

MEETING: *11 JUNE 2012

**SUBJECT: THE LOCALISM ACT 2011 – THE NEW STANDARDS
REGIME**

REPORT OF THE CLERK TO THE AUTHORITY

1 Introduction and Overview

- 1.1 At its meeting on 30 April, the Authority considered a report from the Governance Committee outlining the changes to the Standards regime made by the Localism Act 2011 (the Act), which are expected to come into force with effect from 1 July 2012. The Authority also recommended that the process for recruitment of two Independent Persons be commenced. Members will recall that this is a new position created by the Act, which provides for Authorities to appoint at least one Independent Person, to be consulted at various stages.
- 1.2 At the time of writing this report, the relevant provisions of the Act, when brought into force, effectively prevent the Independent Person from being a member or co-opted member of the Authority concerned or a person who has been such a member in the five years prior to appointment. Communities and Local Government, (CLG), has indicated however that the transitional arrangements which will be introduced will include the option to appoint an independent member as an Independent Person, if an Authority so wishes, and that this will probably apply for a limited time after the commencement order. It is understood that the advertising requirements under the Act must still be met. At the time of writing, these transitional provisions have not been made available and therefore the position as to whether or not any of the current independent members may be appointed, is uncertain.
- 1.3 There are a number of other issues that must be determined by the Authority regarding the new regime, which are set out in this report for the Authority to consider and make recommendations upon.

2 Duty to promote and maintain high standards of conduct

- 2.1 The Authority will remain under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.

3 Standards Committee

- 3.1 The Act repeals Section 55 of the Local Government Act 2000, which provides for the current statutory Standards Committee, the functions of which are carried out in this Authority by the Governance Committee. Whilst there will be no legal requirement for the Authority to have a Standards Committee, there will still be a need for a group of members to deal with standards issues, consider complaints, should any be received, decide if there has been a breach and if so, what sanction should be imposed.

Such a Committee will be a normal Committee of the Authority, without the unique features which were conferred by the previous legislation, such as the inclusion of voting independent members.

The current Governance Committee comprises six elected members and three independent members. It is proposed that a separate Standards Committee be established, comprised of six elected members of the Authority. (Although the Independent Person is available to be consulted by the Committee, he or she does not sit as a member of the Committee).

The political balance on current figures would be 5:1:0. However, in another report on this agenda, it is proposed that the Authority agree to appoint in the ratio 4:1:1 as an alternate arrangement, in order to provide for all-party representation on the Committee.

Rather than this be a diaried meeting, it will be convened as and when required to undertake business.

Appendix 1 sets out the proposed terms of reference and functions for the new committee.

The Governance Committee will continue to have its existing audit, risk management etc functions, and to approve the annual statements of accounts as under the current arrangements and no changes are proposed to its current composition of six elected members and three independent members, one of whom chairs the committee..

Issue 1 – The Authority must decide whether to have a Standards Committee

Recommendation 1

- A. That the Authority establish a Standards Committee comprised of six elected members with the terms of reference set out in Appendix 1 to this report.**
- B. That the Authority's Standing Orders be amended to reflect the terms of reference of the new Standards Committee and the Governance Committee's terms of reference be amended accordingly.**

4 The Code of Conduct

4.1 The Authority must adopt a code of conduct dealing with the conduct of its elected and co-opted members when acting in that capacity. The code can contain whatever the Authority thinks appropriate, provided it is consistent with the seven Nolan principles (Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership) and that it includes such provision as the Authority thinks appropriate for the registration and disclosure of pecuniary and other interests.

4.2 Since the last meeting of the Authority, two draft Codes have been issued, one, as expected, from the Local Government Association (LGA) and another by CLG, both of which are shown in Appendix 2 to this report.

The LGA describes its draft as a “template code” and states that it has provided this “to assist authorities in thinking about how their new code of conduct should look.” However it remains the LGA’s view that “it is for each council’s locally elected members to decide what the right code will look like in their area”.

CLG describes its document as an “illustrative text” providing “an example of what a local authority’s code of Conduct for the new Standards arrangements might look like.”

