicable);
- Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to the Council, or to Hetton Town, that the member be removed from all outside appointments to which she / he has been appointed or nominated by the Council or by Hetton Town Council;
- Instruct the Monitoring Officer to, or recommend that Hetton Town Council, offer training to the member; or
- Recommend to the Council, or to Hetton Town Council, that it excludes the member from the Council's offices or other premises or facilities, to the extent desirable and so as not to interfere with the democratic process, in particular the member's ability to carry out his or her role as an elected member;
- Such other recommendations as the Committee-Sub-Committee may think appropriate.

11.2 The Standards CommitteeHearing Sub-Committee has no power to suspend or disqualify a member or to withdraw or suspend members' basic or special responsibility allowances, or to restrict a member's access to Council resources so that the member is unable to perform his / her essential role as a councillor.

**12 What is-are the Standards Committee and its Sub-Committees?**

12.1 The Standards Committee is comprised of eight members of the Council together with two non-voting co-optees nominated by Hetton Town Council. Sub-Committees of the Standards Committee may be convened in order to deal with any aspect of a complaint that a councillor

has breached the Code of Conduct. In particular, an Assessment Sub-Committee may determine whether or not a complaint should be investigated. A Hearing Sub-Committee is held to conduct hearings where an investigation has concluded that there has been a breach of the Code of Conduct. In respect of any complaint, the Monitoring Officer, in consultation with the Chairman of the Standards Committee, may refer the assessment and/or the hearing of a complaint to a meeting of the Standards Committee, rather than to the Assessment Sub-Committee or Hearings Sub-Committee as appropriate. In such circumstances, references in these arrangements to the relevant Sub Committees shall apply to the Standards Committee.

12.2 An Assessment Sub-Committee shall comprise of three members of Sunderland City Council's Standards Committee to be determined on a meeting by meeting basis by the Head of Law and Governance. Where the member regarding whom a complaint has been submitted is a Town Councillor, one of the co-opted representatives from Hetton Town Council will also be invited to attend the Sub-Committee in an advisory capacity, provided they do not have a conflict of interest.

12.23 The ~~Committee Assessment Sub-Committee~~ seeks the views of the Independent Person(s) and takes- these into consideration before deciding whether a complaint should be referred for investigation. The Hearing Sub-Committee does likewise before it-the Committee- takes any decision on whether a member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code.

### 13 **Who ~~are~~ is the Independent Person(s)?**

The Independent Person(s) is a person who has applied for the post following advertisement of the vacancy. He/she is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 13.1 is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 13.2 is or has been within the past 5 years, a member, co-opted member or officer of a Town Council within the authority's area, or
- 13.3 is a relative, or close friend, of a person within paragraph 13.1 or 13.2 above. For this purpose, "relative" means –
  - 13.3.1 spouse or civil partner;
  - 13.3.2 living with the other person as husband and wife or as if         they were civil partners;
  - 13.3.3 grandparent of the other person;

- 13.3.4 a lineal descendent of a grandparent of the other person;
- 13.3.5 a parent, sibling or child of a person within paragraphs 13.3.1 or 13.3.2;
- 13.3.6 a spouse or civil partner of a person within paragraphs 13.3.3, 13.3.4 or 13.3.5; or
- 13.3.7 living with a person within paragraphs 13.3.3, 13.3.4 or 13.3.5 as husband and wife or as if they were civil partners.

#### 14 Revision of these arrangements

- 14.1 The ~~Council has delegated to the~~ Standards Committee ~~has delegated the~~ authority to amend these procedures from time to time as it thinks appropriate.

#### 15 Appeals

- 15.1 There is no right of appeal for you as a complainant against a decision of the Monitoring Officer or of the Standards Committee or one of its Sub-Committees. If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.
- 15.2 If a member is aggrieved by a finding of the Standards Committee or one of its Sub-Committees that he/she has failed to comply with the Code of Conduct and ~~-/~~or by a sanction imposed by the Committee, or Sub-Committee -he/she may request a review by an Independent Person of another Local Authority whose views, if critical of the original finding or sanction imposed, will result in the Standards Committee or Sub-Committee being required to reconsider its original decision.
- 15.3 The member must request a review, with their detailed reasons for seeking a review, within 5 working days of the publication of the decision notice, otherwise the decision of the Standards Committee or Sub-Committee will become final. The request for a review must be in writing and must be submitted to the Monitoring Officer. If a request for a review is received, the decision of the Standards Committee or Sub-Committee (including all the papers considered by the Standards Committee) will be referred to an Independent Person of another Local Authority. The Independent Person will review the case on the information provided and will provide a report to the Standards Committee or Sub-Committee, as appropriate. The report to the ~~Standards~~ Committee or Sub-Committee will provide any comments the Independent Person considers are appropriate and relevant, taking into account the basis of the request for review from the Member.
- 15.4 Upon the receipt of the Independent Person's report, the Standards Committee or Sub-Committee will consider the Independent Person's comments, the reasons submitted for the review by the member and will

determine whether to confirm the decision of the ~~Standards~~-Committee or Sub-Committee, amend the decision or substitute it with an alternative decision – this could include concluding that no breach of the Code occurred.

15.5 No further right of appeal or review of the Standards Committee's or Sub-Committee's decision within the Council is available. However, if the member who is the subject of the complaint considers that the Council has failed to deal with the complaint properly, he/she may make a complaint to the Local Government Ombudsman.

Appendix One - The Council's Code of Conduct

Appendix Two - Complaint Form

Appendix Three - Assessment Criteria

Appendix Four - Procedure for Investigations

Appendix Five - Procedure for Hearings

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## 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 amended on 27 March 2013 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 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.

