



Cabinet 23 May 2012

New Standards Provisions in the Localism Act 2011 (Jun12/02)

1. Summary and Reasons for Recommendations
1.1 Under the provisions of the Localism Act ("the Act") the current Code of Conduct and regulations for dealing with complaints of breach have to be replaced by "local arrangements" which come into effect on 1 July 2012.
1.2 The Suffolk Monitoring Officers have collaborated on a Suffolk Code of Conduct and complaints procedure, which have gained informal approval from Suffolk Chief Executives Group (SCEG) and Suffolk Public Sector Leaders (SPSL), and have the formal endorsement of the Borough Council's Standards Committee.
1.3 A full set of recommendations for the local arrangements will need to be put before full Council on 19 June 2012, but Cabinet is asked to endorse the work done so far and the proposed next steps.
2. Recommendations
2.1 (a) The Monitoring Officer continue to work with her counterparts across Suffolk to finalise a Suffolk Code of Conduct and complaints procedure in accordance with the drafts attached at Appendices A and B;
(b) liaison with Forest Heath District Council take place with a view to determining appropriate joint arrangements to deal with standards matters, with a view to recommendations being brought forward as part of the constitutional review in late 2012;
(c) pending the implementation of joint arrangements, the current elected members of the Standards Committee continue in post to form a Standards Committee which will meet as required; and
(d) progress to recruit Independent Persons be noted.
3. Corporate Objectives
3.1 The recommendations meet the following, as contained within the Corporate Plan:-
(a) Corporate Priority: <i>'raising corporate standards and efficiency'</i>

Contact Details

Name
Telephone
E-mail

Portfolio Holder

Dave Ray
(01359) 250912
david.ray@stedsbc.gov.uk

Lead Officer

Joy Bowes
(01284) 757141
joy.bowes@stedsbc.gov.uk

4. Key Issues

- 4.1 The Act does away with the current Standards regime, which has been in place since 2002. There is no national model Code of Conduct and the statutory framework for dealing with complaints is to be dismantled. However, councils are still obliged to adopt a Code of Conduct and to make "arrangements" to deal with complaints of breach, which includes breaches by parish councillors in their area.
- 4.2 The Suffolk Monitoring Officers have worked together to produce a draft "Suffolk Code". This is based on the old Code, to give Members continuity and consistency, and because there is a body of case law which will help with interpretation. The Borough Council's Standards Committee has approved it, as has Forest Heath District Council (FHDC), and it has found favour with SCEG and the SPSL. A draft is attached as Appendix A. It is not complete because we await from central Government the regulations defining pecuniary interests.
- 4.3 A flowchart for the procedure to be adopted on receipt of a complaint has also been prepared and is attached as Appendix B. This aims to make the process quicker and more streamlined.
- 4.4 Each Council has to appoint at least one Independent Person, who cannot have a voting place on any Standards Committee, but whose role is to advise on sanctions for breach and to support, if requested to do so, any Member who has a complaint made against him/her. No-one who is, or has been within 5 years, an elected or co-opted member of the Council can act as its Independent Person. This precludes the existing Independent Members and parish representatives. However, they can still apply to be Independent Persons for a different authority. To save time and money, a joint advertisement seeking Independent Persons for all Suffolk authorities was placed in the East Anglian Daily Times. At the time of writing, 36 application packs had been issued. Interviews will be conducted, and the successful applicants will be selected to become Independent Persons for each Suffolk authority.
- 4.5 Consideration has been given to joint working, including a standards 'board' or 'panel' for the whole of Suffolk. However, given the Borough Council's current partnership with FHDC, a joint arrangement with them is considered preferable at this stage. This does not preclude wider joint working later. FHDC has made provision for its existing elected members of Standards Committee to form a smaller committee beyond 1 July 2012. It is, therefore, recommended that the Borough Council does the same, but work towards setting up a joint arrangement, which can be included in the wider review of both Councils' constitutions later this year. This proposal has the agreement of the current Chairman of the Standards Committee, and also of the current elected members, the latter being content to continue in their roles *pro tem*.

5. Other Options considered

- 5.1 Alternative Codes have been put forward by the Local Government Association and the Department for Communities and Local Government. These are attached as Appendices C and D. They are not recommended for adoption as they are considered to be too vague to guide Members or the public as to what is or is not acceptable behaviour for Councillors.
- 5.2 Options for joint working are considered above. No model for a Suffolk-wide standards panel has yet been agreed, and in any event not all authorities have indicated at this stage that they wish to join in. Partnership with FHDC is therefore proposed, leaving open the possibility of wider Suffolk joint arrangements in the future.

5.3 Doing nothing is not an option because there is a statutory obligation to have a Code of Conduct and “arrangements” for dealing with complaints.

