

**CANNOCK CHASE COUNCIL**

**COUNCIL**

**4 JULY 2012**

**REPORT OF THE MONITORING OFFICER**

**NEW STANDARDS REGIME**

**KEY DECISION – NO**

**1. Purpose of Report**

- 1.1 To consider the recommendations to the Council of the Standards Committee and the Monitoring Officer on the new standards regime under the Localism Act 2011.

**2. Recommendation**

- 2.1 That the Council approve the following:

- (a) The Code of Conduct for Members
- (b) The Terms of Reference for the Standards Committee
- (c) The Standards Committee Complaints Procedure
- (d) The Dispensations Process
- (e) A new Council Procedure Rule 11A

As set out in the Annexes to this report.

- 2.2 That the Council appoints a Chairman and Vice Chairman of the Standards Committee.
- 2.2 That the Council consider inviting the Town and Parish Councils in the District to form a joint Standards Committee with this Council.

**3. Summary (inc. brief overview of relevant background history)**

- 3.1 The Localism Act, 2011(the Act) abolished Standards for England and made significant changes to the standards provisions for Local Authorities. On 8 June 2012 the commencement order was laid before parliament bringing these changes into effect on 1 July 2012. At the same time regulations were made defining “disclosable pecuniary interests” which is a new class of interests under the Localism Act. The Act creates criminal offences arising from disclosable pecuniary interests.
- 3.2 It is necessary for the Council to put in place a new code of conduct and arrangements for dealing with breaches in order to comply with the Localism Act. The Standards Committee has considered the provisions of the Act and has recommended the adoption of the documents set out in the Annexes to this report.

**4. Key Issues and Implications**

4.1 The Statutory Model Code of Conduct has been abolished by the Localism Act and the Council is free to adopt its own choice of Code of Conduct provided it conforms with the 7 general principles set out in the Act. The Standards Committee considered various options for the form of the new Code of Conduct. It concluded that a Code following the form of the current Code would be the preferred option so that existing training and guidance remained relevant. A Code has been drawn up based on the existing Code, but adapted to meet the needs of the Localism Act. The draft is attached as Annex 1. Members will note that the section on disclosable pecuniary interests is not part of the code but has been included for completeness and to ensure Members have a source of ready reference on the criminal regime imposed by the Act. The main changes to the Code are:-

- (a) The General Principles have been reduced from 10 to 7 in accordance with the provisions of the Act.
- (b) The Code no longer applies to Members' conduct in their private lives in any circumstances. The provisions which allowed the Code to apply to Members' private lives have been repealed and the Council can only regulate the conduct of Members in their official capacity
- (c) What were previously classed as "prejudicial interests" are now "pecuniary interests" to bring them into line with the new terminology in the Act. The substance of what constitutes a personal or pecuniary interest has not changed.
- (d) The rule requiring Members to leave the room during discussion and voting on matters in which they have a pecuniary interest has been moved to the Council Procedure Rules to comply with the Act.
- (e) As there is no longer a statutory requirement for a Member who participated in a decision to leave the room during a Scrutiny Committee's discussion of it, the rule has been amended to allow the Chairman to exclude the Member from the meeting, but the Member may be allowed to stay to listen to the Scrutiny Committee's deliberations if the Chairman considers it appropriate
- (f) A new section has been added on "disclosable pecuniary interests". This is not part of the Code, but is a statement of the legal position under the Act. As the Act creates criminal offences, this will be a useful guide to members without referring back to the Act and Regulations.

It will be open to the Council to modify the Code at any time in the future as it is no longer required to follow a statutory model.

4.2 The Standards Committee considered the form the Committee should take in the future. There is no requirement for the Council to have a Standards Committee, but it must have in place arrangements for dealing with complaints. The Standards Committee considered that the continuation of a Standards Committee was the best way to achieve this. Attached as Annex 2 is a draft new terms of reference for the Standards Committee. The form of the Standards Committee is not prescribed by statute and the Council is free to adopt its own form of committee. The draft terms of reference are based on the current form, but modified to take into account the provisions of the Act. The main amendments are:

- (a) The Terms of Reference provide for non-voting Parish / Town Council Members. The status of the Parish / Town Councillors as voting members of the Committee derives from the provisions of the Local Government Act, 2000, which have now been repealed. The general law does not allow co-opted members to have voting rights on committees. As the new arrangements must include provision for dealing with complaints about Parish / Town Councillors, the Standards Committee were keen to see the continued involvement of Parish / Town Councillors on the committee. The only way this can be achieved without a joint committee is to have them as non-voting members.
  - (b) There are no Independent Members on the proposed committee. The Localism Act provides that the Council must appoint at least one Independent Person to be consulted on standards matters, but does not require or allow Independent voting members of the committee. It is, therefore, proposed to invite the Independent Persons to attend the committee as non-voting members to retain their involvement. This necessarily involves a change to the Chairmanship of the committee as a non-voting member cannot chair a Committee as they must be able to exercise the casting vote. The Committee will have to be chaired by a Member of the Council.
- 4.3 The Council is required to have procedures in place for dealing with complaints of breach of the Code. A draft Complaints procedure is attached as Annex 3. The procedure allows for resolution of complaints through informal procedures wherever possible, including after investigation. This will, hopefully, reduce the cost and time involved in dealing with complaints while allowing serious issues to come before the Standards Committee for hearing.
- 4.4 The Standards Committee will also have the power to grant dispensations to District Councillors who have a pecuniary interest. A draft procedure for granting dispensations is attached as Annex 4. The Committee will not deal with dispensations to Parish / Town Councillors, as this power is given to the Parish / Town Councils themselves. The procedure allows straightforward dispensations to be dealt with by the Monitoring Officer, but more complex issues involving discretion to be dealt with by the Committee.
- 4.5 The previous provisions excluding a member from staying in the room during discussion of a matter in which they have a prejudicial interest have been repealed and replaced with a power to make a standing order to that effect. A new Rule 11A in the Council Procedure Rules, set out in Annex 5, is proposed to deal with this.
- 4.6 The new Standards Committee will be dealing with complaints about Parish / Town Councillors, but under the proposed arrangements there will be no voting Parish / Town Councillors on the Committee and this would include a Committee or Sub-Committee conducting a hearing. The Standards Committee did not consider this to be satisfactory. The only solution appears to be to establish a joint Standards Committee of the District and all Parish / Town Councils. On such a joint committee all members - District or Parish / Town - would have voting rights allowing the full involvement of the Parish / Town members. This would only be practicable if all Parish / Town Councils agreed to be involved. If the Council agrees that this is the best way forward, an invitation could be sent to all Parish / Town Councils to participate in a joint Standards Committee.

**5. Conclusion(s) and Reason(s) for the Recommendation(s)**

- 5.1 The Council will be required to adopt a new code of conduct for members and new procedures to deal with complaints and dispensations to comply with the Localism Act. The form of the code and procedures is the Council's choice so long as it complies with the principles set out in the Act. The report sets out the Standards Committee's recommendations on these matters.

**6. Report Author Details**

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**SCHEDULE OF ADDITIONAL INFORMATION**

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**Section 1**

**Contribution to Council Priorities**

The promotion of ethical behaviour contributes to all the Council's priorities

**Section 2**

**Contribution to Promoting Community Engagement**

None

**Section 3**

**Financial Implications**

None

**Section 4**

**Legal Implications**

The legal implications are set out throughout the report.

**Section 5**

**Human Resource Implications**

There are no human resource implications arising from this report.

**Section 6**

**Section 17 (Crime Prevention) Implications**

There are no identified Section 17 (Crime Prevention) implications arising from this report.

**Section 7**

**Human Rights Act Implications**

There are no identified implications in respect of the Human Rights Act 1988 arising from this report.

**Section 8**

**Data Protection Act Implications**

There are no identified implications in respect of the Data Protection Act arising from this report.

**Section 9**

**Risk Management Implications**

There are no risk management implications arising from this report

**Section 10**

**Equality and Diversity Implications**

There are no equality and diversity implications arising from this report

**Section 11**

**List of Background Papers**

None.