### General Conduct

1. You must treat others with respect, including Council officers and other elected members.
2. You must not bully 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.
3. 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. 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. 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.
6. 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. 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. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. 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.
10. 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.

### **Registration of Interests**

11. Subject to paragraph 12, 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 11 (b) relates only to your interests and not those of your spouse or civil partner)

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)

12. 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**

13. 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 12, 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.
14. 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.
15. 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 14 or 15 is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)

16. 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.

## Nolan's Seven Principles of Public Life

### **Selflessness**

Holders of public office should take decisions 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 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.

**Disclosable Pecuniary Interests**  
**(as defined by regulations made by the Secretary of State under**  
**section 30 Localism Act 2011 (the Regulations))**

**Please note:** The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) yourself, or (b) your spouse or civil partner, or (c) a person with whom you are living as husband and wife, or (d) a person with whom you are living as if you were civil partners (all of whom are referred to as “relevant persons”):

**Employment, office, trade, profession or vocation** - Any employment, office, trade, profession or vocation carried on for profit or gain.

**Sponsorship** - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

**Contracts** - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council —

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

**Land** - Any beneficial interest in land which is within the area of the relevant authority.

**Licences** - Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

**Corporate tenancies** - Any tenancy where (to M's knowledge)—

- (a) the landlord is the relevant authority; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

**Securities** - Any beneficial interest in securities of a body where—

- (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and
- (b) either—

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

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

**Note: These descriptions of interests are subject to the following definitions;**

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“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

## COMPLAINT FORM – Alleged Breach of Members’ Code of Conduct

### Your details

1. Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the clerk of Hetton Town Council (if your complaint is against a Town Councillor)
- the Standards Committee of the Council
- any other person whom we consider it necessary to inform to investigate your complaint properly

We may also inform the Council's Independent Person(s).

We will usually tell them your name and either provide them with a copy of your complaint or a summary of it. If you have serious concerns about your name and a copy of your complaint or a summary being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other ( )

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

4. The Monitoring Officer will determine whether or not your complaint will be referred to an Assessment Sub-Committee of the Standards Committee, in order for it to determine whether or not the complaint should be referred for investigation. In certain circumstances, for example, where the Monitoring Officer considers it to be clear that the member was not acting in their capacity as a councillor at the time of the alleged conduct, he/she will not refer your complaint to the Assessment Sub-Committee

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It is very important that you provide all the information you wish to have taken into account by the monitoring officer (or the Standards Committee ~~as appropriate. if the complaint is referred to that Committee) when he or she decides whether to refer your complaint for investigation.~~ For example:

- You should be specific, wherever possible; about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.

- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates, it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

## 5. Action on receipt of your complaint

We will write to you to let you know that we have received your complaint. Your complaint will then be ~~assessed either considered~~ by the Monitoring Officer who will decide whether it should be referred to the Assessment Sub-Committee, in order for the Sub-Committee to determine whether your complaint should be investigated ~~or, if he/she considers it is inappropriate for him/her to deal with it, it will be assessed by the Standards Committee.~~

We may decide that it will not be investigated for one or more of a number of reasons, for example:

- Complaints where a member is not named.
- Complaints that are not in writing
- Incidents or actions that are not covered by the Code of Conduct
- Incidents that are about a fault in the way the authority has or has not done something. This is known as maladministration and may be a matter for the Local Government Ombudsman
- Complaints about people employed by local authorities

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- Incidents that happened before a member was elected.

If we decide not to refer your complaint for investigation, we will write to you explaining why.

If we decide to refer your complaint for investigation, we will notify you accordingly. Following the completion of an investigation into an allegation, if the Investigating Officer concludes that the member concerned has breached the Code of Conduct, then unless the complaint can be resolved informally, [a Hearing Sub-Committee of the Council's Standards](#) ———Committee will meet to consider the allegation and the findings of the investigation.

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**Only complete this next section if you are requesting that your identity is kept confidential**

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a copy of your complaint or a summary of it.

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We are unlikely to withhold your identity or the details of your complaint other than in exceptional circumstances (e.g. that you have good reason to believe that you will be at risk of physical harm, or your employment will be jeopardised if your identity is disclosed, or there are medical risks (supported by medical evidence) associated with your identity being disclosed).

Please note that requests for withholding your identity and/or details of your complaint, either altogether or for a period of time, will not automatically be granted. Any request for confidentiality will be considered as a preliminary matter. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances, where the matter complained about is very serious, we can proceed with an investigation and disclose your name, even if you have expressly asked us not to. You should also note that when a matter is referred for investigation, it is likely that at some point in the process we will have to tell the member your identity and the details of the complaint, to enable them to respond and for the investigation to be completed.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

\_\_\_\_\_

## Additional Help

7. Complaints must be submitted in writing. Fax and electronic submissions are permissible. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

You should contact Mrs M Douglas, Complaints and Feedback Team Manager (0191) 561 1065, email: [Margaret.douglas@sunderland.gov.uk](mailto:Margaret.douglas@sunderland.gov.uk).

**Signed**

**Dated**

This form once completed should be sent, along with any supporting documents, to:

Elaine Waugh  
Monitoring Officer  
Sunderland City Council  
PO Box 100  
Civic Centre  
Sunderland  
SR2 7DN

or e-mailed to [City.Solicitor@sunderland.gov.uk](mailto:City.Solicitor@sunderland.gov.uk)

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### **Equality Monitoring Form**

Sunderland City Council operates an Equality Policy. To help us make sure that everybody is treated fairly and equally we need to know who is making complaints. This information will help us to develop and change our policies and practices to ensure that no one is discriminated against.