6. Community impact *(including Section 17 of the Crime and Disorder Act 1998 and diversity issues)*
6.1 General
 6.1.1 Having been in place for ten years, the Code of Conduct and complaints procedure have become integrated into the procedures of all tiers of local authorities. There will, therefore, be limited impact in their continuing, particularly if many of the elements of the current Code are contained in the new Suffolk Code.
6.2 Diversity and Equality Impact
 6.2.1 If one Code is adopted by all tiers of local authority in Suffolk this will demonstrate a consistency of approach to standards whatever the size of council involved. The public will be assisted in knowing what is to be expected of their elected representatives by having just one Code to consider.

7. Consultation
 7.1 Consultation on the draft Suffolk Code and complaints procedure has taken place with SCEG, SPSL, the Standards Committees of all authorities and Suffolk Association of Local Councils, all of whom have indicated approval.

8. Resource implications *(including asset management implications)*
 8.1 It is expected that the proposals will result in savings, as yet unquantified, resulting from a smaller Standards Committee with a limited remit. These savings may be increased by the efficiencies arising when joint working with FHDC goes ahead. It is proposed to pay the Independent Member a small retainer, less than the current allowance for the Chairman of the Standards Committee, plus a nominal fee per item. The Independent Remuneration Panel will be asked to review payments at the earliest opportunity.

9. Risk Assessment *(potential hazards or opportunities affecting corporate, service or project objectives)*
 9.1

Risk area	Inherent level of Risk (before controls)	Controls	Residual Risk (after controls)
	High/Medium/Low		High/Medium/Low
Not having a Code of Conduct and “arrangements” in place by 1 July 2012.	Medium	Finalising the draft Code and procedures already prepared, for recommending to Council in June 2012.	Low
Failure to appoint an Independent Person.	Medium	A recruitment process is underway and has attracted significant interest.	Low

10. Legal or policy implications
10.1 These are all dealt with in the body of the report.

Wards affected	All	Portfolio Holder	Performance and Resources
Background Papers	C466 to Standards Committee 9 May 2012	Subject Area	Standards and Ethics

W:\Democratic WP Services\Committee\Reports\Cabinet\2012\12.05.23\D10 New Standards Provisions in the Localism Act 2011.doc

WORKING DRAFT

XXXX Council

Local Code of Conduct for Members

In accordance with S 26 to 37- of the Localism Act 2011 on [date] XXXX Council (the Council) resolved to adopt Suffolk Local Code of Conduct for the purposes of discharging its duty to promote and maintain high standards of conduct within its area..

Until otherwise amended or replaced by a decision of the Council, the Suffolk Local Code of Conduct set out below shall hereafter apply to all elected members and any co-opted members entitled to vote on any decisions of the council or its committees, sub committees or joint committees whilst acting in an official capacity.

Preamble

The Suffolk Local Code of Conduct shall be interpreted in accordance with the following 7 principles of public life identified by the Committee on Standards in Public Life chaired by Lord Nolan:

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.

**SUFFOLK LOCAL CODE OF CONDUCT APPLICABLE TO ELECTED
MEMBERS AND CO-OPTees APPOINTED TO THE COUNTY BOROUGH
DISTRICT [AND PARISH] COUNCILS IN SUFFOLK**

1. You must treat others with respect.
2. You must not—
 - (a) do anything which may cause your authority to breach any of the Council's duties under the Equality Act 2010
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
3. You must not—
 - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
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 your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

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

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

(b) your authority's monitoring officer,

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

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

7) Registration of interests

7.1 You are required to register any within 28 days of becoming a member of the Council (and to notify the Council's Monitoring officer of any changes within 28 days) any Disclosable Pecuniary Interests (DPIs) you may have for publication in the Register of Members' Interests as required by section 30 of the Localism Act 2011 and any regulations made under that Act.

7.2 You may not at any time discharge any function or participate in any council business or discussions, or vote on any issues that relate to or concern any of your DPIs where you are aware that you have a relevant DPI. You may not remain in the chamber or meeting room or in the public gallery when any matter that relates to any of your DPI is under discussion or debate unless you have requested and obtained a written dispensation from your [*Council's Monitoring Officer*] in advance of the relevant meeting in accordance with s. 33 of the Localism Act 2011.

7.3 You are also required to register within 28 days of becoming a member of the council and to notify your council's Monitoring officer of any changes within 28 days any non statutory Local Non Pecuniary Interests (LNPIs) set out in appendix A to this code but you are entitled to participate any discussions or debates relating or concerning any of your LNPIs after the date of registration.