**Section 12**

**Report History**

None

**Annexes**

Annex 1	Draft Code of Conduct
Annex 2	Draft Terms of Reference for Standards Committee
Annex 3	Draft Complaints Procedure
Annex 4	Draft Dispensations Procedure
Annex 5	Draft Council procedure Rule 11A

# Code of Conduct for Members

## GENERAL PRINCIPALS

The following principles of conduct in public life are set out in the Localism Act 2011 as the basis of the Code of Conduct and members should have regard to them in their conduct as members of the Council:

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership

## PART 1

### GENERAL PROVISIONS

#### 1. INTRODUCTION AND INTERPRETATION

1.1 This Code applies to you as a Member of Cannock Chase District Council.

1.2 You should read this Code together with the general principles set out above which are part of the code.

1.3 It is your responsibility to comply with the provisions of this Code.

1.4 In this Code :

“Council” means Cannock Chase District Council

“meeting” means any formal or informal meeting of

- (a) the Council
- (b) the Executive (Cabinet)

- (c) any of the Council's or the Cabinet's committees, sub- committees, joint committees, joint sub-committees, or area committees
- (d) Members, with or without Officers present, to discuss or consider the discharge of the Council's functions;

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

## **2. SCOPE**

2.1 Subject to sub-paragraphs 2.2 to 2.3, you must comply with this code whenever you:

- (a) conduct the business of the Council (which, in this Code, includes the business of any office of the Council to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of the Council,
- and references to a your official capacity are construed accordingly.

2.2 Subject to sub-paragraph 2.3, this Code does not have effect in relation to your conduct other than where it is in your official capacity.

2.3 Where you act as a representative of the Council on any other body, you must, when acting for that other body, comply with the Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **3. GENERAL OBLIGATIONS**

3.1 You must treat others with respect

3.2 You must not:-

- (a) do anything which may cause the Council to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:
  - i. a complainant,
  - ii. a witness, or
  - iii. involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with this Code of Conduct; or
- (d) do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3.3 You must not:-

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
  - i. you have the consent of a person authorised to give it;
  - ii. you are required by law to do so;
  - iii. the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is :
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the Council
- (b) prevent another person from gaining access to information to which that person is entitled by law.

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

3.5 You:

- (a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the Council:-
  - i. act in accordance with the Council's reasonable requirements; and
  - ii. ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

3.6 When reaching decisions on any matter you must have regard to any relevant advice provided too you by:

- (a) the Council's Chief Finance Officer, or
- (b) the Council's Monitoring Officer

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

3.7 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

**PART 2**  
**INTERESTS**

**1 NOTIFICATION OF INTERESTS**

- 1.1 In addition to the disclosable pecuniary interests notifyable under the Localism Act 2011, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the following descriptions, for inclusion in the register of interests.
- 1.2 You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
  - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of council tax payers, ratepayers, or inhabitants of the electoral ward affected by the decision
- 1.3 A relevant person for the purpose of this Code is—
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- c) any body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in paragraph 1.2(a)(i) or (ii).

- 1.4 You must, within 28 days of becoming aware of any new interest or change to any interest registered under paragraph (1), or as a disclosable pecuniary interest notify the Monitoring Officer of the details of that new interest or change.

## **2 DISCLOSURE OF INTERESTS**

- 2.1 Subject to sub-paragraphs (2) to (5), where you have a personal interest described in paragraph 1 above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 2.2 You have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward affected by the decision;
- 2.3 Where you have a personal interest in any business of your authority which relates to or is likely to affect a body described in paragraph 1(2)(a)(i) or 1(2)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 2.4 Where you have a personal interest but, by virtue of paragraph 4, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 2.5 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

**3 REGISTER OF INTERESTS**

Any interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

**4 SENSITIVE INTERESTS**

Where you consider that disclosure of the details an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

**5 NON PARTICIPATION IN CASE OF PECUNIARY INTEREST**

5.1 Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the interest is one which:

- (a) affects the financial position of you or a relevant person; or
- (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any relevant person; and

a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest.

5.2 Subject to paragraph 5.3 and 5.4, where you have a pecuniary interest in any business of your authority—

- a) You may not participate in any discussion of the matter at the meeting.
- b) You may not participate in any vote taken on the matter at the meeting.
- c) If the interest is not registered, you must disclose the interest to the meeting.
- d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

Note: In addition Council Procedure Rule X requires you to leave the room where the meeting is held while any discussion or voting takes place.