Both documents are rather similar and are in very general terms. Although they describe broad principles, they give no clear indication, either for members or the public, about the behaviour expected or what exactly will comprise a failure to comply with the code.

It is suggested that neither draft is very satisfactory.

The Governance Committee previously expressed support for consistent Codes to be adopted by Authorities in the region. At a meeting of local Monitoring Officers in April, there was consensus that a “North East Region Code of Conduct” would be the best option to pursue, subject, of course, to the views of the members of each individual authority. A copy of a proposed Code of Conduct based on the recommended version is attached at Appendix 3.

4.3 Unfortunately, at the time of preparation, the draft regulations on Disclosable Pecuniary Interests (DPIs) were still not available (and indeed are not available at the time of writing this report) and therefore paragraph 12 and Annex 2 of the draft Code will need to be revisited when the regulations are published. If information about the DPIs is not issued in time by the Government, it may be necessary to invite the Authority to voluntarily extend the operation of the existing code until the new Code can be finalised. (It may be that the transitional

arrangements to be introduced by the Government may provide for this to be the case in any event).

Issue 2 – The Authority has to decide what it will include in its Code of Conduct

Recommendation 2:

That the draft North East Region Code at Appendix 3 be agreed as the basis of the new Code of Conduct subject to the Monitoring Officer preparing a final draft for consideration, after taking into account the Government regulations on DPIs and that if such regulations have not been published by the time of the annual meeting, the operation of the existing Code of Conduct be extended until such time as the Authority adopts a new Code.

5 Dealing with Misconduct Complaints

5.1 ‘Arrangements’

The Act requires that the Authority adopt ‘arrangements’ for dealing with complaints of breaches of the Code of Conduct and such complaints can only be dealt with in accordance with such ‘arrangements’. They must therefore set out in some detail the process for dealing with complaints of misconduct and the actions which may be taken against a member who is found to have failed to comply with the relevant Code of Conduct.

5.2 The advantage is that the Act repeals the requirements for separate Referrals, Review and Hearings Sub-Committees, and enables the Authority to establish its own process, which can include delegation of decisions on complaints. Indeed, as the statutory provisions no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it is necessary for Authority to delegate appropriate powers to the Standards Committee and to the Monitoring Officer. The current procedures are somewhat cumbersome and it is proposed that the opportunity be taken to simplify the process and to give increased scope for informal resolution of complaints.

5.3 Decision whether to investigate a complaint

Members may wish to take advantage of the new flexibility to delegate to the Monitoring Officer the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person and the ability to refer particular complaints to the Standards Committee where he / she feels that it would be inappropriate for him / her to take a decision on it, for example where he / she has previously advised the member on the matter or the complaint is particularly sensitive. These arrangements would also offer the opportunity for the Monitoring Officer to seek to resolve a complaint informally, before taking a decision on whether the complaint merits formal investigation.

If this function is delegated to the Monitoring Officer, it is right that he / she should be accountable for its discharge. For this purpose, it would be appropriate that he / she make regular reports to the Standards Committee, which would enable him / her to report on the number and nature of complaints received and draw to the Committee's attention areas where training or other action might avoid further complaints, and also keep the Committee advised of progress on investigations and costs.

In practice, the Standards for England guidance on initial assessment of complaints provided a reasonably robust basis for filtering out trivial and tit-for-tat complaints. The criteria are set out in Appendix 4. It is suggested that the Monitoring Officer (and Standards Committee, where appropriate) should apply this criteria.

5.4 "No Breach of Code" finding on investigation

Where a formal investigation finds no evidence of failure to comply with the Code of Conduct, the current requirement is that this is reported to a Sub-Committee of the Governance Committee and the Sub-Committee takes the decision to take no further action.

In practice, it would be reasonable to delegate this decision to the Monitoring Officer, but with the power to refer a matter to the Standards Committee if he / she feels appropriate. It would be sensible if copies of all investigation reports were provided to the Independent Person to enable him or her to get an overview of current issues and pressures, and that the Monitoring Officer provide a summary report of each such investigation to the Standards Committee for information.