To help us to do this we request that you complete the questions below. You do not have to do so but this information would be helpful to us. All of the information you give will be treated with the strictest of confidence and will be used for monitoring purposes only.

**Are you:**

Male   
Female

**What is your age group?**

15 and under  16-24  25-39  40-59  60-64   
65-74  75+

**Do you have any long standing illness or disability?**

(Long standing means anything that has troubled you over a period of time or that is likely to affect you over a period of time)

Yes   
No

If yes, does this illness or disability limit your activities in any way?

Yes   
No

Please state the impairment type(s) which applies to you:

Mobility

- Visual impairment
- Hearing Impairment/Deaf
- Mental Health diagnosis
- Other
- Prefer not to say

**What is your ethnic group?**

**A. White**

- British
- Irish
- Other  Please state .....

**B. Mixed**

- White and Black Caribbean
- White and Asian
- White and Black African
- Any other mixed background  Please state .....

**C. Asian or Asian British**

- Indian
- Bangladeshi
- Pakistani
- Any other Asian background  Please state .....

**D. Black or Black British**

- Caribbean
- African
- Any other Black background  Please state .....

**E. Chinese**

- F. Any other ethnic group**  Please state .....

**What is your sexual orientation?**

- Bisexual
- Gay Man
- Gay women/lesbian
- Heterosexual/straight
- Other
- Prefer not to say

**What is your religion? (Tick one box only)**

- None
- Christian
- Buddhist
- Hindu
- Jewish
- Muslim
- Sikh

Any other religion  
Prefer not to say

Please state. ....

## Appendix Three

### Assessment Criteria

The following criteria will be taken into account in deciding what action, if any, ~~to~~ take:

1. Has the complainant submitted enough information to satisfy the Monitoring Officer that the complaint should be referred to the ~~for the Standards Committee~~ Assessment Sub-Committee and, when the Assessment Sub-Committee is considering a complaint, has the complainant submitted enough information to satisfy it if appropriate, ) that the complaint should be referred for ~~investigation~~ investigation? ~~or other action?~~

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If not:

The information provided is insufficient to make a decision. So unless, or until, further information is received, no further action will be taken on the complaint.

2. Is the complaint about someone who is no longer a member of the Council, but is a member of another authority? If so, should the complaint be referred to the monitoring officer of that other authority?

If yes:

The complaint will be referred to the monitoring officer of that other authority to consider.

3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If yes:

There may be nothing more to be gained by further action being taken.

4. Is the complaint about something which happened so long ago that there would be little benefit in taking action now?

If yes:

Further action may not be warranted.

**5. Does the complaint appear too trivial to justify the cost or inconvenience of further action?**

If yes:

Further action will not be warranted.

**6. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?**

If yes:

Further action will not normally be warranted.

**7. Is the complaint anonymous?**

If yes:

No action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.

## Appendix Four

### CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

#### PROCEDURE FOR INVESTIGATION OF COMPLAINTS

##### 1. Introduction

1.1 Where the ~~Monitoring Officer or Standards Committee~~Assessment Sub-Committee has decided to —refer a complaint about a member for investigation, the Monitoring —Officer must then arrange for an Investigating Officer to investigate and —prepare a report.

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1.2 The following is the procedure which will normally be followed in such investigations, although the Monitoring Officer may vary the procedure in any particular case if he/she considers this desirable in the interests of justice or fairness or the effective conduct of the investigation.

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##### 1.3. Interpretation

1.3.1 “Member” means the Member of Sunderland City Council or Hetton Town Council who is the subject of the complaint.

1.3.2 “Investigating Officer” means the person appointed by the Monitoring Officer to undertake the investigation.

1.3.3 “Complainant” means the person who has made the complaint against the Member.

1.3.4 “Sub - Committee” means ~~the Standards Committee or any Sub-Sub-Committee~~Committee to which ~~the Standards Committee~~it has delegated the conduct of the hearing.

— 1.3.5 “Legal adviser” means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the Authority, or someone appointed for this purpose from outside the Authority.

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##### 2 Action Following Decision to Investigate

###### 2.1 Appointment of Investigating Officer

Where the ~~Monitoring Officer or the Standards Committee~~Assessment Sub-Committee decides that an allegation should be investigated, the Monitoring Officer will appoint an Investigating Officer and instruct him/her to investigate the allegation and produce a report thereon. The Investigating Officer may be an officer of the authority (including the Monitoring Officer), an officer of another local authority, or an external person.

- 2.2 The Investigating Officer may appoint persons to assist him/her and may obtain such professional advice as may be necessary for the conduct of the investigation.
- 2.3 The Monitoring Officer will notify in writing the Member and the Complainant and the Independent Person(s) that an investigation is to be undertaken and will confirm
- 2.3.1 the identity of the Complainant;
  - 2.3.2 the conduct which is the subject of the allegation;
  - 2.3.3 the section(s) of the Code of Conduct which appear(s) to be relevant to the allegation;
  - 2.3.4 the identity of the Investigating Officer.

The Monitoring Officer will at the same time also notify the Clerk to the Town Council of these matters if the Member is a Town Councillor.

- 2.4 The Monitoring Officer may withhold some or all of this information from the Member if the Complainant has demonstrated exceptional reasons as to why such information may be withheld or where disclosure of details of the complaint to the Member at this stage of the process might prejudice the investigation.

In most cases, it will become necessary at some point for the Member to be informed of the identity of the Complainant and in all cases, for the Member to be informed of the nature of the allegations. The ~~Monitoring Officer~~[Assessment Sub -Committee](#) will decide whether and at what stage this information will be provided to the Member.