5.3 Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the

meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

- 5.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of—
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iii) an allowance, payment or indemnity given to members;
  - (iv) any ceremonial honour given to members; and
  - (v) setting council tax or a precept under the Local Government Finance Act 1992.

- 5.5 Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

## **6 INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES**

In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where;

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken,

You may only attend a meeting of the overview and scrutiny committee for the purpose of giving an explanation of the decision or the reasons for it, answering questions or giving other evidence relating to the business, and you must take no other part in the discussion. If requested by the Chairman you must leave the room where the meeting is being held while the Committee debate and vote on the matter.

## DISCLOSABLE PECUNIARY INTERESTS

**This is not part of the Code of Conduct but is an explanation of the law on Disclosable Pecuniary Interests under the Localism Act 2011. Breach of these provisions is not dealt with as a breach of the Code of Conduct but by the criminal law. Breaches of the law may also be breaches of the Code of Conduct and if no action is taken under the criminal law action may be taken on the breach of the Code.**

This note explains the requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

They come into force on 1 July 2012.

### 1. Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

<i>Interest</i>	<i>description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	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 relevant authority—

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

Land

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

Licences

Any licence (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.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

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

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

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

“M” means the person M referred to in section 30 of the Act which reads;

30 *Disclosure of pecuniary interests on taking office*

- (1) *A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.*
- (2) *Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.*
- (3) *For the purposes of this Chapter, a pecuniary interest is a “disclosable pecuniary interest” in relation to a person (“M”) if it is of a description specified in regulations made by the Secretary of State and either—*
  - (a) it is an interest of M's, or*
  - (b) it is an interest of—*

- (i) M's spouse or civil partner,*
- (ii) a person with whom M is living as husband and wife, or*
- (iii) a person with whom M is living as if they were civil partners,*  
*and M is aware that that other person has the interest.*

- (4) *Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).*

"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) of the Act;

"relevant person" means M or any other person referred to in section 30(3)(b) 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.

## **2. Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the authority's website.

## **3. Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2).

#### **4. Non participation in case of disclosable pecuniary interest**

A) If you are present at a meeting of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

1. You may not participate in any discussion of the matter at the meeting.
2. You may not participate in any vote taken on the matter at the meeting.
3. If the interest is not registered, you must disclose the interest to the meeting.
4. If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

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

B) Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

#### **5. Dispensations**

The authority may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

#### **6. Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.

- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## Section 28

### Standards Committee

#### Terms of Reference

1. STATUS

- 1.1 The Standards Committee is a standing committee of the Council with the purpose of determining standards to be observed by Members.

2. MEMBERSHIP AND METHOD OF APPOINTMENT

- 2.1 The Committee will comprise no more than 7 Members appointed by the Council in accordance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning Political Balance.
- 2.2 The Standards Committee may not include the Leader of the Cabinet.
- 2.3 The Council will appoint 8 representatives of the Parish/Town Councils within the District to serve on the Committee as non-voting members.
- 2.4 The Independent Person and any reserve Independent Person may attend any meeting of the Committee as a non-voting member
- 2.5 No more than one Member of the Standards Committee may be a Member of Cabinet.
- 2.6 The Standards Committee may appoint Sub-Committees hearing Panels.
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3. CHAIRMAN AND VICE-CHAIRMAN

- 3.1 The Chairman and Vice-Chairman will be appointed by the Council and shall not be members of the Cabinet.

4. QUORUM

- 4.1 A meeting is not quorate unless at least three members are present.
- 4.2 No Parish/Town Council matter may be discussed unless a Parish Representative is present,

5. Attendance by councillors who are not members of the committee

- 5.1 Any member of the Council may attend meetings of the Committee except when it is considering any confidential business.

6. FREQUENCY OF MEETINGS

- 6.1 Meetings of the Committee will be held quarterly and otherwise as necessary.

7. AGENDA

- 7.1 Prior to the meeting of the Committee, the Monitoring Officer will circulate to all Members of the Council, Agenda and Reports to be considered by the Committee.

8. PROCEEDINGS

- 8.1 The Chief Executive (or his nominee) shall be Clerk of the Committee.
- 8.2 The provisions of Schedule 12 of the Local Government Act 1972, as amended, will apply as appropriate.