5.5 "Breach of Code" finding on investigation

Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the necessity of a local hearing. Sometimes the investigation report can cause a member to recognise that his or 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. However, it is suggested that at this stage it would only be appropriate for the Monitoring Officer to agree a local resolution after consultation with the Independent Person and where the complainant is satisfied with the outcome, and subject to a summary report for information being provided to the Standards Committee.

In all other cases, where the formal investigation finds evidence of a failure to comply with the Code of Conduct, it would be necessary for the Standards Committee to hold a hearing at which the member against whom the complaint has been made can respond to the

investigation report, and it can determine whether the member did fail to comply with the Code of Conduct and what action, if any, is appropriate as a result.

5.6 Action in response to a Hearing finding of failure to comply with Code

The Act does not give the Authority or its Standards Committee any powers to impose sanctions such as suspension or requirements for training or an apology. So, where a failure to comply with the Code of Conduct is found, the actions which the Authority can take are limited to its common law powers. Case law from before 2000, and a recent leading Counsel's opinion obtained by the Association of Council Secretaries and Solicitors (ACSeS) suggests the sanctions available comprise include the following –

- Standards Committee issuing a formal censure;
- The Authority issuing a formal censure;
- Referral of the Standards Committee findings to the full Authority
- Publication of the Standards Committee's findings by such means as it thinks fit;
- The Authority removing the member from any or all Committees or Sub-Committees for a specified period (subject to the approval of the member's Group if applicable);
- The Authority removing the member for a specified time from all or specified outside appointments to which she/he has been appointed or nominated by the Authority
- The Authority offering training to the member; or
- The Authority excluding the member from the Authority's offices or other premises or facilities, for a specified period and 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.

5.7 Appeals

There is no requirement to put in place any appeals mechanism against decisions of the Standards Committee. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

Whilst there is no requirement for an appeal mechanism, it is known that Newcastle City Council are considering including provision for a member aggrieved by an adverse finding against them to be allowed to ask for the finding and/or sanction to be referred to the Independent Person of another authority for review. The Independent Person would consider whether the finding or sanction was reasonable and if not, give reasons. If they thought the decision unreasonable, the Standards Committee would be required to meet again to reconsider its original

verdict. The Committee may wish to consider incorporating such a proposal in its recommendations.

5.8 Confidentiality

In future, the normal access to information and public access to meeting rules that apply to all formal meetings of the Authority and its committees will also apply to Standards Committee. It will thus be for the new Standards Committee to decide on a case by case basis whether reports and proceedings should be public or whether grounds exist for them to be treated as confidential matters.

5.9 Written Procedures

Once members agree these suggested arrangements, or any variation thereof, it is proposed that the Monitoring Officer will prepare a written version of the arrangements, which will include a standard form of complaint and procedures for the investigation of complaints and the local determination of them. These will be based on the existing procedures with modifications to try to simplify the process whilst retaining all essential elements of fairness and transparency. It is proposed that the new Standards Committee be given delegated power by the Authority to approve such documentation and amend it from time to time as it thinks fit.

Issue 3 – The Authority has to decide what “arrangements” it will adopt for dealing with standards complaints and for taking action where a member is found to have failed to comply with the Code of Conduct.

Recommendation 3 –

- (a) That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- (b) That the Monitoring Officer be given delegated power, after consultation with the Independent Person(s), to determine whether a complaint merits formal investigation and to arrange such investigation. He / she be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he / she be given discretion to refer decisions on investigation to the Standards Committee where he / she feels that it is inappropriate for him / her to take the decision, and to report regularly to Standards Committee on the discharge of this function;**
- (c) That in deciding whether a complaint should be investigated, the Monitoring Officer or Standards Committee as appropriate, take into account the criteria at Appendix 4 and that the Standards Committee be given**

delegated power to amend those criteria from time to time as it thinks appropriate.