- 2.5 Initial response of the Member

In notifying the Member of the referral for investigation, the Monitoring Officer shall also request the Member to notify the Investigating Officer in writing, within 10 working days, of the following:

- 2.5.1 whether the Member admits or denies the alleged breach of the Code;
- 2.5.2 any initial comment, explanation or representations which the Member wishes to make in relation to the allegation;
- 2.5.3 any documents the Member would wish the Investigating Officer to take into account in the investigation, where possible providing copies of these documents, and advising where the originals can be inspected;
- 2.5.4 the name, address and telephone number (or other contact details) of any person whom the Member would



wish the Investigating Officer to interview in the course of the investigation, and the relevance of that person;

2.5.5 any information the Member would wish the Investigating Officer to seek from any person or organisation;

2.5.6 any other information which the Member considers might be relevant to or assist the investigation.

## 2.6 Supporting information from the Complainant

When notifying the Complainant that the matter has been referred for investigation, the Monitoring Officer shall also request that person to notify the Investigating Officer in writing within 10 working days of:

2.6.1 any documents which he/she would wish the Investigating Officer to take into account in the investigation, where possible providing copies of these documents, and advising where the original documents may be inspected;

2.6.2 the name, address and telephone number (or other contact details) of any person whom the Complainant would wish the Investigating Officer to interview in the course of the investigation and the relevance of that person;

2.6.3 any information which the Complainant would wish the Investigating Officer to seek from any person or organisation;

2.6.4 any additional information which the Complainant has and which might be relevant to, or assist, the investigation.

## 3. Conduct of Investigation

3.1 The purpose of the investigation is to enable the Investigating Officer to prepare a report which will provide sufficient information to determine whether the Member has acted in breach of the Code of Conduct and, where there has been a breach, whether any action should be taken, and if so, what action.

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3.2 The Investigating Officer will conduct the investigation in such manner as he/she considers best able to ascertain all relevant facts and to achieve the purpose of the investigation, having regard to the rules of natural justice and the need for fairness.

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3.3 The Investigating Officer will be entitled to seek all relevant information (including documents) that appears necessary or expedient to the conduct of the investigation and can make enquiries of any person believed to have such information, including the Member, the Complainant, other Members or officers of the Council and third

parties. All such persons will be expected to co-operate fully with the Investigating Officer and respond properly to such enquiries and provide such information as they can and to attend for interview by the Investigating Officer if requested.

- 3.4 The Investigating Officer will be able to seek information in such manner as he/she thinks appropriate, which may include in writing, by telephone or email, or in person. He/she will attempt to arrange any interviews at a time and place convenient to those concerned.
- 3.5 Any person who appears before the Investigating Officer for interview may be accompanied by a legal representative or friend provided such a person is not a potential witness in the investigation. An interview or telephone conversation may be tape recorded to save time and ensure accuracy, but only with the consent of both the Investigating Officer and the interviewee.
- 3.6 The Investigating Officer may, where he/she considers it appropriate to facilitate the investigation, reimburse any person who provides a document, information or advice with their reasonable costs incurred in so doing.

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#### 3.7 Other Breaches

If during the investigation, the Investigating Officer becomes aware of any other matter which appears to him / her to indicate a breach of the Code by the Member (apart from the breach which he/she is currently investigating), the Investigating Officer shall report the matter to the Monitoring Officer who will provide the Member with details of the matter and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Code. The Monitoring Officer will then determine, [in consultation with the Independent Person and Chairman of the Committee](#), whether the additional matter should also be investigated.

- 3.8 The Monitoring Officer may in certain circumstances defer an investigation if he/she considers it appropriate, for example because it might prejudice some other investigation or court proceedings concerning the matter.

## 4 The Draft Report

- 4.1 On completion of his/her investigation, the Investigating Officer shall prepare a draft report marked 'confidential' setting out:
- 4.1.1 details of the allegation;
  - 4.1.2 the relevant provisions of the Code of Conduct and any relevant Protocol;
  - 4.1.3 the member's response to the allegation (if any);
  - 4.1.4 any relevant information, advice and explanations obtained during the investigation;
  - 4.1.5 a list of any relevant documents;

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- 4.1.6 a list of persons interviewed or from whom information has been sought;
  - 4.1.7 a note of any person or organisation who has failed to co-operate with the investigation and the manner of such failure;
  - 4.1.8 a statement of the Investigating Officer's draft findings of fact, with reasons;
  - 4.1.9 the Investigating Officer's provisional conclusion as to whether the member has failed to comply with the Code of Conduct, with reasons;
- 4.2 The draft report will also state that it does not necessarily represent the Investigating Officer's final finding, and that he/she will produce a final report once he/she has considered any comments received on the draft report.
- 4.3 The Investigating Officer shall send a copy of the draft report, in confidence, to the Member and the Complainant, and request that they send any comments on it to him/her in writing within 10 working days of receipt. This is an opportunity for the Member and Complainant to identify any matters with which they disagree or which they believe require further consideration.
- 4.4 Before issuing the draft report, the Investigating Officer may also send relevant extracts from it, in confidence, to any person on whose evidence he/she has relied in compiling the draft report, and request that they send any comments thereon to him/her in writing within 10 days.

## **5 The Final Report**

- 5.1 After the expiry of the period referred to in paragraph 4.3 (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and if appropriate amend his/her draft report in the light of any comments received and expeditiously produce a final report, which will be given to the Monitoring Officer.
- 5.2 The report will state that it represents the Investigating Officer's final findings. The report should have appended to it copies of any significant documents which the Investigating Officer has relied on in reaching his/her conclusions, such as notes of telephone conversations, letters, and notes of interviews and witnesses.