9. REPORTS TO COUNCIL

- 9.1 Reports in the form of Minutes detailing action taken under delegated powers and recommendations will be submitted to Council which may accept amend or reject any recommendation but not a resolution of the Committee.

10. FUNCTIONS

- 10.1 To undertake the following functions:
  - a. To promote and maintain high standards of conduct by Members and co-opted Members

- b. To assist Members and co-opted Members to observe the Council's codes of conduct
  - c. To advise Council on the adoption or revision of its code of conduct for Members
  - d. To advise, train or arrange to train Members and co-opted Members on matters relating to the Council's codes of conduct
  - e. To monitor the operation of the Council's codes of conduct
  - f. If requested, consider whether to grant dispensations in relation to a District Councillor or Councillors with a pecuniary interest in a matter proposed for discussion
  - g. Hold hearings into complaints against Councillors and former Councillors of the District and Parish/Town Councils relating to potential breaches of the Code of Conduct which are referred to it.
- 10.2 To deal with any other matter referred to it by Council or the Monitoring Officer.
11. DELEGATED POWERS
- 11.1 The Committee is empowered to deal with any of the functions detailed above.
- 11.2 The Committee is empowered to determine and amend its own procedures for dealing with complaints and holding hearings.



# STANDARDS COMMITTEE COMPLAINTS PROCEDURE

## 1 INTRODUCTION

- 1.1 These procedures set out how a complainant (“Complainant”) may make a complaint (“Complaint”) that an elected or co-opted member of this Council, or of a parish council within its area, (“Councillor”) has failed to comply with their council’s Code of Conduct for Councillors (“Code”).
- 1.2 The procedures also set out how the Council will deal with a Complaint.

## 2 THE CODES OF CONDUCT

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available on the Council’s website and on request from Democratic Services (see contact details below).
- 2.2 Each parish council is also required to adopt a Code of Conduct for Councillors. The parish councils’ Codes are available on request from the respective parish clerk (“Clerk”).

## 3 MAKING A COMPLAINT

- 3.1 In order to ensure that we have all the information which we need to be able to process a complaint, Complaints must be submitted on the Standard Complaint Form, which can be downloaded from the Council’s website and is available on request from Democratic Services (see contact details below).
- 3.2 Complaints must be sent to the Monitoring Officer (see contact details below).
- 3.3 If a Complaint is received other than on the Standard Complaint Form, we will not consider it but we will send the Complainant a copy of the form for completion. If anyone needs assistance completing the form, they can contact Democratic Services (see contact details below).
- 3.4 Complainants should give us their name and a contact address or email address, so that we can acknowledge receipt of the Complaint and keep them informed of its progress. If a Complainant wants to keep their name and address confidential, they should indicate this on the Standard Complaint Form. In this case we would not disclose their name and address to the Councillor without the Complainant’s prior consent. However, the Council does not normally investigate anonymous Complaints or complaints where the Complainant wishes to

remain confidential, unless there is a clear public interest in doing so.

- 3.5 Within 5 working days of receiving a Complaint, the Monitoring Officer will usually:
- 3.5.1 acknowledge receipt to the Complainant;
  - 3.5.2 send a copy of the Complaint to the Councillor, unless the Monitoring Officer considers that this may prejudice investigation;
  - 3.5.3 send a copy of the Complaint to the Clerk (if appropriate).
- 3.6 The Monitoring Officer will keep the Complainant, the Councillor and the Clerk (if appropriate) informed of the progress of the Complaint, unless the Monitoring Officer considers that this may prejudice any investigation.