- (d) Where an investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be authorised to close the matter (unless he/she considers it appropriate after consulting the Independent Person(s) to refer the findings to the Standards Committee to decide if a hearing is nevertheless called for), providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person(s), and reporting the findings to the Standards Committee for information;
- (e) Where an investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such local resolution is not appropriate or not possible, he / she is to report the investigation findings to the Standards Committee for local hearing;
- (f) That Authority delegate to the Standards Committee such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
- Issuing a formal censure by the Committee;
 - Recommending to the Authority the issue of a formal censure by the Authority;
 - Referral of its findings to the Authority for information;
 - Publication of its findings by such means as the Committee thinks fit;
 - Recommending to the Authority, that the member be removed from any or all Committees or Sub-Committees (subject to the approval of the member's Group if applicable);
 - Recommending to the Authority that the member be removed from all outside appointments to which he / she has been appointed or nominated by the Authority;
 - Instructing the Monitoring Officer to offer training to the member; or
 - Recommending to the Authority that it exclude the member from the Authority'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**
- (g) **That the Authority decide whether to recommend that**
- (i) **there be no provision for appeal against any of the decisions or determinations referred to above or**
 - (ii) **provision be included for a member who is aggrieved by a finding of the Standards Committee that he or she has failed to comply with the Code of Conduct and /or by a sanction imposed by the Committee, to have a right to 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 being required to reconsider its original decision. The Monitoring Officer be authorised to arrange with one of the Council's neighbouring authorities that one of its Independent Persons be made available for this purpose.**
- (h) **That the Monitoring Officer in due course prepare a written version of the agreed Arrangements for publication, to include a template Form of Complaint and procedures to be followed for any investigation or local determination of a complaint and that the new Standards Committee be given delegated power to adopt and amend those procedures from time to time as it thinks appropriate.**

6. The Register of Members' Interests

- 6.1 In previous reports, members were advised that the Act abolishes the concepts of personal and prejudicial interests. Regulations will define DPIs and the Monitoring Officer must keep a Register which must include any DPIs, as well as any other interests which the Authority decides should be registered under its code of conduct.

The intention was to simplify the registration requirements, but in fact the Act extends the requirement for registration of DPIs to cover not just a member's own interests, but also those of the his/her spouse or civil partner, or someone living with him/her in a similar capacity.

The register must be available for public inspection and on the Authority's website.

- 6.2 Failure to register all DPIs within 28 days of becoming a member is a criminal offence, but will not prevent the member from still acting as a member. It will be a criminal offence for a member, without reasonable excuse, to breach the statutory requirements for the registration and

disclosure of DPIs, as will knowingly or recklessly providing false or misleading information in relation to such interests. Any prosecution requires the consent of the Director of Public Prosecutions. On conviction, a member may be fined and/or disqualified for up to five years.

- 6.3 The proposed Code of Conduct at Appendix 3 provides for other interests to be registered. Failure to register these interests would not be a criminal offence, but would be a breach of the Code.
- 6.4 Whilst there is no continuing requirement legally on a member to keep the register up to date, except on re-election or re-appointment, the draft Code at Appendix 3 makes provision for this.

Issue 4 – Preparation of the Registers

Recommendation 4 –

- (a) That the Monitoring Officer prepare and maintain a new register of members' interests to comply with the Act and the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;**
- (b) That the Monitoring Officer ensure that all members are informed of their duty to register interests;**

7. Disclosure of Interests and Withdrawal from Meetings

- 7.1 If a member has already registered a DPI, or sent off a request to the Monitoring Officer to register it (a "pending notification") he or she is not required by the Act to declare it at any meeting where that DPI becomes relevant (although the member is precluded from taking part in the discussion or vote).

Under the Act, it is only where the DPI is not registered, or subject to a pending notification, that a formal declaration must be made at the meeting.

The Authority could however, through the Code, require all interests (i.e. both DPIs and other interests) to be declared, even if registered, so that there is a public record of the interest in relation to a specific item of business. Subject to seeing the DPI regulations, it is suggested that such provision would be appropriate and the proposed Code has been drafted accordingly.