## **6 A Finding of No Breach of the Code - Procedure**

- 6.1 If the Investigating Officer concludes there has not been a breach of the Code, the Monitoring Officer will consider whether he/she is satisfied that the Investigating Officer's report is sufficient and if so, he/she will close the matter, provide a copy of the report to the Member and Complainant, the Independent Person(s) (and the Clerk to the Town Council where the complaint relates to a Town Councillor) and will report the outcome to the Standards Committee for information.

- 6.2 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he or she may ask the Investigating Officer to reconsider his/her report.

The Monitoring Officer may also refer the findings to [a Hearing Sub-Committee](#)~~the Standards Committee~~ to decide if a hearing is nevertheless called for, if he or she considers it appropriate, after consulting the Independent Person(s).

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- 6.3 Where the ~~Sub-standards~~ Committee considers the report in accordance with paragraph 6.2 above, it shall, after considering any views put forward by the Independent Person(s), make one of the following findings:

- ~~— that it accepts the Investigating Officer's finding that the~~
- ~~— member has not failed to comply with the Code of~~
- ~~— Conduct as set out in the allegation; or~~
- ~~— that the matter should be considered at a hearing of the~~  
~~Standards Committee by the Hearing Sub-Committee~~

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Where the ~~Sub-~~Committee accepts the Investigating Officer's finding that there was no failure to comply with the Code of Conduct, the Monitoring Officer shall send a written notice of that finding and the reasons on which it was based, to the Member and the Complainant, the Independent Person(s) (and the Clerk to the Town Council, where appropriate).

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- ~~6.4 Where the ~~Sub-~~Committee finds that the matter should be considered at a full hearing or the Investigating Officer's report contains a finding that the Member did fail to comply with the Code of Conduct, the Monitoring Officer shall arrange for the matter to be considered at such a hearing in accordance with the Procedure for Hearings.~~

~~The Monitoring Officer must ask the Member whether he/she agrees to publication of a notice of the finding.~~

- ~~6.5 Where the Committee finds that the matter should be considered at a full hearing or the Investigating Officer's report contains a finding that the Member did fail to comply with the Code of Conduct, the Monitoring Officer shall arrange for the matter to be considered at such a hearing in accordance with the Procedure for Hearings.~~

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## 7 A Finding of a Breach of the Code – Procedure

- 7.1 If the Investigating Officer finds there has been a failure to comply with the Code, the Monitoring Officer will provide a copy of the report to the Member, the Complainant, the Independent Person(s), the Chair of the Standards Committee (and the Clerk to the Town Council where the complaint relates to a Town Councillor) and will either refer the matter for local hearing before [a Hearing Sub-Committee of](#) the Standards Committee and/or seek local resolution.

7.2 There may still be an opportunity for local resolution, avoiding the necessity of a hearing. An investigation report may cause the Member to recognise that his/her conduct was at least capable of giving offence, or identify other appropriate remedial action, and the complainant may be satisfied by recognition of fault and an apology or other remedial action. At this stage, the Monitoring Officer may only seek to agree a local resolution after consultation with the Independent Person(s) and where the Complainant is satisfied with the outcome. If local resolution is agreed, any arrangements for holding a hearing will be discontinued. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action. Where appropriate, the Clerk to Hetton Town Council will also be notified.

7.3 If local resolution is not possible, the Monitoring Officer will refer the matter to ~~the~~ a Hearing Sub-Committee of the Standards Committee for hearing.

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## CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

### PROCEDURE FOR HEARING OF COMPLAINTS

#### A Pre-Hearing Process

##### 1 Introduction

1.1 The following is the procedure which will normally be followed by a Hearing Sub-Committee of ~~—~~ Sunderland City Council's Standards Committee when hearing ~~—~~complaints that a Member has breached the Code of Conduct.

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##### 1.2 Interpretation

1.2.1 "Member" means the Member of Sunderland City Council or Hetton Town Council who is the subject of the complaint.

1.2.2 "Investigating Officer" means the person appointed by the Monitoring Officer to undertake the local investigation.

1.2.3 "Complainant" means the person who has made the complaint against the Member.

1.2.4 "Legal adviser" means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Authority, or someone appointed for this purpose from outside the Authority.  
~~"Committee" means the Standards Committee or any Sub-Committee to which it has delegated the conduct of the hearing.~~

~~—~~ 1.2.5 "Legal-Sub-Committee adviser" means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Authority, or someone appointed for this purpose from outside the Authority. Hearing Sub-Committee of the Standards Committee, to which it has delegated the conduct of hearings.

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##### 2 Notification to Member

2.1 The Monitoring Officer shall send a copy of the Investigating Officer's final investigation report to the Member, the Complainant, the Independent Person(s) and the clerk to the Town Council if appropriate.

2.2 When the Monitoring Officer sends the final investigation report to the Member, he / she will ask for a written response from the Member within 10 working days indicating whether the Member

- 2.2.1 disagrees with any of the findings of fact in the investigation report, including reasons for that disagreement;
- 2.2.2 wants to be represented at the hearing by a solicitor, barrister or any other person (if the Member wishes to have a non-legal representative, the Member must obtain the Sub-Committee's consent);
- 2.2.3 wants to give evidence to the Standards-Sub-Committee, either verbally or in writing;
- 2.2.4 wants to call relevant witnesses to give evidence to the Standards-Sub-Committee;
- 2.2.5 wants any part of the hearing to be held in private including \_\_\_\_\_ reasons for that request;
- 2.2.6 wants any part of the investigation report or other relevant documents to be withheld from the public, including reasons for that request.
- 2.2.7 can attend the hearing on the proposed date;

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2.3 The Monitoring Officer will also inform the Member that if, at the meeting of the Standards-Hearing Sub-Committee, he/she seeks to dispute any matter contained in the report, without having previously notified his/her intention to do so, the Standards-Sub-Committee may either adjourn the meeting to enable the Investigating Officer to provide a response, or refuse to allow the disputed matter to be raised.