8) Sensitive Interests

You may also apply to your Council's Monitoring officer for non publication of the full details of any of your DPIs or LNPIs where you reasonably believe that publication of the details of a particular DPI or LNPI could result you being subjected to violence or intimidation. In consideration such applications the Monitoring Officer shall have regard to any representations made by you in determining whether he or she considers the relevant DPI or LNPI should be treated as a Sensitive Interest and excluded from the published version of the Register of Members' Interests.

Description of categories of Local Non Pecuniary Interests:

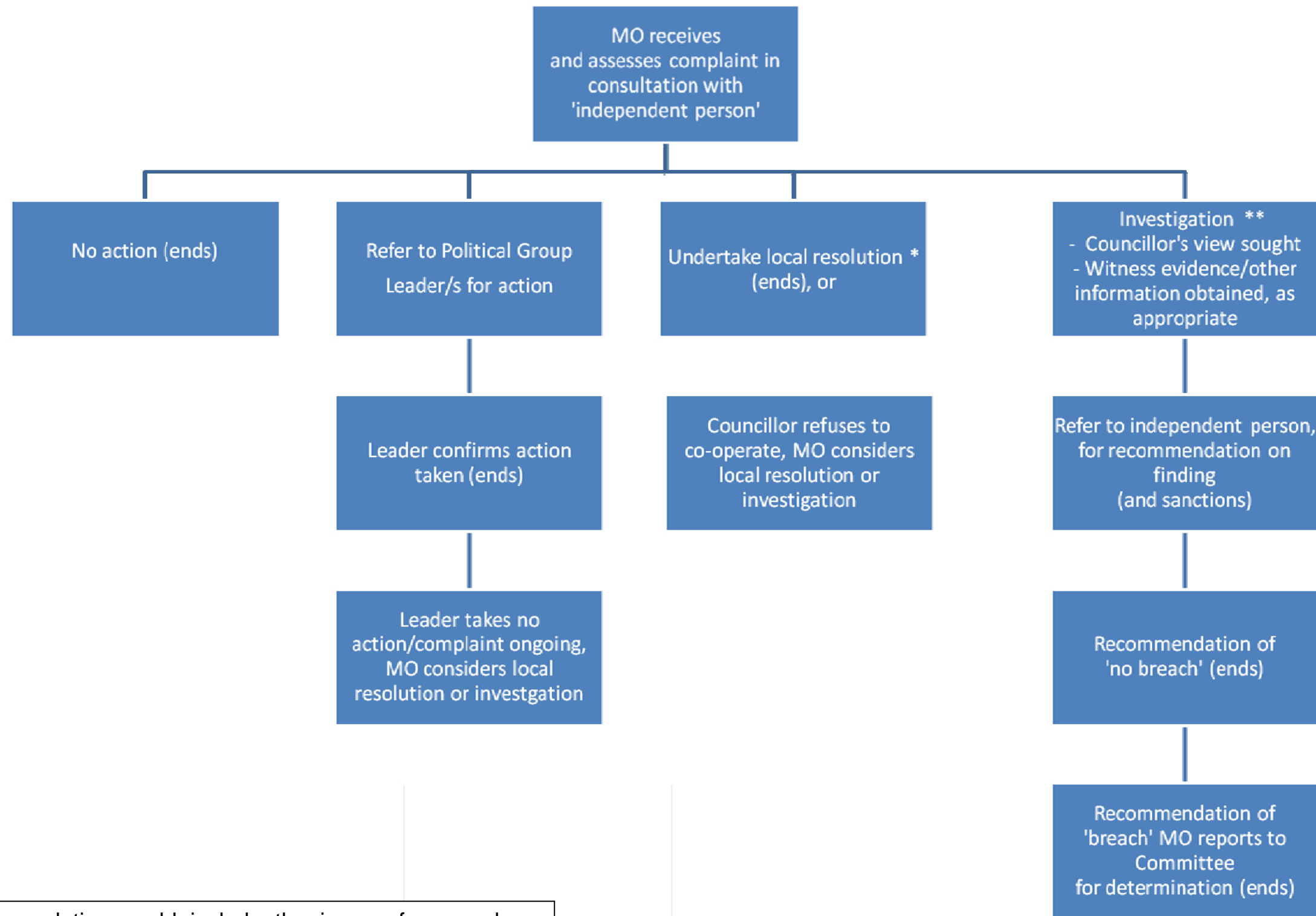
(None)

or

List of categories of Local Non Pecuniary Interests adopted by the relevant Council

W:\Democratic WP Services\Committee\Reports\Cabinet\2012\12.05.23\D10 New Standards Provisions in the Localism Act 2011 Appendix A.doc

STANDARDS COMPLAINTS PROCEDURE



* local resolution could include the issue of an apology, provision of training or other action

** an investigation is a process dealt with by written representations

Template Code of Conduct

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.

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.