- 7.2 Where a member does make a disclosure of a DPI, they must then notify it to the Monitoring Officer within the next 28 days, so that it can go on the register of interests.
- 7.3 If a member has a DPI in any matter, they must not participate in any discussion of the matter at the meeting or vote on it (unless a dispensation has been obtained).

However, the Act does not require the member to leave the meeting.

- 7.4 A requirement to withdraw from the meeting could be covered by Standing Orders, with a specific requirement in the Code that the member must comply with that Standing Order. (The current Standing Order B42 requires members with a prejudicial interest within the meaning of the current code of conduct to declare the interest and withdraw). Members may feel that it would be appropriate to voluntarily adopt such a requirement. The draft Code makes provision for this.

Issue 5 – What Standing Order should the Authority adopt in respect of withdrawal from meetings for interests?

Recommendation 5 – The Authority be recommended to amend Standing Order B42, with effect from the implementation of the new standards regime, to provide as follows

“A member must withdraw from the meeting room during the whole of the consideration of any item of business in which he or she has a Disclosable Pecuniary Interest, except where permitted to remain as a result of a dispensation”.

8. Sensitive Interests

- 8.1 The Act effectively re-enacts the existing Code of Conduct provisions on Sensitive Interests.

So, where a member is concerned that disclosure of the detail of an interest (either a DPI or any other interest which he or she would be required to disclose) at a meeting or on the register of members' interests would lead to the member or a person connected with them being subject to violence or intimidation, they may request the Monitoring Officer to agree that the interest is a “sensitive interest”.

If the Monitoring Officer agrees, the member then merely has to disclose the existence of an interest, rather than the detail of it, at a meeting, and the Monitoring Officer can exclude the detail of the interest from the published version of the register of members' interests.

9. Dispensations

- 9.1 The provisions on dispensations are significantly changed by the Localism Act.
- 9.2 At present, a member who has a prejudicial interest may apply to Standards Committee for a dispensation on two grounds –
- 9.2.1 That at least half of the members of a decision-making body have prejudicial interests (this ground is of little use

as it is normally only at the meeting that it is realised how many members have prejudicial interests in the matter, by which time it is too late to convene a meeting of the Standards Committee); and

- 9.2.2 That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.
- 9.3 In future, a dispensation will be able to be granted in the following circumstances –
 - 9.3.1 That so many members of the decision-making body have DPis in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
 - 9.3.2 That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - 9.3.3 That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
 - 9.3.4 That, without a dispensation, no member of the Cabinet would be able to participate on this matter
 - 9.3.5 That the authority considers that it is otherwise appropriate to grant a dispensation.
- 9.4 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.
- 9.5 The next significant change is that, where the Local Government Act 2000 required that dispensations be granted by the Standards Committee, the Localism Act gives discretion for this power to be delegated to the Standards Committee or a Sub-Committee, or to the Monitoring Officer. Ground 9.3.1 is reasonably objective, so it may be appropriate to delegate dispensations on this ground to the Monitoring Officer, with an appeal to the Standards Committee, thus enabling dispensations to be granted “at the door of the meeting”. Grounds 9.3.2, 9.3.3 and 9.3.5 are rather more subjective and so it may be appropriate that the discretion to grant dispensations on these grounds remains with Standards Committee.

Issue 6 – What arrangements would be appropriate for granting dispensations?

Recommendation 6 – That the Authority delegate the power to grant dispensations –

- (a) on the Ground set out in paragraph 9.3.1 of this report to the Monitoring Officer with an appeal to Standards Committee, and
- (b) on the Grounds set out in 9.3.2, 9.3.3 and 9.3.5 to the Standards Committee.

10. Recommendations

- 10.1 The Authority is requested to consider the recommendations set out in this report.
- 10.2 If the regulations on DPJs are not available prior to the annual meeting, the Authority may wish to consider extending the operation of its existing Code of Conduct until it adopts a different Code.