2.4 The Monitoring Officer may agree an extension of the period of time 2.4 for provision of a response.

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### 3 Investigating Officer's response

3.1 Upon expiry of the period referred to above (or such extended period as the Monitoring Officer may allow), the Member's written response shall be forwarded to the Investigating Officer, who will be invited to comment on the Member's response within 10 working days and to say whether he or she:

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- 3.1.1 wants to be represented at the hearing (although the Investigating Officer will be expected to attend the hearing in any event).
- 3.1.2 wants to call relevant witnesses to give evidence to the Standards-Sub-Committee.
- 3.1.3 wants any part of the hearing to be held in private, including \_\_\_\_\_ reasons for that request.

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3.1.4 wants any part of the Investigation Report or other relevant documents to be withheld from the public, including reasons for that request.

The Monitoring Officer may agree an extension of the period of time for provision of a response.

3.2 Upon receipt of the responses, the Monitoring Officer will liaise with the Chair of the Standards Committee regarding the arrangements for a meeting of ~~the a Hearing Sub-~~Committee to consider the complaint. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, following advice from the legal advisor, the Chair may limit the number of witnesses if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses or else will not provide evidence that will assist the Sub-Committee to reach its decision.

3.3 Nothing in this procedure shall prevent the Chair from requesting the attendance of additional witnesses whose evidence he/she considers would assist the Sub-Committee.

#### **4 Convening of ~~Standards-Hearing Sub-~~Committee**

4.1 The Monitoring Officer, in consultation with the Chair of the Standards Committee will then write to the Member, the Complainant and the Independent Person(s) to

- Confirm a date, time and place for the hearing
- Confirm the main findings of fact in the Investigation Report that are agreed;
- Confirm the main findings of fact in the Investigation Report that are not agreed;
- Confirm the names of any witnesses who will be asked to give evidence, subject to the power of the Standards-Hearing Sub-Committee to make a ruling on this at the hearing; and
- Outline the proposed procedure for the hearing, identifying which parts, if any, may be considered in private

4.2 Where the Chair of the Standards Committee considers that the investigation report and/or any of the written statements in response are likely to disclose any exempt information and in consequence that it is likely that the Standards-Sub-Committee will, during consideration of these matters, not be open to the public, he/she shall instruct the legal adviser not to provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.

#### **B The Hearing – General Information**

#### **5 Conduct of the Hearing**

5.1 The Sub-Committee shall decide, on the balance of probability, whether the grounds of the complaint are made out. Each Member of



the Sub-Committee, other than the representatives of Hetton Town Council who are non-voting co-opted Members, shall have one vote and all matters/issues shall be decided by a simple majority of votes cast. The Chair has a casting vote.

4.2 The meeting of the Sub-Committee will be open to the public and press except when confidential information or exempt information under Schedule 12A Local Government Act 1972 is likely to be disclosed and during the deliberations of the Standards Sub-Committee referred to in PParagraphs 13-15 and 1517.

There will be a presumption that the Hearing will be held in public where possible to make sure that the hearing process is open and fair. If appropriate, arrangements may be made for the hearing to be held in public but for certain documentation to remain confidential where they contain exempt or confidential information.

## 6 Independent Person

6.1 The Independent Person(s) will be invited to attend any meetings of the Standards-Hearing Sub-Committee to conduct a hearing into a complaint. His/her views must be sought and taken into consideration before the Sub-Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

6.2 Where an Independent Person considers that they may have a conflict of interest (e.g. due to the nature of information provided to them by the Member or because they are a close associate of the Complainant) it will be appropriate for them to indicate that they consider they have a conflict and to decline to attend the hearing or submit any further comments in response to the Council's consultation with them.

## 7.0 7 Role of the Legal Adviser

7.1 The Legal Adviser has a key role in ensuring the smooth running of the pre-hearing and hearing process. He/she will remain neutral throughout and will provide independent advice to the Hearing Sub-Committee.

## 8. Role of the Complainant

8.1 The role of the complainant will usually be limited to being a witness for the Investigating Officer and they are not a party to the proceedings. However, the Hearing Sub-Committee may wish to consult him/her at any stage in the hearing if it feels that his/her comments would assist it.

## 9. Representation

9.1 The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Sub-Committee, another person.

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## **810 Legal advice**

**810.1** The Sub-Committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Sub-Committee should be shared with the Member and the Investigating Officer if they are present.

## **911 ~~Non-attendance~~Non-attendance by the Member**

**911.1** If the Member does not attend the hearing, the Sub-Committee may consider the Investigating Officer's report in the Member's absence. If the Sub-Committee is satisfied with the Member's reason for not being able to attend the hearing, it may arrange for the hearing to be held on another date. Where the Sub-Committee proceeds in the Member's absence, this procedure shall be adapted as necessary, giving any representative of the Member who is present, such rights as would have been given to the Member.

## **C The Hearing – Order of Proceedings**

### **4012 Setting the scene**

**4012.1** After everyone involved in the hearing has been formally introduced, the Chair should explain how the Sub-Committee is going to conduct the hearing.

**4012.2** The Chairman may at his/her discretion make changes to the procedure as he/she thinks fit in order to ensure a fair and efficient hearing.

### **4413 Preliminary procedural issues**

**4413.1** The Sub-Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

**4413.2** The Chairman may invite the Investigating Officer and/or the Member to make representations as to why the Committee should exclude the press and public. Where the Sub-Committee decides that it will not exclude the press and public, the Governance Services Officer shall provide copies of the agenda and reports to any Members of the press and public who are present.