#### **4 WILL THE COMPLAINT BE INVESTIGATED?**

- 4.1 Where possible and appropriate, the Monitoring Officer will seek to resolve the Complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that their conduct was unacceptable and offering an apology, or other remedial action by the Council or the respective parish council.
- 4.2 The Monitoring Officer will review every Complaint received and, after consultation with the Chairman of the Standards Committee and the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 20 working days of receipt of the Complaint. When the Monitoring Officer has taken a decision, they will inform the Complainant, the Councillor and the Clerk (if appropriate) of their decision and the reasons for that decision.
- 4.3 Where the Monitoring Officer having consulted the Chairman of the Standards Committee and the Independent Person considers it appropriate he/she may refer the matter to an ad-hoc sub-committee of the Standards Committee comprising 3 members together with, where it concerns a town or parish councillor, a town or parish council representative as advisor for a decision whether to investigate the complaint.
- 4.4 Where the Monitoring Officer requires additional information in order to come to a decision, they may ask the Complainant, the Councillor or the Clerk (if appropriate) for such information. Where a Complaint relates to a parish councillor, the Monitoring Officer may also seek the views of the Chairman of the parish council before deciding whether the Complaint merits formal investigation.
- 4.5 If the Complaint alleges criminal conduct or breach of a regulation by any person, the Monitoring Officer has the power to call in the Police and/or other regulatory agencies. In such cases it may be necessary to postpone consideration of the Complaint until the Police or other action has been concluded.
- 4.6 If the Monitoring Officer decides not to investigate a complaint, they will nevertheless report

this to the next ordinary meeting of the Standards Committee and the relevant parish council (if appropriate) for information.

## **5 HOW IS AN INVESTIGATION CONDUCTED?**

- 5.1 If the Monitoring Officer decides that a Complaint merits formal investigation, they will, where appropriate after consultation with the Chairman of the Standards Committee and the Independent Person, appoint an Investigating Officer who may be another officer of the Council, an officer of another Council or an appropriately experienced external investigator.
- 5.2 The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the Complaint and so that the Complainant can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who they need to interview.
- 5.3 The Investigating Officer would normally write to the Councillor and ask them to provide their explanation of events, and to identify what documents the Investigating Officer needs to see and who they need to interview. In exceptional cases, the Investigating Officer may delay notifying the Councillor until the investigation has progressed sufficiently.
- 5.4 At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Councillor, to give them both an opportunity to identify any matter in that draft report which they disagree with or which they believe requires more consideration.
- 5.5 Having received and taken account of any comments on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

## **6 WHAT HAPPENS IF THE INVESTIGATING OFFICER CONCLUDES THAT THERE IS NO EVIDENCE OF A FAILURE TO COMPLY WITH THE CODE OF CONDUCT?**

- 6.1 The Monitoring Officer will review the Investigating Officer's report. If they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will send a copy of the Investigating Officer's final report to the Complainant, the Councillor, the Chairman of the Standards Committee, the Independent Person and the Clerk (if appropriate) and notify them that they are satisfied that no further action is required. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider their report.
- 6.2 The outcome of such investigations will be reported to the next ordinary meeting of the Standards Committee and the relevant parish council (if appropriate) for information.

## **7 WHAT HAPPENS IF THE INVESTIGATING OFFICER CONCLUDES THAT THERE IS EVIDENCE OF A FAILURE TO COMPLY WITH THE CODE OF CONDUCT?**

- 7.1 The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing by the Standards Committee or, after consulting the Independent Person, seek Summary Resolution (see below).

### SUMMARY RESOLUTION

- 7.2 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Chairman of the Standards Committee, the Independent Person and with the Complainant and seek to agree what they consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such a resolution may include the Councillor accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council or the relevant parish council (if appropriate).
- 7.3 If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the relevant parish council (if appropriate) for information, but will take no further action.

### REFERRAL FOR HEARING

- 7.4 If the Monitoring Officer considers that Summary Resolution is not appropriate, or the Councillor does not comply with any suggested resolution, then the Monitoring Officer will refer the Investigating Officer's report to the Standards Committee for a hearing to decide whether or not the Councillor has failed to comply with the respective Code of Conduct and, if so, whether to take any action in respect of the Councillor.

### HEARING PROCEDURE

- 7.5 The Monitoring Officer will conduct a "pre-hearing process", requiring the Councillor to give their written response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing.
- 7.6 The Chairman of the Standards Committee may issue directions as to the manner in which the hearing will be conducted.
- 7.7 The procedure for hearings is set out in Appendix 2: Hearing Procedure.
- 7.8 The Investigating Officer may ask the Complainant to attend the hearing to give evidence. The Complainant does not otherwise have the right to speak at the hearing but they may usually attend as a member of the public.

## **8 WHAT ACTION CAN THE STANDARDS COMMITTEE TAKE WHERE A COUNCILLOR HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT?**

- 8.1 The Council has delegated to the Standards Committee such of its powers to take action in respect of individual councillors as may be necessary to promote and maintain high standards of conduct.
- 8.2 The sanctions available to the Standards Committee are set out in Appendix 2: Hearing Procedure.