Proposed Terms of Reference for Standards Committee

1. to promote and maintain high standards of conduct by the members of the Authority;
2. to assist the members of the Authority to observe the Members' Code of Conduct;
3. to advise the Authority 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 members of the Authority on matters relating to the Members' Code of Conduct;
6. to grant dispensations to 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 deal with written allegations that a member of the Authority (or former member) has failed, or may have failed, to comply with the Members' Code of Conduct.
8. to adopt and amend procedures to be followed for investigations and local determination of complaints.
9. to consider reports of the Monitoring Officer and of the Local Government Ombudsman where they concern the conduct of members of the Authority.
10. to support the Monitoring Officer in his / her role.
11. to report on the above matters to the Authority.

Appendix 2

A. LGA Template

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

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

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

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

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

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

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

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

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

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

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

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

B. CLG Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

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

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the

pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

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

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

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

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

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

Draft Code of Conduct (based on the North East Region Draft Code of Conduct for Members)

The Tyne and Wear Fire and Rescue Authority (“the Authority”) has adopted the following code which has effect from 1 July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Authority when they are acting in that capacity.

This means the code applies whenever you (a) conduct the business of the Authority (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 Authority.

‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Authority 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 Authority officers and other elected members.
2. You must not bully any person (including specifically any Authority 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 Authority.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority, 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 Authority which seeks to regulate the conduct of its elected members or co-opted members and which the Authority 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 Authority, you must act in accordance with the Authority'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:
 - You have the consent of a person authorised to give it; or
 - You are required by law to do so; or
 - 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
 - The disclosure is reasonable and in the public interest and made in good faith.

Registration of Interests

10. Subject to paragraph 12, you must register in the Authority'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;and
 - (b) any other interests held by you as set out in paragraph 12.

(Note: A list of Disclosable Pecuniary Interests as currently defined by regulations is set out in Annex 2)

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 Authority; 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)

11. The following are personal interests for the purposes of paragraph 11(b):
- Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Authority;
 - Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
 - Any business which you are involved in carrying on;
 - Any partnership of which you are a partner;
 - Any employer for whom you work;
 - Any contract for goods, services or works between the Authority and you or any firm of which you are a partner or any company of which you are a remunerated director or in which you hold shares with a value exceeding £25,000 or 1% of its issued share capital;
 - Any person (other than the Authority) who has made a payment to you in connection with you carrying out your duties as an Authority Member;
 - Any land in the Authority's area in which you have a beneficial interest or a licence to occupy;
 - Any land owned by the Authority of which you are the tenant or licensee;
 - Any person from whom you have received within the previous three years the offer of a gift or hospitality with an estimated value of more than £25 (whether or not you accept the offer) which is attributable to your position as an elected or co-opted member of the Authority.
- [Reminder: The above list will need to be reviewed once regulations defining Disclosable Pecuniary Interests are published]*
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. Where you attend a meeting of the Authority, or one of its committees or sub-committees, and you are, or ought reasonably to be, aware that any of your personal 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. Where you attend a meeting of the Authority, or one of its committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 15 to a greater extent than most inhabitants of the area affected by the decision, then 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. For the purposes of this paragraph, any offer of a gift or hospitality which has been declined shall not be treated as a personal interest and need not be declared.
15. The persons referred to in paragraph 15 are:
 - (a) a member of your family;
 - (b) any person with whom you have a close association;
 - (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

 - “A member of your family” means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
 - You will have a “close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them)
16. When you attend a meeting of the Authority, 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) :

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

(Note: Failure, without reasonable excuse, to comply with paragraph 16 is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)

17. You must comply with any standing order adopted by the Authority 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.

Annex 1 to Code of Conduct

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.

Annex 2 to Code of Conduct

Disclosable Pecuniary Interests

[To be inserted once regulations defining DPIs are published]

Annex 3 to Code of Conduct

Associated Protocols

The Authority has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Authority has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

[Insert here names of any relevant Protocols]

Appendix 4

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 (or the Standards Committee if appropriate) that the complaint should be referred for investigation or other action?**
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.