### **4214 Evidence and Questioning**

**4214.1** The Investigating Officer will present his/her case and if there is any disagreement as to the facts of the case, the Investigating Officer will be invited to support the relevant findings of fact in the report, calling supporting witnesses, as agreed by the Chair.

- | [4214.2](#) The Member will be given the opportunity to ask questions of the Investigating Officer and any witnesses called by the Investigating Officer.
- | [4214.3](#) The [Sub-Committee](#) may ask questions of the Investigator and the witnesses.
- | [4214.4](#) The Member will present his/her case and if there is any disagreement as to the facts of the case, the Member will be invited to support his/her version of the facts by calling supporting witnesses, as agreed by the Chair.
- | [4214.5](#) The Investigator will have the opportunity to ask questions of the Member and his/her witnesses.
- | [4214.6](#) The [Sub-Committee](#) may ask questions of the Member and his/her witnesses.
- | [4214.7](#) At any time, the [Sub-Committee](#) may question any of the people involved or any of the witnesses.
- | [4214.8](#) If the Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the [Sub-Committee](#) will consider whether it would be in the public interest to continue in their absence.  
  
After considering the Member's explanation for not raising the issue at an earlier stage and any comments of the Investigating Officer if present, the [Sub-Committee](#) may then:
  - | [4214.8.1](#) continue with the hearing, relying on the information in the Investigating Officer's report or;
  - | [4214.8.2](#) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary or;
  - | [4214.8.3](#) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if they are not already.
- | [4214.9](#) Where appropriate, the Investigating Officer may make representations on behalf of the Complainant to the [Sub-Committee](#).
- | [4214.10](#) The [Sub-Committee](#) may adjourn the hearing on one occasion only to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee.

| **4214.11** The Investigating Officer and then the Member will be invited to make any final comments by way of summing up their representations, before the **Sub-Committee** retires to consider what findings to adopt.

| **4315 Decision by the **Sub-Standards Committee****

| **4315.1** The **Sub-Committee** will consider in private session which of the following findings to adopt:

| **4315.1.1** that there is no evidence of a failure to comply with the Code of Conduct.

| **4315.1.2** that the Member has failed to comply with the Code of Conduct, but that no action needs to be taken.

| **4315.1.3** that the Member has failed to comply with the Code of Conduct and that it is minded to impose a sanction.

It will consult the Independent Person(s) before making its decision.

| **4416 If the Member has not failed to follow the Code of Conduct**

| **4416.1** If the **Sub-Committee** decides that the Member has not failed to follow the Code of Conduct, the **Sub-Committee** can move on to consider whether it should make any recommendations to the Council or Town Council. The **Sub-Committee** will resume the public session and the Chair will announce the Committee's decision and the reasons for it. The Committee will also determine whether there shall be publication of its findings (see paragraph **4719**).

| **4517 If the Member has failed to follow the Code of Conduct**

| **4517.1** If the **Sub-Committee** decides that the Member has failed to follow the Code of Conduct, it will resume the public session and the Chair will announce the **Sub-Committee's** decision and the reasons for it. The Chair will invite the Investigating Officer and the Member to make representations as to:

| **4517.1.1** whether the Committee should apply a sanction;

| **4517.1.2** what form any sanction should take.

| **4517.2** The **Sub-Committee** will then deliberate in private to consider whether to impose a sanction on the Member and, if so, what the sanction should be. The **Sub-Committee** will consult the Independent Person(s) before making its determination.

| **4517.3** The sanctions available to the **Sub-Committee** are set out in paragraph **46-18** below.

| **4517.4** On their return, the Chair will announce the **Sub-Committee's** decision and the reasons for it.

**4517.5** The Sub-Committee will determine whether there should also be publication of a summary of the findings. (See paragraph **4719**)

**4618 Sanctions available to the Sub-Committee**

**4618.1** The Sub-Committee may:

- Issue a formal censure by the Sub-Committee;
- Recommend to full Council, or to Hetton Town Council the issue of a formal censure by the Council or Town Council;
- Refer its findings to full Council, or to Hetton Town Council, for information;
- Publish its findings by such means as the Sub-Committee thinks fit;
- Recommend to the Council, or to Hetton Town Council, that the Member be removed from any or all Committees or Sub-Committees (subject to the approval of the Member's Group if applicable);
- Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to the Council, or to Hetton Town, that the Member be removed from all outside appointments to which she / he has been appointed or nominated by the Council or by Hetton Town Council;
- Instruct the Monitoring Officer to, or recommend that Hetton Town Council, offer training to the Member; or
- Recommend to the Council, or to Hetton Town Council, that it excludes the Member from the Council's offices or other premises or facilities, to the extent desirable and so as not to interfere with the democratic process, in particular the Member's ability to carry out his or her role as an elected Member;
- Such other recommendations as the Committee may think appropriate.

The Standards Committee ~~has and its Sub-Committees have~~ no power to suspend or disqualify the Member or to withdraw or suspend Members' or special responsibility allowances, or to restrict a Member's access to Council resources so that the Member is unable to perform his / her essential role as a councillor.

**4719 Notice of the Sub-Committee's findings**

**4719.1** Within two weeks of the end of the hearing, the Monitoring Officer will circulate a copy of the Sub-Committee's full written decision ("the Decision Notice") to

- (a) the Member
- (b) the Complainant
- (c) the Town Council, if applicable
- (d) the Independent Person(s)

**4719.2** At the same time, subject to **4719.3**, the Monitoring Officer shall make the Decision Notice available for public inspection and shall also arrange for a summary of the findings to be published in such further manner as may be directed by the ~~Standards-Hearing Sub-Committee~~.