## **9 WHAT HAPPENS AFTER A HEARING?**

- 9.1 As soon as reasonably practicable, the Monitoring Officer will prepare a formal decision notice, in consultation with the Chairman, and send a copy to the Complainant, the Councillor and the Clerk (if appropriate). They will also make that decision notice available for public inspection on the Council's website for at least 12 months after the hearing.

## **10 WHO ARE THE STANDARDS COMMITTEE?**

- 10.1 The Standards Committee is a committee of the District Council. It is appointed by the Council and comprises:
  - a) 7 District Councillors, including not more than one member of the Council's Executive.
  - b) 8 Town/Parish Councillors as non-voting members

## **11 WHO IS THE INDEPENDENT PERSON?**

- 11.1 The Independent Person is a person who has been appointed by a majority of all the Councillors on the District Council.
- 11.2 The Independent Person is invited to attend all meetings of the Standards Committee. Their views are sought and taken into consideration:
  - 11.2.1 before the Monitoring Officer decides whether to investigate a Complaint;
  - 11.2.2 before the Monitoring Officer decides whether to refer an investigated Complaint for hearing or for Summary Resolution;
  - 11.2.3 before the Committee takes any decision on whether the Councillor's conduct constitutes a failure to comply with the respective Code of Conduct; and

- 11.3.4 as to any action to be taken following a finding of failure to comply with the respective Code of Conduct.

## **12 APPEALS**

- 12.1 There is no right of appeal for the Complainant or for the Councillor against a decision of the Monitoring Officer or of the Standards Committee.

## **13 CONTACT DETAILS**

- 13.1 The Council's Monitoring Officer is:

Mr Alistair Welch  
Cannock Chase District Council  
Civic Centre  
Beecroft Road  
Cannock  
WS11 1BG  
Tel: 01785 619204  
Email: [awelch@staffordbc.gov.uk](mailto:awelch@staffordbc.gov.uk)

- 13.2 The Democratic Services Team can be contacted at:

Democratic Services  
Cannock Chase District Council  
Civic Centre  
Beecroft Road  
Cannock  
WS11 1BG  
Tel: 01543 464588  
Email: [memberservices@cannockchasedc.gov.uk](mailto:memberservices@cannockchasedc.gov.uk)

## DISPENSATIONS PROCESS AND FORM

### **1 INTRODUCTION**

- 1.1 The Standards Committee is responsible for determining requests for dispensation by Councillors of Cannock Chase District Council under Section 33(2) Localism Act 2011.
- 1.2 This note explains:
  - 1.2.1 the purpose and effect of dispensations;
  - 1.2.2 the procedure for requesting dispensations;
  - 1.2.3 the criteria which are applied in determining dispensation requests;
  - 1.2.4 the terms of dispensations.

### **2 PURPOSE AND EFFECT OF DISPENSATIONS**

- 2.1 In certain circumstances Councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited under the Code of Conduct. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct.

### **3 PROCESS FOR MAKING REQUESTS**

- 3.1 Any Councillor who wishes to apply for a dispensation must fully complete the attached form at Appendix A and submit it to the Monitoring Officer at least 15 working days before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances.
- 3.2 In order to avoid delay Councillors must ensure that they give full details of the grounds for their request and submit it to the Monitoring Officer as soon as they become aware that a dispensation is necessary.
- 3.3 A request for dispensation must be made on an individual basis. Group applications are not permitted.

## **4 CONSIDERATION BY THE MONITORING OFFICER**

- 4.1 The Monitoring Officer will consider requests for a dispensation in the order in which they are received having regard to the criteria set out in paragraph 6.
- 4.2 In the case of a Disclosable Pecuniary Interest, the Monitoring Officer, after consultation with the Chairman of the Standards Committee and the Independent Person, may grant a dispensation if they consider that either:
  - 4.2.1 without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate); or
  - 4.2.2 without the dispensation each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive.
- 4.3 The provisions of paragraph 4.2 shall also apply in the same way in the case of an Ordinary Pecuniary Interest, subject to the substitution of "the Code of Conduct" for "Section 31(4) Localism Act 2011" in that paragraph.
- 4.4 The terms of any dispensation shall be in accordance with paragraph 7.
- 4.5 The Monitoring Officer will notify the Councillor of their decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.
- 4.6 If the Monitoring Officer does not fully grant the dispensation requested by the Councillor, they shall refer the request to the Standards Committee as soon as is reasonably practicable.