**4719.3** Where the ~~Standards-Sub-Committee~~ determines that there has not been a —breach of the Code, the notice referred to in **4719.2** shall state that the —~~Sub-Committee~~ found that the Member had not failed to comply with the —Code and shall give its reasons for that finding. This notice shall not be —published if the Member so requests.

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**4719.4** Where the ~~Standards-Sub-Committee~~ determines that there has been a —failure to comply with the Code of Conduct but no action is required, —the notice specified in paragraph **4719.2** shall:

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**4719.4.1** state that the ~~Standards-Hearing Sub-Committee~~ found that the Member had —failed to comply with the Code of Conduct but that no action —needs to be taken in respect of that failure

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**4719.4.2** specify the details of the failure; and

**4719.4.3** give reasons for the decision reached

**4719.5** Where the ~~Standards-Sub-Committee~~ determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice specified in paragraph **4719.2** shall: —

**4719.5.1** state that the ~~Standards-Hearing Sub-Committee~~ found that the Member had —failed to comply with the Code of Conduct

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**4719.5.2** specify the details of the failure

**4719.5.3** give reasons for the decision reached; and

**4719.5.4** specify the sanction imposed

**4719.6** Copies of the agenda, reports and minutes of a hearing, as well as any —background papers, apart from sections of documents relating to parts —of the hearing that were held in private, will be available for public—inspection for six years after the hearing.

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## **4820 Review**

**4820.1** If a Member is aggrieved by a finding of the ~~Standards Hearing Sub-Committee~~ that —he / she has failed to comply with the Code of Conduct and / or by a —sanction imposed by the ~~sub-committee~~, he / she may request a review by —an Independent Person of another Local Authority whose views, if —critical of the original finding or sanction imposed, will result in the —~~Standards-Sub-Committee~~ being required to reconsider its original decision.

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~~1820.2~~ The Member must send a written request for a review, with their ~~detailed~~ detailed reasons for seeking a review, to the Monitoring Officer, within ~~5~~ 5 working days of receipt of the decision notice, otherwise the decision of the ~~Standards-Sub~~ Standards-Sub-Committee will become final. If a request for a review is received, the decision of the ~~Standards-Sub~~ Standards-Sub-Committee (including all the papers considered by the ~~Standards-Sub~~ Standards-Sub-Committee) will be referred to an Independent Person of a neighbouring Local Authority. The Monitoring Officer will supply such Independent Person with a copy of the report and of the decision of the ~~Sub~~ Sub-Committee, in order that they may carry out their review. The Independent Person will review the case on the information provided and will provide their views to the ~~Standards-Sub~~ Standards-Sub-Committee.

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~~1820.3~~ Upon the receipt of the Independent Person's report, the ~~Standards-Hearing Sub~~ Standards-Hearing Sub-Committee will consider the Independent Person's comments, the ~~reasons~~ reasons submitted for the review by the Member and will determine ~~whether~~ whether to confirm its original decision, amend the decision or ~~substitute~~ substitute it with an alternative decision – this could include concluding ~~that~~ that no breach of the Code occurred.

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~~1820.4~~ No further right of appeal or review of the ~~StandardsSub~~ StandardsSub-Committee's ~~decision~~ decision within the Council is available. However, if the Member or ~~Complainant~~ Complainant considers that the Council has failed to deal with the ~~Complaint~~ Complaint properly, they may make a complaint to the Local ~~Government~~ Government Ombudsman.

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## **Article 9 – The Standards Committee**

### **9.01 Standards Committee**

The Council meeting will establish a Standards Committee.

### **9.02 Composition**

The Standards Committee will be composed of 8 members of the Council and 2 non-voting co-opted members nominated by Hetton Town Council.

### **9.03 Quorum**

The quorum for the Standards Committee shall be two voting members.

### **9.04 Role and Function**

The Standards Committee will discharge all the legal responsibilities imposed upon it and will have the following roles and functions:

1. to promote and maintain high standards of conduct by councillors and co-opted members;
2. to assist the councillors and co-opted members to observe the Members' Code of Conduct;
3. to advise the Council on the adoption or revision of the Members' Code of Conduct;
4. to monitor the operation of the Members' Code of Conduct;
5. to advise, train or arrange to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
6. to grant dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct, so far as not delegated to the Monitoring Officer;
7. to assist and advise Hetton Town Council, if requested and as appropriate, in relation to the discharge of functions 1-6 above;
8. to deal with written allegations that a councillor or co-opted member (or former councillor or co-opted member) of the Council or Hetton Town Council has failed, or may have failed, to comply with the Members' Code of Conduct;



9. to deal with complaints that a councillor or co-opted member has failed, or may have failed, to comply with one of the Council's local protocols;
10. to adopt and amend procedures to be followed for investigations and local determination of complaints;
11. to monitor the operation of the Council's Anti-Fraud and Corruption Policy so far as it relates to the actions of Members of the Council;
12. to consider reports of the Monitoring Officer and of the Local Government Ombudsman where they concern the conduct of Members of the Council;
13. to support the Monitoring Officer in his/her role;
14. to report on the above matters to the Council.

### **9.05 Standards Committee Sub-Committees or Panels**

Sub-Committees or Panels may be convened from within the membership of the Standards Committee in order to deal with any aspect of a complaint that a Councillor has breached the Members' Code of Conduct.

Such Sub-Committees or Panels shall be convened by the Head of Law and Governance and shall comprise of 3 voting members. In addition, one of the Hetton Town Council co-opted members may be invited to participate in a meeting of any such Panel in an advisory capacity, provided they do not have a conflict of interest in the complaint.