## **5 CONSIDERATION BY THE STANDARDS COMMITTEE**

- 5.1 The Standards Committee will consider requests for a dispensation referred by the Monitoring Officer in the order in which they were received by the Monitoring Officer having regard to the criteria set out in paragraph 6.
- 5.2 Meetings of the Standards Committee will normally be open to the public and any Councillor who has submitted a request will have the opportunity to attend and make representations in support of their application.
- 5.3 In the case of a Disclosable Pecuniary Interest, the Standards Committee may grant a dispensation if they consider that
  - 5.3.1 without the dispensation the number of persons prohibited by Section 31(4) Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business (i.e. the meeting would be inquorate);
  - 5.3.2 without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - 5.3.3 granting the dispensation is in the interests of persons living in the Council's area;
  - 5.3.4 without the dispensation each member of the Council's executive would be prohibited by Section 31(4) Localism Act 2011 from participating in any particular business to be transacted by the Council's executive; or
  - 5.3.5 it is otherwise appropriate to grant a dispensation.
- 5.4 The provisions of paragraph 5.3 shall also apply in the same way in the case of an Ordinary Pecuniary Interest, subject to the substitution of "the Code of Conduct" for "Section 31(4) Localism Act 2011" in that paragraph.
- 5.5 The terms of any dispensation shall be in accordance with paragraph 7.
- 5.6 The Monitoring Officer will notify the Councillor of the Committee's decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

## **6 CRITERIA FOR DETERMINATION OF REQUESTS**

- 6.1 In reaching a decision on a request for a dispensation the Monitoring Officer or the Standards Committee (as appropriate) will take into account:
- 6.1.1 the nature of the Councillor's prejudicial interest;
  - 6.1.2 the need to maintain public confidence in the conduct of the Council's business;
  - 6.1.3 the possible outcome of the proposed vote;
  - 6.1.4 the need for efficient and effective conduct of the Council's business;
  - 6.1.5 any other relevant circumstances.

## **7 TERMS OF DISPENSATIONS**

- 7.1 Dispensations may be granted:
- 7.1.1 for one meeting; or
  - 7.1.2 for a period not exceeding 4 years.
- 7.2 Dispensations may allow the Councillor:
- 7.2.1 to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
  - 7.2.2 to participate in any vote, or further vote, taken on the matter at the meeting(s).
- 7.3 If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held.

## **8 DISCLOSURE OF DECISION**

- 8.1 Any Councillor who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.
- 8.2 A copy of the dispensation will be kept with the Register of Councillors' Interests.

**Appendix A**  
**Cannock Chase District Council Standards Committee Dispensation Request Form**

*Please give full details of the following in support of your application for a dispensation. You should refer to the accompanying guidance "Dispensations Process and Form".*

*If you need any help completing this form please contact the Monitoring Officer*

Your name	
Decision-making body in respect of which you require a dispensation	
Details of your membership of that body	
The business for which you require a dispensation (refer to agenda item number if appropriate)	
Details of your interest in that business	
Date of meeting or time period (up to 4 years) for which dispensation is sought	
Dispensation requested to participate, or participate further, in any discussion of that business by that body	Yes/No
Dispensation requested to participate in any vote, or further vote, taken on that business by that body	Yes/No

Full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)	
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Signed: ..... Dated: .....

***Please send your completed form to Monitoring Officer, Cannock Chase District Council or by email to [awelch@staffordbc.gov.uk](mailto:awelch@staffordbc.gov.uk). You will receive notification of the Monitoring Officer's decision within 5 days of the decision.***

11A Members Pecuniary Interests

A member who has a pecuniary interest or a disclosable pecuniary interest in a matter under consideration shall, in addition to complying with the requirements of the Code of Conduct for Members and the provisions of the Localism Act, leave the room where the matter is being considered while any discussion and/or voting takes place.